

5 March 2015

Mr Brenton Pike
Chair
Australian Registrars National Electronic Conveyancing Council
GPO Box 1354
Adelaide SA 5001

By email: chair@arnecc.gov.au

Dear Mr Pike

CONSULTATION ON VERSION 3 MODEL OPERATING REQUIREMENTS AND PARTICIPATION RULES

Thank you for your letter dated 21 January 2015 and the further extension granted to the Law Council in respect of this consultation.

I am pleased to enclose the Law Council's submission based on the review of the consultation documentation by the National Electronic Conveyancing System Committee (NECS Committee), the Law Society of New South Wales' Property Law Committee, the Queensland Law Society Property Committee and the Law Institute of Victoria.

If you have any queries regarding the submission, please contact Gabrielle Lea on 02 9926 0375 or at GabrielleLea.NECS@lawsociety.com.au

Yours sincerely



Martyn Hagan
Secretary-General

Model Participation Rules Version 3

Australian Registrars' National Electronic Conveyancing Council

5 March 2015

Table of Contents

Acknowledgment	2
Introduction	3
Draft Version 3 MPRs	4
Digitally Sign and Digital Signature	4
Definitions MPR Version 3	4
Eligibility Criteria and Character	5
General Obligations	6
Verification of Identity Standard	6
Mortgages	7
Signers	7
Prohibitions	7
Schedule 6 – Insurance Rules	8
Schedule 3 – Certification Rules	8
Schedule 8 – Verification of Identity Standard	8
Client Authorisation	10
Guidance Notes	10
Guidance Note #1 Client Authorisation	11
Guidance Note #2 Verification of Identity	11
Guidance Note #3 Certifications	11
Conclusion	11
Attachment A: Profile of the Law Council of Australia	12

Acknowledgment

The Law Council acknowledges the assistance of its National Electronic Conveyancing System Committee, the Law Society of New South Wales Property Law Committee, the Queensland Law Society Property Committee and the Law Institute of Victoria in the preparation of this submission.

Introduction

1. The Law Council is pleased to provide a submission to the Australian Registrars' National Electronic Conveyancing Council (ARNECC) regarding version 3 of the Model Participation Rules (MPRs), Guidance Note #1 Client Authorisation, Guidance Note #2 Verification of Identity, Guidance Note #3 Certifications and the Client Authorisation Smart Form, released by ARNECC for consultation.¹
2. The MPRs regulate the relationship between an Electronic Lodgement Network Operator (the ELNO) and a Subscriber. Legal practitioners who wish to participate in electronic settlement of conveyancing transactions and electronic lodgement of relevant Land Titles registry instruments will be Subscribers. Other Subscribers will be licensed conveyancers and participating financial institutions. Some Subscribers, such as legal practitioners and licensed conveyancers, will be Representative Subscribers who act on behalf of clients.
3. The Law Council notes that the draft National Law, MORs and MPRs were first released for public comment on 30 March 2012. The Law Council made a submission in response to this consultation on 25 May 2012.² The Law Council also notes that a Consultation Regulation Impact Statement regarding the National Law was released on 5 July 2012. The Law Council made a submission in response to this consultation on 3 August 2012.³
4. The Law Council also participated in a consultation with ARNECC on 6 August 2012 and provided comments to ARNECC on the draft National Law on 10 September 2012.⁴
5. The Law Council also notes that these consultations led to the formation of a joint stakeholder/ ARNECC Working Party to review the Client Authorisation Form. The Law Council provided a submission in response to the redrafted Client Authorisation Form on 14 February 2013.⁵
6. In July 2013, the Law Council agreed to participate in the Electronic Conveyancing Group (ECG), which involves the Law Council, the Australian Bankers' Association and the Australian Institute of Conveyancers. It aims to work collaboratively to contribute to the efficiency of the e-conveyancing system and to develop effective relationships with ARNECC and Property Exchange Australia (PEXA).
7. On 17 September 2013, members of the ECG met with Mr Brenton Pike, Chair of ARNECC to discuss a number of outstanding issues, including a number of suggested amendments to the MPRs.
8. In February 2014 the Law Council made a submission to ARNECC in response to draft version 2 of the MPRs.⁶

¹ See http://www.arnecc.gov.au/consultation/version_3_mor_and_mpr_consultation

² See <http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/a-z-docs/ElectronicConveyancingNationalLaw,ModelOperatingRequirementsandModelParticipationRules.pdf>

³ See <http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/docs-2600-2699/2615%20-%20Introduction%20of%20the%20Electronic%20Conveyancing%20National%20Law%20-%20Consultation%20Regulation%20Impact%20Statement.pdf>

⁴ See Law Council of Australia letter to ARNECC, 10 September 2012.

