

3 September 2020

The Hon. Melissa Horne
Minister for Ports and Freight
Minister for Consumer Affairs, Gaming and Liquor Regulation
Minister for Fishing and Boating

By email: Melissa.Horne@parliament.vic.gov.au

Dear Minister Horne

Electronic Execution of Deeds and Other Documents

The Urban Development Institute of Australia, Victoria division (UDIA Victoria) requests that the Victorian Government extend the expiry date of the Victorian regulations enabling the signing and witnessing of deeds and other documents electronically.

UDIA Victoria also requests the Victorian Government to engage with the Commonwealth, State and Territory Governments to introduce permanent and consistent measures enabling electronic execution of deeds and other documents by companies, individuals and other types of entities.

Recent regulations have enabled Victorians to continue to sign documents where required signatories are working remotely, and to allow for remote witnessing. They are:

- COVID-19 Omnibus (Emergency Measures) (Electronic Signing and Witnessing) Regulations 2020 (Vic) (Victorian Regulations)
- Corporations (Coronavirus Economic Response) Determination (No. 1) 2020 (Cth) (Commonwealth Determination).

Both the Victorian Regulations and the Commonwealth Determination have expiry dates. The Victorian Regulations are currently due to expire in October 2020. The expiry date for the Commonwealth Determination has been extended to 21 March 2021.

The Victorian Regulations and the Commonwealth Determination provide great benefits in the reduction of complexity, red tape and costs for Victorians when signing and witnessing documents.

The Victorian Regulations and Commonwealth Determination also facilitate a developing trend in the business community for transactions to occur by electronic means. This was the case prior to the COVID-19 pandemic. However, there were inconsistencies in Victorian and Commonwealth regulation in relation to electronic execution, in particular in the context of execution by companies.

Further, there was case law questioning the ability of parties to execute deeds electronically. This means that, prior to the Victorian Regulations and the Commonwealth Determination, business was required to constantly seek advice in relation to correct execution and implement costly and inconvenient 'work arounds'.

Although the changes implemented by the Victorian Regulations and the Commonwealth Determination were made necessary due to social distancing guidelines and restrictions, there do not appear to be compelling arguments as to why the changes can not be made permanent. Even in a post COVID-19 world, transactions are likely to routinely take place using technology like videoconferencing, emails for example.

UDIA Victoria requests that you consider the following recommendations:

1. Extend the expiry date for the Victorian Regulations until at least March 2021;
2. Make the Victorian Regulations permanent;
3. Engage with other jurisdictions to implement electronic execution by companies, individuals and other types of entities, and remote witnessing, with the aim of introducing permanent measures in a consistent way across Australia.

I look forward to discussing this with you further and would welcome the opportunity to meet with you in the coming weeks. Please contact me at danni@udiavic.com.au or on 0400 230 787 to do so.

Yours sincerely

A handwritten signature in black ink that reads 'Danni Hunter'. The signature is stylized with a large, sweeping underline that loops around the bottom of the name.

Danni Hunter
Chief Executive Officer

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