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29 March 2018

Mr Peter Harris
Productivity Commission

Dear Mr Harris

Competition in the Australian Financial System

NPP Australia Limited (**NPPA**) welcomes the opportunity to respond to the recommendations made by the Productivity Commission in relation to the New Payments Platform (**NPP**) in its draft report, *Competition in the Australian Financial System (Report)*.

The Commission's draft Recommendation 10.5 makes four substantial recommendations about the NPP which flow from an assumption that third party access to the NPP is likely to be undermined by its ownership and governance. NPPA is a public company¹ established to oversee the development and operation of the NPP. The NPP is new utility payments infrastructure commissioned and funded by NPPA's founding shareholders for and on behalf of the Australian payments industry.

The NPP has been designed to *support fair and open access*². It is the first clearing and settlement system in Australia to be designed with access as a primary objective. NPP access arrangements are structured to be inclusive and maximise the opportunities for Australian authorised deposit taking institutions (**ADIs**), financial institutions, and other corporate users of payment systems to directly or indirectly connect to or use the NPP.

NPPA has set graduated, risk-based, eligibility criteria for a range of participant types that might be expected to wish to use and connect to the NPP, ranging from:

- *no requirements* for Identified Institutions (financial institutions and corporates), that connect indirectly to the platform via a connected sponsoring NPP Participant, to send and receive payments for their own customer accounts,
- *basic stability/capability requirements* for prospective Overlay Service Providers that offer a payment service, but that do not themselves have a connection to the network,
- *more rigorous security, operational and technical requirements* for prospective Connected Institutions and NPP Participants that connect directly to the platform, and finally
- *ADI licensing* for NPP Participants that clear and settle transactions.

Our discussions with the Commission during the consultation were focused on the eligibility criteria without consideration of the administrative arrangements which effectively ensure that NPP access decisions will not be constrained by serious conflicts of interest. It is relevant and important to note that NPPA put administrative arrangements in place over a year ago, to enable management, rather than the Board, to determine most new access applications.

¹ Current shareholders: Australia and New Zealand Banking Corporation, Australian Settlements Limited, Bendigo and Adelaide Bank Limited, Citigroup Pty Ltd, Commonwealth Bank of Australia, Cuscal Limited, HSBC Bank Australia Limited, Indue Limited, ING Direct, Macquarie Bank Limited, National Australia Bank Limited, Reserve Bank of Australia and Westpac Banking Corporation.

² Reserve Bank of Australia, *Strategic Review of Innovation in the Payments System*, 2012

Schedule 1 sets out our response to the principal recommendation made by the Commission about NPP access, transaction pricing, data availability and extensibility of PayID to direct debit.

Schedule 2 is an addendum to our submission on access in **Schedule 1**, which sets out NPPA's high level observations about what can be achieved using the NPP message types and commercial arrangements available now, and with the benefit of NPPA's future work on APIs and a testing facility.

Please feel free to contact me [redacted] or Vanessa Chapman, General Counsel [redacted] if you have any questions about any of this material.

Yours sincerely

ADRIAN LOVNEY
CHIEF EXECUTIVE OFFICER, NPP AUSTRALIA LIMITED

SCHEDULE 1

Submission in response to the recommendations of the Productivity Commission

I. ACCESS

The Productivity Commission recommends a proactive approach be taken to designation and regulation of the NPP to ensure access is not unduly restricted by conflicts of interest at the Board level.

The Commission observes that:

'a model that requires new competitors to be accepted by incumbents can reasonably be expected to involve conflicts of interest: incumbent banks have an incentive to unduly restrict new entrants from access to the NPP³'.

The Commission correctly observes that it is in NPPA's commercial interest that participation in the New Payments Platform (**NPP**) and transaction volumes across the NPP are maximised. However, the conclusion it draws, namely that the commercial interests of the Company are likely to be undermined by the Board acting as nominees of existing NPP Participants, engaging in anti-competitive behaviour, is without basis. It also contradicts the fundamental premises of network economics: that it is in the interests all participants that reach is maximised, that payments can be made to and from the broadest possible range of accounts, and that transaction volume is maximised.

NPP Australia Limited (**NPPA**) intends that as a company, it, and the NPP, operates efficiently and is commercially successfully and sustainable. These self-evident commercial objectives are to be realised in the context of NPPA's constitutional objectives to:

- (a) *establish and operate the NPP in a manner that promotes the public interest in the NPP by:*
 - i. *ensuring its safe, reliable and efficient operation;*
 - ii. ***facilitating fair access to the NPP as mutually owned utility infrastructure; and***
 - iii. *ensuring ongoing investment in the NPP to meet the changing needs of financial institutions and users of the Australian payments system⁴,*
(emphasis added)

NPPA's constitutional objectives oblige it to balance fair access, on clear and transparent terms, with system safety, reliability and efficiency, and to take a long-term view on the capacity of the platform to deliver functional benefits to all financial institutions and end users.

'Fair' in this context bears its ordinary meaning, that is 'non-discriminatory' and 'without favouritism'. We suggest the term 'facilitating' used in the Constitution is as important as the term 'fair'. To facilitate means to enable or to make an action or process easy or easier (than it might have been without the facilitation). In the NPP context, the objective of facilitating fair access is to be construed as an obligation of NPPA to enable access to the NPP on non-discriminatory terms. The process by which NPPA performs that obligation is clearly set out in the NPP Regulations (Part 4), which describe the eligibility criteria for each participation category and the process NPPA will use to assess and determine participation applications. The NPP access and governance arrangements are objective, transparent and publicly available on our website (www.nppa.com.au).

The particular eligibility criteria are clear, transparent and risk-based. The criteria for each participation category apply to each applicant in the relevant category on an equal basis.

For prospective NPP Participants that want to connect directly to the platform to clear and settle payments, the eligibility criteria are the same as has applied to the founding NPP Participants. Further, the process to become an NPP Participant, now that the platform is live, follows the same sequence as that which applied to the founding Participants: satisfy initial eligibility criteria, then subscribe for shares in NPPA at a level commensurate with size and then finally provision, install and test NPP software and hardware before going 'live'.

³ Draft Report, p.307

⁴ NPP Australia Limited, Constitution, Article 2.1

The application process is fair and efficient. New applications must be assessed and determined by NPPA in stages and within the timeframes prescribed by the NPP Regulations:

- (a) For prospective NPP Participants and Connected Institutions this requires NPPA (Chief Executive Officer) to determine whether the applicant satisfies the Initial Eligibility Requirements⁵ within 5 Business Days. NPP Componentry (hardware and software) is then provisioned as soon as the applicant has paid for it.
- (b) The work to install NPP Componentry, and to satisfy Admission Eligibility Requirements⁶ is undertaken by the applicant. Depending on the applicant's back office systems and existing infrastructure, implementation of the connectivity links, which are to be supplied by third party vendor network partners, is contingent on vendors' availability and timeframes. As a guide, we have observed that the network links take around 12 – 16 weeks to implement.

As the NPP software and hardware has now been developed and tested satisfactorily, it is improbable that, once componentry is fully provisioned and installed, any new joiner would be unable to connect and test satisfactorily. In any event, the NPP componentry entitlement includes SWIFT consultancy time (18 days) which is expected to be adequate to address any technical issues a new joiner may have. NPP will assist by providing test partners, a test facility and technical support through the provisioning process. The applicant self-certifies compliance. The Board finally determines the application within 5 Business Days of receipt of all required documentation.

The access and eligibility information on the NPPA website is supplemented by onboarding guides, technical material and applicable Overlay Service Provider fee details. More detailed confidential commercial information, particularly NPPA share subscription levels and share pricing, is available to prospective NPP Participants under Non-Disclosure Agreement.

