

# The A-Z of end-to-end eConveyancing

Claire Martin, Head of Property, Kreisson

**Tory Ishigaki:** Today I'm sitting down with Claire Martin from Kreisson to discuss eConveyancing. Welcome Claire.

**Claire Martin:** Hi.

**Tory:** Can you tell us a bit about yourself and your background?

**Claire:** I've worked in the legal industry since 2000 and I started out as a law clerk doing settlements. After 6 years of working in town I went on maternity leave and then moved to working in the suburbs as support staff paralegal. I studied through LPAB and I took another year off when I did my final law subjects with college of law full time and now remain at the firm that I did my PLT days with Kreisson, which is a building and construction law firm and I head up the property department.

**Tory:** You recently completed your masters in property law, are heading up the property department and wrote your thesis on the impact of technology in conveyancing which is a pretty pertinent topic at the moment. Can you tell us a bit about the research that you did, how the conveyancing process is evolving and where you see the future of the industry?

**Claire:** Sure. I recall being at the OSR doing settlements the day before GST was coming in in 2000 and it was absolute chaos. There were people screaming, climbing over each other, paper and cheques were going everywhere. There just had to be a better way and there were rumours around at that time that settlements were going to come in and about a decade later of trial and error we've finally got there so it's only going to get better from here on in. Kind of like when the ASX changed from chalkies to online trading; it takes time but eventually it'll become the norm. Also, in April 2015 I had a client buying a property in Austin and she emailed me the electronic contract and we went through it in Sydney, she docusigned it and she entered into a transaction to purchase a property in Austin Texas from Sydney. That was kind of the first thing I saw towards how far the tech was going worldwide. Some of my research indicated that over 40% of property transactions in the US are being docusigned.

**Tory:** Wow already.

**Claire:** Yeah, so a few months later I heard about Steve Healy at Gadens, he had done the first electronic exchange of contracts in Australia. Shortly after, Mark Morgan at Colin Biggers had done an off-the-plan launch as well, so these were the start of the electronic exchanges and signatures in Australia. So this kind of cemented what topic I was going to select for my thesis.

**Tory:** And you actually completed the first fully electronic residential property transaction in June of last year so I'm assuming that was off the back of that progress and doing your research. Can you tell us the story about how that came to be?

**Claire:** Basically, it was part of my research for my thesis. I'd sent off emails to OSR, LPI various other government bodies, read legislation, commentary, cases, everything I could find on econtracts, etransacting and that was worldwide. I was doing a lot of research and talking to people about why it hadn't progressed in Australia and specifically NSW. I spent a lot of time with Mark Morgan going through what he had done and picking his brain, figuring out what was happening behind the scenes in progressing it, especially with PEXA and electronic signatures. We looked into the systems that had been used around the world, so Canada and NZ, and then there's been some trials in the UK as well which haven't really taken off... PEXA was definitely the most advanced system. We've been using it since around August 2015 in commercial matters to lodge caveats and I found it really simple and easy to use and I couldn't figure out why more people weren't using it.

**Tory:** Did you ever get any answers to that?

**Claire:** I think people are just reluctant to change and try new things. When people can see it is successful and other people are actually using it, I think it gets taken up a bit.

I had pretty good conversations with DocuSign around the electronic contracts, and said these big firms are releasing them and doing off the plans, like hundreds at once, how can we develop something for the smaller firms? Because we don't do a lot of transaction stuff, we're mainly a litigation firm. They said you don't have to re-invent the wheel, get in contact with InfoTrack, if you're already a client they'll turn you into a better client. So Kreisson were InfoTrack clients and we just had some discussions with the staff and the dev team and had a trial and started sending out electronic contracts with a view to electronically sign them. And I decided that I would try to convey property without using any paper. I tried

a couple of times for clients and I found agents that would help but if something glitched at the last minute or they didn't have someone there making them do it, they just reverted to paper. So after a couple of months of trying to get clients' matters exchanged and settled on PEXA, for one reason or another it just wasn't happening for the whole conveyance... I decided to try and sell one of my own properties because that way I could insist on electronic exchange and electronic settlement as terms of the sale. My agent at Century 21 at Neutral Bay, she was in Europe at the time, so she was negotiating from the other side of the world. She was sending me whatsapp messages, "I've had an offer, what do you think?"

**Tory:** Truly electronic in all senses.

**Claire:** Yeah, I couldn't have done it without her and Rob Rigg from Gavin Williamson, he was acting for the purchasers and he just kind of let me push forward and from behind the scenes as well, trying to get his banks to agree to settle on PEXA. Once the contract had been digitally signed and exchanged there's no really going back from there. That had happened and then it was just trying to push it forward through PEXA.

