

Welcome to Edition Four of *Gadens Connect*. We hope you are all keeping safe and well during these challenging times.

Like with our last edition we will continue to focus our attention on COVID-19 impacts but more importantly what we can do to assist you and your customers.

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).

## How can we help you?

Many of you are now undertaking resumption activities with your customers and working towards a strategy to deal with increased volumes in the coming months.

Did you know GPSR can assist with releasing capacity, reducing operational costs and improving data security?

Two options to consider are our **bulk upload functionality** and our **B2B integration**.

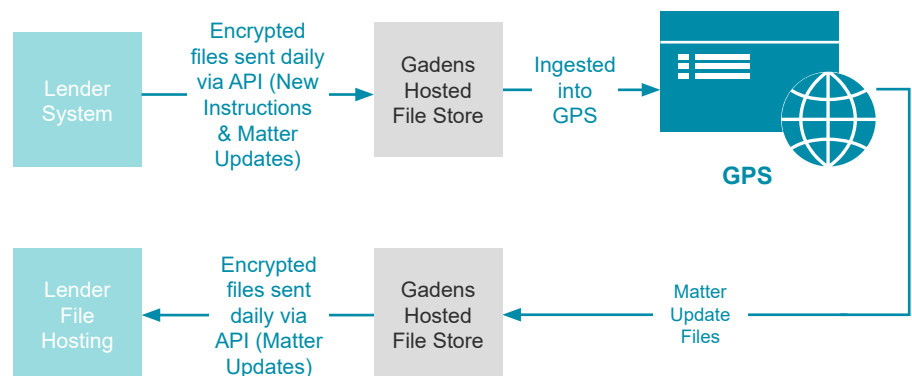


### Bulk upload functionality

The bulk upload functionality allows up to 50 new and re-instructed matters to be created at any given time in a matter of seconds (this alone would save ~5-10 minutes per instruction upload).

### B2B integration

The B2B integration would be an extension of the bulk upload to include daily transfer of customer, account and matter information to and from our respective systems.



With such solutions in place this could provide significant benefit to you, including:

**Our recent success with our B2B integration now sees a full complement of one of the major bank's collections portfolio fully integrated with GPSR! This includes both retail and business accounts, as well as secured and unsecured products.**

- ✓ Automated creation of multiple new instructions within seconds reducing manual handling and saving operational costs.
- ✓ Automated transfer of encrypted data between your collections system and GPSR improving control and security of data and allowing those without access to GPSR visibility into each matter via your collections system.
- ✓ Data matching and cleansing to improve integrity of client data and reduce operational risk.
- ✓ Proven method of automation for GPSR with scalability across volume and product types.

If you'd like to explore how GPSR can assist your business please reach out to us [here](#).

## COVID insights

Since our last edition we have shared with some of you our COVID insights – these insights include tailored reporting to help you identify the impacts of COVID-19 across your portfolio, and to assist with resumption activities for each customer. If we don't have a time booked in to share this with you yet, rest assured we will be in touch, or reach out to us [here](#).

## Updated COVID-19 impacts across the industry

### Current matters hold analysis

62% of our portfolio is still currently on hold as a result of COVID-19.

### Aged inventory

The median age of our industry portfolio continues to grow, up 85% since Q1 – this is obviously consistent with lengthy moratoriums that have been in place since mid-late March 2020.



**Jul – Sept - 359 days**

**Apr – Jun - 273 days**

**Jan – Mar - 194 days**

Whilst we are seeing a drop in the age of files greater than 400 days, we still have nearly half of the entire portfolio sitting in this space.



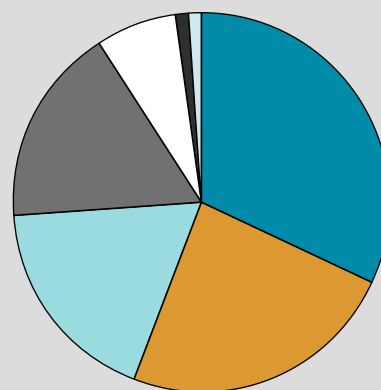
**Jul – Sept - 45%**

**Apr – Jun - 65%**

**Jan – Mar - 50%**

### Current matters COVID holds by state (both current and expired holds)

Shown as a %



■ NSW - 32

■ QLD - 24

■ WA - 18

■ VIC - 17

■ SA - 7

■ NT - 1

■ TAS - 1

\*ACT - <1 not shown on pie chart

### Properties on the market: 242



There are 242 properties on the market awaiting exchange of contract – this has dropped slightly since last quarter, with less properties taken into possession and increased movement of existing properties in possession.

### Stayed evictions: 138



Stayed evictions remain steady, with 138 stays effected since 1 March 2020.