- *New NPP Participant Applications and new Connected Institution Applications*

Determination of new NPP Participant applications and Connected Institution applications is a **two-part process**:

1. **Part 1:** The first part of the process is an initial assessment of the applicant's satisfaction of the high level eligibility criteria and eligibility to provision the software and hardware (the 'NPP Componentry') needed to connect to the NPP (these are termed the **Initial Eligibility Requirements**). These requirements include – for prospective NPP Participants – being an authorised deposit-taking institution (**ADI**) and being able to subscribe for shares in NPPA. The NPP Regulations provide that this assessment is undertaken by the Board of NPPA, however in practice, this is a management function performed under a delegation of authority which was granted by the Board to the CEO in Q1 2017⁷.

It is worth pointing out that the requirements to subscribe for shares in NPPA and to be an ADI (for prospective NPP Participants) have been comprehensively considered, including by the ACCC in the context of NPPA's application for authorisation of certain provisions of the NPP Regulations, which was granted in 2017.

On the subscription requirement, NPPA notes that the NPP is mutually-owned industry infrastructure. New joiners bring capital that enables investment in new functionality development which will drive innovation, and ensures ongoing investment in capability development.

All ADIs are prima facie eligible to become NPP Participants if they wish. This includes Purchased Payment Facility providers and holders of restricted or conditional banking licences.

We understand that some non-ADIs have questioned the requirement to be an ADI particularly where an Exchange Settlement Account (**ESA**) is held. The criteria and requirements for holding an ESA and for becoming an ADI are quite distinct and address very different risks. An ESA holder

⁵ See Regulation 4.7(b) and following section.

⁶ See Regulation 4.7(h) and following section.

⁷ Revocation of an authority given by the Board would require a two-thirds majority of all directors to vote in favour.

will typically be assessed as eligible to hold an ESA if it provides a business plan, balance sheet and projected financial statements for the first three years of operation; evidence of adequate liquidity at the time of applying; and other related operational arrangements.

By contrast, ADI licensing covers much more extensive and ongoing prudential obligations, including standards for: capital adequacy; securitisation; risk management including liquidity, credit quality, large exposures and business continuity management; prudential reporting and disclosure of prudential information; governance including 'fit and proper' criteria for responsible persons operating in the particular institution. A conditional or restricted ADI may not be fully licensed by APRA as compliant to all of these requirements, but will be required to meet certain minimum prudential and operational standards. While the details of APRA's restricted ADI regime are to be released, it is NPPA's preliminary view that an entity who meets APRA's minimum licensing requirements will be prima facie eligible to become an NPP Participant.

NPPA's risk management framework is directed to ensuring the integrity and stability of the platform. NPPA requires NPP Participants to be ADIs who are regulated and supervised by APRA. NPP Participants subscribe to the NPP Regulations and NPP Procedures which operate as multi-lateral contracts – a set of obligations between each participant and NPPA, and between participants. These contracts include a range of counterparty assurances and are essential to minimising any possible risks to the integrity and the safety of the NPP. NPP Participants, for example, are able to access the NPP's Addressing Service – which has capacity to carry to personal information records of 20 million plus individuals and many more corporate user records - and must, in turn, be able to satisfy the highest standards of information security and systems security. The NPP error and fraud liability framework established by the NPP Regulations obliges NPP Participants responsible for the registration of PayID information in the Addressing Service to indemnify other parties against losses resulting from failure to comply with registration standards and requirements (such as, failures in relation to account holder identification, verification and registration errors).

Similar to other clearing and settlement systems and payment schemes, NPP is a mutually owned piece of industry infrastructure. It is governed by NPPA which is a small company, with twelve full time equivalent employees. The company is not resourced to undertake the scope of regulatory and supervisory inquiries and assessments of new applicants which are appropriate for participation in a real time account-to-account payment system, and accordingly relies on APRA's function as a prudential regulator to ensure that NPP Participants are continuously supervised and, amongst other requirements, have credit risk management policies, procedures and controls appropriate to the complexity, scope and scale of their businesses to ensure they meet their NPP obligations and counterparty assurances. An NPP participant that is not an ADI, and that is not prudentially supervised by APRA, does not provide the same level of counterparty assurance and comfort to NPPA and the NPP Participants that it has the technical, operational or legal capability to perform the NPP functions or manage data security or fraud risks and meet associated liabilities.

It is incorrect to assume an entity which is not an ADI will be reliant on a competitor to provide access to the NPP. Many ADIs and non-ADIs participate now in domestic payments systems as payment service providers using the agency services provided by aggregators, that solely provide agency services, and sponsor banks. A non-ADI which wants to access the NPP can do so using the services of a sponsor NPP Participant who could be an aggregator such as Cuscal, ASL or Indue, or one of the financial institutions that actively provides agency services (at least two of the majors, Macquarie Bank and a number of smaller foreign and regional banks will provide agency services to Identified Institutions (both ADI and non-ADI corporates)).

2. **Part 2:** The second part of the application process is undertaken after the NPP Componentry is provisioned and installed by the applicant, and is effectively an assessment of the compliance of the applicant's implementation with relevant technical and security standards (these are the Admission Eligibility Requirements).

The Admission Eligibility Requirements are objective:

- a. be a SWIFT User or Domestic SWIFT User (note the latter is a new category of SWIFT client which has been established specifically to cater for new entrants that may not have used

SWIFT before) and a BIC 11 holder;

- b. enter into a Provisioning Agreement with NPPA – this is a standard contract setting out the terms and conditions upon which NPPA makes NPP hardware and software available to the applicant;
- c. enter into a Network Agreement with at least two Vendor Network Partners (being SWIFT-approved providers of secure network connectivity services);
- d. complete the On-Boarding Process with SWIFT (this is the process of registering for SWIFT services applicable to SWIFT Users eg PKI (public key infrastructure) Management Services;
- e. comply with Connectivity Requirements as set out in Annexure E of the NPP Procedures (these requirements relate to installing NPP hardware and software correctly, running performance, availability and resilience tests and providing self-certification).

Importantly, the drafting of these staged eligibility criteria is such that they are objectively verifiable, and there is a presumption in favour of admission: see Regulation 4.7(c) and Regulation 4.7(i).

The Board is expected to be involved in the determination of new NPP Participant and Connected Institution participation applications as a final step to confirm the connection is compliant. This is consistent with principles of corporate governance and accountability. Concerns that the Board's final approval could be used to veto an applicant who meets all relevant criteria, particularly following the issue of shares/payment for NPP Componentry, are unfounded. The Regulations relevantly provide that the Board *shall* accept, subject to any conditions which it considers reasonably appropriate, each Applicant which it determines satisfies the Admission Eligibility Requirements: see Regulation 4.7(i).

The drafting of Regulation of Regulation 4.7(i) and the objectivity of the criteria are such that the Board effectively has no basis to decide that an Applicant who *prima facie* satisfies these requirements is not entitled to become an NPP Participant or Connected Institution as applicable.

Procedurally, the decision to be made by the Board at this stage would be made in accordance with a management recommendation. If the recommendation is that the applicant has satisfied all relevant criteria, that there are no grounds for refusal to accept the application and that the application should be accepted, then it follows that it will be accepted *unless* two-thirds of all directors vote otherwise. If the management recommends conditions to address immaterial non-conformance, the Board can approve these as part of the acceptance: see Regulation 4.7(j)(ii).

The Board voting requirements are such that the view or position of a single director is of no force or effect; two-thirds majority of the directors would have to decide, reasonably and in good faith, that a new applicant has failed to satisfy the Admission Eligibility Criteria for an application to be refused.

NPPA is bound by positive obligations of good faith. Directors are bound by their fiduciary duties to act in the best interests of the company and to declare conflicts which may preclude them being involved in decisions. The review mechanism provided by the NPP Regulations (see above) which is available to any applicant whose application has been refused, does not affect the other legal and equitable remedies available to an applicant whose application has not been properly handled.

