

# *the Conduit*

22  
AUTUMN



**COUTTS**  
LAWYERS & CONVEYANCERS



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## CALENDAR DATES

### March

Wednesday 2nd	Wills Night – Wollongong Office
Monday 7th	Wills Night – Narellan Office
Monday 28th	Facebook Live – Adriana & Carina

### April

Monday 4th	Wills Night – Wollongong Office
Wednesday 6th	Wills Night – Narellan Office
Friday 15th	Good Friday
Saturday 16th	Easter Saturday
Sunday 17th	Easter Sunday
Monday 18th	Easter Monday
Monday 25th	Anzac Day

### May

Monday 2nd	Wills Night – Narellan Office
Wednesday 4th	Wills Night – Wollongong Office
Monday 23rd	Facebook Live – Adriana & Carina



## A MESSAGE FROM

# Adriana

Welcome to the Autumn edition of our newsletter where we are finally starting to feel like things are returning to some sort of normality. It has been a rough road for many businesses and families and I hope you have all been kind to yourself during what we can only describe as a once in a lifetime experience.

We have had plenty of exciting changes happening within Coutts, particularly welcoming Luisa Gaetani on as a Partner at the start of 2022. Luisa is an Accredited Specialist in Family Law and is the head of our Family & Criminal Law division. Karena & I are both so proud to have Luisa on board as Partner, and know Luisa's contribution to steering Coutts in the right direction, is priceless. We are also very excited to have recently promoted both Allyce Silm & Lara Menon to Senior Associate. Both ladies bring a wealth of knowledge and experience to our teams and we are truly grateful they choose to be part of the Coutts family. We have also welcomed a Practice Manager to the Coutts family, Paul Brandalise who brings many years' experience in management roles of legal firms. Paul's abundance of knowledge has been a welcomed addition for all of our teams.

The team have been busy attending and hosting events and recently our Illawarra team attended an event held by Escabags, who support people fleeing domestic violence. Escabags provide necessary items for women and men with children trying to escape a difficult situation. The theme of the event was "A British Day at the Seaside" where British founder Stacy Jane talked about her own personal situation. It was such a great day for a fantastic cause and we encourage you to check out their website when you can: <https://escabags.org/>. Also, a gentle reminder that all of our offices hold Escabags – if you or anyone you know, are fleeing a Domestic Violence situation. The bags are filled with essential items and if or when asking for a bag – NO QUESTIONS ARE ASKED. There is no excuse for abuse, and we encourage you to share this information around.

We also recently sponsored a luncheon held by Illawarra Women In Business (IWIB). IWIB is a networking group based in the Wollongong area where wonderful likeminded women AND men support each other in business and in life. Elly Manoe, one of our Lawyers based in our Wollongong office; facilitated the Live Q & A on the day and was a natural on stage. We were so proud of Elly, and really loved being part of such a wonderful event.

As I'm sure you have noticed, Coutts continue to grow the team; and as such – we have literally started to run out of desks now that we are all back working in the office. So to support our growth, we have recently commenced an extension on one of our existing offices – and we can't wait to share with you the transformation. Can you guess which of our offices will DOUBLE in size?

We have genuinely missed our face to face interactions over the last 2 years, and now that the restrictions have eased – our staff are really enjoying seeing you all in person, with no mask! However, if you don't feel comfortable attending our office or would prefer our staff wear masks, please don't hesitate in asking – our staff are more than willing to accommodate your requests.

I look forward to seeing you all soon!

*thank you*





# The COVID-19 Vaccine: What to do if both parents don't agree on vaccinating their child?

## KEY TAKE OUTS

- ✓ The COVID-19 vaccine is declared suitable and safe for children to receive.
- ✓ If there is a disagreement between parents and/or guardians as to whether their child should receive the vaccine, it is encouraged to be settled outside of the Court.
- ✓ If the parents are unable to agree the Court will make a decision that aligns with the best interest of the child.
- ✓ If a parent opposes vaccinating their child, they would be required to provide expert medical evidence that suggests that the risk of the vaccine outweighs to the risk of contracting COVID.