**Tory:** So you really need all the parties to come to the table.

**Claire:** Yes, at that end. Once we got exchanged that was fine, but just getting it completed. Even getting a 149 certificate without having to mail out a cheque - that was a challenge.

**Tory:** Can you walk us through the process from A-Z, what it involves, so people have a better understanding of what we're talking about when we say fully electronic conveyancing?

**Claire:** Sure. Obviously I didn't have to verify my own identity or sign a cost agreement or get a client authorisation form because I was my own client. But I did have to research into how these were being done digitally. There was mention that I should just run down the street and sign the contract, but I wasn't at home I was down at Manly Oval and I signed it on my iphone.

It was great to be able to order everything online, compile the contract and email it, and then to get the sales advice or the email saying we have purchasers at this amount. They did exchange with a cooling off period, so we didn't have to do a 66w but that's integrated into the workflow now. Ordered everything online, compiled it, everything was pre-populated from LEAP, and then we just emailed it off. I signed on my phone, the first purchaser signed it from wherever she was and her partner signed from wherever he was. And then, once we had information from the agent saying that the deposit had been paid, we just clicked on exchange and then it was trying to get all the banks on board.

**Tory:** But pretty simple process overall?

**Claire:** Pretty simple. It was a lot quicker because there was no running around. I know we were all in different locations when we signed and we could do it at our leisure. There wasn't someone forcing us into it.

**Tory:** What was the feedback from those involved?

**Claire:** It was great. I think it saved paper, it saved time, there were no issues from the solicitor on the other side because the estate agent was aware that this is what we were doing. I guess the education beforehand was a benefit. I've gone on since then and done a few auction exchanges where I'd say to the agent we're going to electronically sign, and everyone can sign on an iPad.

**Tory:** And what's the reaction to that?

**Claire:** Auctionworks is all for it, they're like "If we can just click a button and enter in it's just the future of online shopping where you click and buy a house it's amazing."

**Tory:** I know that you're also a keen property investor, you have experience as a vendor, purchaser, mortgagor so you've seen all sides of the transaction. Having had all these experiences, how do you feel this new eConveyancing process will change the experience for each party in a transaction?

**Claire:** For lawyers and conveyancers alike the fact that the eContract can't be altered after the first party has signed it is key because any amendments have to be agreed to by the solicitors - or at least if you're exchanging at an auction or with a cooling off period, the contract that has been drafted by the vendor's solicitor in accordance with their client's instructions is what's going to be actually entered into. There's not going to be an extra page of special conditions handwritten, there's not going to be a variety of changes or missing pages so it kind of just makes life a bit easier. With no counterparts you save so much time flicking through the pages, especially with off the plan launches, it minimises the room for error. The whole process is a lot more transparent, you can see who signed when and what stage each matter is up to.

With real estate agents I think being able to secure and lock in a deal quicker saves hours of running around carting

paper contracts from suburb to suburb collecting signatures. Agents want their commission, they want a quick seamless turnaround, once they've negotiated the deal they just want it to go through. By us drafting a contract in the first place that's pretty just and equitable, there's not many request for amendments, and if there are they're usually anticipated so stage deposits and that sort of thing and the new contract of sale from the law society is fairly well balanced anyway.

As a vendor, the biggest advantage was being able to spend the money the same day. I settled my matter about 3 o'clock in the afternoon and had spent the profits before I got home. I'd paid off my Hex debt, bought a car, put an amount aside to buy my next investment property, paid back my parents, paid off my credit card, so it was just that instant. That's what we're used to now. I think it's geared towards the people who are buying the houses.

**Tory:** I know you received a lot of attention and inquiries off the back of that first electronic property transaction for a residential property from other practitioners and media. So what kind of questions were people asking? What were people most curious about?

**Claire:** How and why were probably the two most asked questions. eContracts got the most attention and interest. The practitioners really wanted to know about the legality and if something goes wrong how are you going to take an email to court. And I'm like have you been to court in the last decade? They're more technologically advanced than we are. I think it's just the natural progression of the contract; 2014 they started issuing eCOS, then 2016 we had the ability to actually sign them. 2014 was great to have an eContract but you were still printing out everything, scanning it and then emailing it to an agent who is then printing it out, getting someone to sign it and post it back. This just saves so much time and paper. That process kind of doubled the printing costs, whereas now, everything is online and it's accessible to everyone.