- *New Overlay Service Providers*

A Board delegation of authority was granted to the CEO in Q3 2016 to support the determination of Level 1 Overlay Service Provider applications by the CEO⁸. We note our earlier comment regarding the controls which effectively Level 1 overlay services are those which require no changes to the way the platform operates or NPP message flows. We anticipate that many new overlay services will be Level 1 services. It would be incorrect to assume that Level 1 Overlay Services applications determinable under

⁸ Revocation of an authority given by the Board would require a two-thirds majority of all directors to vote in favour..

the CEO's delegation are 'basic' – quite complex message flows are able to be supported by the existing NPP message set.

However, new, innovative digital services based on the ISO 20022 message standards that require a minor or major change to the way the platform operates, or to message flows, can also be accommodated in the access framework (Level 2 and Level 3 Overlay Services). Technology changes will often require a level of development, investment and prioritisation both by NPPA, in terms of central infrastructure development, and by NPP Participants and Connected Institutions in terms of upgrades to the software versions which are required to be supported by all parties connected to the Basic Infrastructure.

The Board of NPPA is broadly accountable for its corporate governance, investment prioritisation and organisation of resources. It is appropriate that the Board of NPPA is involved in the determination of Level 2 and Level 3 overlay service propositions that commit NPPA and connected NPP Participants and Connected Institutions to significant development investment. If an overlay service provider wishes to introduce a new service that requires some technical change it will require some central notification, coordination and development. This is the case regardless of whether the change is a minor change (such as mandated population of a data field in an existing NPP message) or a more major change (such as a re-orchestration of message flows, or the introduction of a new ISO 20022 message that is currently not defined for use in NPP).

The NPP Regulations (Regulation 4.12) set out the broad principles of efficiency and fairness that apply to prioritisation of new overlay services where there are multiple new services to be onboarded. Costs of new message development by NPPA/SWIFT required to support the overlay service will be agreed in advance, and borne by the prospective overlay service provider. NPP Participants (whether subscribers to the new overlay service or not) bear the incremental cost of upgrades required to support the new software version.

The Board voting requirements are such that the view or position of a single director is of no force or effect; two-thirds majority of the directors would have to decide, reasonably and in good faith, that a prospective Overlay Service Provider has failed to satisfy requirements for its application to be refused. Administrative review is available to any applicant whose application is not accepted: see Regulation 4.9(d). The review mechanism provided by the NPP Regulations (see above) which is available to any applicant whose application has been refused, does not affect the other legal and equitable remedies available to an applicant whose application has not been properly handled.

- *Governance Arrangements*

NPPA's governance arrangements have been deliberately structured to avoid and manage potential conflicts of interest. We believe that the Productivity Commission's concerns about the perceived conflicts of interest of nominee directors at the NPPA Board are misguided, and do not take into account:

1. the delegations provided by the Board to management which preserve independence and transparency of the assessment of new applications for participation. In this regard we point out that CEO's delegations could be amended or reversed only by a Board resolution. Revocation of an authority given by the Board would require a two-thirds majority of all directors to vote in favour;
2. the controls on the perceived power of the Board to influence access decisions, namely the directors' legal obligation to act in the best interests of the company. Failure to do so could have serious repercussions for the individuals involved; or
3. the composition of the Board and voting rights:
 - a. the four major retail bank shareholders have collectively contributed almost 80% of the capital required to build the NPP, and are each entitled to appoint a director (so hold collectively four board seats);
 - b. the RBA and eight regional, foreign and aggregator ADI shareholders have collectively contributed around 20% of the company's capital requirements, and – other than the RBA – are represented by four elected directors;
 - c. the RBA has been closely involved throughout the NPP's development and has a standing

- right to appoint a director or an observer to the board;
- d. an independent⁹ Chair and a second independent director, each with extensive board and management experience are appointed;
- e. the voting rights of directors are equal, rather than proportional to the nominating organisation's payments volumes, which would typically give the major banks capacity to influence board deliberations;
- f. the Chief Executive Officer is a non-voting director;
- g. Board decisions are made by Ordinary Directors' Resolution. An Ordinary Directors' Resolution is defined as a resolution approved by at least 66% of the Directors who are present and voting on a particular resolution. Two-thirds of Directors (currently, being 8 out of 12 Directors) are required to form a quorum for an NPPA directors' meeting to proceed. This means that to pass a Directors' resolution, 66% of the Directors who form part of the relevant quorum and have voting rights must vote in favour of a resolution for it to pass.

In general meetings the voting rights of each shareholder are commensurate with its shareholding. As at the date of this submission, NPPA has 4 high band shareholders (each holding approximately 19% of total number of shares), 7 medium band shareholders (each holding approximately 3% of total number of shares) and 2 low band shareholders (each holding approximately 1.5% of total number of shares).

NPPA's share structure reflects the utility/mutual nature of the infrastructure and the expectation that those entities who derive commercial benefit should invest in and co-own the infrastructure, and have governance rights in relation to its use and development. All shares issued are redeemable preference shares; subject to the Corporations Act, and the usual proscriptions on redemption of shares, the company intends to apply the proceeds of new joiner subscriptions to redeem shares held by the high band shareholders such that collectively they hold 70% of the issued shares, and after that to redeem all shareholders on a *pari passu* basis. The redemption mechanism was specifically designed as an assurance to ensure the influence of the majors is such that they cannot by themselves pass a special majority members resolution.

• *RBA Oversight of Access Arrangements*

The powers of the RBA to designate a payment system, and regulate aspects of access, pricing, and market conduct, on public interest grounds are very broad. Designation typically requires some evidence that alternative regulatory approaches and voluntary arrangements are ineffective. The RBA's board appointment rights give it oversight of Board deliberations and the CEO's performance of delegated functions and will enable the RBA to act if in doubt about the effectiveness of the existing access arrangements.

It should be noted that the RBA's right to appoint a director was originally limited to the Build Period, being the period leading up to the NPP becoming operational. The shareholders of NPPA unanimously agreed in October 2017 to amend the company's foundation documents to permit the RBA to have a standing right to appoint the RBA's Head of Payment Settlements, or other suitably senior officer, as a director and to have the right to appoint an observer to the Board in the event the RBA decides against exercising its right to appoint a director. Irrespective of the circumstances in which the RBA may choose to have an observer rather than a director on the Board, the effect of the amendments is that the RBA will continue to have visibility of the operation of the Board and management of the company, and to exercise governance rights, which would otherwise have been terminated around the date the NPP exited live proving and became operational.

• *Applying the Governance Arrangements*

The technology which comprises the NPP was substantially developed and completed in Q3 2017. Live proving of the network commenced in October 2017 and was completed in early February 2018. The

⁹ Independence criteria is set out in Article 10.7 of NPPA's Constitution by reference to being personally and professionally independent of NPPA and members, and related bodies corporate of members.

NPP was publicly launched on 13 February 2018, with eight of the thirteen NPP Participants ready to commence rolling out NPP services to other financial institutions and customers.

In the period leading up to launch, NPPA has been working with a wide range of potential new overlay service providers, ADIs, potential ADIs including organisations that could be granted a concessional prudential license under APRA's phased licensing regime (**Restricted ADIs**), and bodies corporate who could directly connect to the infrastructure. On the basis that APRA will implement its phased licensing policy such that a Restricted ADI will be an ADI for the purposes of section 9 of the *Banking Act*, the Board of NPPA has determined that any Restricted ADI will, in principle, satisfy the primary condition for NPP participation and be eligible to become an NPP Participant. As these reforms in prudential licensing and others around open data are implemented, we expect NPP participation to appeal to challenger and digital banks, and are poised to capitalise on that interest to grow NPPA's member base and transaction volumes across the platform.

We also expect that NPP Participants that are aggregators, and the other institutional banks that are active in the market for secondary access services, will ramp up their competitive sponsorship offerings to fintechs, corporates and financial institutions looking to achieve a range of business outcomes. See Schedule 2.

II. FEES

The Productivity Commission recommends the PSB should, as part of imposing an access regime:

- a. review NPPA's methodology for setting the wholesale NPP transaction fee to determine this is set at a level that recovers costs, and if not, consider regulating transaction fees; and**
- b. monitor and review the retail NPP transaction fees set by NPP Participants for their customers.**

From July 2018, NPPA's sole source of operating revenue will be wholesale transaction fees paid by NPP Participants.

