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Deregulation Taskforce – MDE Consultations
Department of the Prime Minister and Cabinet
PO Box 6500
CANBERRA ACT 2600
Australia
Submitted online.

8 October 2021

Dear Deregulation Taskforce,

RE: Consultation on Modernising Document Execution

The Real Estate Institute of Australia (REIA) welcomes the opportunity to provide comments on the Modernising Document Execution consultation paper.

The Real Estate Institute of Australia (REIA) is the national body and voice for the real estate profession in Australia. REIA's members are the State and Territory Real Estate Institutes (REI's), through which around 85pc of Australian real estate agencies are collectively represented across 46,793 businesses.

The Census records the Rental, Hiring and Real Estate Services Industry employment as sitting around 120,000, which includes business brokers, property managers, principals, real estate agents and representatives.

Property contributes \$300 billion annually in economic activity and underpins a combined workforce of 1 in 4 Australian jobs.

Importantly to Modernising Document Execution, 99% of real estate agencies are small businesses with only 0.6% of businesses employing 50 persons or more.

Support for Modernising Document Execution

REIA has been vocal in our support e-documents and e-signatures, as well as other technological reforms, since the onset of the COVID-19 pandemic; and REIA has worked collaboratively with the Australian Banking Association (ABA) to this effect.

The need to pivot to rapidly virtual and online real estate practise to meet is expected to be a feature of 'living with COVID-19' once Australia meets its vaccination targets as set out by National Cabinet. A seamless digital customer journey will be demanded by Australian real estate clients regardless.

Holistic and well considered reform is therefore welcomed and REIA commends Prime Minister and Cabinet (PM&C) for their thorough approach to consultation on this initiative.

The time and cost savings to transitioning to e-signatures, e-documents and Digital ID is significant, with an estimated extra day per week in productivity created for operational staff within a small real estate agency. In addition, the financial and non-financial benefits to buyers, vendors, tenants and investors and overall improvement of the customer property journey is considered to be extensive.

If considered necessary, REIA would be happy to work with PM&C on a real estate specific cost benefit analysis to quantify these gains however suffice to say digitisation or 'modern execution' across the board is welcomed provided there are appropriate safeguards for both customers and real estate practises considered.

This submission identifies key areas of opportunity and risk as a general response to the 11 consultation questions posed in relation to property transactions.

REIA anticipates reform in this place for real estate as a small business (as it relates to business-as-usual insurance and legal matters) to be broadly welcomed.

The real estate customer journey

Whilst this will be different across each jurisdiction and rely on the preference of each real estate agency, most sale and lease documentation can be offered and executed digitally, such as: managing agency agreements, lease agreements, contracts for sale, offer to purchase and pre-auction offers.

Issuing this documentation generally speaking does not require the use of statutory declarations or the use of deeds from an agency point of view.

Much of the areas requiring 'modern execution' in the customer property journey fall outside of the remit of real estate practise which includes finance approvals (working through mortgage brokers and directly with lenders) and transfer of deeds within title registries on settlement (the responsibility of land title offices).

As identified by PM&C, the ongoing national electronic conveyancing system (NECs) is a major national initiative in place that will be critical in streamlining delivery of this customer journey and providing common rules for land registries. Work is underway on this.

Real estate benefits

From a practitioner point of view, key reforms across Modern Document Execution outside of statutory declarations and deeds in this space which are of particular benefit include:

- Permanent measures allowing company electronic signatures and witnesses.
- The need for consistency across jurisdictions for commonality of use of e-signature, digital signatures, ID verification and witnessing requirements.
- Sole operators to be given greater ability to execute documents in the absence of an appointed company secretary.
- Temporary measures put in place to deregulate document execution during COVID-19 have been successful and welcome, as would permanency of these measures.
- Digital execution of documents and signatures can be secure and verifiable with advances in Digital Identity technologies.
- Quicker and easier execution of documents saves businesses time and money, allowing them to grow as they modernise.

Addressing consumer risk

As identified in the consultation documents, reforming Digital ID, e-signature and witness requirements for document execution in particular may provide vulnerability from a consumer point of view, particularly for those who may not be as "tech savvy."

This is a point in the customer journey where cyber security attacks, hacks or fraudulent activity may be particularly heightened. This applies to both property sales and tenancies.

Additional safeguards must be considered to protect both businesses and their customers, such as a two-factor authentication process or video-witnessing. It is not expected two step processes to address these vulnerabilities or requisite safeguards would be specific to real estate in ensuring adequate consumer protection.

The need for ongoing reform to be tech agnostic

Modernising Document Execution gives businesses the ability to utilise new technologies. Technological This in turn can inhibit the adoption of new innovations by real estate agencies to make document execution (or other parts of real estate practise) more efficient.

It is important therefore that Modernising Document Execution remains 'tech-agnostic' and allows for best and leading practise software to be introduced as it is adopted by small business.

Using technology remains a priority for REIA across document execution, customer experience, data, blockchain and other proptech innovations for a trusted real estate industry and moving towards a seamless customer experience.

Should REIA be able to assist any further, please contact REIA's Policy Communications Officer Mardi Norton on 047715871 or mardi.norton@reia.com.au.

Yours Faithfully,

A handwritten signature in blue ink, appearing to read 'Adrian Kelly', with a stylized flourish at the end.

Adrian Kelly

President

Real Estate Institute of Australia