

Well what a quarter it is has been – a worldwide pandemic. Challenging us all physically, mentally and emotionally and breaking down barriers to 'remote' working and living the new 'norm'! We hope you are all keeping well and safe.

This edition will focus heavily on COVID-19 – what we are seeing across the industry, what we are doing to help, and important updates you need to know.

Please share this edition with your team and business partners and if there is anything in particular you'd like to see in future editions of *Gadens Connect*, please let us know [here](#). For other great content you can also visit: [www.gadens.com/latest-insights](http://www.gadens.com/latest-insights).

## Operating post-COVID-19 - What does the 'new normal' look like?

COVID-19 has seen very little recoveries activity from lenders over the last quarter. For most, new instructions have been low and almost all enforcement action had been placed on hold. This has seen a shift in the nature of our work, moving away from collections activities to more service focused activities for your customers. However, over the past few weeks some lenders have resumed collections activities and we are slowly ramping back up.

To assist with moving forward into 'life with COVID' we have developed some new reporting which will focus on a more targeted understanding of how COVID has impacted your portfolio down to an individual matter. This reporting will be shared over the coming weeks but if you'd like to know more now, please click [here](#).

In the meantime, let us share with you some industry data highlighting some of the bigger impacts of COVID-19. A matter is identified as being affected by COVID-19 where it has been placed on hold as 'natural disaster' after 1 March 2020. The following data applies only to COVID affected matters across the industry.

### Stayed evictions: 130



We have seen a significant increase in the number of evictions stayed since 1 March 2020. There has also been little to no evictions scheduled during the pandemic. Where possession has been affected it has been as a result of voluntary surrender and / or vacant property.

### Current matters effected by a COVID hold

**Current matters with current COVID hold: 30%**  
(this is where a matter is current and has a current hold for COVID-19 applied)

**Current matters with expired COVID hold: 14%**  
(this is where a matter is current and had a hold for COVID-19 which has now expired)

### Aged inventory



Median age of portfolio up 40%  
**Apr – Jun 2020 - 273 days**  
**Jan – Mar 2020 - 194 days**



Portfolios sitting at greater than 200 days  
**Apr – Jun 2020 - 65%**  
**Jan – Mar 2020 - 50%**

Files are aging as a result of the pause on enforcement action.

### Properties on the market: 248



We have also seen a significant increase in the number of properties in possession where a sale is yet to be affected. This is obviously reflective of the restrictions on sale campaigns. A watch point for all lenders on their aging stock.

If you'd like to know more about your own portfolio's key performance metrics [click here](#).

## COVID-19 Updates

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We have been helping our clients navigate the legislative changes brought in due to the COVID-19 pandemic through our publications. Over the past quarter these have included:

### **COVID-19 Economic Policy Response: Temporary Relief from some Responsible Lending Obligations**

As part of the Federal Government's package of legislative reforms aimed at ameliorating the economic effects of COVID-19, regulations have been introduced which provide lenders with a temporary exemption from some of the responsible lending obligations under the *National Consumer Credit Protection Act* (NCCPA). Find out what these exemptions are and read the article in full [here](#).

### **COVID-19 | Banking & Finance Update – Part 1**

In the unprecedented times of COVID-19 the financial services industry is undergoing a number of legal changes. Part 1 of this legal update looks at the introduction of electronic signatures on affidavits and changes to the AFCA complaints process. Read the article in full [here](#).

### **COVID-19 | Banking & Finance Update – Part 2**

Part 2 of this legal update, looks at the changes to notices to vacate and applications to VCAT for termination of a tenancy agreement, and the positions of other jurisdictions at this time. Read the article in full [here](#).

### **COVID-19 | The Banking Code of Practice – COVID-19: Special Note**

ASIC has approved temporary changes to the Banking Code of Practice in light of COVID-19, enabling banks to continue to provide suitable support to their customers. We have provided an update on these changes and the impact this has upon the banks. Read the article in full [here](#).

### **COVID-19 | Electronic deeds valid in Queensland**

There have been temporary changes to deed signing in Queensland, including that a deed may be signed in electronic form and that the signing of the deed by an individual is not required to be witnessed. Read the article in full [here](#).

### **COVID-19 | Electronic signing and virtual meetings: New temporary relief for companies a significant step on a longer journey**

In a significant development for companies, the Treasurer has utilised his new power to modify the *Corporations Act 2001*, the *Corporations Regulations 2001*, the *Insolvency Practice Rules*, and the *Passport Rules* so that, for a period of six months effective from 6 May 2020:

- entities can hold virtual meetings without the need for a physical location; and
- execution of documents by a company for the purpose of section 127 of the Act may be done so electronically.

