



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our ref: Prop:DH:1617526

4 December 2018

Dr Peter Boxall AO  
Chairman  
Independent Pricing and Regulatory Tribunal  
PO Box K35  
HAYMARKET POST SHOP NSW 1240

By email: [ipart@ipart.nsw.gov.au](mailto:ipart@ipart.nsw.gov.au)

Dear Dr Boxall,

**Review of pricing regulation of Electronic Conveyancing Network Operators in NSW – draft Terms of Reference**

The Law Society of NSW appreciates the opportunity to comment on the draft Terms of Reference ("draft Terms") for the Review of pricing regulation of Electronic Conveyancing Network Operators in NSW ("Review"). The Law Society's Property Law Committee has contributed to this submission.

**1. The task**

In relation to paragraph b) of the description of the task, we suggest that this will need to include an assessment of the State's ability to impose such a regulatory framework and any changes to that framework necessary to allow enforcement. This could be included in the Draft Terms.

**2. Relevant matters in determining an appropriate pricing framework**

Paragraph d) appropriately refers to the capital investment by PEXA as the initial ELNO. This should also include consideration of the cross subsidisation of the expansion of the PEXA scope in other jurisdictions in building a national system. For example, the national expansion of PEXA has involved rolling out its platform to smaller volume jurisdictions where the return may not have necessarily warranted the investment in that jurisdiction.

We suggest there are other relevant matters which could be included as relevant matters:

- *The effect of operating in other jurisdictions on pricing.* For example, PEXA has a single fee applicable in all jurisdictions. Each jurisdiction has a different pricing model for Lodgment Support Services ("LSS") services charged to an Electronic Lodgment Network and these increase annually at different rates. We understand that PEXA averages the various increases in determining price rises to its fees, which include access to LSS services. PEXA also has a fee for a single title and a fee for two or more titles and in the minority cases where there are more than 2

titles it absorbs the additional LSS fees which are charged by Land Registries on a per title basis.

- *The impact on pricing of the model of interoperability of ELNOs:* Such a model will likely involve significant capital expenditure by new and existing ELNOs, and other parties, including the land registry. This will increase cost pressures. If the model does not allow for multi-party transactions to be conducted across multiple ELNOs, the likely market behaviour and potential pricing impacts should be considered.
- *The potential cost impact of any NSW Operating Terms and Conditions for new and existing ELNOs.* For example, we understand that some conditions that may be imposed on ELNOs operating in NSW will add significant costs and increase pressure on fees.
- *Third party pricing:* We understand that one of the document management providers has introduced a PEXA connection fee of \$9.90 payable to access PEXA through their document management software.

We would be pleased to meet with you to further discuss any of the matters raised in this submission. Any questions should be directed to Gabrielle Lea, Policy Lawyer on [REDACTED]

Yours sincerely,

[REDACTED]  
Doug Humphreys OAM  
**President**