⁵ See <http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/docs-2600-2699/2699%20-%20Electronic%20Conveyancing%20National%20Law%20-%20Client%20Authorisation%20Form.pdf>

⁶ See http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/docs-2700-/2798_-_Electronic_Conveyancing_National_Law_Model_Participation_Rules_and_Model_Operating_Rules.pdf

-
9. On 29 August 2014 the ECG made a submission to ARNECC opposing the proposal to remove insurance requirements for Subscriber Agents in the MPRs.

Draft Version 3 MPRs

10. The Law Council notes that a number of the proposed changes to draft version 3 of MPRs are not substantive changes but rather drafting improvements for clarity which are supported.

Digitally Sign and Digital Signature

11. The Law Council has previously made a number of comments regarding definitions relating to the process of digitally signing registry instruments and documents in the regulatory framework established by ARNECC.⁷ The Law Council's position is that the full suite of definitions including 'digitally sign', 'digital signature', 'digital certificate', 'user', 'signer' and 'key holder' are defective and require amendment, as further outlined in its submission to ARNECC dated 7 February 2014.⁸ The Law Council remains concerned that these defective definitions may result in the regulatory framework not operating as intended and that a Subscriber will ultimately bear this risk.
12. The Law Council appreciates that amending these definitions requires amendment of both the Electronic Conveyancing National Law (ECNL) and the MPRs. The Law Council would be pleased to work with ARNECC to achieve this outcome and would be grateful to receive an indication from ARNECC as to when it envisages this may occur.

Definitions MPR Version 3

13. The Law Council notes that a number of definitions have been amended in draft MPRs Version 3. A number of the amendments provide greater clarity and are supported. The Law Council has concerns in relation to several revised definitions.
14. The Law Council notes the revised definition of "Australian Legal Practitioner". That particular term is not used in the relevant legislation in all participating jurisdictions, such as South Australia. Accordingly this definition may need to be reworked.
15. The amended definition of Subscriber Agent states:
- "Subscriber Agent** means a Person who is an agent of a Subscriber and who is authorised by the Subscriber to undertake verification of identity and witness the signing of a Client Authorisation, Registry Instrument or other Document on behalf of the Subscriber."
16. The express reference to the signing of a Client Authorisation, Registry Instrument or other Document is a new feature of this definition and appears to be made to be consistent with the revisions made to clause 2.3 of Schedule 8, the Verification of

⁷ See <http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/docs-2600-2699/2682%20-%20Electronic%20Conveyancing%20-%20Model%20Participation%20Rules.pdf>

See also letter to ARNECC, 10 September 2012.

⁸ See http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/docs-2700-/2798_-_Electronic_Conveyancing_National_Law_Model_Participation_Rules_and_Model_Operating_Rules.pdf at pages 4-6.

Identity Standard. For greater clarity the Law Council suggests the phrase “on behalf of the Subscriber” should be inserted after the word “undertake” in line two of the definition.

17. The substantive issue the Law Council has with the expanded definition of Subscriber Agent is the reference to “Registry Instrument”, as it is not clear what outcome is being sought or circumstances contemplated. It was thought that this amendment might be intended to capture the signing of a paper Registry Instrument as part of the alignment proposals in various stages of inception and implementation across the jurisdictions. The Law Council requests clarification of the basis of this amendment. Further comments on clause 2.3 of Schedule 8 are set out later in this submission.

18. The amended definition of Title Activity Check states:

“Title Activity Check means, for a Conveyancing Transaction, a check conducted to determine whether the information in the Titles Register relating to the land the subject of the Conveyancing Transaction has changed since the Registry Information Supply was supplied.”

19. The reference to Registry Information Supply in the definition of Title Activity Check is new and does not work well as currently drafted. The definition of Registry Information Supply states:

“Registry Information Supply means a service to supply data from the Titles Register or Land Registry.

20. The definition needs to be further amended to confine the Registry Information Supply to the particular relevant information in the Titles Register. Additionally the definition of Registry Information Supply refers to the general “service to supply” rather than the particular supply of certain information in the Titles Register.

