

MPR Guidance Note #1

Client Authorisation

Introduction

This guidance note explains:

- what a Client Authorisation is;
- why a Client Authorisation is required;
- when a Client Authorisation is required; and
- how a Client Authorisation is completed.

What is a Client Authorisation?

A Client Authorisation is a document that enables a party to a transaction (the client) to authorise a conveyancer or lawyer to act on their behalf in that transaction. Legislation specifically states that the Client Authorisation is NOT a power of attorney.

While acting on behalf of the client under a Client Authorisation, the conveyancer or lawyer can:

- sign Registry Instruments or other documents;
- present Registry Instruments or other documents for lodgment with the Land Registry; and
- authorise or complete any associated financial aspects of the transaction.

The Client Authorisation clearly sets out the details of the authorisation and the completed form must be kept as supporting evidence of authority for the transaction.

Why is a Client Authorisation Required?

In electronic conveyancing a client will not be able to access the electronic lodgment network to sign an instrument or document.

A Client Authorisation is required to give the client's conveyancer or lawyer authority to sign the instrument or document on the client's behalf.

When is a Client Authorisation Required?

A Client Authorisation is required whenever a lawyer or conveyancer represents a client in a transaction in an electronic lodgment network, except where the lawyer or conveyancer is preparing and lodging a caveat or, in those jurisdictions that have them, a priority notice.

How is a Client Authorisation Completed?

A Client Authorisation is completed by the client and the conveyancer or lawyer. Once complete, it is signed by the client or its attorney or agent as a granting of that authorisation.

The conveyancer or lawyer (or their agent) also needs to sign the form in order to certify that reasonable steps were taken to ensure the form was signed by the client or by the client's attorney or agent. If the Client Authorisation is signed by the conveyancer or lawyer's agent, the conveyancer or lawyer does not also need to sign the Client Authorisation.

Ideally, the verification of identity of the client would be completed at the time the client signs the Client Authorisation. To receive the benefit of the "safe harbour" verification of identity provisions by applying the Verification of Identity Standard, the client must sign the Client Authorisation in the presence of the conveyancer or lawyer (or their agent) in the same interview in which verification of identity is carried out. Refer to MPR Guidance Note #2 Verification of Identity.

Authorisation can be given:

- for a specific transaction or transactions, in which case the transactions should be listed on the Client Authorisation form; or
- as a standing authority, either until a specified date or until it is revoked; or
- for a batch of transactions, in which case, the individual transactions in the batch should be listed in an attached schedule.

A Client Authorisation smart form is available on the ARNECC website at <http://www.arnecc.gov.au/>. The form should be completed electronically and then printed for signing. If the form is completed manually blue or black ink should be used. An example of a completed Client Authorisation is shown overleaf.

Frequently Asked Questions

Q1. Can I design my own version of the Client Authorisation?

A1. NO – The Client Authorisation must be in the form required by the Participation Rules. This is to ensure that everyone is participating in a conveyancing transaction on the same terms.

Q2. Where can I get a Client Authorisation form?

A2. A Client Authorisation smart form is available on the ARNECC website at <http://www.arnecc.gov.au/>.

Q3. If I am a conveyancer or lawyer and I use an agent to verify the identity of my client, do I need to sign the Client Authorisation as well as my agent?

A3. NO – When a conveyancer or lawyer uses an agent to verify the identity of their client only the agent needs to sign the Client Authorisation form.

Q4. Do I need to complete a Client Authorisation if I am a sole trader conveyancer or lawyer representing myself?

A4. NO – If you are a sole trader conveyancer or lawyer, you are allowed to represent yourself in an electronic lodgment network without signing a Client Authorisation.

Q5. If I am a financial institution acting on my own behalf, do I need a Client Authorisation to lodge a mortgage or discharge a mortgage over my customer's property?

A5. NO – When lodging a mortgage or discharge of mortgage you are not representing your customer.

Q6. Does the Client Authorisation take the place of the usual retainer agreement or authority to act entered into between my client and me?

A6. NO – The Client Authorisation is required in addition to the usual retainer agreement or authority to act.

Q7. Can I incorporate the Client Authorisation in my usual retainer agreement or authority to act?

A7. NO – The Client Authorisation must be a separate document.

Q8. Can a Client Authorisation be signed overseas?

A8. YES – A client can sign a Client Authorisation form overseas. When a Client Authorisation is signed overseas there may be circumstances where a client's signature is witnessed by an authorised party. The Client Authorisation terms stipulate who has the ability to witness a client's signature overseas.

CLIENT AUTHORISATION

When this form is signed, the Subscriber is authorised to act for the Client in a Conveyancing Transaction or Conveyancing Transactions.

Privacy Collection Statement: The information in this form is collected under statutory authority and used for the purpose of maintaining publicly searchable registers and indexes.

