

Ms Elizabeth Kelly PSM
C/ - Secretariat
Statutory Review of the Consumer Data Right
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Ms Kelly

Introduction

Thank you for the opportunity to make a submission to your review of the Consumer Data Right (CDR), as announced by Senator Hume on 14 February 2022. We note that the Strategic Assessment Review of CDR published in January 2022 states at page 10:

‘Consultation with industry and across state and Commonwealth government agencies highlighted the benefits of designating customer specific data held by government, either to complement private sector data or to support particular use cases ...’

In this context, the purpose of this submission is to suggest that the property sector – Australia’s largest asset class accounting for 15% of Australia’s GDP – be considered for designation by the Minister under Part IVD of the Competition and Consumer Act 2010 (the Act). As a significant participant in this sector, PEXA Group Limited (PEXA) would welcome further consultation on this proposal as the CDR undergoes further evolution in the national interest. PEXA supports an approach that maximises the opportunities of data sharing and portability, while managing risk in a targeted and proportionate manner. Therefore, we welcome the opportunity to contribute to this important review.

About PEXA

Arising from an initiative of the Council of Australian Governments (COAG), PEXA developed a world-first digital property exchange that enables its members to lodge documents with Land Registries and complete financial settlements electronically. Robust, secure, and fast, our platform is trusted by more than 9,400 legal and conveyancing firms and 160 financial institutions and underpinned by a culture of innovation, collaboration, and momentum.

Today, we process over 85% of Australian property sales and settlements, and over 95% of mortgage refinance transactions. In 2021, around \$688.7B of property settlements were processed by us, equivalent to around 1/3rd of Australia’s GDP.

The platform and framework under which PEXA operates, was created in collaboration with enterprising individuals from the government, banking, legal and conveyancing communities to ensure PEXA meets the needs of various stakeholders, from lenders to homeowners. Through PEXA’s collaborative engagement with stakeholders and our continuous improvement processes, approximately 87% of our platform enhancements are based on stakeholder feedback and collaboration.

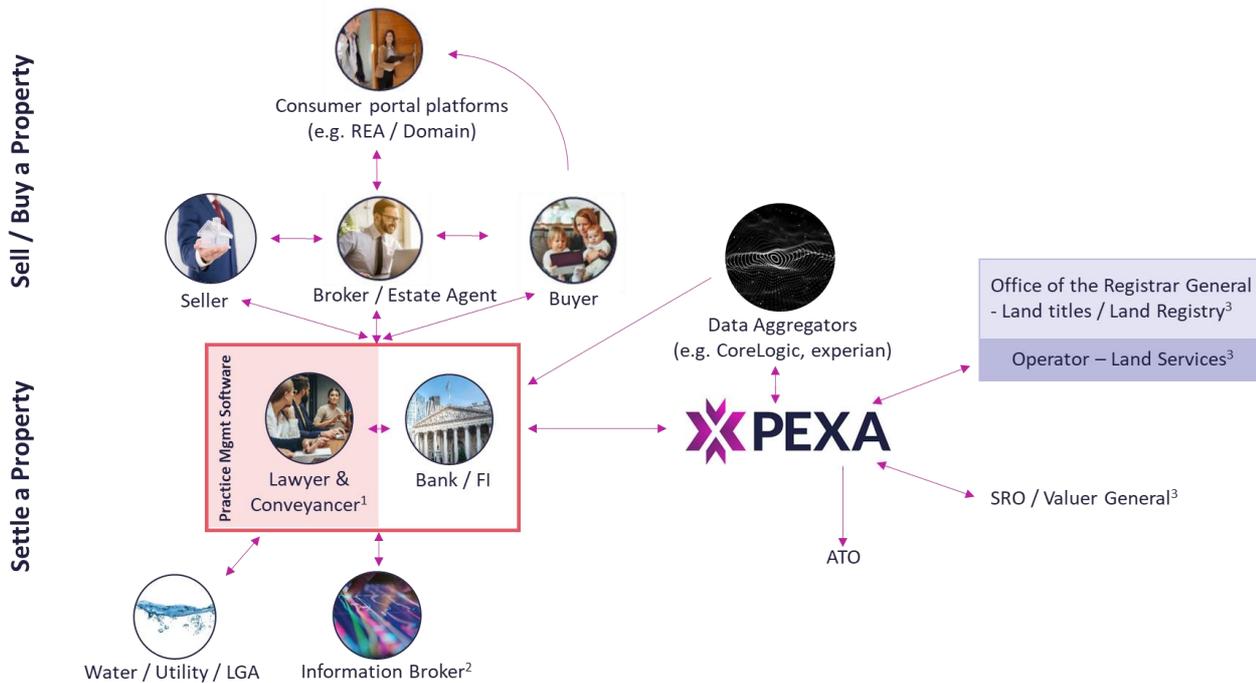


Figure 1. Property Value Chain

- ¹ Lawyer / Conveyancers use a range of Practice Management Software platforms
- ² Sourcing data from multiple providers including Land Titles Offices, LGA Certificates etc.
- ³ Each State / Territory replicates this function. PEXA works with 6 States / Territories