21. The more substantive issue that the Law Council has with the definition of Title Activity Check is that it has a different meaning in the PEXA system across participating jurisdictions. In Western Australia the Title Activity Check refers back to the original data supplied for the subject transaction. The Law Council understands that in the other jurisdictions the Title Activity Check refers back to the immediately preceding Title Activity Check, not the original data supplied for the subject transaction. In the Law Council’s view it is important that the same meaning applies across all jurisdictions as it is a national system. It also appears that the definition of Title Activity Check is not in keeping with the concept as it has been developed by PEXA.

22. The Law Council notes that a definition for Priority Notice has been inserted into clause 2.1.2. Legislative reform to introduce priority notices has not yet been implemented in many jurisdictions, but the Law Council understands this is likely to occur. Where possible the Law Council encourages ARNECC to adopt a uniform approach to priority notices across the jurisdictions, in particular their period of operation and extension.

Eligibility Criteria and Character

23. The Law Council supports the amendment of clause 4.3.1(b), such that the reference to “Users” is replaced with “Subscriber Administrators”. It is appropriate for Subscribers to be the subject of an express obligation to take reasonable steps to ensure the good character of Subscriber Administrators, given the responsibilities to be discharged by the Subscriber Administrator on behalf of the Subscriber. The

previous obligation in respect of the good character of Users was not commensurate with the role of Users. For example, checks to ensure that staff entering data into the system have not had an insolvency event will not be required.

24. The Law Council notes that clause 4.3.2 has been split into clauses 4.3.2 and 4.3.3 in version 3 of the MPRs. The intent appears to be that clause 4.3.2 deals with the legal entity or body that is the Subscriber, and clause 4.3.3 deals with the responsible individuals or officers which comprise the Subscriber. However, there appears to be a number of inconsistencies in the approach taken. For example, the Law Council questions the inclusion of Public Servant at 4.3.2(e) and the inclusion of ADI at 4.3.2(a). The Law Council suggests that this clause needs further review for consistency.

General Obligations

25. The Queensland Law Society Property Committee regards the requirement in clause 6.1.1 as unduly onerous and unnecessary, assuming this requires the Subscriber to ensure each User reads the Participation Rules. A non-lawyer merely responsible for data entry should not be expected to read or understand the MPR. The Committee's view was clause 7.2 which required the Subscriber to ensure all Users had appropriate training for their level of use was more appropriate and therefore sufficient.
26. The Law Council seeks clarification in relation to establishing whether the Client is a legal Person as referred to in clause 6.4(a). Is this intended to refer to checking that a company is incorporated or is it a wider obligation raising questions of capacity?

Verification of Identity Standard

27. The Law Council submits that the current drafting of clause 6.5.1(c) should be reviewed for clarity. The intent of the clause appears to be that a Representative Subscriber for a mortgagee need not undertake a further verification of identity where the mortgagee itself has actually taken reasonable steps to verify the identity of the borrower. This seems unreasonable in that it appears to require the Representative Subscriber to examine every step of the verification of identity carried out by the mortgagee to ascertain if it was reasonable. The Representative Subscriber should be able to certify, on the mortgagee's instructions, that verification of identity has been carried out. Notwithstanding the indemnity in the Client Authorisation, the current drafting of clause 6.5.1(c) is likely to give rise to a need for both the mortgagee and Subscriber to identify the mortgagor.
28. The Law Council suggests that with the further amendments proposed to clause 6.5.1(e), this clause should be split into two subclauses for clarity. For example subclause 6.5.1(e) could deal with the situation where the Subscriber gives a (duplicate/paper) Certificate of Title to any Client; and a new subclause 6.5.1(f) could deal with the situation where the Subscriber is a mortgagee and gives a (duplicate/paper) Certificate of Title to any mortgagor or former mortgagor.
29. In relation to new clause 6.5.3, the Law Council suggests that this clause should be amended to refer to the expanded role of a Subscriber Agent in witnessing the signing of a Client Authorisation, Registry Instrument or other Document, *if* that proposal is adopted.
30. The Law Council regards revised clause 6.5.4 as inconsistent with the basic principles of agency law and that clause 6.5.4 appears to extend the Subscriber's obligations as principal beyond that which would ordinarily apply as between a

principal and its agent. The Law Council supports the ECG in submitting that clause 6.5.4 should be revised to read as follows:

- 6.5.4. Where a Subscriber uses a Subscriber Agent, the Subscriber must:
- (a) appoint a Subscriber Agent who the Subscriber reasonably believes is reputable, competent and insured in compliance with Insurance Rules 1.2 and 2.2; and
 - (b) direct the Subscriber Agent to carry out the verification of identity either by using:
 - (i) the Verification of Identity Standard; or
 - (ii) some other way that constitutes the taking of reasonable steps.

