

JANUARY 2019

PROPERTY OF **PITCHER PARTNERS**





CONTENTS

-
- 5** WELCOME
-
- 6** COLLECTIVE SALES FOR RESIDENTIAL DEVELOPMENT
-
- 7** COMMERCIAL PROPERTY ASSETS PROVIDE RELATIVE STABILITY IN VOLATILE MARKETS
-
- 8** THE GROWTH OF PROPTech
-
- 9** THE NEXT PHASE OF CHANGE IN REAL ESTATE... NOT ALL TECHNOLOGY IS DISRUPTIVE
-
- 10** SPARE WORKSPACE PUTS EMPTY MEETING ROOMS TO WORK
-
- 12** PROPERTY: THE FINAL ASSET GROUP TO TURN DIGITAL
-
- 14** THE QUICK GUIDE TO UNDERSTANDING CYBERSECURITY
-
- 15** NEW FEDERAL GOVERNMENT CONTRACT REQUIREMENTS MAY HAVE BROAD IMPACTS ON THE PROPERTY AND CONSTRUCTION SECTOR
-





WELCOME

By Andrew Beitz, Pitcher Partners, Adelaide

At Pitcher Partners we have a passion for the property industry.

We are attuned to the needs of all contributors in this complex and exciting sector – owners, developers, investors, builders, valuer, agents and of course debt/equity participants. We have a well-established and proven track record in contributing to our clients' success based on our extensive knowledge and our intimate approach to servicing our clients.

In this issue, Knight Frank takes a look at the collective sales for residential development and how commercial property assets provide relative stability in volatile markets.

Michael Langhammer, Pitcher Partners Melbourne looks at the growth of PropTech and how it is contributing to the transformation of our economy.

Across in Perth, Jesse Hill from Drapper Apps shares the next phase of change in real estate but is all technology disruptive? Jesse talks through some of the latest apps that are changing the way we do real estate.

Cole Wilkinson, Pitcher Partners Brisbane shares Jake Dimarco's story of how he developed the Airbnb of meeting rooms, Spare Workspace.

PEXA has been actively used in South Australia for over 18 months. Mike Cameron takes us through the reason PEXA is better for people working in the property industry as well as the developer solution PEXA Projects and the future of e-Conveyancing.

Pitcher Partners Consulting provided a quick guide to understanding Cybersecurity. With as many as 59% of Australian organisations disrupted by cyber breaches each month, this number is growing. This article takes a look at the factors driving cyber threats and understanding the types of threats that are out there.

Finally, Paul Marino from Pitcher Partners Sydney looks at the new Federal Government contract requirements for property and construction businesses who subcontract to the government.

We welcome your feedback – if you have any suggestions on articles you would like us to cover in future editions please send them through to info@pitcher-sa.com.au

COLLECTIVE SALES FOR RESIDENTIAL DEVELOPMENT

Collective sales made up 16.5% of all site sales suitable for low, medium and high density development in Australia in 2017/18; seven times greater than five years ago.

By definition, collective sales include horizontal sites, with multiple homeowners banding together to form amalgamated residential super-lots; and vertically within a building, with owners of individual apartments and offices.

Although the portion of collective site sales was lower than recorded in 2016/17 when they represented 20.4% of exchanged sales, there are still likely to be additional sales recorded in this period, backdated once the settlement occurs. Extended settlements are quite common for this type of transaction, sometimes being pushed out up to two years.

Across Australia, when analysing buyer nationalities, local buyers dominated horizontal site sales with almost 82% of total collective sites five years ago, by value. At this time, foreign buyers represented only 3.1% of collective sales.

The split of foreign buyers purchasing collective horizontal sites grew to 56.9% in 2014/15, to more recently record 17.7% in 2017/18. This was most recently influenced by a number of large non-collective sites being transacted.

In this last year, foreign and local buyers represented a reasonably even spread between horizontal and vertical collective site sales compared to previous years. Foreign developers established in the market are now proving comfortable exploring this type of purchase.

