

Paperless house sales are now a reality but it might be some time before we'll all be buying and selling property online. The electronic system, [Property Exchange Australia or PEXA](#), set up by financial institutions and a number of state governments, changes conveyancing of real estate in a way not seen since the introduction of title by registration in the mid-1800s.

What this transition achieves is a remote electronic based system for the buying and selling of land. The new process from contract to settlement can be paperless. The only physical aspect of the transaction involved the vendor moving out, the purchaser moving in, and the stakeholders, such as mortgagees and conveyancing agents entering keystrokes on a remotely maintained work space.

How PEXA works

Once the parties enter into a contract for the sale of real estate, an online work space is created through PEXA, whereby relevant information is populated by all stakeholders who retain password verified access to the site.

Instead of the buyer and seller signing forms to be lodged at land titles offices, agents on behalf of these parties (such as conveyancing agents) will digitally sign on their behalf. Overseeing this is the [Australian Registrars National Electronic Conveyancing Council](#) a regulatory agency providing guidance and oversight through operating and participation rules.

These rules govern the relationship between the PEXA operator and the land title registry, as well as the electronic lodgement operator and direct participants such as conveyancing agents and financial institutions.

At the moment only conveyancing agents and other subscribers such as financial institutions can lodge online and have direct access to PEXA. To facilitate the use of the system, some land contracts now require that the conveyancing be done through PEXA.

In the foreseeable future its unlikely that the consumers will be able to use PEXA themselves. The cost and impediments to obtaining access are only feasible for someone engaging in

transactions on a routine basis.

In theory, the system should reduce costs and unintentional errors through embedding checks in the process of lodging these forms. Currently the paper-based system is arguably more prone to human error, though computer systems depend greatly on the security that sits behind them and the mistakes potentially made by the keystroke operators.

From the point of the real estate industry, it increases productivity and can provide simpler and easier access to real-time data in relation to the property and to the state of the transaction.

Because money is transferred electronically within moments of the settlement occurring, it reduces the current gap that occurs between settlement and registration within paper-based systems. The new system should streamline the complex legal problems that can sometimes occur in transactions.

It should help resolve a category of irreconcilable legal decisions around the priority between two unregistered interests, where there's one interest in a property and a second interest is also created in the period between settlement and registration. At the moment, judicial bodies resolve these on a case by case basis, but with PEXA reducing the gap between settlement and registration, the opportunity for these sorts of conflicts should disappear.

Risks of paperless property exchange

The first sale using PEXA has already occurred with the five largest states already using the system.

But with any development comes risks. At its heart conveyancing requires that a purchaser be able to identify the vendor, verify that the vendor is indeed the owner of the land, and finally, confirm that this vendor has the right to deal with that land and is not constrained by others (such as a mortgagee). These requirements are key to preventing identity fraud.

PEXA's response has been to impose significant identity verification requirements that can

exceed the well-known [100 point requirements](#) to open a bank account. Purchases by overseas parties have had significantly greater requirements for identity verification imposed upon them.

However identity fraud will continue to pose a threat in the PEXA environment if users are not vigilant in complying with these enhanced identity requirements. There may also be risks in the movement of funds at settlement. Because this occurs electronically, the capacity to cancel cheques paid in settlement before these cheques are cashed will disappear.

The risk of a person accessing the computer system fraudulently and altering multiple records is palpable.

At its heart, what this new era does is reallocate risk. Lawyers, conveyancing agents, mortgagees, assurance funds and land title registries have for close to 150 years of private law jurisprudence on title by registration developed a complex series of rules governing this allocation.

The new dawn of electronic conveyancing will inevitably provoke new jurisprudence with the stakeholders jousting for position. Whoever emerges with the least amount of risk attached to them will be a powerful player in this new paperless property market.

The authors do not work for, consult, own shares in or receive funding from any company or organization that would benefit from this article, and has disclosed no relevant affiliations beyond the academic appointment above.

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