

A brief explanation of the transition to E-conveyancing

And how to get connected

Contents

<u>THE TRANSITION TO E-CONVEYANCING</u>	<u>2</u>	What can I do electronically?.....	7
<u>HOW TO GET CONNECTED.....</u>	<u>4</u>	What must I do electronically?	8
InfoTrack	4	<i>New South Wales</i>	8
Sympli.....	4	<i>Victoria</i>	9
PEXA.....	4	<i>South Australia</i>	9
Verification of identity	5	<i>Western Australia</i>	10
Client authorisation	5	<i>Queensland</i>	10
Certification and record keeping	6	<i>Australian Capital Territory</i>	10
<u>E-CONVEYANCING TIMELINE ACROSS AUSTRALIA</u>	<u>7</u>	<i>Tasmania and Northern Territory</i>	10

The transition to E-Conveyancing

The conduct of a sale and purchase up to and including exchange can and will remain unchanged for some time as practitioners adapt to conducting matters electronically using emails and software that is being introduced into the market.

It is in fact possible today to prepare, submit, negotiate, sign and exchange contracts without the use of paper. Those practitioners interested in joining this move away from paper will find the means to do so within By Lawyers Guides. However, the focus of this commentary is the electronic settlement process.

The electronic process that follows exchange requires all participants to have been identified, registered and have a digital certification that entitles them to transact electronically in the workspace.

A 'workspace' in the electronic conveyancing platform is opened by the vendor, or failing the vendor any other party, inviting all parties to join the transaction and setting a date and time for settlement. Each party can add subtract or amend their information in the workspace.

Whilst such matters as requisitions and settlement adjustments are completed outside the workspace they can be uploaded to the workspace and made visible to a party of choice. For instance, a discharge authority might be made visible to the discharging mortgagee only.

The vendor and purchaser sign a paper Client Authorisation for their practitioner to sign for them as it is the practitioner who has the authority through their Digital Certificate to sign for clients. Therefore, the Client Authorisation is a critical document and must be retained for 7 years for inspection by land titles if ever required.

Outgoing and incoming mortgagees make their arrangements for settlement without input from practitioners. Payment directions are communicated by entry into a Financial Settlement Schedule which contains tabs for Source Funds and Disbursements.

Each party to the transaction completes their tasks prior to the nominated settlement time and for settlement to take place as planned, the Settlement Schedule must balance, the source funds must be available, and all documents must be signed.

The workspace is locked automatically if everything is ready. This triggers title verification and movement of the source funds into a holding account. A final search is not required as the workspace will not lock if there are title impediments to registration.

Settlement occurs exactly as scheduled and title documents are lodged and registered, and the settlement funds disbursed in accordance with the Financial Settlement Schedule. The settlement process is automatic and completed in about 15 minutes which sees cleared funds transferred and title registered.

Note: settlement can be cancelled at any time prior to the locking of the workspace.

If all else fails, at any time you can revert to a paper settlement unless electronic lodgement is mandatory.

How to get connected

InfoTrack	4
Sympli.....	4
PEXA.....	4
Verification of identity	5
Client authorisation	5
Certification and record keeping.....	6

InfoTrack

You can use [InfoTrack](#) to join the world of electronic conveyancing. Nominate InfoTrack as your sponsor with PEXA for seamless integration.

InfoTrack has launched an electronic lodgement network [Sympli](#). See below for further information.

[SettleIT](#), another InfoTrack initiative, is a shared network of specialist settlement agents that handle e-settlement processing on your behalf. With one click, you can book a SettleIT agent who will act under your instructions and provide a personalised fixed-price service.

Sympli

Sympli is operational in several jurisdictions and is working towards Australia wide operation. You can find more information about the Early Onboarding Program and register [online](#).

PEXA

[Property Exchange Australia Limited \(PEXA\)](#) is an authorised platform for conducting electronic conveyancing settlements. The first step in electronic conveyancing is to join PEXA. The PEXA website sets this out in 8 easy steps, all of which are capable of being conducted on-line, with the exception of Verification of Identity that requires a face-to-face

interview. A PEXA representative will attend your office to complete that step or it can be completed at an Australia Post office.

You need to nominate a representative in your office to undertake the task of collection of data, such as ABN, Trust Account number, Practising Certificate and insurance details, identity documents, etc. The Participation Agreement needs to be signed by an Australia Legal Practitioner and this person will be primarily responsible for the obligations flowing from that Agreement.

The process can be completed within days, assuming that the necessary proofs can be assembled. PEXA staff are available on-line and by phone to ensure a smooth registration process.

Verification of identity

Electronic conveyancing requires a fundamental change from a paper Certificate of Title (pCT) to an electronic certificate of title (eCT). The paper certificate was traditionally the “key to the door” and was generally accepted as proof of entitlement to deal. Introduction of an electronic certificate means that this physical “key” has been replaced, thus making it necessary to establish a new regime to prove entitlement to deal. The Verification of Identity regime is designed to ensure that parties can be confident that the person with whom they are dealing is indeed the person entitled to deal.

Verification may be undertaken by the lawyer or the client may be referred to an Identity Agent, such as Australia Post. InfoTrack also have VOI software [WebVOI](#) or [IDfy](#).

Verification of Identity is satisfied with two forms of photo ID – current passport and driver licence. Whilst not all participants will have these forms of identity available it is estimated that 90% of people are able to do so and other options are available for the other 10%.

Refer to the dedicated [Verification of identity – Electronic lodgements for real property](#) commentary and see the Library of Identity and Authorisation Forms available in the matter plans.