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## What are the current government recommendations for vaccinating children?

The COVID-19 vaccine has been declared safe and suitable for children to receive amidst their return to school. Whilst the vaccine is not mandated by the government, it has been strongly encouraged that children between the ages of 5-17 years old should get vaccinated.

Due to the child's inability to legally consent to medical procedures, including the COVID-19 vaccine, it is the parents and guardians of the child that must consent to receive the vaccine. The government has released the following guidelines.

- ✓ In order for a child aged 5-11 years old to be vaccinated, the government requires that parental consent is given,
- ✓ For 12-15 year old's, parental consent is not required as children are encouraged to exercise their own consent in receiving the vaccine, and
- ✓ For 16 year old's and above, the individual exercises consent without the need for parental interference.

Children with underlying health conditions, of Aboriginal or Torres Strait Islander descent and/or in 'hotspot' areas of concern, are further encouraged to be vaccinated.

## What to do if both parents don't agree?

As a result of the abovementioned requirements of parental consent, there has been an increase in disputes as to the suitability of the COVID-19 vaccine.

Under the authority of the Family Law Act 1975, it is presumed that both parents have equal shared parental responsibility for major decisions relating to the child, including medical decisions, including



providing consent for vaccinations. This means that neither parent is entitled to make a unilateral decision regarding their child's vaccination, and the decision should be made jointly.

However, parents do not always agree when making major medical decisions. It is strongly recommended that the parents of the child attempt to resolve all disagreements before engaging the Court for assistance. Doing so could involve attending a GP appointment together to weigh up options, having meaningful private discussions, or attending mediation.

If the parents and/or guardians are unable to reach an agreement between themselves, the Court will make a decision that is aligned with the best interest of the child. In determining the best interest of the child, the Court will look to expert medical evidence regarding the vaccine. Given that the Court assigns greater weight to the protection of the child from physical or psychological harm, if a parent were to oppose vaccinating their child, they would need to produce expert medical evidence that suggests that the risk of vaccinating outweighs the risk of contracting COVID.

In the recent case of *Makinen v Taube [2021] FCCA 1878*, the Court awarded sole parental responsibility to the parent that was in favour of vaccinating their child and consequentially, ordered that the children be vaccinated according to recommendations given by their GP.

Therefore, although a singular parent is unable to solely and unilaterally consent to vaccinate their child, absent expert medical evidence that the risk of the vaccination outweighs the benefit, the Court will likely decide that it is in the best interests of the child to be vaccinated.



**Lara Menon**  
Senior Associate

The background of the top half of the page is a close-up, slightly wavy image of the Aboriginal flag, showing the black upper half, the red lower half, and the large yellow sun in the center.

# Aboriginal Flag Flies Freely After \$20 Million Deal with Federal Government

## KEY TAKE OUTS

- ✓ Artist Harold Thomas created the design in 1971 and acquired intellectual property rights in the flag. This meant that the use of the flag required permission and usually a licence fee.
- ✓ The Federal Government secured Aboriginal Flag under a \$20m deal.
- ✓ The Aboriginal flag is now available for public use.

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The iconic symbol of Indigenous Australia is now available for public use following a \$20 million deal between artist Harold Thomas and the Australian Federal Government.

The Aboriginal flag was designed by Luritja artist Harold Thomas in 1970 to represent Indigenous Australians and their connection to the land. In 1995, the Aboriginal flag became an official flag of Australia. The use of the flag's imagery was determined by asking permission or paying a licence fee to the copyright holders.

In late 2018, the exclusive rights to use the emblem was controversially purchased by non-indigenous clothing company 'WAM Clothing'. Over the years, WAM Clothing has issued multiple cease-and-desist notices to companies and individuals who used the imagery. WAM will keep its exclusive licence to manufacture Aboriginal flags for commercial use but will no longer be able to stop people from making their own flags for personal use.

As part of the \$20 million agreement, the government will establish \$100,000 worth of annual scholarships to Indigenous students. Mr Thomas plans to establish a not-for-profit Australian Aboriginal Flag Legacy to make periodic disbursements aligned with the interests of Indigenous Australians and the flag.

The Commonwealth now holds the copyright over the Aboriginal flag, meaning it is now available for free use. This historic buyout marks an end to the long-running dispute regarding the free use of iconic Indigenous symbols.



The Aboriginal flag will now be managed in a similar manner to the Australian Flag, where its use is free but must be presented in a “respectful and dignified way”.

## How did this happen? – the law of copyright

Copyright in Australia is regulated by the Copyright Act 1968. In Australia, copyright is not protected by registration but rather exists in different categories of works. Copyright subsists in original literary, dramatic, musical, or artistic works and is protected for a period of generally 70 years (although this timeframe differs depending on the type of work).

Being the original author of copyrighted works will allow the author to have exclusive rights and use of the work. They can additionally sell, or licence the rights to third parties and are able to charge a fee for such licencing and sale.

In the event that a third party does not obtain a licence, permission to use or purchase the copyright, and uses the works, then that third party would be considered as having infringed the copyright and can face litigation proceedings.



**Elyse Strahan**

Lawyer

## The Importance of a Binding Death Benefit Nomination; Former Magistrate Successfully Claiming the Benefit of his Court Clerk

### KEY TAKE OUTS

Having a Binding Death Benefit Nomination form completed is crucial to ensure your chosen beneficiary inherits your superannuation as intended.

A former magistrate has settled for an undisclosed amount with his deceased fiancé's mother after he was successfully awarded her entire superannuation death benefit by REST Superannuation.

The former magistrate Rodney Higgins' controversial relationship with Ashleigh Petrie came to an unfortunate end in 2019 when Ms Petrie was killed by a car that year. The couple sparked controversy over the 45 year age gap between them and the fact that Ms Petrie was Mr Higgins' court clerk. Shortly after her death, Mr Higgins, as her de facto partner, made a claim to Ms Petrie's superfund, REST Superannuation, and was awarded the \$180,000 payout. This was in spite of Ms Petrie's nomination with the superfund that her mother inherit the death benefit.

Ms Petrie's mother challenged the distribution, however, the superfund stood by their decision. This is because the nomination made with the superfund was not binding, and the fund retains discretion in terms of the distribution. The payout was not made to Ms Petrie's mother as she did not fit the definition of 'dependent' under superannuation law, whereas Mr Higgins as her spouse, did. After months of negotiation, a settlement was fortunately reached between the parties. The details are confidential, but some reports indicate that Ms Petrie's mother received approximately half of the benefit.

The important takeaway from this case is the importance of a binding death nomination, which we include as a part of our estate planning process at Coutts. Completing a binding death benefit nomination form is also important because your superannuation is not included in the estate distribution under your will. By making a binding nomination, this helps to ensure that your death benefit is distributed to the person you nominate, rather than who is chosen by the superfund. You should also keep in mind that most binding death benefit nominations expire after two or three years depending on the superfund, so it is important to keep these updated.



**Rebecca Drennan**  
Senior Associate





# Solicitor vs Conveyancer – What is the Real Difference?

## KEY TAKE OUTS

- ✓ What is the difference between a solicitor and a conveyancer?
- ✓ Can a conveyancer help me purchase a property in another state?

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Looking to buy or sell, but unsure if you need a conveyancer or a solicitor? Unsure of the difference between the two? You may have already cast your eyes upon Melina's blog regarding this similar topic. This blog will identify the difference between the two. It is important to remember that both solicitors and licensed conveyancers are trained and regulated professionals that are qualified to practice in property law, it isn't so much a matter of who will do the job better, but who is most suited to meet your property needs.