ADDITIONAL NOTES:

- buyers and sellers are represented by their lawyer / conveyancer of choice
- buyers typically seek funding from lenders (FI)
- sellers typically have existing loans secured by real property that must be paid to lender (FI) upon sale of property

While the establishment of digital property settlement, enabled by PEXA, was a significant COAG-led reform, it has been just one force that is re-shaping Australia’s property market. Of note, digitalisation has increased along the property value chain with COVID-19 further accelerating this trend. For example, a study undertaken by the University of Melbourne¹ found that while countries such as the United States and the United Kingdom reported significant declines in property settlements during COVID-19 lockdowns, Australia’s market remained fully operational. The report confirmed it was the availability of electronic conveyancing that helped keep the country’s \$9.8 trillion² residential property market online.

This digitalisation is creating a range of changes to the operation of the property market, as set out in Figure 2. The trends noted in Figure 2 will over time lead to a more connected and automated property market, which will provide efficiency benefits for consumers, government, and other stakeholders. As an example of this, PEXA is seeing its stakeholders seeking greater use of Application Programming Interfaces (APIs) to support cross-organisational process integrations to improve transaction velocity, consumer outcomes and choice.

¹ Research Findings: Digital Transformation in Australian Property Industry, Dr Niharika Garud and Professor Daniel Samson, Department of Management & Marketing, Faculty of Business and Economics, The University of Melbourne

² Corelogic Monthly Chart Pack, March 2022

From	To	Description
 Manual	 Automated	<ul style="list-style-type: none"> Automation of previously manual property market processes
 Handoff	 Handshake	<ul style="list-style-type: none"> Integration of core processes across platforms and companies via APIs
 2D	 3D (Soon to be 4D)	<ul style="list-style-type: none"> Use of 3D geospatial data across the property chain
 Title	 Token	<ul style="list-style-type: none"> Replacement of centralised records with decentralised ledgers via blockchain
 Passive buildings	 Smart buildings	<ul style="list-style-type: none"> Property management enabled by smart sensors
 Data	 Analytics	<ul style="list-style-type: none"> Use of predictive and prescriptive property information at scale

Figure 2: Digitally enabled changes to the property value chain

Key to unlocking many of these benefits is the more open transmission of information between various participants in the property ecosystem. Increasing transparency in the property market will support improved decision-making in areas ranging from infrastructure planning to residential property selection and management. For example, PEXA’s geographic mobility data could assist governments to better understand the demand for land in near real-time, particularly where demand is falling or growing. These changes in demand have consequential impacts on the type and level of investment required by governments when it comes to building, managing and maintaining infrastructure, including the delivery of essential services to ensure community cohesion and resilience.

Additionally, with the introduction of smart meters collecting data and communicating with smart devices integrated into homes³, location-specific energy information will help consumers better manage the environmental footprint of their home and enable the ability to share or sell energy within their local community through micro-grids.

Another major change will be smart cities and suburbs based on 3D information or digital twins. Rapid advances are being made with a push towards 4D, which includes an understanding of spatial-temporal information. This change means consumers could access information relating to traffic congestion at different times of the day around property, or the impact of pedestrians or other services such as schools, shopping centres and commercial or industrial land uses. The additional information would help consumers to make informed choices based on their needs and preferences.

Data transparency would enable governments to test and monitor various housing affordability policies and projects in conjunction with PEXA and registries. Current policies address the demand side with very little

³ <https://mondo.com.au/community/mini-grids/ubi>

understanding of the drivers of housing affordability per segment. In conjunction with the registries, PEXA can provide this information at a national and State / Territory level. If permitted, PEXA could provide information at a postcode level while still protecting the privacy and security of consumers. While the data on its own will not solve the problem, it would provide valuable insight and input to help governments understand the likely impacts of their policy and in designing an informed and segmented approach to housing affordability.

Impediments to more open transmission of land information

Despite the potential consumer and economic benefits associated with more open property information, there are a range of impediments to it. These include:

1. consumer privacy – the ability for information to be misused or reidentified if appropriate governance processes are not established.
2. use of the information – ethical data driven innovation focused on the interest of the consumer and society at large should govern the use and handling of information.
3. regulatory constraints – agreement with Australian Registrars' National Electronic Conveyancing Council (ARNECC) to modernise data usage that opens competition and enables revenue sharing with the States and Territories.
4. inconsistency in data approvals – acknowledging Australia's federation, it is important to ensure guidelines are established at a federal level as data and technology are borderless. Differences between States and Territories impedes innovation and blocks Australian Technology businesses from being truly global leaders while also reducing foreign investment.