31. The Law Council supports the amendment to clause 6.5.5 in response to its request for amendment. However, the residual issue remains that a Subscriber cannot ensure compliance with the Verification of Identity Standard by its Subscriber Agent, it can only review the documentation it receives from its Subscriber Agent with a view to performing further checks if warranted under certain circumstances, as described in Rule 10 of the Verification of Identity Standard. The Law Council does not seek to diminish the obligations of a practitioner to make such further checks if the Subscriber becomes aware that further searches are warranted. The Law Council also acknowledges the importance of practitioners being made aware of this obligation.
32. The Queensland Law Society Property Committee submits that the requirement to direct the subscriber agent to carry out the verification of identity by using the Verification of Identity Standard in clause 6.5.4 should be reworded so that it is sufficient for the subscriber to enter into an agreement in which the Subscriber Agent agrees to comply with the standard.

Mortgages

33. In relation to clause 6.13.1 and certification 5, the Law Council submits that the expression 'valid mortgage' is too broad. A practitioner is not in a position to determine whether a mortgage is valid. There may be any number of reasons why a mortgage is not valid, such as incapacity or misleading and deceptive conduct). "Properly signed mortgage" is a more appropriate expression.

Signers

34. The Law Council notes that clause 7.4 is an analogue of clause 4.3.1 and similar proposed amendments to clause 4.3.1 have been carried over to clause 7.4 for consistency.
35. The Law Council notes the reference to Public Servant in clause 7.4.2(c) and queries whether the deeming provision should operate in relation to Public Servants, having regard to the broad definition of Public Servant in clause 2.1.2.

Prohibitions

36. The Law Council submits that clauses 11(b) and 11(d) appear to be drawn too widely and may inadvertently prevent appropriate information being passed onto the client.

Schedule 6 – Insurance Rules

37. The Law Council was pleased to see that Schedule 6 Insurance Rules has not been amended as previously proposed and that the requirement for Subscriber Agents to maintain certain prescribed insurances has been retained.

Schedule 3 – Certification Rules

38. The Law Society of New South Wales Property Law Committee submits that the certification required from a Subscriber in relation to the retrieval and secure destruction or making invalid the duplicate (paper) certificate of title appears to be inconsistent with the Registrar General's Prescribed Requirement recently issued by NSW Land and Property Information requiring a party giving a CoRD Holder Consent in respect of a paper certificate of title to retain the duplicate certificate of title and not to mark it as cancelled or destroy it. This same issue arises in Guidance Note #3 Certifications.
39. The Law Institute of Victoria has also raised the very practical consideration of the possible need to revert to a paper settlement upon the failure of an electronic settlement but the difficulties this would entail if the practitioner had already destroyed the paper certificate of title as required to do so, to enable making the necessary pre-settlement certification. In the Law Council's view, further consideration of the practical implications of this particular certification is required.

Schedule 6 – Insurance Rules

40. The Law Society of New South Wales Property Law Committee submits that Rules 1.2 and 2.2 should each be amended to include a further subclause (f) "which is otherwise on terms satisfactory to the Registrar", reflecting Rules 1.1(e) and 2.1(e) respectively. The Committee has concerns that because professional indemnity insurance is ordinarily framed on a *claims made* basis, there may be no run off insurance cover available if a Subscriber Agent leaves the market. It would be appropriate for the Registrar to have residual discretion as to satisfactory terms of such policies, including automatic run off cover. The Law Council notes that the Law Institute of Victoria also has concerns in relation to the need for run off insurance if a Subscriber Agent ceases business.