**Tory:** And the 'why'?

**Claire:** When I explained it was part of doing my masters that gave people more of an assurance.

**Tory:** You know what you're doing.

**Claire:** I'd looked into it. I'd spent six months researching... longer, probably over a year reading about it and was fascinated and kept reading more and more. There wasn't a great deal out there, it wasn't some sort of looking into contracts law where you could spend the rest of your life and still not even come close to reading every case. There weren't many cases out there. Some of the best cases were from the 1800s. That was interesting.

**Tory:** The thing that you mentioned about emails and people asking about how they could go to court with an email. What would they be doing now, sending each other letters back and forth or writing notes from a phone conversation?

**Claire:** It's like how can you prove the original document? If you have to prove the signature is valid, DocuSign will join as a co-defendant and they'll come and fight to prove that they're product is genuine and complies with all the legislation.

**Tory:** That was the next thing I was going to ask because I know we've had a lot of questions as well about electronic signatures and the legality of them. One of our surveys from last year, the majority of people said they'd have faith in an eSignature, but there were still about a third who weren't sure how it works. So what kind of research did you do?

**Claire:** Even last year in the court of appeal, there was a matter regarding a guarantee and an electronic signature using the hellofax system. The legislation is really clear and simple, the ETA (Electronic Transactions Act) is like 12 pages or something, it's not a long read. If you've got the intent and it's a genuine electronic signature and DocuSign have all this meta data to prove the time, the place, the security, the ip address, you have more evidence behind an electronic signature than a scribble on a page.

**Tory:** Because you wouldn't have the proof of where and when.

**Claire:** No and it's like my daughter forges my signature in her homework book. She can't forge my electronic signature by accessing my phone using her thumbprint. Only my thumbprint opens my phone.

**Tory:** So there are definitely additional measures of security. So at InfoTrack we recently did an electronic conveyancing roadshow across NSW and you joined us as part of our panel, answering questions from the audience and other practitioners. How was that experience? What did you hear from other practitioners? What was their reaction? Because there we showed them the end-to-end process so they could really see what the technology was.

**Claire:** It was a great experience. We got to meet some really good people and see parts of NSW that I hadn't been to in a long time, my daughter had definitely not been to ever. I found the questions being asked at the roadshow definitely had a big impact on the newer releases of the versions of the software. The more people using the technology and being exposed to it sort of shape how it's going to work in process. The more problems that arise the more problems can be solved.

**Tory:** I know here especially we're always asking for feedback and really taking that on because we want to make the best

system for everyone to use.

**Claire:** What I found really interesting, I went to 20 seminars over 10 weeks, and every single one I walked away going “Oh I just learned something new” and if I didn’t know the answer Phil Argy or David Jones did. We had all these brilliant legal minds that would just come up with these answers and you’re like “oh that’s a great way of thinking”. But I guess a lot of the questions asked were how much does it cost. 1) it saves you so much time 2) it’s comparable to the price of an express post envelope. So you’re saving time, paper and having to go to the PO box. It really varied from town to town. In Tamworth we had one of the guys who attended who had driven 6 hours to be there. And he was like ‘this will change my practice’ because he can just email people. He’d organise all these settlements for people to deliver settlement cheques to because he’d be in town. He’d just be able to work from wherever he is. The country people, the farmers, their clients are tech savvy – I’ve heard that they’re rounding up cattle with drones nowadays.

**Tory:** They’re ahead of us then.

**Claire:** Yeah so I think it was really well received.

**Tory:** We’re actually releasing a new integration with PEXA so it’s truly that end-to-end experience where you can actually create and launch your PEXA workspace from the InfoTrack website and it will have your pre-population of data and just save you that extra bit of time. I know you haven’t seen the integration yet, but knowing what you do about PEXA and our technology, how do you think this new integration will impact that process?

**Claire:** I think it’s essential, especially with high volume matters, the re-keying of data just invites errors. It will streamline the whole process from end to end. If you just have to enter information once, you make sure it’s correct once. If it’s wrong, you just go back and fix it once rather than in 3 or 4 different systems. I think also with PEXA, their communication with the land titles minimises requisitions by getting the data directly from the registry and just having everything the one spot will save so much time.

**Tory:** And do you think that will encourage more people to start trying eConveyancing potentially?

**Claire:** NSW state government have announced they’re putting measures in place to stop issuing paper titles, so over the next 2 years people are going to have to.

