

Automation of the Register in Australia– Developments and Assessments

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Australia's journey toward a national electronic conveyancing, lodgement and registration system commenced with a COAG agreement in 2010 aimed at implementing regulatory reforms for a 'seamless national economy'. To give effect to this agreement the States co-operated to enact a national legislative and regulatory framework allowing instruments to be lodged in the land registry via an Electronic Lodgement Network (ELN). Unlike previous electronic lodgement systems which accepted instruments via an electronic communication system in pdf format, an instrument lodged via an ELN is in digital format. PEXA, a web-based property exchange platform, is the only ELN currently in operation. PEXA allows parties to a conveyancing transaction to electronically prepare and sign land registry instruments in a secure electronic workspace, pay settlement funds electronically and lodge instruments for registration. Unlike previous electronic lodgement systems, PEXA communicates data for the lodgement of relevant instruments to the Land Registry system. Prior to lodgement the data is certified by the parties as accurate and compliant with relevant laws. Once lodged the data is reviewed by the land registry computer system and if the data accords with the relevant business rules the data is automatically registered. Only if the data does not comply with the business rules will the data be examined by a human prior to registration.

Implementing an automated lodgement and registration process required a number of other changes to the traditional paper process. These changes were necessary either to facilitate digital transactions, such as abolishing paper certificates of title, or to minimise identified risks of a digital process. One of the more significant changes, primarily to combat identity fraud, is the requirement for solicitors to verify the identity of their client and certify this fact to the Registrar. Much of the commentary to date has focussed on increased risks of fraud arising from the use of a digital platform to undertake a conveyancing transaction with very little debate about the transformative effects of automating the registration process.

PEXA has been operating in a majority of Australian jurisdictions for at least 3 years and a number of registries have mandated the use of electronic lodgement for certain transactions. This paper offers a number of reflections on the transformative effects of digital settlement and automated registration on the traditional roles of conveyancer and registrar and assessment of the impact, if any, on the accuracy and security of the Torrens register.