The portion of vertical site sales have continued to grow since 2013/14 when 15.4% of collective sales were purchased by locals—this is now around 30%. There were no significant collective vertical sites sold to foreign investors five years ago, but fast-forward to 2017/18, this portion tallied to 26.3%.

Vertical site sales have been more prevalent in New South Wales since new legislation for strata properties came into operation in late 2016. These sales grew from a share of 3.8% in 2014/15, to 17.3% in 2017/18, of total site sales suitable for higher density. This is despite a smaller portion of collective site sales compared to one year earlier.

This reform provides owners of freehold strata lots with an alternative way to end their strata scheme. This can be done by agreeing to a plan allowing for the collective sale, or redevelopment, of their strata complex in circumstances where not all, but at least 75%, of owners agree.

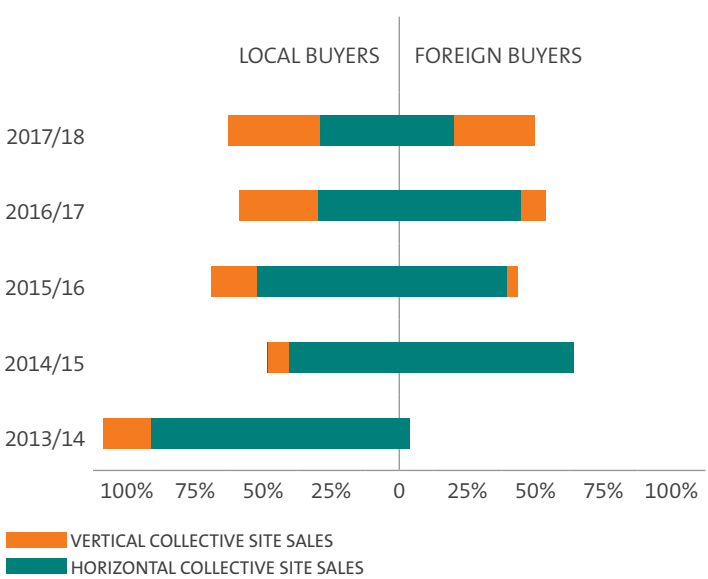
A similar strata reform has recently been passed by the Western Australian Government to encourage the upgrade of buildings not currently reaching full potential and to curb urban sprawl. Although regulations must still be drafted for the new reform, it is understood a requirement of 80% of owners in a scheme of five or more lots, must vote in favour, before the State Administrative Tribunal can determine if the scheme has met all requirements in order to be terminated.

In Victoria, the share of collective site sales by value has fallen each year since 2014/15. The relative value of development sites is still favourable when compared to New South Wales and there remains a good mix of available sites across the suburbs of the planned city. At this stage, Victoria avoids the need to explore this type of reform.

Bucking this trend, despite Queensland development sites being relatively better priced than both states, collective sales suitable for higher density has continued on an upward trend since 2015/16. This has been the result of a mixture of Brisbane inner city apartment blocks and office suites selling in one line reflecting recent weaker office market conditions, with high vacancy and less prospect for many secondary office buildings.

Whilst the flurry of collective site sales has not been as prevalent in the media headlines recently, there are still many being cultivated behind the scenes with an average timeframe of two-to-three years before being sold off-market or advised to the public.

Split of Buyer Nationality for Collective Site Sales, Australia
% of total collective sales suitable for residential development, by value



Residential development site sales suitable for low, medium and high density; threshold of \$2M+ for all states, with the exception of NSW & Victoria being \$5M+
Source: Kight Frank Research

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COMMERCIAL PROPERTY ASSETS PROVIDE RELATIVE STABILITY IN VOLATILE MARKETS

Risk assets have come under pressure in recent weeks. The gradual removal of accommodative monetary policy, US-China trade tensions, disappointing corporate earnings announcements and vulnerabilities in some emerging markets have weighed on investor sentiment. While commercial property assets are relatively well-placed to withstand the current market volatility and the late cycle dynamics in asset prices, growth in capital values is likely to slow after a period of strong returns.