Client authorisation

Perhaps the biggest benefit of electronic conveyancing is the elimination of the client; at least to the extent that post-contract documents do not have to be signed by the client. In a

standard transaction, the lawyer is able to sign the transfer of land on behalf of the client pursuant to the Client Authorisation signed by the client at the beginning of the transaction.

This form is available in the matter plans.

Certification and record keeping

Participation in electronic conveyancing requires the lawyer to certify on the Client Authorisation Form that proper verification of identity procedures have been followed and that any paper title replaced by an electronic title has been destroyed or made invalid. Records supporting the transactions must be retained for seven years but may be retained electronically. [Fileman](#) provides a service to store your paper files off site or to convert them to electronic files.

E-conveyancing timeline across Australia

What can I do electronically?	7
What must I do electronically?	8
<i>New South Wales</i>	8
<i>Victoria</i>	9
<i>South Australia</i>	9
<i>Western Australia</i>	10
<i>Queensland</i>	10
<i>Australian Capital Territory</i>	10
<i>Tasmania and Northern Territory</i>	10

What can I do electronically?

Documents that can be completed electronically via PEXA are set out on a state-by-state basis on the PEXA community page [What can I do in PEXA?](#)

Still in the onboarding stage, Sympli have a [list of documents](#) that can be completed electronically.

Government departments in each participating jurisdiction provide a current list of dealings that can be lodged electronically:

- NSW - [Schedule of eDealings](#) – Office of the Registrar General;
- VIC - [Land Registry transactions available for electronic lodgment](#) – Environment, Land, Water and Planning;
- QLD - [Electronic lodgement of title transactions \(eLodgement\)](#) – Business Queensland;
- SA - [Electronic Conveyancing](#) – Land Service SA;
- WA – [Electronic Conveyancing](#) – Landgate.

What must I do electronically?

New South Wales

Date	Change
1 August 2017	<ul style="list-style-type: none"> – Authorised Deposit-taking Institutions (ADI) will receive e-Titles when a paper transaction is lodged – Where the mortgagee is an ADI, mortgages, discharges must be lodged electronically where they are signed on or after 1 August 2017.
1 July 2018	<ul style="list-style-type: none"> – All standalone caveats signed on or after 1 July 2018 must be lodged electronically. – All standalone transfers signed on or after 1 July 2018 must be lodged electronically. – All mortgages, discharges of mortgage not just by ADIs signed on or after 1 July 2018 must be lodged electronically.
By October 2018	<ul style="list-style-type: none"> – All remaining paper Certificate of Titles held by ADIs were replaced, starting 1 July 2018, with electronic titles resulting in a bulk cancellation of paper titles
1 July 2019	<ul style="list-style-type: none"> – All transfers, mortgages, discharges of mortgage, caveats, withdrawals of caveat and transmission applications or combinations thereof must be lodged electronically when signed on or after 1 July 2019 except when lodged with another dealing that cannot be lodged electronically. e.g. transfer including easement.
1 July 2020	<ul style="list-style-type: none"> – All dealings that can be lodged electronically must be lodged electronically, whether standalone or in combination. – This includes dealings such as leases plus other dealings that will become available over time, such as notices of death and changes of name.

Victoria

Date	Change
1 August 2017	<ul style="list-style-type: none"> – ADIs must lodge standalone mortgages electronically. – All refinances must be lodged online where both mortgagees are ADIs
1 December 2017	<ul style="list-style-type: none"> – Standalone caveats and withdrawals of caveat must be lodged electronically. – Non-ADI discharges of mortgage and mortgages must be lodged electronically.
1 March 2018	<ul style="list-style-type: none"> – All survivorship applications, transmission applications and standalone transfers must be lodged electronically
1 October 2018	<ul style="list-style-type: none"> – All combinations of transactions available in PEXA must be lodged electronically e.g. a case comprising a withdrawal of caveat, discharge of mortgage, transfer and mortgage
1 August 2019	<ul style="list-style-type: none"> – All transactions must be lodged electronically. <p>The exception is when an existing paper instrument signed prior to the date electronic lodgement became mandatory.</p>

South Australia

Date	Change
3 April 2017	<ul style="list-style-type: none"> – All standalone discharge of mortgages must be lodged electronically. – All standalone National Credit Code Mortgages must be lodged online when the mortgagee is an ADI.
12 February 2018	<ul style="list-style-type: none"> – All remaining standalone mortgage dealings must be lodged electronically. – All mortgages and discharges of mortgages must be lodged electronically.
3 August 2020	<ul style="list-style-type: none"> – Transfer, Caveat, Withdrawal of Caveat, Encumbrance, Discharge of Encumbrance, Transmission Application, Application to Register Death by Survivor, Lease, Surrender of Lease, Underlease, Surrender of Underlease, Transfer of Mortgage, Transfer of Encumbrance.

Western Australia

Date	Change
1 December 2017	<ul style="list-style-type: none"> – Eligible mortgages and discharges of mortgages must be lodged electronically. <p>Eligible land registry documents are defined as the documents that support transactions that can be completed using the existing electronic lodgement network where all of the participants are or are able to become subscribers.</p>
1 December 2018	<ul style="list-style-type: none"> – Eligible stand-alone transfers, caveats and withdrawal of caveats must be lodged electronically. – Any lodgement case consisting of eligible discharges, transfers, mortgages, caveats and withdrawal of caveats must be lodged electronically.

Queensland

Many transactions can be completed electronically in Queensland however, they are yet to release a timeline for mandatory compliance.

Australian Capital Territory

Many transactions can be completed electronically in the ACT however, they are yet to release a timeline for mandatory compliance.

Tasmania and Northern Territory

Tasmania and the Northern Territory have not joined PEXA or released a timeline for electronic lodgement.

Enjoy practice more.