Subscriber Reference: **BLOGGS-10-4-14**

CLIENT DETAILS	CLIENT 1	CLIENT 2
NAME	FREDERICK BLOGGS	FREDA BLOGGS
ACN/ARBN		
ADDRESS	11/53 ALBERT ST, BRISBANE	11/53 ALBERT ST, BRISBANE

TRANSACTION DETAILS	AUTHORITY TYPE		
	<input checked="" type="checkbox"/> SPECIFIC AUTHORITY <small>(transaction details below)</small>	<input type="checkbox"/> STANDING AUTHORITY <small>ends on revocation or expiration date: ___/___/___ (details to be attached when available)</small>	<input type="checkbox"/> BATCH AUTHORITY <small>(attach details)</small>
	CONVEYANCING TRANSACTION(S) 1	CONVEYANCING TRANSACTION(S) 2	
PROPERTY ADDRESS	11/53 ALBERT ST, BRISBANE	10/100 QUEEN ST, BRISBANE	
LAND TITLE REFERENCE(S) <small>(and/or property description)</small>	71011681 LOT 1 ON RP 1569	76814167 LOT 4 ON SP764	
TRANSACTION TYPE(S)	<input checked="" type="checkbox"/> TRANSFER <input type="checkbox"/> MORTGAGE <input type="checkbox"/> CAVEAT <input type="checkbox"/> PRIORITY/ SETTLEMENT NOTICE <input type="checkbox"/> DISCHARGE/ RELEASE OF MORTGAGE <input type="checkbox"/> WITHDRAW CAVEAT <input type="checkbox"/> OTHER	<input checked="" type="checkbox"/> TRANSFER <input type="checkbox"/> MORTGAGE <input type="checkbox"/> CAVEAT <input type="checkbox"/> PRIORITY/ SETTLEMENT NOTICE <input type="checkbox"/> DISCHARGE/ RELEASE OF MORTGAGE <input type="checkbox"/> WITHDRAW CAVEAT <input type="checkbox"/> OTHER	
SPECIAL/ADDITIONAL INSTRUCTIONS	SALE OF THIS PROPERTY	PURCHASE OF THIS PROPERTY	

CLIENT AUTHORISATION AND SIGNING	CLIENT 1 / CLIENT AGENT 1	CLIENT 2 / CLIENT AGENT 2
	<p>I CERTIFY that:</p> <p>(a) I am the Client or Client Agent; and</p> <p>(b) I have the legal authority to instruct the Subscriber in relation to the Conveyancing Transaction(s); and</p> <p>(c) If I am acting as a Client Agent that I have no notice of the revocation of my authority to act on behalf of the Client.</p> <p>I AUTHORISE the Subscriber to act on my behalf, or where I am a Client Agent to act on behalf of the Client, in accordance with the terms of this Client Authorisation and any Participation Rules and any Prescribed Requirement to:</p> <p>(a) sign Documents on my behalf as required for the Conveyancing Transaction Type; and</p> <p>(b) submit or authorise submission of Documents for lodgment with the relevant Land Registry; and</p> <p>(c) authorise any financial settlement involved in the Conveyancing Transaction(s); and</p> <p>(d) do anything else necessary to complete the Conveyancing Transaction(s).</p>	
	<p><i>Frederick Bloggs</i></p> <p>CAPACITY: _____ DATE 16/4/14</p> <p>CLIENT/CLIENT AGENT NAME: FREDERICK BLOGGS</p> <p>CAPACITY: _____</p>	<p><i>Freda Bloggs</i></p> <p>CAPACITY: _____ DATE 16/4/14</p> <p>CLIENT/CLIENT AGENT NAME: FREDA BLOGGS</p> <p>CAPACITY: _____</p>
FOREIGN COUNTRY WITNESS:	<p>SIGNATURE OF WITNESS: _____</p> <p>PRINT WITNESS NAME: _____</p> <p>POSITION: _____</p>	<p>SIGNATURE OF WITNESS: _____</p> <p>PRINT WITNESS NAME: _____</p> <p>POSITION: _____</p>

SUBSCRIBER

SUBSCRIBER AGENT (if used)

NAME Lamb Lawyers

ABN/ACN/ARBN 101469147

ADDRESS 1/100 QUEEN STREET, BRISBANE

I/We **CERTIFY** that reasonable steps have been taken to ensure that this Client Authorisation was signed by each of the Persons named above as Client or Client Agent.

SIGNATURE OF SUBSCRIBER OR SUBSCRIBER AGENT IF USED:

Lawrence

Lawyer

DATE 16/4/14

SIGN HERE

PRINT SIGNATORY NAME: LAWRENCE LAWYER

CAPACITY:

SIGN HERE

DATE / /

PRINT SIGNATORY NAME:

CAPACITY: