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Your Reference: Enduring Power of Attorney
Enquiries: Adj Professor, Dr Brett Davies
Direct Telephone: 1800 141 612
Email: brett@legalconsolidated.com

Monday, 12 April 2022

Nathan Hughes
12 Fifth Street
Condell Park NSW 2200
Australia

Dear Nathan,

Build this legal document at

<https://www.legalconsolidated.com.au/>

[enduring-poa-introduction/](#) –

*telephone us, we can help you
complete the questions.*

Adj Professor, Dr Brett Davies – Partner

Enduring Power of Attorney

Thank you for instructing us to prepare the attached **New South Wales Enduring Power of Attorney**.

How to print your document

When you are satisfied that the document is according to your instructions please:

1. Download the PDF (Don't print directly from the browser.)
2. Print the PDF Printer settings: A4 paper
100% scale (turn off 'fit to page')
3. Print single sided (NOT duplex).
4. Once signed keep this covering letter with the document
(However, do not staple the covering letter to the document.)

How to sign my Power of Attorney?

1. Telephone your Local Court (see the attached list) and make a time to see the Registrar. The local court witnesses the POA for free.

Free and ongoing advice for your attorney

The advantages of having our law firm prepare your POA:

1. Included in the cost of your document is free advice for your attorney. They are not alone. Our law firm forever and as often as needed, helps your attorneys and shows them how to use the POA. We give you and your family ongoing support.
2. When a parent loses mental capacity, the children are welcome to telephone us for help and assurance. There is no additional cost.
3. Many homemade POAs are incorrect. Sadly, it is only after they are needed does this become apparent. Your POA is protected by our law firm's professional indemnity insurance.

4. There is information on how to use the document in this covering letter. (Keep this letter with the POA after you sign the POA.)
5. Finally, there are unlimited updates on the POA. The POA can be updated as often as you wish.

This POA only works in New South Wales. If there are assets in another State, then you need to also build and sign POAs for that State as well.

Do my attorneys need to sign with me – at the same time?

Your attorneys can sign on another day, in another country and with any coloured pen. They don't need to sign with you. And they also don't need to be together when they sign.

Does my Power of Attorney have to be lodged or registered anywhere?

You do not need to submit your POA anywhere.

However, it is best to give your attorneys a certified copy of the POA.

The Power of Attorney does not need to be lodged at the title's office. Sometimes a bank may wrongly ask for the title's office lodgement number. Lodging at the title's office is not required. One day you may decide to buy or sell land. You may want your POA to do that. Only at that time do you need to lodge your Victorian POA at the title's office. Lawyers and the titles office charge for lodging each POA.

Does the Power of Attorney need to be stamped?

Your POA is not dutiable. It does not need to be lodged at the local stamp duty office.

Making copies

Don't let the original POA out of your hands. Ask the bank (or whoever needs it) to take a copy. The bank can then "certify" (confirm it is a true copy) the POA and keep the copy on the bank's file.

Can the Power of Attorney override your wishes?

Your attorneys (and any backups) must act in your best interests. Your POA cannot be used to benefit anyone else. It does not help spouses or children. It is to protect you. The POA can only be used to help you. If you lose confidence in persons you appoint, then you revoke the POA. If the person you appoint does not act in your best interests then both civil and criminal actions may be taken against them.

Can I revoke a New South Wales Power of Attorney?

Telephone us if you need to revoke this Power of Attorney.

What happens if I separate, divorce or get married?

Telephone us immediately if your circumstances change.

How do the persons I nominate use the Power of Attorney?

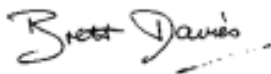
Here are some examples:

Example 1 - Using your bank account: The persons you appoint walk into the bank and present to the bank clerk with your Savings Account book and an original POA. The bank clerk stares blankly at them. The bank clerk goes to see the bank manager. The bank

manager explains to the bank clerk that those persons "now stand in your shoes". They can do whatever you could do with the bank account. The bank manager asks to take a copy of the POA for future reference. The bank manager tries to keep the original POA but the persons you nominate decline and get back the original POA. The transaction on the bank account takes place.

Example 2 – Signing your legal documents: You have asked the persons that you nominated, to sign a lease agreement as you are on holidays overseas and email is unavailable. They contact the landlord and tell the landlord that there is a POA. They tell the landlord that they are signing the lease on your behalf. They sign in their usual signature area and write under the signature "signed as attorney for *your name* under a POA dated ## Month, year". You are now bound to the lease. The landlord may photocopy the POA to attach to the lease.

Yours sincerely,



Adj Professor, Dr Brett Davies, CTA, AIAMA, BJuris, LLB, LLM, MBA, SJD
National Taxation Partner
LEGAL CONSOLIDATED BARRISTERS & SOLICITORS

This is a sample of the document you are building on our law firm's website.

Depending how you answer the questions the document and our letter may be different.

We have a 100% money back guarantee. For any reason you can return the document to us for a full refund.

*Dr Brett Davies
Partner
Legal Consolidated Barristers & Solicitors*

How to sign your NSW Enduring Power of Attorney

At the end of your Power of Attorney, there is the witness certificate. The certificate states that the witness:

1. explained the effect of the Power of Attorney directly to you before it was signed
2. was satisfied that you appeared to understand the effect of the Power of Attorney.

Local Court Registrars witness your POA for free

Telephone your Local Court to make an appointment to witness your Enduring Power of Attorney:

1. Albion Park	46. Fairfield	91. Moss Vale
2. Albury	47. Finley	92. Mt Druitt
3. Armidale	48. Forbes	93. Moulamein
4. Assessors - Small Claims	49. Forster	94. Mudgee
5. Ballina	50. Gilgandra	95. Mullumbimby
6. Bankstown	51. Glen Innes	96. Mungindi
7. Batemans Bay	52. Gloucester	97. Murrumbidgee
8. Bathurst	53. Gosford	98. Murwillumbah
9. Bega	54. Goulburn	99. Muswellbrook
10. Bellingen	55. Grafton	100. Narooma
11. Belmont	56. Grenfell	101. Narrabri
12. Bidura Children's Court	57. Griffith	102. Narrandera
13. Blayney	58. Gulugong	103. Narromine
14. Blacktown	59. Gundagai	104. Newcastle
15. Boggabilla	60. Gunnedah	105. Newtown
16. Bombala	61. Hay	106. Northern River's Children's
17. Bourke	62. Hillston	107. Court Circuit
18. Brewarrina	63. Holbrook	108. Nowra
19. Broadmeadow Children's	64. Hornsby	109. Nyngan
20. Court Circuits	65. Hunter Children's Court	110. Oberon
21. Broken Hill	66. Circuit	111. Orange
22. Burwood	67. Illawarra Children's Court	112. Parkes
23. Byron Bay	68. Inverell	113. Parramatta
24. Camden	69. Junee	114. Parramatta Children's Court
25. Campbelltown	70. Katoomba	115. Peak Hill
26. Campbelltown Children's	71. Kempsey	116. Penrith
27. Casino	72. Kama	117. Picton
28. Central	73. Kurl Kurl	118. Port Kembla
29. Cessnock	74. Kyogle	119. Port Macquarie
30. Cobar	75. Lake Cargelligo	120. Queanbeyan
31. Coffs Harbour	76. Leeton	121. Quirindi
32. Condobolin	77. Lightning Ridge	122. Raymond Terrace
33. Cooma	78. Lismore	123. Ryistone
34. Coonabarabran	79. Lithgow	124. Scone
35. Coonamble	80. Liverpool	125. Singleton
36. Cootamundra	81. Lockhart	126. Sutherland
37. Corowa	82. Macksville	127. Tamworth
38. Cowra	83. Maclean	128. Taree
39. Crookwell	84. Maitland	129. Temora
40. Deniliquin	85. Manly	130. Tenterfield
41. Downing Centre	86. Mid North Coast Children's Court	131. Toronto
42. Dubbo	87. Milton	132. Tumbarumba
43. Dunedoo	88. Moama	133. Tumut
44. Dungog	89. Moree	134. Tweed Heads
45. Eden	90. Murrumbidgee	135. Wagga Wagga

Obviously, your witness cannot be your attorney. The witness must be independent and not involved with you or your family

Build the legal document at <https://www.legalconsolidated.com.au/enduring-poa-introduction/> – telephone us. We can help you answer the questions.

On our law firm's website, you:

1. Retain legal professional privilege
2. Receive legal advice
3. Get a signed letter on our law firm's letterhead with the legal document
4. We take responsibility for the legal document

Only a law firm provides the above. We also offer a 100% money back guarantee on every document you build.

Adj Professor, Dr Brett Davies – Partner



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Enduring Power of Attorney – New South Wales (Financial Power of Attorney)

Nathan Hughes

Enduring Power of Attorney

An enduring power of attorney is a legal document that allows you (the *principal*) to nominate one or more persons (referred to as *attorneys*) to act on your behalf. An enduring power of attorney gives the attorney the authority to manage your legal and financial affairs, including buying and selling real estate, shares and other assets, operating your bank accounts and spending money on your behalf.

The attorney's power continues even if for any reason you lose your ability to manage your own affairs. Once you lose your mental capacity you cannot make decisions about your lifestyle or health. These decisions are made by a guardian (whether an enduring guardian appointed by you or a guardian appointed by the Civil and Administrative Tribunal or the Supreme Court).

The prescribed witness certificate in clause 6 of this form must be signed by you as your attorney, the attorney (including any substitute attorney) named in section in clause 7 of this form.

Please read the **Important Information** set out at the end of this document and the notes to assist in completing this document and more fully explain the responsibilities of an attorney.

An Enduring Power of Attorney (POA) is a legal document. It allows you to appoint a person to make decisions about your assets. The POA deals with your assets e.g. real estate and bank accounts.

Principal - The person who appoints the attorney is known as the principal.

Attorney - The person you nominate to look after your financial affairs is known as the attorney. You can appoint more than one attorney.

1. Appointment of attorney by the principal

I, Nathan Hughes
of 12 Fifth Street, Condell Park NSW 2200, Australia

Date of Birth: 17 April 1975,

appoint
Jacinta McMillan
of 21 Adam Drive, Guildford NSW 2161, Australia
Date of Birth: 20 November 1978

Enduring Power of Attorney

My attorneys are appointed:

- Jointly [Your attorneys must all act together]. I want the appointment to be terminated if one of the attorneys dies, resigns or otherwise vacates office.
- Jointly [Your attorneys must all act together]. I do not want the appointment to be terminated if one of the attorneys dies, resigns or otherwise vacates office.
- Jointly and severally [Your attorneys may act individually or can act with the other attorneys if they choose].

If no option is selected or the option chosen is unclear or inconsistent, I intend my attorneys to act jointly and severally.

Nomination of substitute attorney *(optional)*

If your attorney vacates office, you have the option to nominate someone to take their place.

If my attorney vacates office, I appoint:
to be my substitute attorney/s.

My substitute attorney/s are to be appointed:

- Jointly [Your attorneys must all act together]
- Or
- Jointly and severally [Your attorneys may act individually or with other attorneys if they choose]

2. Powers

My attorney may exercise the authority conferred by Part 2 of the Powers of Attorney Act 2003 to do anything on my behalf I may lawfully authorise an attorney to do.

I give this power of attorney with the intention that it will continue to be effective if I lack the capacity through loss of mental capacity after its execution.

Additional powers (optional)

- I authorise my attorney to give reasonable gifts as provided by section 11(2) of the Powers of Attorney Act 2003.
 - I authorise my attorney to confer benefits on the attorney to meet their reasonable living and medical expenses as provided by section 12(2) to the Powers of Attorney Act 2003.
 - I authorise my attorney to confer benefits on the following persons to meet their reasonable living and medical expenses as provided by section 13(2) of the Powers of Attorney Act 2003.
-
-

The POA is an “economic” document. Your POA does not deal with your health, medical treatment or lifestyle. To do this, instead build a [Medical POA](#) on our website.

Enduring Power of Attorney

3. Conditions and Limitations

I place the following conditions and/or limitations on the authority of my attorney:

NIL

4. Commencement

This power of attorney operates:

- Once the attorney has accepted their appointment by
- Once a medical practitioner considers that I am unable to manage my affairs (and provides a document to that effect).
- Once my attorney considers that I need assistance to manage my affairs
- Other _____

If no option is selected or the options chosen are unclear or incomplete, the power of attorney will operate once my attorney has accepted this document.

Also, the person receiving your EPA cannot:

- vote in any elections
- make a Will (but you can build a Will for your parents)
- sign another POA
- act as a Trustee
- control your body (instead, you need a Medical POA)

Enduring Power of Attorney

5. Your signature to make the appointment

Signature: _____ Date: / /

Signature of prescribed witness:

Full name of prescribed witness:

Address of prescribed witness:

6. Certificate under section 19 of the Powers of Attorney Act 2003

I, _____

certify the following:

- (a) I explained the effect of this power of attorney to the principal before
- (b) The principal appeared to understand the effect of this power of attorney
- (c) I am a prescribed witness.
- (d) I am not an attorney under this power of attorney.
- (e) I have witnessed the signature of this power of attorney by the principal

Signature: _____ Date: _____

[Tick the appropriate category]

- Australian legal practitioner,
- Registrar of the Local Court,
- Licensed Conveyancer who has successfully completed a course of study approved by the Minister,
- NSW Trustee and Guardian employee who has successfully completed a course of study approved by the Minister,
- A trustee company employee who has successfully completed a course of study approved by the Minister,
- Legal Practitioner qualified in a country other than Australia who is instructed and employed independently of any legal practitioner appointed as an attorney under this power of attorney.

People think when you appoint someone under a POA you give them 'power'. It is quite the opposite. Your enduring attorney is in a fiduciary relationship with you.

A prescribed witness must complete this certificate.

Please note that a Justice of the Peace (i.e. a J.P.) is not a prescribed witness.

(Please initial the bottom of this page)

Enduring Power of Attorney

7. Acceptance by attorney

- (a) I accept that I must always act in the principal's best interests.
- (b) I accept that as attorney I must keep my own money and property separate from the principal's money and property.
- (c) I accept that I should keep reasonable accounts and records of the principal's money and property.
- (d) I accept that unless expressly authorised, I cannot gain a benefit from being an attorney.
- (e) I accept that I must act honestly in all matters concerning the principal's legal and financial affairs.

Failure to do any of the above may incur civil and/or criminal penalties.

Signature: _____ Date:
Name: Jacinta McMillan

Fiduciary relationships are where the person acts in your best interest. They put your interest above their own. A financial planner, accountant, lawyer, director and trustee all bear that difficult burden.

NSW LRS
USE ONLY

(Please initial the bottom of this page)

Enduring Power of Attorney

1 Important information

- A power of attorney is an important and powerful legal document. You should get legal advice before you sign it.
- It is important that you trust the person you are appointing as attorney to make financial decisions on your behalf. Your attorney must be over 18 years old and must not be bankrupt or insolvent. If your financial affairs are complicated, you should appoint an attorney who has the skills to deal with complex financial arrangements.
- A power of attorney cannot be used for health or lifestyle decisions. You should appoint an enduring guardian under the Guardianship Act 1987 if you want a person to make these decisions. For further information, contact the Civil and Administrative Tribunal or NSW Trustee and Guardian.
- Clause 2 of the power of attorney contains powers which will permit the attorney to manage your money and assets for the attorney or anyone else as provided in those boxes in Clause 2 if you choose that your attorney is to have those powers.
- This power of attorney is for use in New South Wales only. If you need a power of attorney for interstate or overseas, you may need to make a power of attorney in that State or Territory. The laws of some other States and Territories in Australia may give a power of attorney. However, you should not assume this will be the case. You should check whether the laws of the State or Territory concerned will in fact recognise your power of attorney.
- Your attorney must keep the attorney's own money and property separate from your money and property, unless you are joint owners, or operate joint bank accounts. Your attorney should keep reasonable accounts and records about your money and property. Usually the cost of providing and maintaining these records by the attorney may be recoverable from you.
- If your attorney is signing certain documents that affect real estate, the power of attorney must be registered at NSW Land Registry Services. Please contact NSW LRS on T: 1300 052 637 to see whether the power of attorney must be registered.
- An attorney must always act in your best interest. If your attorney does not follow your directions, or does not act in your best interest, you should consider revoking the power of attorney. You will only be able to do so while you retain your capacity. If you revoke the power of attorney you should notify the attorney, preferably in writing, that they are no longer your attorney. The attorney must stop acting immediately once they have knowledge of the revocation.
- This power of attorney does not automatically revoke prior powers of attorney made by you. If you have made an earlier power of attorney that you do not want to continue, you must revoke the earlier power of attorney. It is advisable that you notify the attorney, preferably in writing, of the revocation, if you have not already done so. You should also give notice of the revocation to anyone who is aware of the earlier power of attorney, such as a bank.

Your enduring attorney does not profit from their role as your enduring attorney. They cannot gain a personal benefit. They cannot benefit to a third party.

Enduring Power of Attorney

2 Notes for completion

Joint attorneys

If you appoint more than one attorney, you should indicate whether the attorneys are to act jointly, or jointly and severally. Attorneys who are appointed jointly are only able to act and make decisions together.

Attorneys who are appointed jointly and severally (i.e. together or separately) are able to act and make decisions independently of each other. However, you can specify that a simple majority (if you appoint 3 or more attorneys) must agree before they can act.

Substitute attorneys

If you appoint a substitute attorney, the substitute attorneys will only have authority to act as your attorney if the first appointed attorney dies, resigns or vacates their position.

You can specify for whom the substitute is to act (e.g. if you appoint A and B as attorneys and X and Y as substitutes, you can specify that X takes A's place if A vacates office).

A substitute attorney must sign an acceptance of their appointment in Clause 7 before they can act as attorney.

Attorney vacates office

If you have appointed a substitute attorney, it may be necessary to evidence the vacation of the original attorney is at the time a vacancy happens. This will assist to satisfy a third party to act for you.

Section 5 of the Powers of Attorney Act 2003 states that if the attorney dies, resigns, becomes bankrupt, loses capacity or is revoked.

You can build this document here:

[https://www.legalconsolidated.com.au/
enduring-poa-introduction/](https://www.legalconsolidated.com.au/enduring-poa-introduction/)

3 Further information

For information on powers of attorney, the attorney's duties and registration, contact NSW Land registry Services www.nswlrs.com.au, the NSW Trustee and Guardian www.tag.nsw.gov.au, a solicitor, or a trustee company.

The NSW Government's Planning Ahead Tools website www.planningaheadtools.com.au provides up-to-date information and resources about powers of attorney, enduring guardianship, wills and advanced care planning.