## What is the difference between a Solicitor and Conveyancer?

As [Melina's blog](#) outlines, a licensed conveyancer is a qualified practitioner that can act on your behalf in property transactions. Their role is to assist you with either buying or selling or transferring property which may include drafting a Contract for sale, advising on a Contract for a potential purchase and so on.

A solicitor can also act in this same capacity in property-related transactions. The important difference between a Conveyancer and Solicitor, as we already know, is that a Solicitor can act in other areas of law, whereas a conveyancer is only licensed to act in property-related transactions.

Another important difference is that a solicitor can act on property transactions Australia wide, not specific to the state that their certificate was received. Conveyancers are only permitted to transact in the state that they are licensed. This is particularly important in the current market we are seeing with an increase in investment property purchases in states outside of NSW.

## So, what is the real difference?

When it comes to property, solicitors and conveyancers do both the same work. The only line of difference is where the property that is subject to the transaction is located. A Conveyancer that is issued with their qualifications in NSW, can only transact on NSW properties. An admitted solicitor can transact in all states in Australia.

If you are looking to purchase a property outside of the state you reside in, you are able to engage a solicitor in your state to do so or alternatively a conveyancer in the state that the property you are purchasing is in. So for example, if you reside in NSW and looking at purchasing in QLD, you can engage a solicitor in NSW to assist you with this, or alternatively, you can engage a conveyancer based in QLD. You cannot use an NSW based conveyancer for a QLD property purchase.


Here in Coutts, we have an in-house team of lawyers that specialise in interstate purchases and sales. If you are looking to buy or sell in any state outside of NSW, get in touch with us today!



**Alicia Maccarrone**

Law Graduate





# A New Way to Sign Estate Planning Documents

## KEY TAKE OUTS

- ✓ During the COVID-19 pandemic, the *Electronic Transactions Amendment (Remote Witnessing) Bill 2021* temporarily amended the *Electronic Transactions Act 2000* to provide for the remote witnessing of estate planning documents.
- ✓ Now, at the tail end of the pandemic, the NSW Government have decided that these temporary provisions should be made permanent, which will allow remote witnessing of estate planning documents moving forward.
- ✓ This provides convenience and flexibility for both clients and lawyers, especially those living in regional, rural or remote areas, the elderly, and those suffering from an illness or living with a disability.

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During the COVID-19 Pandemic (“the pandemic”) the NSW Parliament introduced temporary legislation to allow for the signing and witnessing of documents via ‘audio-visual link’ (AVL). As of November 2021, the [Electronic Transactions Amendment \(Remote Witnessing\) Bill 2021](#) has allowed the 18-month pilot program to continue permanently. This is a game-changer for the legal industry as we are able to facilitate greater access to the law for our clients.

## Before the COVID-19 Pandemic

Before the pandemic, the execution of estate planning documents, like many other legal documents, were confined to signing face-to-face and in person. With the gradual evolution of technology, some documents were able to be legally executed via online programs such as DocuSign or Adobe Sign. Unfortunately, this did not extend to estate planning documents, as the Succession Act and other relevant legislation requires ‘wet signatures’ on the documents themselves and additionally the component of face-to-face and in person signing.

## Remote Witnessing Now

The pandemic has forced numerous industries to adapt to a new way of business, and the legal industry is no different. Limits to face-to-face contact have forced the development of technologies and laws to allow for remote witnessing of legal documents, including estate planning documents, deeds, agreements and statutory declarations. Of course, there are limits to these provisions as not “all” documents can be signed remotely, but a big change in the legal industry is the ability to remotely witness estate planning documents.

In April 2020, the Government enacted temporary remote witnessing measures as part of the response to the pandemic. After what Attorney General, Mark Speakman described as a “*Successful trial period of 18 months*”, the Government introduced the *Electronic Transactions Amendment (Remote Witnessing) Bill 2021*. This bill allowed for the continuation of these remote witnessing measures indefinitely, meaning estate planning documents continue to be available for remote execution **today**.

