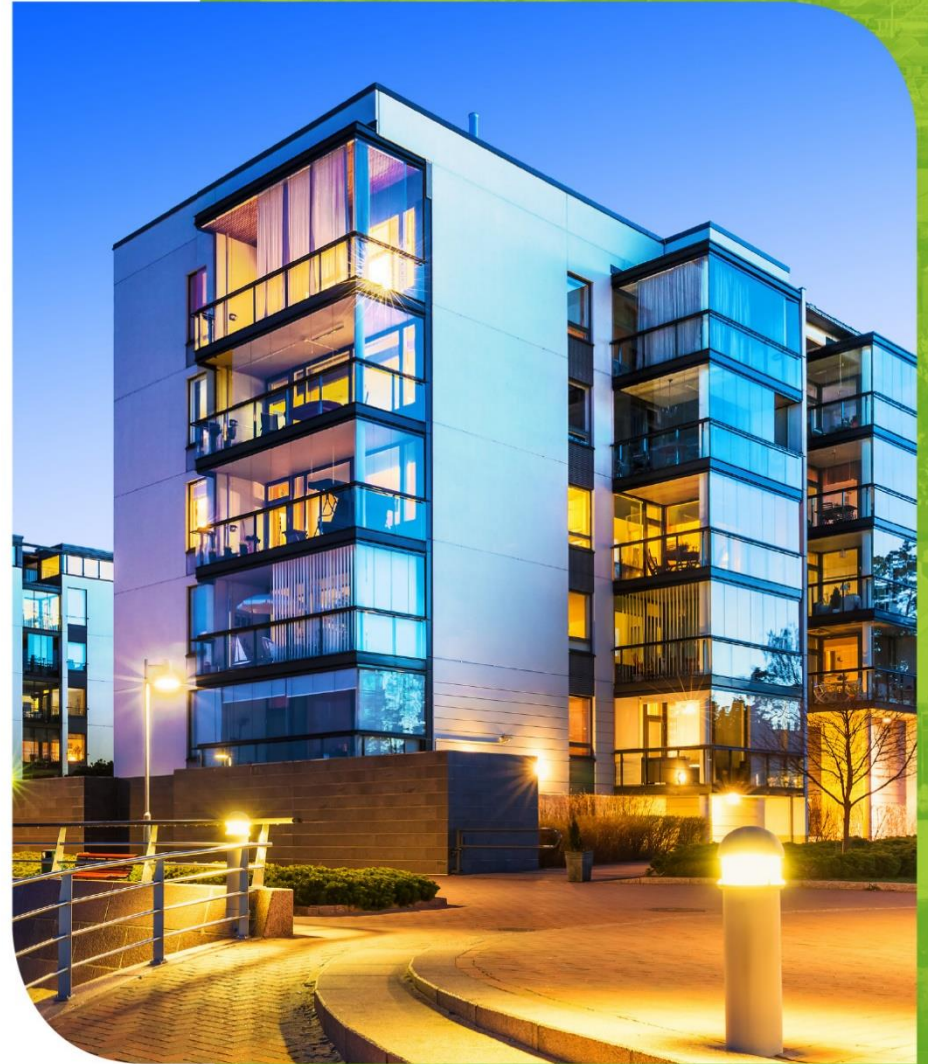




Compliance Program and Retention of Evidence

October 2023

landservices.com.au



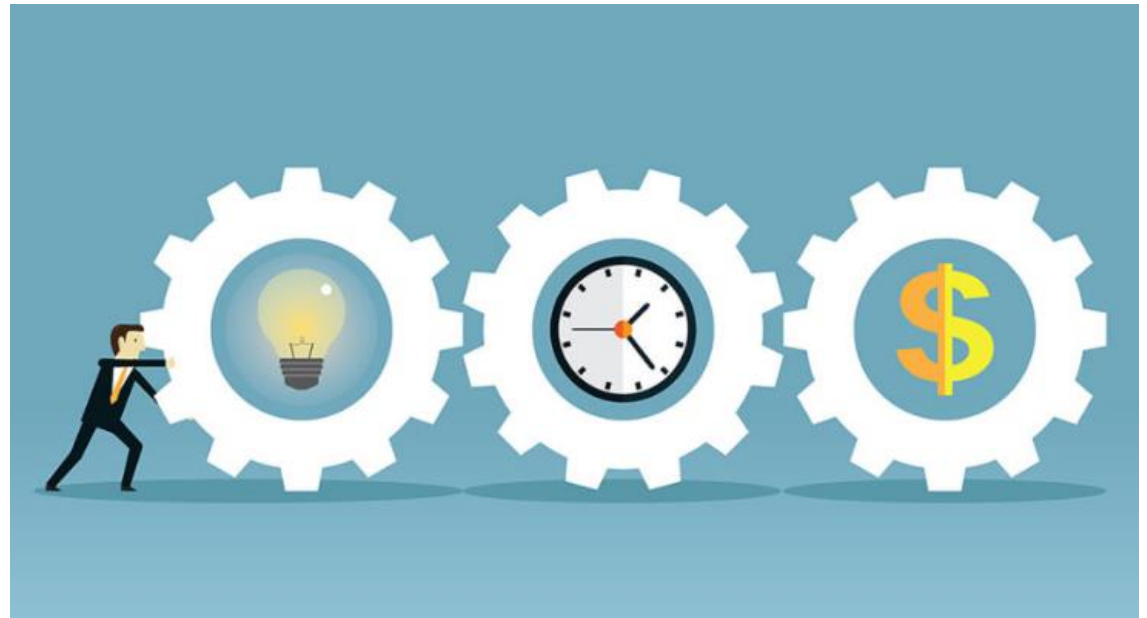


Industry Education Program

Land Services SA is committed to providing an excellent Customer Experience. One way we continue to deliver value to the Industry is through our Industry Education Program, where we produce a range of helpful educational materials, hold regular webinars and Industry Events.

Why are we doing this?

- ✓ Assist in educating the industry by providing regular training updates
- ✓ Assist in reducing requisitions across your business, saving you time and money
- ✓ Supporting you to deliver excellent service to your clients





About our Land Services SA Team

This Industry Education Webinar was prepared by one of Land Services SA's Subject Matter Experts. Our staff have years of experience and are well respected in the Industry.

Alastair Byrne is a Senior Registration Officer within Land Services SA. He has over 25 years' experience and his main focus is providing support for complex registration dealings. Alastair has a wealth of knowledge in relation to technical and legislative advice.



Contents

- Compliance Audit Procedure
- Client Authorisation
- Verification of Identity
- Verification of Authority (Right to Deal)
- Reasonable Steps
- Acceptable Practices
- Avoidable Mistakes





ARNECC – Model Participation Rules

[ARNECC.GOV.AU](https://www.arnecc.gov.au)

Participation Rules

Under Section 23 of the **Electronic Conveyancing National Law (SA)** the Registrar-General issues Participation Rules for South Australia, that align with the **National Model Participation Rules** developed by Australian Registrar's National Electronic Conveyancing Council (ARNECC).