Global equity markets sold-off sharply in October. The S&P 500 declined by 6.8% and the US 10-year Treasury yield rose sharply to 3.2% as strong economic data in the United States prompted markets to anticipate a more rapid pace of tightening in monetary policy by the US Federal Reserve. Higher US interest rates have also led to volatility in emerging markets, particularly those with significant US-dollar denominated debts and reliance on external funding. Asian equities fell sharply on concerns about US-China trade tensions and the outlook for growth in China.

Despite the volatility, the global economy is expected to continue to expand at a robust pace, although growth is less synchronised across the major economies and regions compared to 2017, and downside risks to global growth are rising. The International Monetary Fund expects the global growth to remain at 3.7% in 2018 and 2019. Growth in the United States has accelerated in 2018, supported by the tax cut package and strong labour market conditions. By contrast, growth in China has slowed partly reflecting US-China trade tensions and attempts by Chinese authorities to rein in rapid credit growth and manage financial stability risks. Growth in the euro area has also moderated from the strong levels seen in 2017, with trade tensions weighing on the export sector.

Relative strength in commercial property

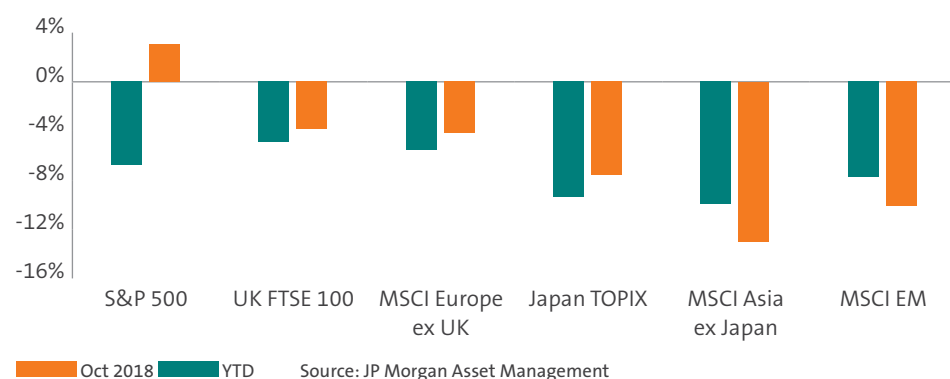
Amid the market volatility and late cycle dynamics in asset prices, commercial property as an asset class is well-placed to perform relatively strongly. Although the cumulative impact of rising interest rates may weigh on capital values over time, commercial property valuations are relatively less exposed to the impact of rising interest rates than valuations in some other asset classes such as bonds and equities.

Commercial property assets are therefore attractive to asset managers looking to provide an element of diversification in investment portfolios. Commercial property assets in Australia are also attractive to overseas investors. Yields on Australian commercial property, while historically low, are still relatively high compared to major overseas markets, particularly in the Asian region.

However, the pace of yield compression (and therefore capital value growth) is likely to slow after a period of rapid growth. Returns will likely become more divergent, with income growth and asset specific performance playing a greater role in driving overall asset class performance.

Favourable leasing market conditions should support commercial property returns going forward. Robust employment growth continues to contribute to strong demand for office property. On the supply side, the development cycle – particularly for office property – has been relatively modest compared to previous cycles. The shortage of office property in Sydney is particularly pronounced, which will continue to support income and capital growth. Other cities, such as Brisbane and Perth, are at a different stage of the cycle. Both cities continue to recover from the weak leasing market conditions seen following the end of the mining boom and there is scope for returns to continue to strengthen in the period ahead.

Equity market indices



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 [KnightFrank.com.au/research](https://www.knightfrank.com.au/research)
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THE GROWTH OF PROPTech

The internet, digitisation, blockchain, the shared economy (open platforms and APIs), big data, cloud computing, artificial intelligence and virtual reality are all contributing to the transformation of our economy.