Schedule 8 – Verification of Identity Standard

41. The Law Council notes that substantial changes have been made to Rule 2.3 of the Verification of Identity Standard. The requirement to ensure that the witnessing of the signing of a Client Authorisation, Registry Instrument or other Document in the same interview raises a number of practical implications which effectively make safe harbour harder to attain. In many cases it will require an additional Verification of Identity in accordance with the Verification of Identity Standard if there are additional or changed instructions after the original instructions which need to be documented in a new Client Authorisation..
42. The Law Council notes clause 2.3 of the Verification of Identity Standard in version 2 of the MPRs simply provided:

Where a Client Authorisation is required, the Subscriber or the Subscriber Agent must ensure that the completed Client Authorisation is signed:

-
- (i) by the Person Being Identified in the presence of the Subscriber or the Subscriber Agent; and
 - (ii) by the Subscriber or the Subscriber Agent.

43. While the Law Council understands that the revised clause 2.3 is more attractive to ARNECC, the practical consequences of the revised approach do not appear to have been adequately considered, in particular the timing constraints arising by the new references to “Registry Instrument or other document” and signing “in the same interview”.
44. The effect of amended Rule clause 2.3, when read with Rule 11, appears to be that in order to achieve safe harbour where a verification of identity in accordance with the Verification of Identity Standard has been conducted within two years, if the client enters into a new transaction requiring a new Client Authorisation, the client will have to be subjected to a second verification of identity in accordance with the Verification of Identity Standard when the Client Authorisation is signed. This is unnecessarily cumbersome and inefficient. The Law Council suggests this will occur quite often, for example, for the same client instructions may follow later in respect of another sale or purchase, acting in respect of an incoming mortgage or acting in respect of an outgoing mortgage in order to ensure that the Subscriber gains control of the eCT for another imminent transaction. The Law Council requests that clause 2.3 be amended to provide for a further exemption where Rule 11 applies.
45. The requirement for witnessing the signing of the Client Authorisation in the same interview may also prove problematic where the parties comprising the client attend separate interviews for the verification of identity, such as a husband and wife who are unable to attend the same interview. Execution by a company, where multiple signatories exist could also prove unnecessarily complex.
46. The Law Council seeks clarification of the new reference to “Registry Instrument or other document” which is unclear. There may be a number documents associated with a conveyance which have not or cannot be produced for signature at the time the Client Authorisation is signed. The reference to Registry Instrument is also very broad. Is the reference to Registry Instruments a reference to paper registry instruments that may be need to be signed by the Client if the transaction proceeds via the paper environment? This may not be known at the commencement of the transaction and seems unnecessarily restrictive. For example, if revised clause 2.3 is directed at the signing of a paper transfer by the client at the commencement of the transaction when the Verification of Identity is performed, this will be problematic as it will likely not be known with certainty at the commencement of the transaction whether the transaction will be settled using the paper or the electronic environment.
47. The Law Council understands that the practical implications of amended Rule 2.3 are particularly problematic for mortgagees who currently conduct verification of identity at the commencement of a loan application. It appears that to obtain safe harbour the mortgagee will have to perform a second verification of identity at the signing of the mortgage to attain safe harbour. This seems unnecessarily cumbersome, inefficient and unworkable, having regard to existing work flow practices of financial institutions.
48. The Law Council is also aware that difficulties are currently being encountered with the requirements for the verification of identity overseas. A member of the Committee recently received communication from the Australian High Commission in London which indicated that while the High Commission can certify documents, it will not verify identity.
49. The Law Council also has concerns with the verification of foreign persons in a foreign country by a Subscriber Agent. Given the move towards alignment of paper

and electronic conveyancing this will effectively result in Subscribers assuming the verification risk for all clients who are overseas when a transaction needs to be undertaken. As a Subscriber has little prospect of assessing whether an overseas agent is competent, whether documents provided for VOI are legitimate and little prospect of recovering any loss from an overseas agent in the event of an error, this is problematic.

50. The Law Council suggests that Rule 11 should be reworked so that the subclause “if it would otherwise be reasonable to do” stands alone, that is:

“10. Further checks

The Subscriber must undertake further steps to verify the identity of the Person Being Identified or the Identity Declarant where:

- (a) the Subscriber knows or ought reasonably to know that:
- (i) any identity Document produced by the Person Being Identified or the Identity Declarant is not genuine; or
 - (ii) any photograph on an identity Document produced by the Person Being Identified or the Identity Declarant is not a reasonable likeness of the Person Being Identified or the Identity Declarant; or
- (b) if it would otherwise be reasonable to do so.

Client Authorisation

51. The Law Council is pleased to see the development of a smart form for the Client Authorisation Form. This will bring efficiencies for all parties, particularly if it is integrated with other systems to allow for the pre-population of data.
52. The Law Council understands that the ECG will submit that the Client Authorisation should be amended to follow the language in clause 6.4 “Right to Deal” and that the Client Authorisation should contain a warranty by the client that it is entitled to enter into the Conveyancing Transaction(s) identified in the Client Authorisation. The Law Council supports this suggested amendment.
53. The Law Council notes the revised definition of transfer that includes liaising with any proposed mortgagee. Presumably the rationale for that change is that even where the practitioner is not instructed to give advice in relation to a purchaser’s mortgage the practitioner will need to liaise with the incoming mortgagee to arrange financial settlement. The definition should also be extended to similarly cover liaising with any outgoing mortgagee.
54. The Queensland Law Society Property Committee suggests it should be possible to insert details of the sale price in a transaction so as to limit the authority of the practitioner to the transfer or mortgage of the property to a particular party at a particular price.
55. The Queensland Law Society Property Committee queries the need for clause 1 of the Client Authorisation which simply repeats the authorisation on page 1.
56. The Law Council also submits that a Subscriber representing a mortgagee cannot certify that the mortgagee has conducted a verification of identity; merely that it has been instructed that the mortgagee has done so.

Guidance Notes

57. The Law Council commends ARNECC for the development of several Guidance Notes in relation to the MPRs. The Law Council understands that ARNECC is likely

to develop further Guidance Notes and it encourages ARNECC to do so in consultation with industry.

Guidance Note #1 Client Authorisation,

58. The Law Council notes that the full terms of the Client Authorisation have been omitted in the copy of the Client Authorisation annexed to the Guidance Note. The Law Council expects that a full copy of the Client Authorisation will be included in the final version of the Guidance Note and seeks confirmation that this is the case. .

Guidance Note #2 Verification of Identity,

59. The Law Council suggests that additional information regarding the important obligation to make further checks in accordance with Rule 10 should be added to the Guidance Note.

60. Consistent with paragraph 56 above, the Law Council has concerns with the second paragraph under the heading "Mortgagor". A Subscriber is not presently excused under the MPRs from identifying the mortgagor merely because the mortgagee has taken steps to identify him or her.

Guidance Note #3 Certifications

61. Due to the importance that the certifications play in the operation of electronic conveyancing the Law Council supports the provision of a guidance note on this topic. It is critical that practitioners have a real understanding of what they are certifying when ticking the boxes in the electronic platform.

Conclusion

62. The Law Council looks forward to working with ARNECC in finalising the legislative framework for electronic conveyancing. It would be pleased to meet with ARNECC to further discuss the matters raised above.

Attachment A: Profile of the Law Council of Australia

The Law Council of Australia exists to represent the legal profession at the national level, to speak on behalf of its Constituent Bodies on national issues, and to promote the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world.

The Law Council was established in 1933, and represents 16 Australian State and Territory law societies and bar associations and the Large Law Firm Group, which are known collectively as the Council's Constituent Bodies. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Australian Capital Territory Law Society
- Bar Association of Queensland Inc
- Law Institute of Victoria
- Law Society of New South Wales
- Law Society of South Australia
- Law Society of Tasmania
- Law Society Northern Territory
- Law Society of Western Australia
- New South Wales Bar Association
- Northern Territory Bar Association
- Queensland Law Society
- South Australian Bar Association
- Tasmanian Independent Bar
- The Large Law Firm Group (LLFG)
- The Victorian Bar Inc
- Western Australian Bar Association

Through this representation, the Law Council effectively acts on behalf of approximately 60,000 lawyers across Australia.

The Law Council is governed by a board of 23 Directors – one from each of the Constituent Bodies and six elected Executives. The Directors meet quarterly to set objectives, policy and priorities for the Law Council. Between the meetings of Directors, policies and governance responsibility for the Law Council is exercised by the elected Executive, led by the President who serves a 12-month term. The Council's six Executive are nominated and elected by the board of Directors. Members of the 2015 Executive are:

- Mr Duncan McConnel, President
- Mr Stuart Clark, President-Elect
- Ms Fiona McLeod SC, Treasurer
- Dr Christopher Kendall, Executive Member
- Mr Morry Bailes, Executive Member
- Mr Ian Brown, Executive Member

The Secretariat serves the Law Council nationally and is based in Canberra.