Current Version

VERSION	EFFECTIVE
<u>South Australian Participation Rules for Electronic Conveyancing Version 6</u>	Effective from 12 April 2021



Compliance Examination

The South Australian Compliance Program is aligned with the National Compliance Program

THE COMPLIANCE PROGRAM

- ✓ Introduced in **October 2016**
- ✓ Since then – **300+** audits completed (covering approximately **900** dealings)
- ✓ Strong focus on **Industry Education**
- ✓ Monitor the obligations and practices that support certifications
- ✓ Ensuring requirements are being met as they relate to:



Topic	Guidance Note
Client Authorisation	ARNECC MPR Guidance Note #1
Verification of Identity	ARNECC MPR Guidance Note #2
Verification of Authority (Right to Deal)	ARNECC MPR Guidance Note #4
Retention of Evidence	ARNECC MPR Guidance Note #5

Source: https://www.arnecc.gov.au/publications/mpr_guidance_notes



Compliance Examination Procedure

The South Australian Compliance procedure is aligned with the National Compliance Program

HOW AM I SELECTED FOR A COMPLIANCE EXAMINATION?

- ✓ Representatives are selected **at random** initiated by a written notice to the Representative.

HOW LONG DO I HAVE TO RESPOND?

- ✓ Representatives will have **10 days** from the date the Compliance Examination Notice was sent to comply

HOW DO I SUPPLY MY EVIDENCE?

- ✓ By email to LTOCompliance@landservices.com.au
OR
- ✓ In person at Land Services SA – Level 9, 101 Grenfell Street
ADELAIDE
OR
- ✓ By registered mail, addressed to:
Land Services SA
Compliance Examination
GPO Box 543
Adelaide SA 5001

WHAT HAPPENS AFTER I SUBMIT MY EVIDENCE?

- ✓ LSSA will undertake a desktop evaluation and notify you of the results
- ✓ Corrective actions will be outlined if necessary

WANT MORE INFORMATION?

- ✓ Further information can be found in the **ARNECC MPR Guidance Note #6**



Client Authorisation

VERSION

Client Authorisation
Version 6

EFFECTIVE

Effective from 12 April
2021

Client Authorisation

A party to a real property transaction may authorise a registered conveyancer or legal practitioner to act on their behalf. A Client Authorisation form is used for this purpose.

Current Version

PDF, Word doc and Smart Form versions can be found on the [ARNECC website](https://www.arnecc.com.au)

STRICTLY CONFIDENTIAL

CLIENT AUTHORISATION				Version 6
When this form is signed, the Representative is authorised to act for the Client in a Conveyancing Transaction(s)				
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 and for the other purposes set out in clause 4.1 of this form.				
Representative Reference: _____				
CLIENT DETAILS	CLIENT 1		CLIENT 2	
	NAME			
	AC/NARBN			
ADDRESS				
TRANSACTION DETAILS	AUTHORITY TYPE <input type="checkbox"/> SPECIFIC AUTHORITY <input type="checkbox"/> STANDING AUTHORITY <input type="checkbox"/> BATCH AUTHORITY <small>(set out conveyancing transaction details below) ends on revocation or expiration date: ____/____/____ (tick relevant conveyancing transaction(s) below) (attach details of conveyancing transaction(s))</small>			
	CONVEYANCING TRANSACTION(S) 1		CONVEYANCING TRANSACTION(S) 2	
	PROPERTY ADDRESS			
	LAND TITLE REFERENCE(S) (and/or property description)			
	CONVEYANCING TRANSACTION(S)			
	<input type="checkbox"/> TRANSFER <input type="checkbox"/> MORTGAGE <input type="checkbox"/> CAVEAT <input type="checkbox"/> PRIORITY NOTICE <input type="checkbox"/> DISCHARGE/RELEASE OF MORTGAGE <input type="checkbox"/> WITHDRAWAL OF CAVEAT <input type="checkbox"/> OTHER (set out below or attach details)		<input type="checkbox"/> TRANSFER <input type="checkbox"/> MORTGAGE <input type="checkbox"/> CAVEAT <input type="checkbox"/> PRIORITY NOTICE <input type="checkbox"/> DISCHARGE/RELEASE OF MORTGAGE <input type="checkbox"/> WITHDRAWAL OF CAVEAT <input type="checkbox"/> OTHER (set out below or attach details)	
	ADDITIONAL INSTRUCTIONS			
	CLIENT 1 / CLIENT AGENT 1		CLIENT 2 / CLIENT AGENT 2	
	I CERTIFY that: (a) I am the Client or Client Agent; and (b) I have the legal authority to instruct the Representative in relation to the Conveyancing Transaction(s); and (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. I AUTHORISE the Representative 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:			
	(a) sign documents on my behalf as required for the Conveyancing Transaction(s); and (b) submit or authorise submission of documents for lodgment with the relevant Land Registry; and (c) authorise any financial settlement involved in the Conveyancing Transaction(s); and (d) do anything else necessary to complete the Conveyancing Transaction(s).			
DATE / / CLIENT/CLIENT AGENT NAME _____ CAPACITY _____ If applicable AUSTRALIAN CONSULAR OFFICE WITNESS or IDENTITY AGENT (if not a Representative Agent) NAME _____ DATE _____		SIGN HERE DATE / / CLIENT/CLIENT AGENT NAME _____ CAPACITY _____ If applicable AUSTRALIAN CONSULAR OFFICE WITNESS or IDENTITY AGENT (if not a Representative Agent) NAME _____ DATE _____		
REPRESENTATIVE DETAILS AND SIGNING	REPRESENTATIVE		REPRESENTATIVE AGENT (if applicable)	
	NAME			
	AC/NARBN			
	ADDRESS			
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 REPRESENTATIVE OR REPRESENTATIVE AGENT IF APPLICABLE:				
SIGNATURE NAME: _____ CAPACITY: _____		SIGNATURE NAME: _____ CAPACITY: _____		



Verification of Identity



- Framework for legal practitioners, conveyancers or mortgagees to take reasonable steps to verify the identity of a party to a conveyancing transaction.
- Reduces the risk of identity fraud and the registration of fraudulent land transactions.
- Due Diligence required of conveyancing professionals.
- Standard set out in the **South Australian Participation Rules**
- Applies to all conveyancing transactions certified by a conveyancing professional under a Client Authorisation



Verification of Authority

aka: Right to Deal

Due diligence to prove the client's relationship to the land and their right to be a party to the transaction.