It is a matter of public record that NPPA intends the wholesale NPP transaction fee to be set by reference to total transaction volumes and NPPA's costs which include:

- a. annualised operating costs, which are stable and relatively fixed, and
- b. reinvestment in the platform in accordance with its constitutional objective (see Article 2.1(c) of NPPA's Constitution extracted on page 1 of this Schedule 1).

It is in NPPA's commercial interest to maximise volumes across the platform in order to keep the wholesale transaction fee low enough to be competitive with alternative payment methods. Once the wholesale fee is set, it will be paid by each NPP Participant as a fixed fee per transaction, not on an ad valorem basis. NPPA has not yet made any decision about publication of wholesale fees.

Retail pricing of NPP transactions to customers is a proprietary, commercial matter for individual NPP Participants. Several NPP Participants are ADIs that provide clearing and settlement sponsorship services and that compete to provide indirect access to institutions that want to connect to the NPP; it is reasonable to expect fees charged to sponsored institutions and users of the NPP to be price competitive.

It is also a matter of public record that NPPA does not expect to be profit-driven. It will be evident from the statements made since NPPA's inception, that NPP is a utility mutual infrastructure, which is not intended to make profits but to cover its costs with a margin for reinvestment. Other than the redemption of preference shares out of the proceeds of new joiner share issues, there are no plans to pay dividends or repatriate capital.

III. OVERLAY SERVICE DATA

The Productivity Commission recommends the PSB should, as part of imposing an access regime, require all transacting participant entities that use an overlay service to share deidentified transaction level data with that overlay service provider.

The draft Report suggests overlay service providers have differential rights to data, and that an NPP Participant, acting as an overlay service provider, would have access to more data than an overlay service provider that is not so acting. This inference is drawn from the following: *'all overlay service providers will not be treated equally. Only those which are also transacting participant entities will have access to de-identified individual transaction-level data of the payments made using their service... To avoid potential for these entities to hold a competitive advantage over new overlay service providers, the Commission considers that de-identified transaction-level data that uses an overlay service should be shared with the overlay service provider (at p310).'*

This is not strictly accurate.

All Overlay Service Providers (in that capacity) have access to the same level of deidentified aggregated data about their own overlay service and use of the overlay service though generated NPP Reports. These data include the number and value of payments made by participating institutions which subscribe to or provide processing services to subscribers to the overlay service. This is the case whether the Overlay Service Provider participates in the NPP in any other capacity, for example as a Connected Institution or as an NPP Participant, or is a third party.

Recommendation 10.5 assumes a participating financial institution has a data-driven competitive advantage over non-participating institutions in the delivery of an Overlay Service. We question the logic of this assumption. The data financial institutions generate in the provision of services to their own customers provide valuable insights about their own customers only, not about the broader base of overlay service end users. However, the same insights could be generated through market research.

Theoretically, an NPP Participant could become an overlay service provider of a new payment service, to which other financial institutions, NPP Participants and end users subscribe. If it did, it would be entitled to the same type and amount of deidentified aggregated data about its service as any other OSP is entitled to access. The only *additional data* that such an NPP Participant would have is the transaction data generated by processing the transactions to which it is a party, that is for and on behalf of its own customers. It has this data whether it is also the Overlay Service Provider, or not. These data include transaction value, payee details (which could include a PayID and full legal account name or BSB and account number and possibly name details provided by payer in transaction reference field), possibly purpose of payment (if provided by the payer as part of the payment initiation process (for example, if the payer contacts their financial institution to seek a daily limit increase to enable a large purchase, the details of which will be recorded by the financial institution), free text in the payment initiation message for delivery to the payee, which could include personal information and sensitive personal information of the payer or payee, particular time of transaction, place of transaction, time of transaction, device identification and geographic location of device at time of transaction.

There is nothing in the NPP Regulations or Procedures which compels or prohibits the disclosure of identified or deidentified transaction level data to overlay service providers, but typically, we would expect that no overlay service provider would have access to customer data within transaction messages in the absence of express customer consent, and a specific need to collect and hold that data for the service. Only the payer's financial institution, payee's financial institution and the payer and payee themselves have access to particular message data. To the extent an Overlay Service Provider requires its subscribers to disclose certain data, it will be a matter for that OSP and NPP Participant subscriber to establish the basis for disclosure and put appropriate express customer consent and secure disclosure frameworks in place.

An NPP Participant's use of its own processing data is proprietary, subject to the rules of the overlay services to which it subscribes.

All customer transaction data is personal information which is subject to privacy law protection, and to financial institutions' contractual and common law duties of confidentiality. Information in the payment message which is sensitive personal information is subject to higher standards of privacy protection. To suggest these data could be stripped of identifying elements and compulsorily disclosed to an Overlay Service Provider is to disregard the prospect that elements of that data could be used to identify an individual. Any such disclosure without the customers' express consent is contrary to law and public policy. To the extent the data is enhanced by the financial institutions' own analytics, it is valuable intellectual property; compulsory disclosure of intellectual property without just compensation and a consent mechanism is inconsistent with public policy.

The Recommendation in this regard is somewhat premature given the proposals currently before the Commonwealth government. Proposed data sharing arrangements, as outlined in the recently released *Report of the Review into Open Banking*, will provide a mechanism by which an Overlay Service Provider, which is an accredited data recipient, to securely access customer-provided data and customer-level transaction data with express customer consent. The timing of implementation, and the legislation, rules and data standards required to implement open banking, are all still to be resolved, so any comment or conclusion beyond this high level observation is, in our view, premature.

For context, we note that the practice of the Reserve Bank is to collect and publish payment statistics. We expect that it will collect and publish NPP payment statistics. From that public information, and usual market research activity, Overlay Service Providers can generate their own service performance data and analytics.

IV. ACCOUNT SWITCHING

The Productivity Commission notes that the NPP and PayID could be used to improve account switching and account portability, by enabling PayID functionality be used more extensively for direct debit payments.

The NPP supports interbank credit transfer messaging, enabling payments to be sent from one ADI account to another. On the surface it would seem straightforward to link regular direct debits to a PayID to make account portability for customers much simpler. However, there are technical and contractual challenges with linking existing direct debit arrangements to payer PayIDs. Direct debits are processed via the legacy, batched, overnight direct entry system, while PayID is designed only to be used with the new NPP platform and 24/7/365 messages.

We accept the Commission's proposition that there are opportunities to use PayID to support real time authorisation and 'debit-like' functionality, and we are actively considering the technical development required to support maximising those opportunities in the medium to longer term.