Whilst we are adapting to the dramatic disruption in the financial services sector driven by the innovative application of new technologies (FinTech), are we ready for the revolution that is now firmly taking hold in the property sector?

Real estate and property technologies (RealTech/PropTech) are changing the way we design, build, manage, invest in, and buy and sell property.

Consider Propy.com, based in Silicon Valley, which provides a platform for buying and selling real estate online, secured through blockchain.

Facilitated by this technology, a real estate property settlement occurred in October 2018 between a Spanish seller and French buyer, both using cryptocurrency. This has now opened the door for foreign investors to buy property in the European Union online!

And in Australia, Property Exchange Australia Limited (PEXA), Australia's online property exchange network now accounts for more than half of all property settlements nationwide and has a market value of \$1.6 billion. Within two years of launching in Australia, WeWork now leases 35,000 square metres of commercial office space in Melbourne alone, and over the same short time period purplebricks has sold more than 3,600 homes.

For existing professional services firms and businesses in the property sector, there are two fundamental challenges that must be faced to ensure they remain relevant:

1. how to innovate through the application of new technologies to enhance customer service, experience and engagement, and more effectively address pain-points, and
2. reduce the cost of doing business through automation, speed, development of end-to-end processes and scaling

The traditional business models employed across the property sector are being threatened. In their book, *"The Future of the Professions"*, Richard and Daniel Susskind present a compelling picture of how technology will transform the work of human experts. Are the recent moves by JLL (JLL Spark Global Venture Fund plans to invest \$100 million in PropTech) and Colliers (Colliers PropTech Accelerator powered by Techstars) examples of an offensive, or, a defensive strategy?

The disruptors include wonderful Australian start-ups such as Jake Dimarco's Spare Workspace, the "Airbnb for Meeting Rooms & Desk Space," where businesses can share or book on-demand meeting rooms and desk space by the hour or day (covered in more detail by Cole Wilkinson from Brisbane).

But it is not just about the start-ups. Australia's property market is mature, sophisticated and has embedded in it, a practical knowledge, know-how and expertise that is ripe to be leveraged and exploited through PropTech innovation.

Lorenz Grollo's third generation property DNA provided the foundation for Equiem, a platform that creates communities within commercial office buildings throughout Australia and has now successfully entered New York and London. A great example of Australian PropTech taking on the world.

The Australian property industry's intellectual property provides a clear commercial advantage and the opportunity is present to innovate through technology, to not only improve effectiveness and competitiveness, but to commercialise and monetise this IP in its own right. There will be global application and we must consider our strategic competitive advantage with the ASEAN neighbours. For these existing property businesses allying and collaborating with the technology innovators will be crucial.

The growth in PropTech investment is staggering, with predictions that by 2020 global investment in PropTech will increase to \$20 billion.

Australia, with our world leading expertise and entrepreneurial flair, is now attracting a flow of capital and funding for PropTech innovation. But we are behind the rest of the world and we need to catch up quickly.

Pleasingly, we are seeing examples such as Charter Hall's PropTech accelerator program, serial entrepreneurs such as Evan Thornley and LongView ("I'm an accidental real estate agent") entering the market, as well as heightened activity by venture capitalists and private equity.

These are indeed exciting times for the property sector. For property market participants, it is a time to take stock and to, amongst other things:

- rigorously review existing business models (consider Westfield and its OneMarket spinoff!)
- develop an innovation strategy
- consider key IP that may be leveraged (globally) through PropTech
- keep informed and engage in the PropTech community and networks
- build alliances and collaborate with technology innovators

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THE NEXT PHASE OF CHANGE IN REAL ESTATE...NOT ALL TECHNOLOGY IS DISRUPTIVE

The residential property market was one of the first industries to be significantly disrupted by the wave of dot.com startups in the mid to late 90s. One of the biggest success stories from this era is realestate.com.au (REA), which is without doubt Australia's leading real estate advertising platform and has soared to a market cap in the vicinity of \$10B.