### Default Notices



93% of our current portfolio is sitting at default notice stage, issued > six months ago – this means no further enforcement action has been taken since a default notice was issued.

This will be a watch point for all lenders, and a review should be conducted before proceeding to confirm that the default notice can still be relied upon.

## National COVID-19 Legislation – Changes to Residential Tenancy Legislation and Impact on Mortgagees

Below is a schedule of the changes to the residential tenancy legislation due to COVID-19. Some states / territories have extended the time of their legislative changes to the end of 2020 whilst other states / territories have extended the time for the changes to apply to until the end of March 2021, to align with the end of JobKeeper. The changes only apply to mortgagees in VIC and WA. This however leads to a potentially different enforcement approach based on geography and occupancy status of the property.

| State / Territory | COVID-19 Legislation  | Changes / effect to Residential Tenancies   | Changes / effect to Mortgagees   |
|-------------------|---|---|--|
| QLD               | <i>COVID-19 Emergency Response Act 2020</i> (Qld)   | From 23 April 2020 to 31 December 2020 landlords are restricted in their ability to terminate a tenancy agreement or recover possession for non-payment of rent if the failure relates to the tenant suffering excessive hardship because of the COVID-19 emergency until the earlier of: <ul style="list-style-type: none"> <li>31 December 2020; or</li> <li>the last day of the COVID-19 emergency period, which is currently 31 December 2020.</li> </ul> | The regulations do not apply to mortgagees.  |
| NSW               | <i>Residential Tenancies Amendment (COVID-19) Regulation 2020</i> (NSW)   | From 15 April 2020 to 26 March 2021, landlords are restricted in their ability to terminate a tenancy agreement or recover possession for non-payment of rent, if the tenant has lost 25% or more of their household income due to COVID-19.  | The regulations do not apply to mortgagees.  |
| VIC               | <i>COVID-19 Omnibus (Emergency Measure) Act 2020</i> (VIC)<br><br>[as amended by COVID-19 Commercial and Residential Tenancies Legislation Amendment (Extension) Bill 2020, which passed both Houses on 15/9/20]  | From 29 March 2020 to 28 March 2021, landlords and mortgagees are restricted in their ability to terminate a tenancy agreement or recover possession because of a COVID-19 reason. No notices to vacate can be served between 20 March 2020 and 28 March 2021.  | The Act applies to mortgagees.<br><br>A mortgagee may make an application to VCAT for termination of a tenancy agreement and an order for possession in certain circumstances, eg, illegal activity, damage to property. Any order to terminate can only be made if certain circumstances apply and it is “reasonable and proportionate” in the circumstances. |
| SA                | <i>COVID-19 Emergency Response Act 2020</i> (SA)<br><br>[as amended by the COVID-19 Emergency Response (Expiry and Rent) Amendment Bill 2020 which was introduced into Parliament on 8 September 2020 and expected to be passed by end of September 2020] | From 9 April 2020 until the earlier of: <ul style="list-style-type: none"> <li>6 February 2021; or</li> <li>the last day of the COVID-19 emergency period, which is currently 17 October 2020;</li> </ul> landlords are restricted in their ability to terminate a tenancy agreement or recover possession for non-payment of rent where the tenant is suffering financial hardship as a result of the COVID-19 pandemic.                                     | The Act does not apply to mortgagees.  |
| WA                | <i>Residential Tenancies (COVID-19 Response) Act 2020</i> (WA)  | From 30 March 2020 to 28 March 2021 (emergency period), landlords are restricted in their ability to terminate a tenancy agreement or recover possession for reasons including non-payment of rent, except in limited, strictly regulated, circumstances. Any notices to vacate issued during the emergency period are taken to expire on 28 March 2021.  | The Act applies to mortgagees. Mortgagees are not precluded from taking possession through a rental redirection with the tenancy agreement only being able to be terminated after 28 March 2021.   |
| TAS               | <i>COVID-19 Disease (Emergency Provisions) Act 2020</i> (TAS)   | From 30 March 2020 to 1 December 2020, landlords are restricted in their ability to terminate a tenancy agreement or recover possession except in limited circumstances, including a notice to vacate and sale / transfer of property.  | The Act does not apply to mortgagees.  |
| ACT               | <i>COVID-19 Emergency Response Act 2020 (ACT) and Residential Tenancies (COVID-19 Emergency Response) Declaration 2020 (ACT)</i>  | From 22 April 2020 to 31 January 2021 (with option to extend by 3 months) landlords are restricted in their ability to terminate tenancy agreements or apply for possession for nonpayment of rent, if the tenant has lost 25% or more of their household income arising from COVID-19 impact.  | The declaration does not apply to mortgagees.  |
| NT                | <i>Tenancies Legislation Amendment Act 2020</i> (NT) and Modification Notices   | From 18 March 2020 to 23 December 2020, landlords are restricted in their ability to terminate tenancy agreements or apply for possession arising from COVID-19 impact.   | The Act and Modification Notices do not apply to mortgagees, however, NTCAT can at its discretion refuse the request or suspend an order for possession if the tenant is suffering from COVID-19 hardship.   |

