

# VERIFICATION OF AUTHORITY RIGHT TO DEAL CHECKLIST



LAW  
INSTITUTE  
VICTORIA

JUNE 2017

FULL NAME OF CLIENT BEING VERIFIED:

DATE THE VERIFICATION WAS PERFORMED:

FILE NO:

## COMPLETE ALL RELEVANT SECTIONS

### 1. If Client is a corporation or incorporated association: (Tick each item completed)

- Carry out current ASIC search
- Establish who is authorised to sign whether by reference to section 129(2) of the *Corporations Act* [a person may assume that a director or company secretary has been duly appointed and has the authority to perform the duties customarily performed by a director or company secretary] or otherwise
- Confirm instrument to be registered has been executed in accordance with either section 127 of the *Corporations Act* or any other required formalities

### 2. If Client is an individual: (Tick each item completed)

- Confirm Client not subject to any legal restraint in dealing with the property (eg bankruptcy, guardian and administration legislation)
- If Client is not the registered owner, confirm their right to deal with the property either as authorised agent of the registered owner or under some other form of authority (eg attorney of owner or guardianship)

### 3. If Client is a statutory person: (Tick each item completed)

- Confirm the correct name of the statutory person
- Confirm the statutory person has power to deal with the property under relevant legislation
- Confirm (if relevant) that delegation is permitted under the relevant legislation, and if so is delegation relevant to the conveyancing transaction correct
- Confirm that under the relevant legislation, courts, tribunals and other persons acting judicially must take judicial notice of the common seal and assume it was duly affixed (unless proved to the contrary)
- Confirm who is authorised to sign by reference to relevant legislation
- Confirm the instrument to be registered has been executed in accordance with relevant legislation

### 4. When acting for the seller a legal practitioner should take reasonable steps to: (Tick each item completed)

- Confirm the identity of Client (\*\*if the VOI Standard is followed this will establish the person's or corporation's identity as a legal entity)
- Confirm Client, as identified, is the registered owner of the property. Review title search and evidence that Client is the registered owner (eg rates, water, electricity account, or some other connection to the property)
- Confirm Client has the right to enter into the transaction and is not restricted by the terms of any trust deed or power of attorney from doing so

### 5. When acting for a buyer this means a legal practitioner should take reasonable steps to establish: (Tick each item completed)

- Confirm the identity of Client (\*\*if the VOI Standard is followed this will establish the person's or corporation's identity as a legal entity)
- Confirm Client has the right to enter into the transaction and is not restricted by the terms of any trust deed or power of attorney from doing so

### 6. \*When acting for a Client lodging a caveat or a priority notice: (Tick each item completed)

- Confirm the identity of Client (\*\*if the VOI Standard is followed this will establish the person's or corporation's identity as a legal entity)
- Confirm Client is not subject to any legal restraint in lodging a caveat or priority notice, for example bankruptcy, guardianship, receivership or liquidation
- Confirm Client has a caveatable interest

\*Note: Client Authorisation Form is optional

**7. \*When acting for a Client on withdrawal of caveat or priority notice: (Tick each item completed)**

- Confirm the identity of Client (\*\*if the VOI Standard is followed this will establish the person's or corporation's identity as a legal entity)
- Confirm Client is not subject to any legal restraint in lodging a withdrawal of caveat or priority notice, for example bankruptcy, guardianship, receivership or liquidation
- Confirm Client is the same entity as the entity that registered the caveat or priority notice

\*Note: Client Authorisation Form is mandatory for withdrawal of caveat but optional for withdrawal of priority notice

**8. When acting for a Client in relation to other instruments lodged at Land Use Victoria: (Tick each item completed)**

- Confirm the identity of Client (\*\*if the VOI Standard is followed this will establish the person's or corporation's identity as a legal entity)
- Confirm Client is not subject to any legal restraint in lodging the instrument, for example bankruptcy, guardianship, receivership or liquidation
- Consider any necessary preliminary steps to the transaction and confirm completed
- Consider any formalities required for execution and confirm compliance)

\*\*Extra steps must be taken if there are non-genuine identity documents, lack of reasonable likeness with photo ID, discrepancies between documents and person or between signatures

Print Full Name of Verifier

Signature of Verifier