REA truly was a disruptor. It fundamentally changed how agents advertised properties and captured the revenue that previously went to newspapers. This forced media organisations to adapt or be left behind, so it is no surprise that REA is majority owned by NewsCorp and the number two player, Domain, was founded by Fairfax in 1999.

The success of REA has spawned countless startups aiming to disrupt their dominance, but with very little success. REA has done an excellent job of building dominance and protecting it, but they are no longer the agile disruptor that they once were. The next phase of change is unlikely to come from REA.

We are now seeing startups move away from just trying to be an REA clone and gain traction with what I would call enabler technology. That is they are not fundamentally changing existing business models, instead they are finding new and better ways to support the existing industry and its consumers. At Dapper Apps we have been lucky enough to work with two innovative real estate startups that are achieving just that.

Openn (openn.com.au) is a startup that was founded by real estate agents that were sick of technology that aimed to cut the agent out of the process. Instead, they built a platform that not only offers buyers and sellers a better way to sell a home, but it makes sure the agent remains an integral component of achieving a successful result. The success they have achieved in 18 months of launching their web and mobile platform is quite staggering, with Openn recording:

- over AUD \$3 billion in bids placed
- the sale of more than \$200M in residential property
- outselling physical auctions in WA
- days on the market approximately 50% below the national average
- over 1,200 agents registered and trained
- over 900 properties listed
- national expansion

Openn have fundamentally used digital technology to improve the industry by bringing transparency to real estate, resulting in improved trust in agents. That has to be positive.

Rent.com.au is an ASX listed company that still has a startup mentality and has gained considerable traction by focusing on the growing rental market. Rent.com.au has grown to be the 3rd most visited real estate portal in Australia, however the real leaps have been made when a change in strategy saw them focus on how they can engage their customers across the whole renter life cycle, not just when they are looking for a property.

As a result, they are continuing to introduce new products that make it easier to find and apply for a rental, connect your utilities and pay your bond and rent. Since launching their mobile app, they have seen app users convert at 10X the rate of their existing web platform. This is just the start.

While I don't pretend to be able to predict the future, my belief is that the next phase of change in the real estate industry will come from technology that enables and supports the industry. Not all technology is disruptive.



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SPARE WORKSPACE PUTS EMPTY MEETING ROOMS TO WORK

It was a late cup of coffee that helped Jake Dimarco, an outdoor fitness owner, identify an idea that would become his next business.

Already frustrated by the frequency with which wet weather put training sessions on hold, Dimarco was sitting in a café when inspiration struck.

"I was having coffee one afternoon when the owner of the café came past and told us they were closing at 3pm," he says.

"I got to thinking — what if the café could rent out the space it wasn't using between 3pm and 6pm when it opened again?"



The Airbnb of Meeting Rooms

It was the inspiration for Spare Workspace, which Dimarco describes as ‘an Airbnb for meeting rooms’, which allows people with an unused workspace to advertise it for hire. Users can then search the platform to discover and book workspaces of different sizes to fulfil different needs.

Dimarco says that as he explored the opportunity, he could see it taking off in major cities, where the office market was expensive and relied on locking customers into standard rental lease arrangements.

“I kept seeing businesses all over with wasted space and I just kept thinking there should be a platform to rent out that space when it was not being used,” Dimarco says.

“We now make it so that people can discover and book workspace to rent by the hour or by the day.”

The marketplace

The platform has seen its largest growth in short-term demand for meeting rooms, with the market driven by small to medium businesses who either need some extra room or who have space that isn’t fully utilised, but which can be rented for a flat rate.

The platform doesn’t charge the host for listing, with the site designed to be quick and simple for users.

“The platform means that any space can theoretically be rented out – meeting rooms, desks, or even a chair or a basin in a hairdressing salon,” Dimarco says.

“If someone has a space to advertise, the listing is free. They just need to have good quality photographs and a detailed description of what is on offer.”

Once a host has this detail up, Spare Workspace does a quality check within 24 hours, while the host can identify and list the space’s availability. All being well, the listing can be live within a day.