Expanding the CDR to land information

A range of consumer benefits would arise from such a designation. These primarily relate to enabling improved consumer choice, reduced transaction costs, and the development of innovative solutions to consumer problems. For example, property sellers could be empowered to move their service to their new property, buyers could elect to transfer existing services to themselves to maintain continuity of services. In the property sector, this could be achieved through a simple tick box selection during the property journey, enabling consumers to focus on living rather than the admin aspects of property transactions, giving consumers greater tools and insight to make decisions right for them.

In addition to informing consumers and other stakeholders, PEXA envisages that as the CDR evolves over time there will be opportunities to streamline services and interactions regarding property with Commonwealth agencies. We envisage interactions with the Australian Tax Office (ATO) and State / Territory departments like Service NSW and Service Victoria could be streamlined.

We further note that while Government-held databases such as Land Registries can be a source of data under CDR, extending CDR to the property sector would enable further competition – leading to better consumer outcomes at lower cost.

Suitability of the CDR

PEXA believes Part IVD of the Act needs improvement to support the wider expansion of the CDR with focus on cross-sectoral data sharing, straight through consent, inclusion of government (public) datasets enabled with a fit-for-purpose privacy framework. PEXA does however, welcomes the opportunity for the CDR to enable greater convenience for consumers in the property sector, enhancing the digital economy and reducing friction points for consumers.

By designating the property sector, the CDR would enable Australian families to access tailored home loans, home insurance, utilities and other property orientated services that meet their specific needs and circumstances while reducing friction or negative impact related to terminating and restarting services.

PEXA supports in principle the existing assessment, designation, rule-making and standard-setting requirements of the CDR framework which encompass the activities and consultation process undertaken by the Minister under subsection 56AC(2) before making an instrument and including the items under 56AD with a focus on:

- the interest of consumers;
- promoting competition;
- promoting data-driven innovation;
- the public interest; and
- the privacy and protection of consumer information.

Should the property sector be designated under CDR, PEXA may seek to compete in the market as an accredited data recipient to perform analysis and product comparisons on behalf of consumers. It is conceivable that in some circumstances PEXA could be viewed as the data holder. We believe that broader consultation with the property sector would be required to explore which datasets along the value chain should be covered by the CDR.

The statutory settings do enable the development of CDR-powered products and services to benefit consumers, however the benefits will only be fully realised as sectoral rollout of the CDR continues and consumers are educated on the benefit of the CDR across the various designated sectors. The government needs to consider the impacts and consequences as sectors are designated, as sectors do not function in isolation. It is important to understand and recognise some sectors have cross sector dependencies. Examples of where synergies exist between current or soon to be designated CDR sectors and the property sector include:

- information on the best utility providers for the area (e.g. Internet and telecommunications, electricity and gas)
- insurance coverage and premiums for the area based on offers from various providers and how those premiums are changing over time (increase or decrease)
- environmental factors that may impact the property including its valuation for lending and insurance purposes (e.g. modelling on climate change and natural disasters or contamination from previous land use)

Consumers would be able to gain additional information and transparency in the property sector on factors that may impact property valuation based on ancillary factors and land uses including safety. These may be:

- understanding peak traffic (e.g. people and vehicles) times in the property area that meet consumer needs (e.g. accessibility)
- access to information on noise levels (either from traffic or other community or council related activities such as sports, festivals, restaurants etc) prior to purchasing.
- consumer transparency on the cladding of buildings which may be highly flammable, impacting the safety of the building and the investment by the consumer in rectification work

In addition to informing consumers and other stakeholders, PEXA envisages that as the CDR evolves over time there are opportunities to streamline services and interactions regarding property with Commonwealth agencies such as the Australian Tax Office (ATO) and State / Territory departments including Service NSW and Service Victoria.

Matters to consider in extending the CDR to property

Society and governments are rapidly moving to digitised services and data sharing to reduce friction points for consumers, ensure open competition, stimulate innovation, and drive the digital economy.

PEXA believes the Australian property sector is a perfect candidate for the government to realise quick wins for the CDR should it become a designated sector. This is due to its size, increased digitisation in recent years, the exposure of Australian consumers to the sector and synergies between property-related data and other CDR sectors. Extending the CDR will require consultation with the property industry, consumer groups and other stakeholders to ensure a thoughtful and proportionate approach to data sharing, which meets the key objectives of the CDR while minimising and mitigating key risks.

We would welcome any questions you or your office may have about this submission. We would also welcome our involvement in working with stakeholder groups to give effect to a broader application of CDR in the property sector.

Yours sincerely

Scott Butterworth
Chief Data and Analytics Officer