Read the article in full [here](#).

## The exit from lockdown

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Over the past few weeks we have mostly seen the careful easing of restrictions put in place by the government to control the COVID-19 pandemic, this is of course with the exception of Metropolitan Melbourne and Mitchell Shire where a second wave of cases has led to the return to a stage 3 lockdown. Adjustments across the board, coupled with the ongoing uncertainty around second waves of cases, means we are having to constantly adjust as we start to get an understanding of the impacts of the continual changes.

### **Onsite auctions and open homes return for some**

On 18 May 2020 Tasmania became the final state to reintroduce onsite auctions and open homes with restrictions, with all other states and territories reinstating them over the previous few weeks. This was a welcome turn to relative normality for the real estate industry following Prime Minister Scott Morrison's announcement that auctions and open for inspections were to be banned indefinitely from midnight on 25 March 2020.

Social distancing measures and limits on the number of people at auctions and open houses are still in place. This differs depending on each state or territory and where they currently are up to in the easing of COVID-19 restrictions and is to be continuously monitored. For example in Victoria a recent spike in COVID-19 cases has meant a return to private viewings and online only auctions.

### **Evictions resume**

In all states evictions have now resumed, with the exception of Victoria.

## COVID-19 and the courts

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Restrictions put in place to stop the spread of COVID-19 have had implications to all aspects including the courts. At Gadens we have seen first-hand how well the courts have done to transition to digital operations, conducting business in the court throughout lockdown through various forms including Microsoft Teams and Zoom. We have been involved in Court hearings as well as mediations which have all been run smoothly in their new digital format.

## Changes to South Australia Court rules

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Despite COVID-19 South Australia has introduced new *Uniform Civil Court Rules 2020* (SA).

Important changes include:

- parties referred to as 'applicant' and 'respondent' and not 'plaintiff' and 'defendant';
- any known occupier of land must now be joined as a party to the proceedings, unlike before. For example, if it is known a mortgaged property is tenanted, then the tenants must be joined to proceedings as respondents given their interests will be directly and adversely affected by an Order for Possession;
- despite the changes requiring occupants to be named as parties, a Notice to Occupiers still needs to be served by leaving a copy at the property; and
- a Court will not make an Order for Possession unless it is satisfied that appropriate notice of the proceedings has been given to any person who is, at the time the order is requested, presently in occupation of the land.

## Success stories

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- Gadens recently acted for a bank where a party filed a court proceeding against the bank seeking preliminary discovery to assist with identifying a defendant. The party was seeking discovery of (inter alia) any AUSTRAC reports lodged in connection with certain money transfers, such documents being secret government documents. We were given two hours' notice of the matter and Zoom court hearing, and were able to achieve a positive outcome. We were successful in negotiating with the applicant to withdraw their application insofar as it concerned any protected documents, and also in obtaining a costs order in favour of the bank at the hearing.
- Gadens represented a bank in a County Court proceeding initiated by customers who were suing for damages associated with alleged misrepresentations about their loans. We attended a Zoom mediation, and the matter revolved shortly thereafter.
- We also recently represented a bank in a Magistrates Court proceeding initiated by an alleged victim of an email money transfer scam. The money had been received into an account held with the bank by the alleged fraudster, who then withdrew the funds before the matter was reported. We were successful in negotiating the discontinuance of the proceeding against the bank.

## GPSR Update

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**Tell us what you think** — This quarter has seen us gathering feedback from internal and external users of our GPSR application to understand what you like about it, what you don't like about it and what we can do to make your user experience better. A big thanks to those of you who have completed the survey so far. We still have some more information to gather but rest assured your feedback is important to us and it's helping to shape our optimisation strategy moving forward. If you're still yet to complete the survey and you'd like to share your thoughts with us, speak to your manager and ask them to reach out to us [here](#).

**B2B integration** — We have also been busy preparing for the next phase of our B2B integration with GPSR. Next quarter will see us go live with a complete portfolio integration with one of the major lenders. This is a huge step in working towards a complete end to end technology solution and we are proud to be leading the way with this. If you are interested in chatting about how we can integrate GPSR with your core banking systems click [here](#).

## Let's celebrate...

- **Doyle's Guide** – Partner Rob Hinton has recently been recognised as a *Leading Insolvency & Restructuring Lawyer – Victoria* in the 2020 Doyle's Guide rankings.
- **Gadens Melbourne Moves to Collins Arch** – On 22 June, our Melbourne office moved into its new home at the Collins Arch precinct in the Melbourne CBD. The new office address can be found below.

## Key contacts

If you would like to discuss the contents of this newsletter or any other recovery-related matter, please contact one of our regional legal experts...

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