“We’ve built the platform so that the availability of meeting rooms can connect and sync with customers’ calendars as well,” he says.

With hot demand for meeting rooms in cities like Sydney and Melbourne, Dimarco says some hosts are happy to bump their own meetings to allow guests in, as it can deliver an additional revenue stream for the business.

“We’ve had some amazing success stories,” he says.

“We had a training college in Melbourne that made more than \$40,000 last year, a café made more than \$5,000 and a creative art studio more than \$12,000 just by renting out space they weren’t using.”

At the Guest-end, bookings are made not just by small companies but by big corporates and even government.

“We’ve hosted all of the Big 4 banks, government departments, energy companies, and global retail groups,” he says.

“Using Spare Workspace is evolving as a smarter way to work, both for hosts and guests. Not all technology is disruptive.”

From strength-to-strength

It took more than two years of trials, tests and refinement for Dimarco to launch Spare Workspace, and while in the flexible office market there is some competition from big coworking players like WeWork, there are few other short-term, easy-in, easy-out options available.

“We have a few competitors who operate in similar spaces to us – for example LiquidSpace, who are primarily focussed on the North American market, but our offering is niche, focusing on on-demand workspace by the hour or day,” Dimarco says.

“It’s a cost-effective and efficient way of working.”

The lessons from leasing to businesses of all sizes and shapes are also being fed back into design, informing a better understanding of how people work and utilise technology.

“We are looking at how people operate in workspaces – how can we optimise efficiencies and technology?” Dimarco says.

“What is the ultimate temperature, air quality and what technology can we harness or devise to get the best outcomes?”

The next stage for Spare Workspace is to develop partnerships with the global real estate agencies that drive most of the leasing market.

Discussions with estate agents have already proved fruitful and Spare Workspace is looking at a push into Asia, starting with Singapore.

“You would think they would be threatened by this kind of short-term commercial arrangement, but instead, they are aware that the business-as-usual model is going to be disrupted,” he says.

“They want to be a part of it. They like the concept of Spare Workspace and it’s the kind of platform that shows such rapid growth, that these big guys want to be along for the ride and in some cases, partner with us.”

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PROPERTY: THE FINAL ASSET GROUP TO TURN DIGITAL

For more than 150 years, the exchange process for buying and/or selling property was entirely paper-based, with hours spent on laborious tasks such as travelling to settlement, posting contracts, printing, a multitude of phone calls and so on.

Thanks to an initiative drawn from the Council of Australian Governments (COAG), a decision was made to rectify this manual, and often error prone method and transition it online. Ultimately, this gave life to Property Exchange Australia (PEXA).

PEXA, Australia's only property exchange network, assists members – such as lawyers, conveyancers and financial institutions – to lodge documents with Land Registries and complete financial settlements electronically. This digital combination is not only unique to Australia, but is also a world first for property settlements.



Why is PEXA better for people working in the property industry?

With the property industry innovating to satisfy today's increasingly digitally-savvy consumers, the establishment and roll out of electronic property transactions in Australia has become a real game changer for the entire sector.

As consumer needs, wants and expectations continue to evolve, the implementation and adoption of a fully transparent, easy-to-use and ultra-efficient e-Conveyancing platform like PEXA is absolutely fundamental to the future health of the Australian property industry.

PEXA minimises the manual tasks previously associated with property settlement by enabling lawyers, conveyancers and financial institutions to transact together online via a digital platform.

Within PEXA, certain information automatically feeds in from original sources. Documents are signed and lodged online and parties complete the necessary steps to settle the transaction electronically.

It is a vastly more efficient, accurate and secure way of conducting the critical financial settlement and lodgment stages of a conveyancing transaction.

The benefits are undisputable, with PEXA members realising a number of benefits within their business and for their customers alike.

Reports indicate that the industry stands to benefit close to \$90 million per annum when a fully digital conveyancing and lodgement platform is adopted.

Further, an average time saving of 7.5 hours per transaction is gained by practitioners, with less time travelling and conducting administrative tasks or the need to physically attend settlement rooms.