**Tory:** Yeah there won’t be much of an option. You recently started using PlanIT which is our bulk off-the-plan eConveyancing system. Can you tell us about your experience with that and how it’s changing off-the-plan for your firm?

**Claire:** Sure. I think it’s great. We compiled and emailed just under 200 contracts in under 50 minutes.

**Tory:** How long would that have taken you before?

**Claire:** I reckon it would have taken maybe 1 or 2 office juniors a week, like 5 days. Because they’d have to compile 200 and then they have to print them and then they have to page flick them and if they were emailing them they’d have to scan them and email them. So hours and hours done in less than an hour. For this particular matter it was in far north NSW, so for us to print and courier those contracts would have cost us thousands. We would have needed an entire truck.

**Tory:** So it’s definitely a game changer.

**Claire:** Having no counterparts, just everyone signing the one doc, and that being the true doc makes things so much easier.

**Tory:** That’s good to hear. So as head of property for your firm, you’ve been telling us about all the research you’ve been doing, all the effort you’ve been making to lead this digital transformation and the move towards eConveyancing. Based on our research that we did with ALPMA last year, a lot of legal firms are finding it a bit of a struggle to keep up with technology and they still face resistance to change along with challenges related to lack of investment and integrated systems. What advice would you give to anyone who’s trying to make this transition to eConveyancing and how did you go about leading your firm into this electronic age?

**Claire:** Kreisson is a pretty niche work area - we work in a pretty narrow but busy area of law. We do building and construction but we do the whole product package. From site acquisition to off the plan sales and everything in between, predominantly it’s a litigation firm so I guess we get to see a lot of the tech being used in litigation by the courts and international arbitration. Between that and our sophisticated clients, our motivation for using the latest technology is just working smarter. We have clients all over the state, country, world and we need to keep ahead of technology to remain competitive and be respected by our clients. With our clients using such advanced tech like BIM and others like 5D modelling and stuff like that and for us to say you have to come in and sign a piece of paper, they’re like “What? I can look with my virtual reality goggles through the wall and tell you where the pipes are”. We’re basically motivated to keep up with them and communicating at all hours of the day from anywhere in the world, being able to do business flexibly is

probably our biggest motivation.

I mentioned we started out using PEXA in commercial matters just lodging or drawing caveats. We sort of got the timing down, you can lodge a caveat if you don't have to stamp it in 6 minutes depending on the interne. But since then I'm like this is really easy, why are people typing up a form, writing out a cheque, sending it off to their rego clerk or even running across the park?

**Tory:** Do you think it's an old habits die hard type thing?

**Claire:** I think if people tried it and saw how instant it is, like the satisfaction is there. If you don't try it then you won't know. I think with seamless integration coming in, that will be a massive key to productivity. We're going to be able to work with probably 2-3 people doing the work of 20 by just having someone enter the data accurately. With the off-the-plan stuff, you just put in a lot range, it's not like you have to sit there and key lot 1, lot 2. You just push lots 1-180 and it just generates them.

I haven't convinced my boss to go paperless for his side of the practice – he still prints out emails- but he embraces the fact that we can work really efficiently and encourages us to work in the most effective manner to get the clients the best outcomes. This is just a shift in mindset, it's kind of a generational thing.

At Kreisson we're encouraged to do whatever is going to be best for the client. Whenever we have a big project, the whole firm looks at how it's going to be most efficient so using excel and file sharing sites, being able to collaborate with the clients and share info with them rather than having to print stuff out or emailing massive documents. I think it's a better way of meeting client expectations with the generation y mentality of 'I pushed the button why don't I own the house? Why do I have to go through all of this'?

**Tory:** Basically once people try it they see the benefits.

**Claire:** Yeah, my mom, she does PEXA now and she's very electronically savvy and wants to keep up with me.

**Tory:** I think some people are hesitant to try it but once they see how easy it is, there's no going back.

**Claire:** It's a no brainer, when you're saving hours of time, or days or sometimes week with the high volume stuff, there's no way you're going back. And when the clients are made aware that you can actually send the contracts in less than an hour rather than 'okay we'll send it in two weeks time, we'll get it to you by the end of the month', it's just ridiculous.

**Tory:** Thank you so much Claire for joining us today on the InfoTrack podcast. For any listeners, if you want to know more about eConveyancing, you can join us at the upcoming PEXA conveyancing transformed roadshow where we'll be demoing the end-to-end conveyancing process including the new PEXA integration and you can also visit our website at [www.infotrack.com.au/econveyancing](http://www.infotrack.com.au/econveyancing).