## What is involved in remote witnessing?

Remote witnessing, or AVL witnessing, operates by the witness observing the client sign a document in real-time over AVL. The witness then confirms having witnessed the client sign the document by signing a copy of the document as soon as practicable after the appointment.

The process and requirements for witnessing documents by AVL involve:

- 1. Observing the signatory sign in real-time:** the witness must observe the signatory sign the document in real-time using an application that allows a live audio-visual connection between the signatory and the witness, such as through Facetime, Zoom or Microsoft Teams. The signature, for estate planning purposes, must be a physical signature made with wet ink.
- 2. Confirm the witnessing of the signature:** this is completed by signing the document, either in counterpart, countersigning the original when received in the post or countersigning a copy when scanned or forwarded electronically.
- 3. The witness must be reasonably satisfied:** the witness must be reasonably satisfied that the document signed by the witness is the same document or a true copy of the document that was signed by the signatory.
- 4. Endorse the document:** the signed document or copy of the document must be endorsed with a statement by the witness specifying the method of witnessing and confirming that the document was witnessed in accordance with *Section 14G* of the *Electronic Transactions Act 2000 (the Act)*.

The Act also provides that the witness need not be located in New South Wales to witness the document, and regardless of where the witness is located at the time of signing, the document will be taken to have been executed in New South Wales if the signatory was located there at the time they signed the document.

## Other Methods to Sign Estate Documents

Despite the effect of the new legislation, traditional methods of signing and witnessing documents will remain available.

These include:

- ✓ In person with an authorised person, such as a Lawyer; or
- ✓ At home with 2 independent witnesses over the age of 18 years of the client's choice.

However, it is noted that one of the estate planning documents, which are called Power of Attorney and an Appointment of Enduring Guardian (“Enduring Guardianship”), must be witnessed by an Australian Legal Practitioner, Registrar of an Australian Court, an employee of the NSW Trustee and Guardian or a qualified overseas lawyer. This may raise an issue for you if you are also preparing this document and therefore may need to resort to a face-to-face meeting or alternatively a meeting by AVL.



## The Advantages and Disadvantages of Each Method

### In Person

If you choose to execute your documents in a face-to-face appointment with the Lawyer, you will be able to complete your estate planning documents in one sitting. However, the important thing to note is the persons you have appointed under your Power of Attorney and Enduring Guardianship documents must also sign the document and in order to have your estate planning documents finalised “in one sitting” they also need to be in attendance.

One would argue that this is the most efficient way to sign estate planning documents, however, there may be some difficulty trying to arrange a singular time when everyone is available to attend the same location.

### Independently at Home

Before remote witnessing, signing at home was considered the most convenient way to execute estate planning documents. As noted previously, Power of Attorney and Enduring Guardianship documents are still required to be witnessed by an authorised person, however, you may be able to arrange for the authorised person to attend your home in order to sign these documents. Although, if you are just preparing a Will, you can execute this at home with your own selected independent witnesses who are over the age of 18 years. Alternatively, if you are preparing all three (3) estate planning documents, you can elect to sign the Will at home and the other two (2) documents via another method as discussed above.

### AVL or Remote Witnessing

AVL witnessing is arguably now the most effective and convenient way to execute your estate planning documents in the comfort of your own home while having access to a Lawyer remotely. This gives an exceptional level of flexibility for yourself, the Lawyer and your appointed Attorney or Guardian in your estate planning documents. This is because multiple people can log on to one call from different locations, so long as they have copies of the estate planning documents printed. Another benefit to this is that you are able to part take in the estate planning process completely remote, as you can meet with the Lawyer at the beginning of the process and at the conclusion when you are signing the documents.

However, the disadvantages of signing via AVL is where technology is unavailable, inexperience or distrust in technological platforms exist or where people prefer face-to-face contact with their Lawyer.