Government searches should not be solely relied upon.

For a Registered Proprietor on Title:

Examples:

- Rates Notices,
- Land Tax, ESL Bills
- Utility Bills
- Death Certificate/Probate/Letters of Admin

For an Incoming Party:

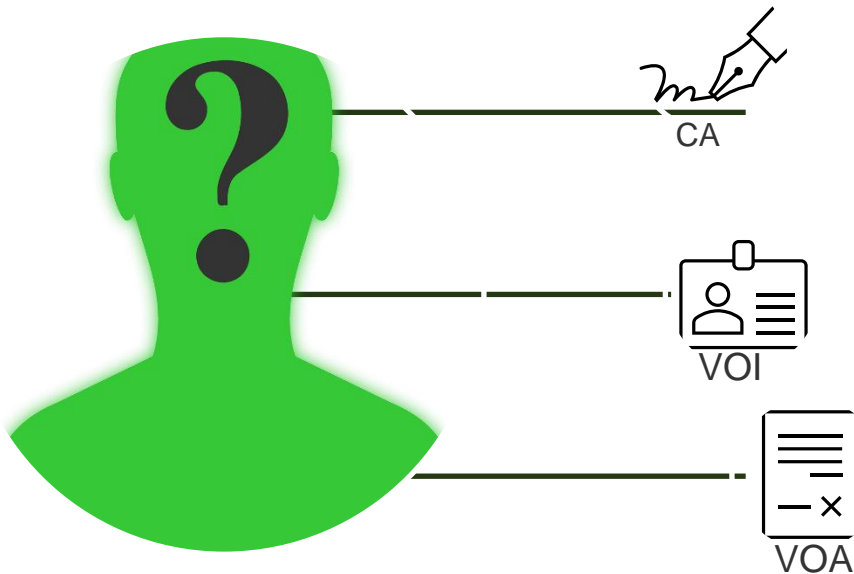
Examples:

- Contract of Sale
- Loan documentation
- Probate/Letters of Administration





Reasonable Steps



What is considered “Reasonable Steps” will be dependent on the circumstances of each case.

MPR rules require additional steps to be taken where:

- Identity documents do not appear genuine
- Photographic ID is not a reasonable likeness
- The person being identified does not appear to be the person the ID relates to

Additional steps may also be required where:

- Limited identity documents are available
- identity documents are not current, have been cancelled
- Inconsistency between identity documents or supporting documentation

Further steps may include:

- Obtaining additional identity documents
- Enquiries made with the client, client Agent or third parties
- English translation obtained for foreign language documents
- Any other steps you deem to be appropriate to satisfy yourself as to their identity or right to deal.



Retention of Evidence

The **Retention Period** for evidence supporting a conveyancing transaction is **7 years**.

HOW IS EVIDENCE TO BE RETAINED?

- ✓ May be stored **electronically** or in **paper**.
- ✓ Must be Accessible, Legible, Safely and Securely stored whichever medium is used.
- ✓ Further information can be found in the **ARNECC MPR Guidance Note #5**





Avoidable Mistakes



Viewing evidence but not retaining copies on file



Not documenting reasonable steps taken



Not updating form templates or procedures in line with ARNECC updates



Not completing Client Authorisation Form details correctly and in full.



Timing of signing CA and viewing VOI/VOA not done at the same time



Relying on evidence that does not meet the accepted VOI/VOA Standard



Acceptable Practises



Retain All Evidence

For the required retention period (min 7 years in SA), in any manner or format that is easily accessible, legible, safe and secure.



Clearly Document Steps Taken

When reasonable steps have been relied on, **clearly document the steps taken** to satisfy yourself as to their identity.



Stay Up To Date

With ARNECC's Model Participation Rules. **Update form templates**, and office processes and procedures immediately if they do not align.

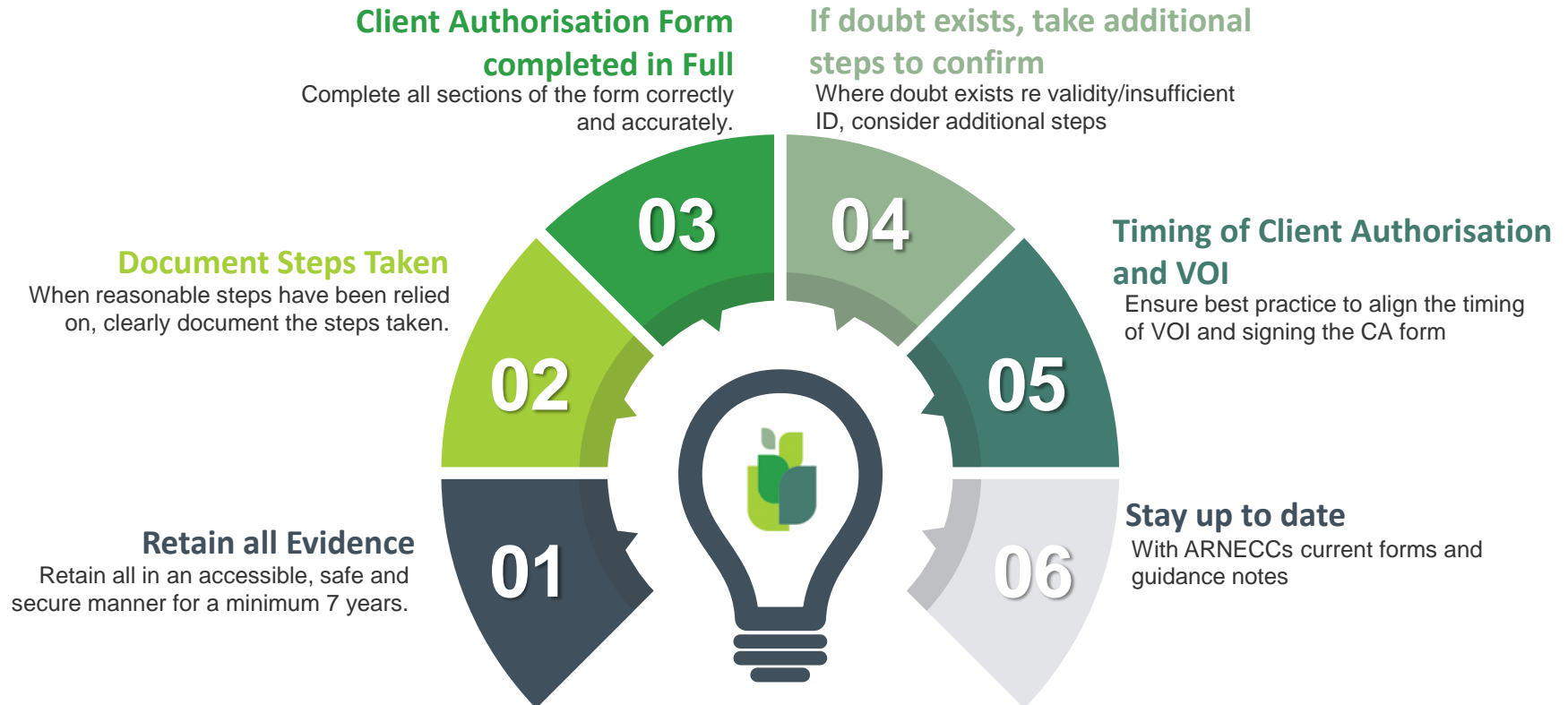


Take Additional Steps

Where there is doubt as to the validity of identification documentation or insufficient identification is available, **additional steps** should be considered.



Summary of Key Points



Industry Education Hub



Land Services SA partner with the SA Government and relevant Industry Bodies to deliver a range of Educational Materials to support property industry professionals. This webpage is dedicated to the publication of Industry Education Materials to assist conveyancing and survey professionals.

Hot Tip:
Keep updated on
LSSA's webinars and
video's

Industry Education Series	+
eConveyancing	+
Digital Plan Lodgement	+
SAILIS Video Tutorials	+
Land Services SA Fact Sheets	+

An aerial photograph of a suburban neighborhood, showing numerous houses with dark roofs and lush green trees. The entire image is covered with a semi-transparent green overlay. A thin white vertical line is positioned to the left of the word 'Questions'.

Questions