South Australian e-Conveyancing pioneers Mark Duffield and Paula Main of Lyon Conveyancing recently celebrated a significant milestone, reaching 50 years of service in the property industry.

Paula Main, business Co-Principal said, "Digital settlements have many benefits for our business and clients. There are many checks and processes in place which eliminate errors, preventing settlement delays. Digital settlements reduce the need for us to travel to the city to attend settlement, resulting in reduced costs and time for our Conveyancers - time that can be used to focus on our clients. Our clients enjoy the benefits of access to cleared funds within minutes of transaction complete and speedy registration."

100% e-Conveyancing

Realising these benefits, five states have adopted e-Conveyancing – NSW, VIC, SA, QLD and WA. In fact, three of the active e-Conveyancing states have already set their plans to transition to 100% electronic lodgements and settlements.

Developer solution

Another layer to the e-Conveyancing platform is PEXA Projects – the developer's solution. Projects automatically creates bulk online workspaces¹, with mass data upload capability and each settlement status visible on one easy-to-use dashboard.

A developer deal can often consist of hundreds of lots and is more often than not complex, time-consuming and paper-based. PEXA Projects significantly reduces these inefficiencies with large law firms eagerly implementing it into their processes.

Specifically, Mortgagees on Title benefit from the bulk creation of the Discharge of Mortgage in Workspaces, where one would previously need to manually generate the document in each Workspace.

This feature has already proved beneficial for one of Australia's major banks, NAB.

NAB's Digital Settlements Lead, Matt Kerr, said the time savings are translating to greater client satisfaction.

"This functionality allows us to improve how we process transactions and gives our customers more certainty that their settlement will occur on time and more seamlessly."

"Prior to using PEXA's systems, processing a paper-based property transaction that involved up to 100 settlements would take time. Now, our customers benefit from a simpler and faster settlement experience."

The ability to complete encumbrances online was also introduced in South Australia to smoothen the transaction of developer lots. Many encumbrances aim to maintain uniformity within a development and are applicable to each and every property in the area. The ability to lodge and/or remove encumbrances is paramount to new property settlements.

The future of e-Conveyancing

The future is ripe for PEXA and the property industry. Over 1.8 million transactions have already been completed using the platform with a settlement value of over \$252 billion. PEXA continues to enhance the property exchange experience with a focus on 100% e-Conveyancing country-wide.

To learn more about PEXA, visit www.pexa.com.au.

1 Shared online area in PEXA where the participants can communicate and prepare documents for a property transaction

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THE QUICK GUIDE TO UNDERSTANDING CYBERSECURITY

The digital age has transformed the way we do business. Technology now connects us with anyone, anywhere, at any time. Unfortunately, this not only relates to those with whom you do business, but to those who pose a threat to your organisation.

Thousands of Australian businesses are the subject of cybersecurity breaches and crimes each year. In fact, as many as 59% of Australian organisations are disrupted by cyber breaches each month, and this number is growing. With an estimated 2.2 million businesses actively trading in Australia at present, cyber breaches occur on average every 1.8 seconds.

Below, we investigate the factors driving the prevalence of cybersecurity threats, examine the types of threats you should be aware of and consider how you can protect your organisation from rising cyberthreats.

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Factors driving cyber threats

The blurred distinction between social and professional spheres, together with growth in the internet of things (IoT) and 24/7 connectivity is having an immense impact on organisations and cybersecurity.



Merging social spheres

The line between public and private realms is evolving. Personal devices are commonly used for work purposes and vice versa.

The BYO device trend has implications for the security of both personal and business data and information.



Access

Improvements in telecommunications infrastructure and development in mobile technologies has changed the way businesses operate. Businesses are now connected and accessible 24/7, which makes security and monitoring a critical component of a workplace's digital and mobility solutions.



Socioeconomic disparity

The rapid rate of change in digital technologies has led to social stratification – not simply in terms of the haves and have nots but in terms of proficiency in understanding and use of technologies. This knowledge gap allows for exploitation, giving rise to the need for ongoing communication and training.

Understanding the types of threats

Cyberthreats aren't simply limited to hacking and viruses. There are many types of threats with thousands of permutations that pose an ongoing risk to you and your organisation. We briefly consider the threats most commonly levelled at organisations.

Malware		Other cyber threats
Virus An application designed to replicate and spread from device to device with the aim to modify or corrupt a device's files and/or operation	Spyware An application covertly installed on a device to obtain information without the users' knowledge or consent	Ransomware An application that restricts a user from using part or all of a device, unless the user pays a fee to the hijacker to unlock the system
Worms An application designed to replicate and spread among devices, often impacting performance and bandwidth, and used to gain access to your device to use it for nefarious purposes	Trojan Malicious code hidden within a seemingly legitimate application to launch malware on a device	Phishing emails Illegitimate emails used to distribute malicious applications that allow cybercriminals to access a user's private information, accounts or device(s)

Understanding the threats and how they can access your systems is the first step in protecting your organisation.



NEW FEDERAL GOVERNMENT CONTRACT REQUIREMENTS MAY HAVE BROAD IMPACTS ON THE PROPERTY AND CONSTRUCTION SECTOR

Property and Construction clients who subcontract to the government will be required to hold copies of satisfactory and a valid Statement of Tax Record (STR) for “first-tier subcontractors” it will engage where their services are individually valued at more than \$4 million.

This could be a significant trap for those not prepared and those looking to tender would be well advised to get their house in order now.

In November 2018, the Government released its draft Procurement Connected Policy Guidelines for consultation. Under the proposed guidelines, businesses that are not able to provide a satisfactory Statement of Tax Record (STR) from the Australian Taxation Office (ATO) will not be able to tender for large Federal Government projects.

Businesses tendering for Commonwealth Government procurement projects in excess of \$4 million (GST inclusive) will be required to provide a STR that supports their general compliance with the tax obligations, for new tenders from 1 July 2019.

The STR will be included in the tender submission as required. It will be available upon request from the ATO within four business days from the application and valid for 12 months from the time of issue.

Broadly, the STR will include an overall statement indicating whether a tenderer has a satisfactory tax record, based upon the following conditions:

- the tenderer is up-to-date with its registration requirements (e.g. the entity has a TFN, ABN and is registered GST);
- the tenderer has lodged at least 90% of all income tax returns, FBT Returns and BASs that have fallen due in the last four years;
- the tenderer does not have \$10,000 or more in outstanding debts due to the ATO at the time of issue of the STR (excluding debt subject to objection, review or appeal).

The measures include all types of business structures such as companies, trusts, partnerships and joint ventures. For trusts and partnerships, the STR will be required for the subject entity as well as each trustee or partner. Where the tenderer is part of a tax consolidated group, the head company and the subsidiary tenderer will need to produce a valid STR.

New businesses and foreign tenderers that do not have an Australian record of at least four years in Australia will need to state on behalf of the foreign tenderer that it:

- is a non-resident with no tax record or a record of less than four years;
- will comply and pay Australian tax obligations;
- has no tax or criminal convictions in the last four years; and
- is complying with its foreign tax obligations.

It is understood that where an unsatisfactory report is published, the tenderer will be able to work alongside the ATO to take corrective action.

We note that the Policy is not intended to replace the existing due diligence procedures and checks that are currently undertaken. Nor is it intended to signify the financial viability of a tenderer.

The policy components as proposed for the first year are limited to provide a smooth transition. If enacted it is understood that future developments to determine a satisfactory tax record could include whether:

- the entity is compliant with superannuation law and PAYG obligations;
- entities disclosing information about its tax affairs under the voluntary tax transparency code;
- directors have been issued with court order penalties; and
- there have been any convictions for phoenix behaviour, bribery and corruption.

The draft Policy Guidelines are open for submissions until 21 December 2018. Your Pitchers team will provide updates when and where relevant.

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