SCHEDULE 2

Addendum to NPPA's submission in Schedule 1

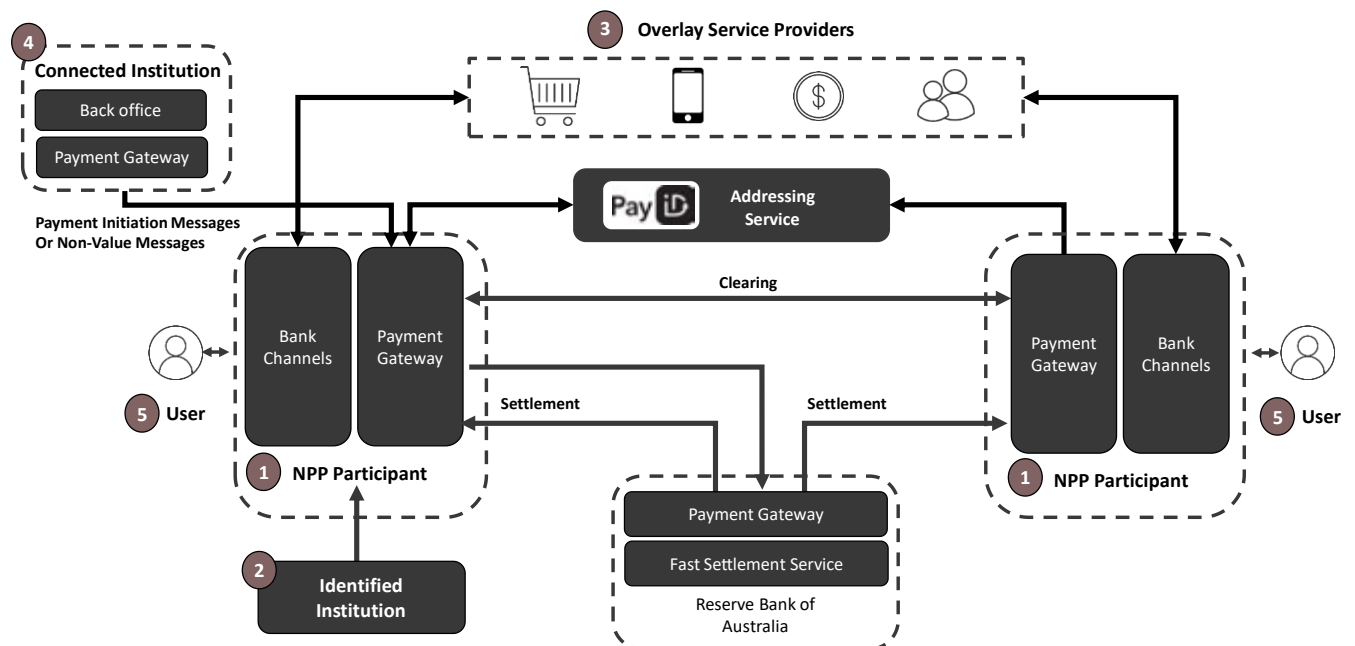


Accessing the New Payments Platform



Ways to Access the New Payments Platform

The New Payments Platform (NPP) has been specifically designed to provide fair and open access with multiple options available for entities to leverage the Platform's functionality. The NPP is the first clearing and settlement system in Australia to be designed with access as a primary objective.



There are essentially five ways to access the New Payments Platform:

Category	Description	NPPAL Eligibility Criteria
User or Customer	<ul style="list-style-type: none">Use the NPP to make and receive payments using available messages or productsRequires a commercial relationship with one NPP Participant	<ul style="list-style-type: none">None
Identified Institution	<ul style="list-style-type: none">Organisations who want to be able to offer payment services to their customers but also avoid the costs of direct connection and/or meeting technical requirements	<ul style="list-style-type: none">None (requires a BSB, including an off-system BSB, and a BIC code issued by SWIFT)
Overlay Service Provider	<ul style="list-style-type: none">Develop new products and services that sit on top of the NPP infrastructureRequires authorisation by NPPAL (primarily a technical and solvency assessment only)Requires Participants and/or Identified Institutions to subscribe to the service, that is, to prioritise and undertake the technical activities required to extend the new product or service to their own customers	<ul style="list-style-type: none">Body corporate registered in AustraliaFinancially solvent/viableBusiness plan for product or service

Category	Description	NPPAL Eligibility Criteria
Connected Institution	<ul style="list-style-type: none"> • Connect directly with own NPP payment gateway • Able to send payment initiation and other non-value messages • Being a connected institution may make sense for an organisation that wants to send high volumes of payment initiation messages and wants to have direct access to all of the NPP payment gateways in a standardised manner. Examples of such organisations could be share registries, payroll providers, B2B payment service providers, etc. 	<ul style="list-style-type: none"> • Body corporate registered in Australia • Financially solvent/viable • Able to meet technical requirements
NPP Participant	<ul style="list-style-type: none"> • Able to clear and settle payments on own behalf • Able to provide access to other organisations 	<ul style="list-style-type: none"> • ADI licence (open to any one of Australia's 150 prudentially regulated ADIs) or organisations with a Restricted ADI licence • Exchange Settlement Account • Ability to meet technical requirements

Facilitating Third Party Access

Two groups of organisations are currently playing a critical role in facilitating secondary access for third party entities:

- Wholesale payment service aggregators
- Banks who are providing third party agency services

1) Wholesale Payment Service Aggregators

Three directly connected organisations, Cuscal, ASL and Indue, act as aggregators, who are providing wholesale payment services to their customers (i.e. they have no end retail customers of their own). The business model of these organisations is to provide access to different payment clearing streams (RTGS, Direct Entry, BPAY and cheques), as well as other payment products and services such as cards, mobile payments, ATM access and fraud prevention and management. Aggregators help to promote competition in the payments industry by providing the technology, scale and licensing required that enables smaller players to compete alongside the largest players in the industry. Collectively, these aggregators provide services to a diverse range of organisations, including building societies, credit unions, mortgage originators, smaller and regional banks, neobanks and other fintechs (including brands such as Acorns, Square, Spriggy, Mint Payments and Adyen), as well as non-financial service organisations such as government bodies, airlines, and retailers.

These aggregators are actively providing access to the NPP and are collectively connecting 50 smaller financial institutions, thereby enabling those organisations to offer NPP payment services to their customers without having to contribute any capital outlay that would be required by connecting directly. Over the next 12 months, at least 20 more organisations are expected to be on-boarded by these aggregators, including a number of fintechs.

2) Agency Service Providers

A number of NPP participating banks such as the major Australian banks are also providing third party agency services and indirect connectivity to the NPP for a number of organisations such as smaller financial institutions. It is anticipated that over time, these banks will also offer agency services to other entities such as large corporates and fintechs. Other current NPP shareholders are also expected to enter this space, such as Macquarie Bank who partners with a range of fintechs and other technology partners today and who is actively positioning itself as an Open Banking partner ¹.

¹ <http://www.afr.com/business/banking-and-finance/macquarie-trumps-big-four-with-new-open-banking-platform-20170914-gyhbxy>

Whilst it is still early days, with a handful of NPP participating financial institutions actively providing third party access (and with more organisations expected to offer such services in the future), the market appears vibrant and competitive. Indeed, the NPP has a more diverse range of organisations participating after just one month since launch than the comparable UK system has managed to achieve in ten years. Moreover, we anticipate that the market will continue to evolve with new organisations emerging over time whose business model is to provide third party connectivity and payment service to the NPP, similar in nature to Form3 in the UK:

Case Study: Form3 - UK

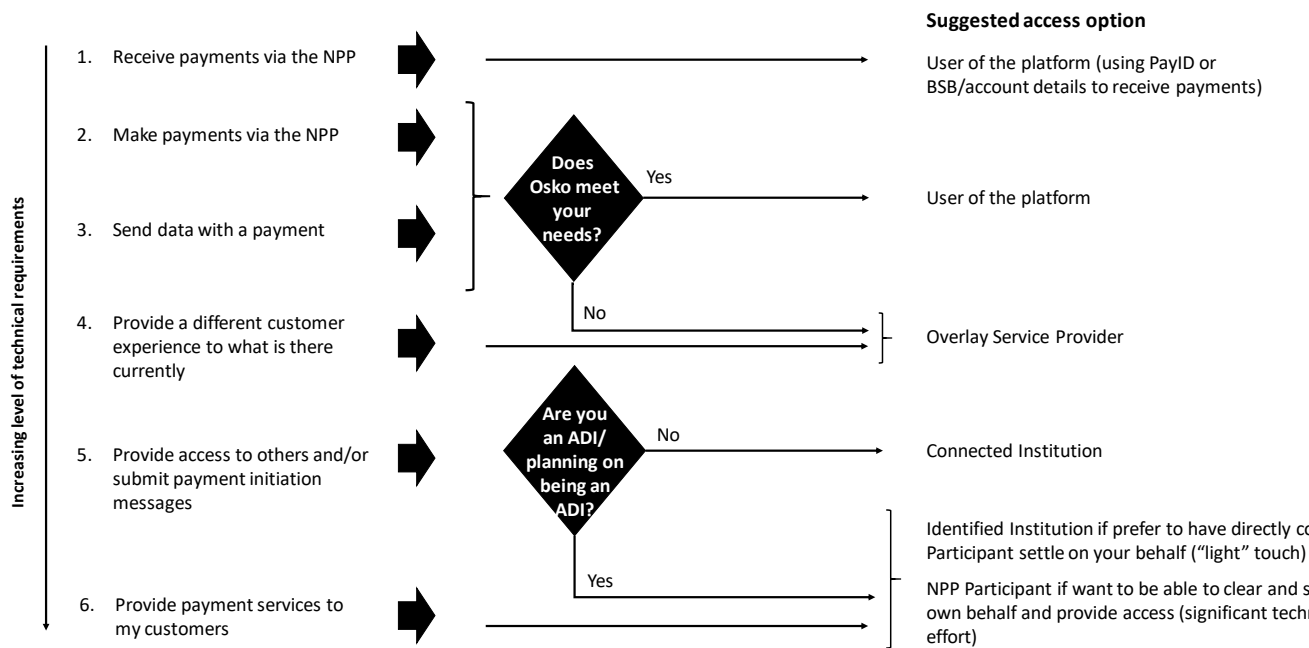
- Flexible cloud-based platform for complete end-to-end processing of payments
- Delivers a unique payment API and workflow based payment processing combined with direct access to clearing and settlement services including Faster Payments, Bacs, SWIFT and international payments