## How is Gadens staying connected

Like most of you, Gadens continues to work remotely (particularly in our Melbourne office) and this can present challenges around staying connected with your team and organisation. So we thought we would share some of the different ways in which we have stayed connected with each other over recent months:

### Scavenger hunts



Our Recoveries Team have been taking part in scavenger hunts, using their daily allocation of exercise to find / hunt and photograph a variety of different things within the permitted 5km radius from their Melbourne homes.

### Weapons of Mass Degustation



Another group formed during lockdown has been Weapons of Mass Degustation an online cook-along where each week a different team member leads the group in cooking their specialty, which has included beef stroganoff and several desserts!

### Firm trivia night



In Melbourne and Sydney, our social committee organised Friday Virtual Trivia Night. This saw 85 of us being split into Zoom teams answering a range of questions including guessing which duck would win the highly amusing Duck Derby!

### Pets of Gadens



We have set up an internal social page as an appreciation page for the real owners of our staff, our pets! Everyone has been entertained with photos and stories of people's different animals.

### R YOU OK? Day



Our national firm was brought together over virtual morning tea with former Australian TV presenter / sports journalist and Beyond Blue ambassador Brad McEwan. It was an inspiring session and reminded us all of the importance of the national day of action.



R YOU OK? Day Webinar

## Success story

We have another success story to share with you this quarter:

Our client, Lender 1, discovered that Lender 1's security property was comprised of two titles, not just one. Lender 2 were also under the mistaken belief that the property consisted of one title. Lender 1 and Lender 2 registered their mortgage over the separate titles.

To complicate things further, Lender 1's mortgaged title was owned by Borrower A and Lender 2's mortgaged title was owned by Borrower B and Borrower C.

By the court proceedings initiated by Lender 2, Lender 2 registered a mortgage over Lender 1's and Borrower B also became a proprietor of Lender 1's mortgaged title. Lender 1 and Lender 2 agreed to conduct a joint mortgagee sale of the two titles (because a structure had been built about across both titles).

When preparing for settlement via PEXA it was identified that two different PEXA workspaces were required because the titles to the property were held by different mortgagees and different proprietors. In order to facilitate settlement Gadens arranged for a deed of variation to the contract to be drafted and executed to amend the sale price to be divided between the two titles on an area basis so that settlement could proceed via PEXA. It was a complex matter and our teams together were able to achieve a great result for all parties concerned.

## Let's celebrate...

- **Lawyers Weekly Partner of the Year Awards 2020** – Partner Annette Gaber has been shortlisted in three categories (Banking and Finance; Litigation & Dispute Resolution) in the upcoming awards.
- **Lawyers Weekly Women in Finance Awards 2020** – Gadens was well represented in this year's awards, with Sarah Rogers and Susan Verginis both being recognised as finalists in the "Banking and Finance Lawyer of the Year" category.

## 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...

### Adelaide



#### Fidelis McGarrigan

Partner  
+61 8 8456 2410  
+61 412 404 323  
fidelis.mcgarrigan@gadens.com

### Brisbane



#### Susan Forrest

Partner  
+61 7 3231 1586  
+61 413 752 584  
susan.forrest@gadens.com

### Melbourne



#### Sonia Apikian

Partner  
+61 3 9252 2508  
+61 405 151 328  
sonia.apikian@gadens.com

### Perth



#### Dean Hely

Partner (Lavan)  
+61 8 9288 6772  
+61 419 947 646  
dean.hely@lavan.com.au

### Sydney



#### James Roland

Partner  
+61 2 9163 3012  
+61 408 848 959  
james.roland@gadens.com

#### Adelaide

Level 1  
333 King William Street  
Adelaide SA 5000  
T + 61 8 8456 2433

#### Brisbane

Level 11, ONE ONE ONE  
111 Eagle Street  
Brisbane QLD 4000  
T + 61 7 3231 1666

#### Melbourne

Level 13, Collins Arch  
447 Collins Street  
Melbourne VIC 3000  
T + 61 3 9252 2555

#### Perth (Lavan)

Level 20, The Quadrant  
1 William Street  
Perth WA 6000  
T +61 8 9288 6000

#### Sydney

Level 20, MLC Centre  
19 Martin Place  
Sydney NSW 2000  
T +61 2 9231 4996

[gadens.com](http://gadens.com)

Gadens is an association of independent firms

**gadens**