### So, what's next?

If you are currently or planning to prepare estate planning documents and are unsure of the best method to sign the documents, feel free to contact me on the below information and we can guide you on how we can best facilitate this.



**Vivian Hondrogianis**

Lawyer



# When do I have to pay stamp duty?

## KEY TAKE OUTS

- ✓ Stamp duty is actually now called 'transfer duty'
- ✓ When do I have to pay stamp duty?

Ahh stamp duty, you know it well whether you've paid it several times before or are about to for the first time. It's a significant factor in one's decision to purchase a property.

Before we get into when it's payable, we should clarify something... it's actually now called 'transfer duty'. It has been for a while, but old habits die hard as they say and 'stamp duty' has stuck. Nevertheless, where you see 'transfer duty' it is referring to the old 'stamp duty'. They are one and the same. This is important to consider when researching online and trying to get your head around all the legal jargon and terms we use in conveyancing.

So, when do you have to pay transfer duty?

Transfer duty is due on or before the earlier of:

- Settlement; and
- 3 months after the Contract date.

The earlier of, means whichever occurs first.

As such, if you've entered into a Contract to purchase a property with a standard 42-day completion period, you must pay the transfer duty on or before settlement.

If you have entered into a Contract where the completion period is longer than 3 months or you've purchased unregistered land and the land doesn't register and settle within 3 months of the Contract date, transfer duty is due within 3 months of the Contract date. The Contract date is the date Contracts were entered into and appears on the first page of the Contract for Sale document.

The exception to this is where you have purchased a residential property off-the-plan and it is your intention to use that property as your principal place of residence. In this instance, you may be eligible for a deferral of the payment of transfer duty. Where you are eligible, transfer duty for the purchase of an owner-occupied off-the-plan property is due on or before the earlier of:

- Settlement; and
- 15 months after the Contract date (that's an extra 12 months in addition to the usual 3 months).

So, what is off-the-plan? Purchasing off-the-plan is where you enter into a Contract to buy a property

before or during its construction and settlement falls due once the construction of the property has been completed.

So what happens if you don't have the funds to pay the transfer duty until settlement but it's due beforehand?

The amount due will accrue interest until it is paid. Revenue NSW has a calculator on their website which can be used to determine how much interest would be payable in this instance.

Here are some 'real-life scenarios' to help you better understand and get your head around how the above information applies practically.

**Scenario 1.** On 3 January 2022, Sally and Harry entered into a Contract to purchase a unit in Campbelltown. The Contract states that the completion period is 35 days after the Contract date, being 7 February 2022. When must the transfer duty be paid?

If you answered on or before settlement, 7 February 2022, you are correct.

**Scenario 2.** On 24 January 2022, Susan and Carol entered into a Contract to purchase a house in Bradbury. The Vendors are moving interstate so the Contract has a 6 month completion period on it, to allow them time to travel back and forth and find something else to buy. Susan and Carol are happy with the extended completion period because they are living with Carol's parents, so they aren't in a rush to move in. When do Karen and Sarah need to pay transfer duty by?

The answer is 24 April 2022, being 3 months after the Contract date.

**Scenario 3.** On 24 January 2022, Jack and Jill entered into a Contract to purchase a brand new home. The home is not yet built. It's under construction and isn't due to be completed until the end of December 2022. They are very excited because they plan on moving straight in and making it their family home. If the house is completed when they anticipate, at the end of December 2022, can they pay the transfer duty at settlement? If you answered yes, you are correct. Jack and Jill's purchase qualifies for the off-the-plan deferral of duty. If the house is completed in December 2022, that's just 11 months after the Contract date. But, what happens if the construction is substantially delayed and the house isn't completed until October 2023 meaning settlement doesn't occur until October 2023? In this instance, transfer duty would need to be paid on or before 24 April 2023 (being 15 months after the Contract date), or else it would accrue interest until it's paid.

**Scenario 4.** On 20 December 2021, Sam entered into a Contract to purchase an unregistered block of land. The land is anticipated to be registered in 3 years. When is transfer duty due?

By 20 March 2022, being 3 months after the Contract date. Given the purchase of unregistered land doesn't qualify as 'off the plan' and given the land is not due to be registered for over 3 months, transfer duty falls due within 3 months of the Contract date.



**Melina Costantino**

Licensed Conveyancer & JP





# Out and About with COUTTTS





# A Wine with... Brianna

## PROFILE

**Position:** Lawyer

**Location:** Tahmoor

**Area of Practice:** Wills & Estates, Personal Injury, Employment, and Commercial Litigation



**Q: How would you describe yourself in two words?**

A: Passionate and Creative

**Q: What would your best friend say is your best quality?**

A: That I always have answers to her questions

**Q: My favourite motto / mantra is:**

A: Act confident and no one will question you.

**Q: My pet peeve is:**

A: When things don't go to plan

**Q: On the weekends you can find me:**

A: Hanging out with my puppy or at a local café

**Q: The last book I read was:**

A: Women don't owe you pretty by Florence Given

**Q: The top 3 most used emoji's on my phone are:**

A: 😂👉❤️

**Q: My favourite movie of all time is:**

A: It's very hard to pick one, but I would say Burlesque.

# Your Questions Answered



**WE SEPARATED 15 MONTHS AGO, BUT THERE WERE A FEW WEEKS WHEN WE GOT BACK TOGETHER TO TRY AND SORT THINGS OUT. CAN WE STILL GET DIVORCED?**



It is very common for people to get back together for short periods of time after a separation. If this has happened to you, the separation is 'paused', but continues again if you separate once more.

For example, Sarah and John have been separated for two months. They decide to try and work things out. They get back together for six weeks. At the end of the six weeks, they decide to separate once more. At the end of that six weeks, John and Sarah have only been separated for two months. The period of separation continues from there.



**WHAT IS THE DIFFERENCE BETWEEN A POWER OF ATTORNEY AND ENDURING GUARDIANSHIP?**



A power of attorney is a legal document which allows an individual (known as the principal) to appoint another person (known as the attorney) to make decisions about your financial property and manage your financial affairs. An enduring guardianship is a legal document that allows you to appoint another person to make decisions on your behalf regarding your medical, health and lifestyle decisions when you lose mental capacity.



**THERE IS A DEVELOPMENT POPPING UP NEXT TO ME WHAT CAN I DO?"**



We have prepared submissions to Council on behalf of a client in relation to a proposed development on the neighbouring property which was an overdevelopment of the site and also not a lawful use of the site. The development proposed to turn a small block of units into a multi-dwelling site that was not in keeping with the heritage and landscaping and tourist attractions for the picturesque location.

We await an outcome but hope that the development will be rejected by Council.



**WHAT SHOULD I DO WHEN SIGNING A CONTRACT?**



Be sure you have read and understood the entire contract. If you do not understand it, don't sign it until you do understand it.

Be sure everyone signs & dates the final page.

Be sure everyone initials & dates each page of contract.

Contract pages should have numbering "1 of xx pages".

Be sure all warranties etc that are incorporated by reference are attached to basic contract.

If the contract is a form contract, \*all\* entries must be filled out (if the space does not apply use "NA" etc).



**WHAT CAN I DO IF SOMEONE BREACHES A CONTRACT?**



Most contracts are enforced in court. If the other party breaches the contract, you can go to court to try to collect damages or obtain 'specific performance'. However, some contracts have an arbitration clause which requires any disputes to be arbitrated by a neutral party.



**WHAT INSURANCE WILL I NEED IF I AM BUYING A HOUSE?**



If you are buying a home unit, a certificate of currency should be obtained from the body corporate's insurer to make sure the property is adequately insured. Your lender requires details and proof of this on or before settlement. If you are moving into the property before settlement, the seller would probably want to make a special arrangement whereby you are responsible for insurance from the time you take possession.



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**Adriana Care**  
**Managing Partner**



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