It should be noted that many interested parties seeking access to the NPP, do not want to connect directly because of the technical requirements that this entails and the complexities involved in connecting to a real time payments infrastructure. Hence, ensuring there is a competitive secondary access market is important.

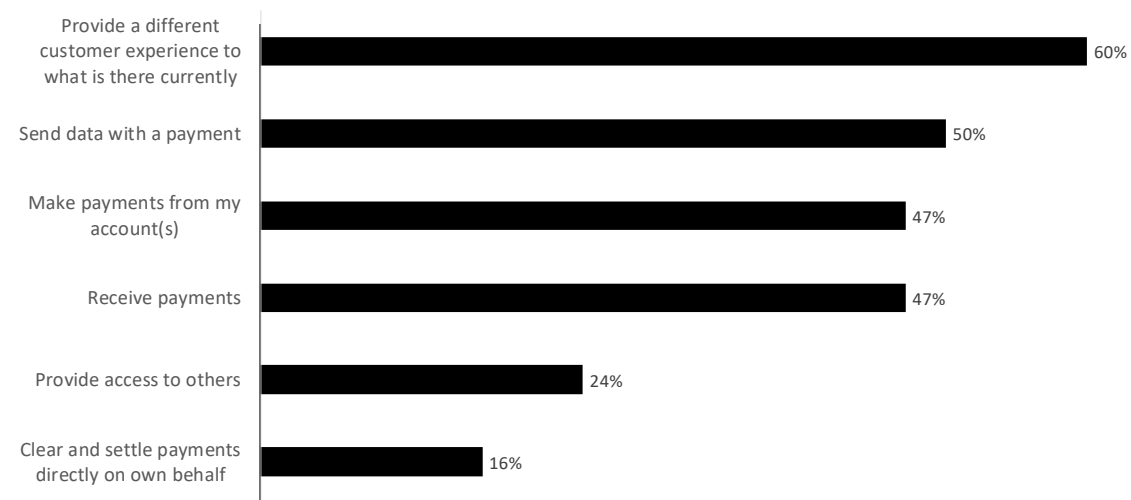
Facilitating Fintech involvement with the NPP

Organisations are seeking to leverage the NPP for different use cases and business objectives. What an organisation wants to achieve using the NPP will largely determine the most appropriate access option for them, as illustrated below:

Use cases for the NPP



A recent survey that we conducted with an audience of fintechs, highlights the most common use cases:

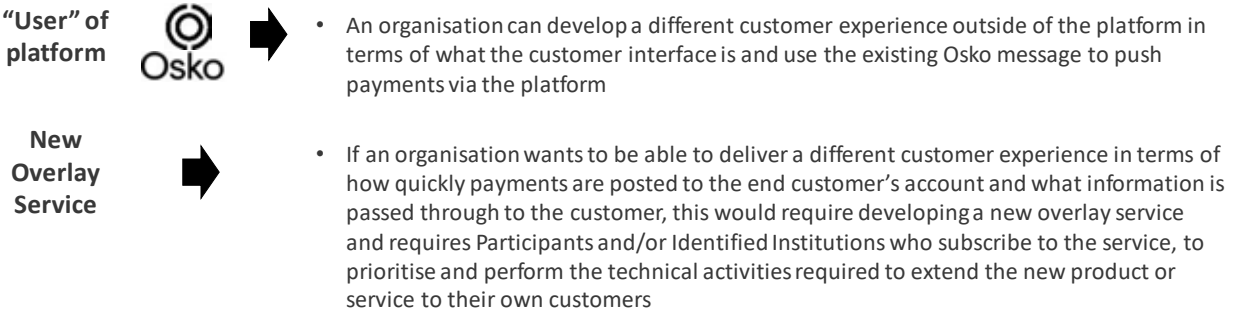


Source: NPPA Survey of 68 fintechs – Sydney Start up Hub, Stone & Chalk and York Butter Factory Ventures, March 2018; Respondents could select more than one answer

Exploring some of these use cases in more detail illustrates how the NPP and its underlying capabilities can be leveraged in diverse ways:

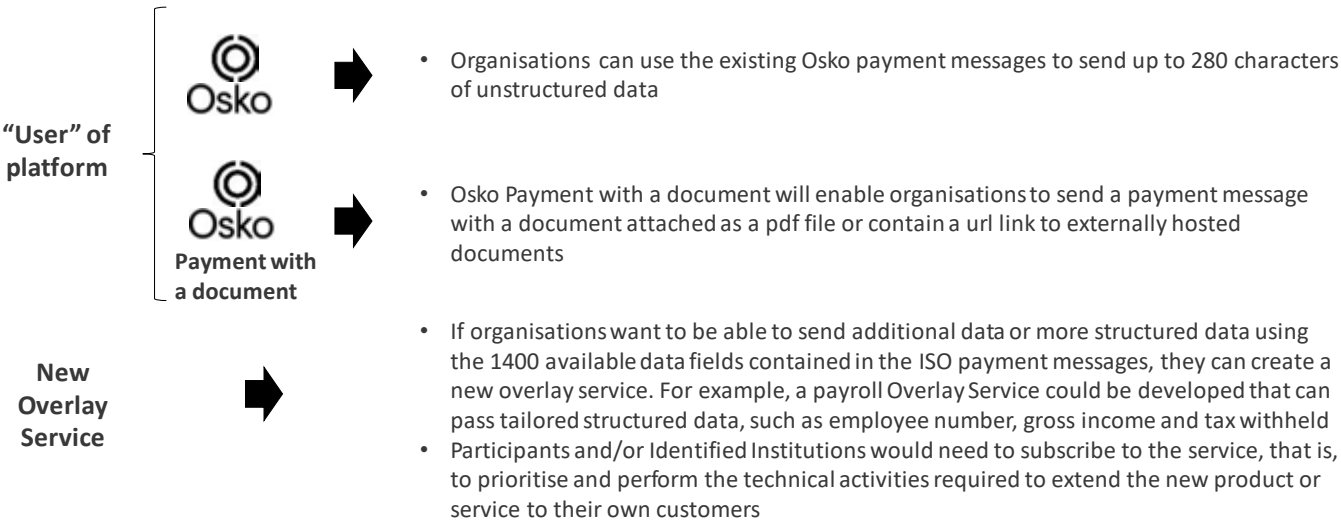
1) Provide a different customer experience

For organisations who are seeking to provide a different customer experience, this can be done in one of two ways, depending on the type of customer experience:



2) Send data with a payment

For organisations seeking to be able to send data with a payment, this could be achieved in a variety of ways:

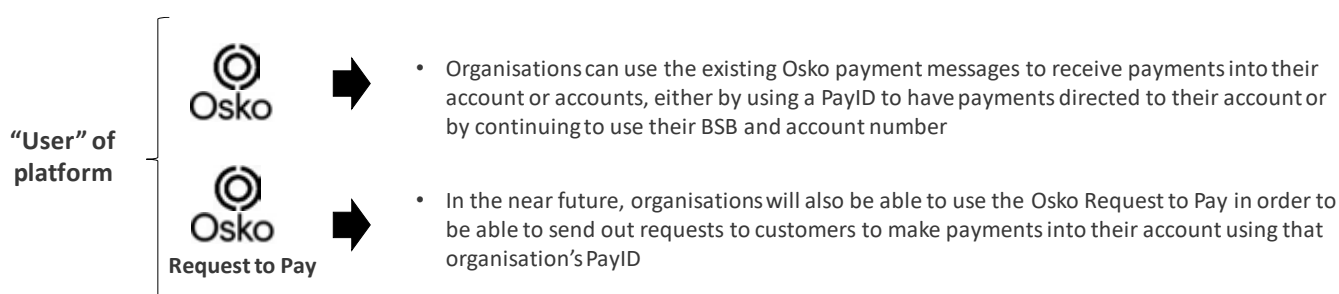


3) Make payments from my account(s)

Organisations can make payments from their account or accounts by leveraging the existing Osko message and either directly pushing payments from their account or utilizing payment initiation messages to instruct participating financial institutions to make an authorised payment. This could include being able to initiate payments on behalf of end customers, for example accounting software providers, if they have the customer authorisation to do so.

4) Receive payments

Organisations wanting to be able to receive payments via the NPP will need to have a bank account with a participating financial institution in order to be able to receive payments using the Osko message:



Using the platform and the existing Osko message to make and receive payments, as opposed to developing an overlay service and encouraging Participants to undertake the work necessary to subscribe to it, is likely to meet the business needs of many organisations and requires a commercial relationship with only one participating financial institution. Based on our experience in handling enquiries from over 300 fintechs and other interested organisations, the vast majority simply want to be able to use the existing NPP/Osko message in some manner, rather than develop a new overlay service (similar to the way that they access existing payment systems today).

We are also anticipating to see innovation occurring “at the edges” or outside of the platform itself with organisations just using the NPP purely for the payment leg of their product or service. This gives them the ability to develop their core offering outside of the platform according to their business objectives. This is a key area of opportunity for fintechs and where we believe most of the focus and activity from fintechs will be.

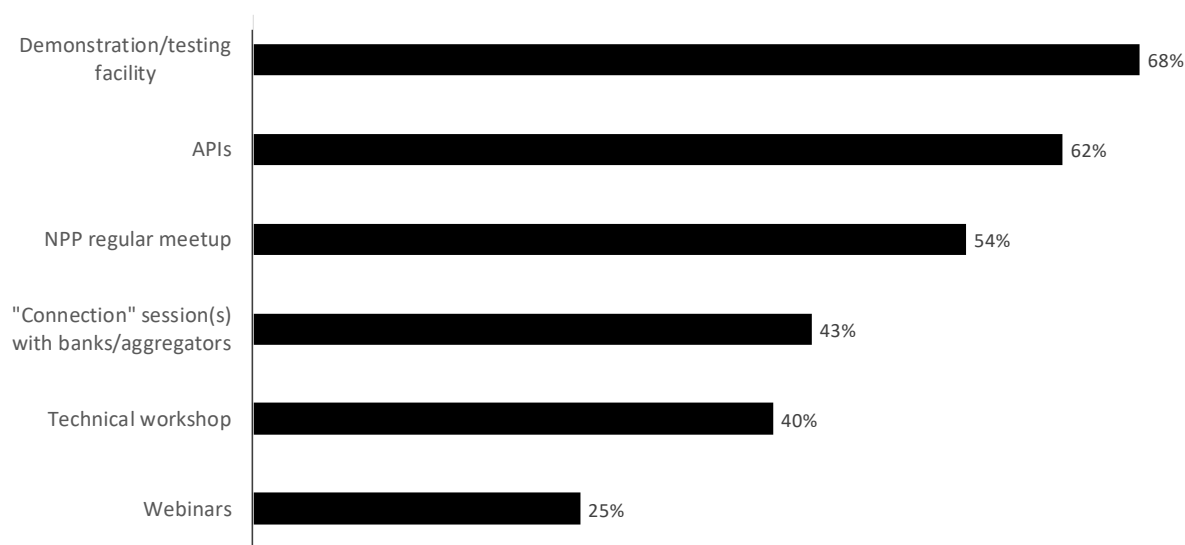
Generic examples of propositions that we have observed falling into this category include:

- The domestic leg of an inbound or outbound international money transmittance using distributed ledger technology²;
- Funding or defunding a domestic payments wallet such as a stored value facility or wallet (retail, food and beverage)
- Some electronic invoicing solutions, vehicle leasing providers, or alternative merchant facilities;
- Payment facilities provided by neobanks and/or alternative finance providers.

² Subject to other regulatory requirements, such as sanctions screening requirements

Plans to further facilitate fintech involvement

Two of the most frequent requests from third party organisations are in relation to APIs and a provision of independent NPP testing facilities:



Source: NPPA Survey of fintechs – Sydney Start up Hub, Stone & Chalk and York Butter Factory Ventures, March 2018; Respondents could select more than one answer

We are actively working on the delivery of these two capabilities, as well as the other suggestions nominated above.

Testing facilities

We are working with SWIFT, who built the NPP infrastructure, to create an independent testing facility for third parties. In its initial phase, this will enable organisations, primarily fintechs, to have a more “hands-on” opportunity to see how the existing and future NPP messages work and gain a better understanding of how they can be used to drive different business outcomes. It is expected that the initial phase of this facility will be available in Q2 2018. In subsequent phases, this facility may be expanded out to become more akin to a full ‘sandbox’ environment. We also anticipate that over time, we may see other organisations providing testing facilities and services to third parties.

API framework

Developing an NPP open API framework is seen as a further enabler to help open up the ecosystem by enabling third parties to interact with the NPP and would help support industry standardisation and inter-operability.

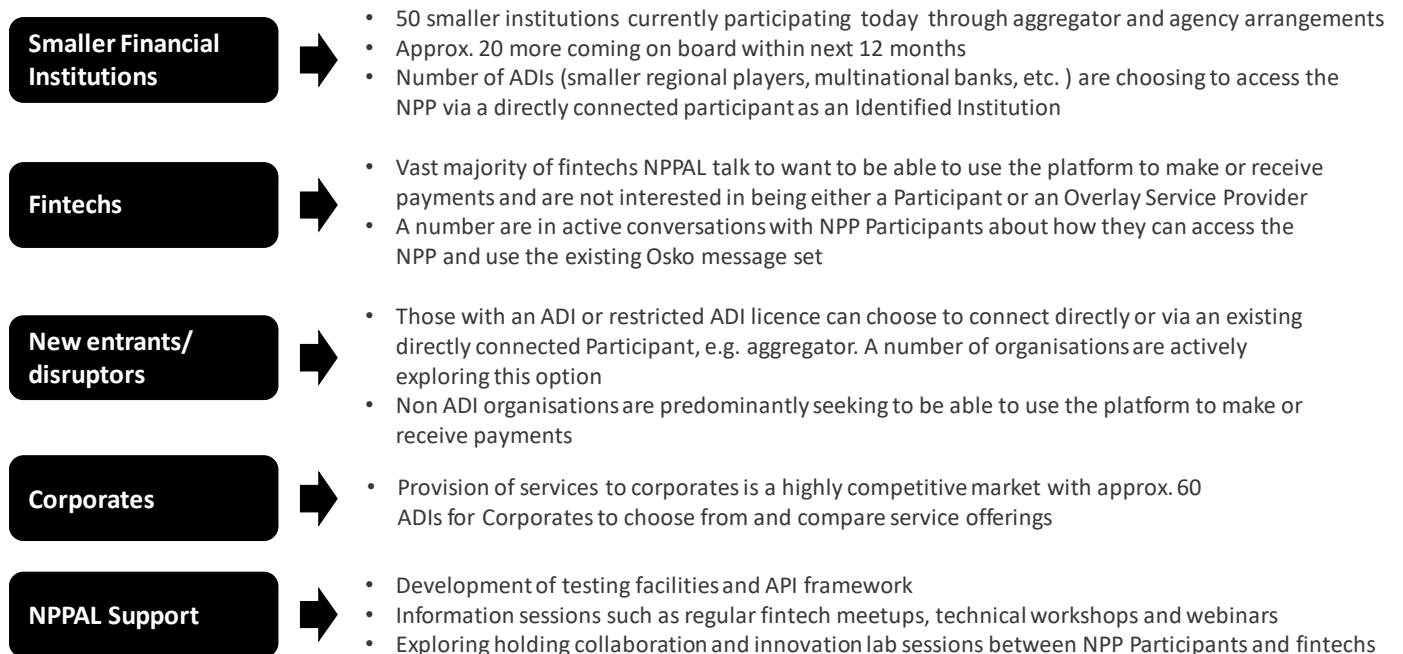
The intention is to develop an open and published API framework, owned and managed by NPPA. The framework would define the key technical approach and mandatory data attributes that each API should have for NPP use (i.e. this would be the foundation layer that should not be altered but which could be built upon by others). This would not preclude others from developing their own APIs, but rather would provide a minimum standard which others, including multiple future overlays, can build upon and extend.

Further education and other activities

We are finding that there is still limited understanding of the NPP and how it works in the market, so our focus will continue to be on further education via such mechanisms as a regular meetup with fintechs, technical workshops and webinars. We are also focusing our efforts on how we help facilitate bringing third parties such as fintechs together with NPP Participants in forums such as “collaboration sessions” and “innovation lab” type concepts. One such example of this is the forthcoming Regtech global conference where we will be inviting regtech organisations to present any ideas or capabilities that they have around fraud and sanctions screening.

In Closing

Third party access whilst still in a nascent stage, is competitive and actively catering to the needs of different organisations seeking access to the NPP. NPPAL is also actively seeking to support the broader ecosystem through additional activities and raising market awareness of how organisations can get involved:



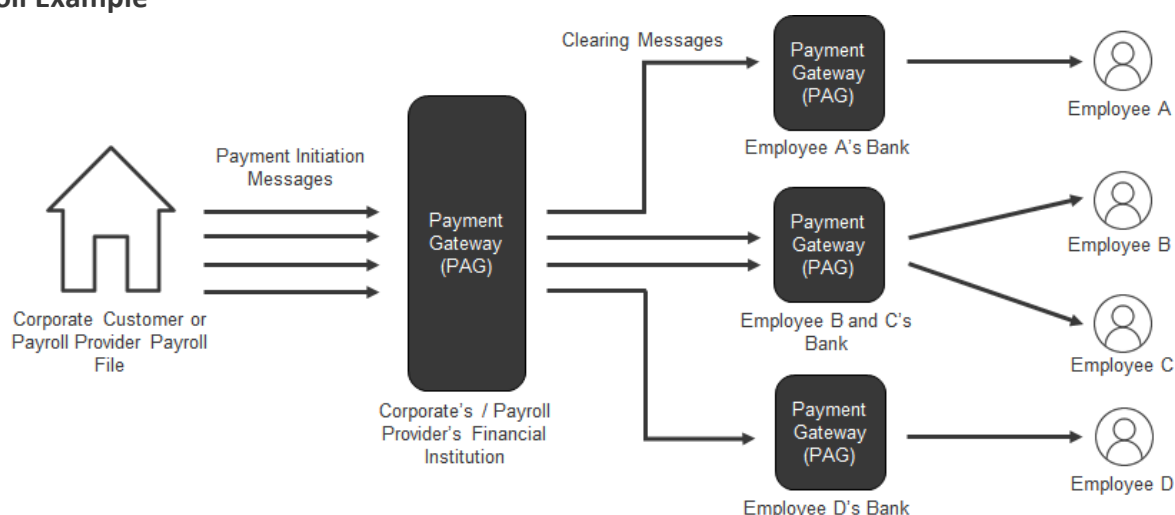
Designing an Overlay Service



The New Payments Platform supports 'overlay' payment services that utilise the basic infrastructure of the platform. An Overlay Service can be deployed on the basic infrastructure to provide tailored payment experiences between the customers of NPP Participants, as illustrated with this example of a Payroll Overlay Service.

However, they also require NPP Participants to subscribe to the Overlay Service, that is, to each agree to prioritise and perform the technical activities required to extend the new product or service to their own customers.

Payroll Example



Overview

- Employer submits file formats or sends payment initiation messages to their Financial Institution for payroll payments to be made to their employees
- Messages contain structured data such as Employee ID, Gross Income, Tax withheld, etc.
- Employees' PayID can be used to direct payments to Employees' accounts
- These data elements are captured in the payment clearing messages sent from the payer's financial institution to the payee's financial institution via the NPP payment gateways or referenced via a url link to an external data source
- Payments are cleared and settled in close to real-time, 24x7
- Employees receive the payment data together with the payment funds
- Other involved parties (i.e. superannuation funds) could receive data in a format they specify

Developing and Managing an Overlay Service requires activity by multiple parties

Developing and managing a Payroll Overlay Service requires activities by the potential Overlay Service provider to define how the overlay service will work across a number of areas, but also by Subscribers to the Overlay Service who deliver the service to end-customers, as illustrated below:

	Activities required by Overlay Service Provider	Activities required by Overlay Service Subscriber
Data and Messaging	<ul style="list-style-type: none"> Determine data elements/fields required (Employee ID, Gross Income, Tax withheld, etc.) Confirm message usage, flows and message orchestration leveraging the ISO message schema 	<ul style="list-style-type: none"> Capture and/or transmit data elements from end customers including securing and protecting data gathered and conveyed, as well as authenticating access rights to data by relevant parties
Technical	<ul style="list-style-type: none"> Confirm details of proposed data architecture and technology architecture, including how data elements are transmitted through to end users 	<ul style="list-style-type: none"> Integration with back office systems, including financial accounting systems, core banking systems, case management systems, etc. Integration into end channels, e.g. internet banking and mobile banking app, if required Testing of connectivity, if required
Rules	<ul style="list-style-type: none"> Develop rules governing Overlay Service (SLAs, posting standards, rejected and mistaken payments, eligibility criteria, certification requirements, etc.) 	<ul style="list-style-type: none"> Implement changes required in order to meet Overlay Service rules, e.g. SLAs on processing speeds, posting standards, etc. Complete certification process as stipulated by Overlay Service Provider
Governance	<ul style="list-style-type: none"> Confirm governance model for managing Overlay Service on ongoing basis including governance framework, escalation paths, communication with subscribers, etc. 	<ul style="list-style-type: none"> Participation in governance model on ongoing basis Provision of data for reporting purposes as stipulated by Overlay Service Provider
Commercial	<ul style="list-style-type: none"> Determine commercial model, e.g. employers pay x cents per transaction; additional counterparties, i.e. superfunds, pay y cents per transaction 	<ul style="list-style-type: none"> Agree to commercial terms set by the Overlay Service Provider Ensure financial processes are in place to support calculation and payment of commercial terms
Operational	<ul style="list-style-type: none"> Confirm operational processes where required, e.g. mistaken payments, investigations, etc. 	<ul style="list-style-type: none"> Implement the required operational processes within their back office environments, e.g. handling of mistaken payments, integration of investigations process into case management system, etc. Implement processes regarding onboarding and offboarding customers, servicing customers, managing exceptions, etc. Ensure processes are in place regarding risk assessment around onboarding of customers, etc.