

Digital Signing for Documents Requiring Witnessing Supplementary Guide under COVID-19 Restrictions

A combination of ADLS Digital Signing and audio-visual technology is a solution for documents that require a witness (e.g. A&I documents, bank documents and deeds) under COVID-19 restrictions given that the witness cannot be physically present.

Land Information New Zealand (LINZ) has issued its Authority and Identity Requirements and Electronic Signing of Documents Interim Guideline 2020 LINZ OP G 01247 (LINZ Interim Guideline) for guidance during COVID-19 restrictions. (See: <https://www.linz.govt.nz/regulatory/01247>.) Note in particular from this guideline that:

(a) All electronic signatures must comply with the Contract and Commercial Law Act 2017 (CCLA) (see ss. 218, 226 – 228). The LINZ Interim Guideline provides: “Where banks elect to complete annexure schedule [Land Transfer Act] consent forms, they may sign such consent forms electronically provided that the electronic signing system used by the bank complies with s228(1) of the CCLA.” Section 228(1) provides the criteria for whether an electronic signature adequately identifies the signatory and is as reliable as appropriate. The ADLS digital signing tool meets these criteria. This is on the basis that the verification function is switched on by the practitioner (see adjoining panel).

(b) Under the heading of use of audio-visual technology and the requirement for the practitioner to take such reasonable steps as are necessary in the circumstances to verify client identity, the LINZ Interim Guideline notes that “Relying on an ID protocol in a robust electronic signing system, e.g. the ADLS WebForms digital signing service” is acceptable; and

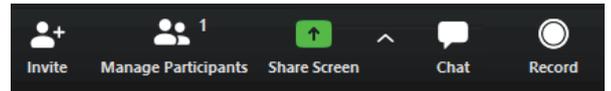
(c) In relation to clients signing A&I forms, the LINZ Interim Guideline notes that: “An A&I form may be signed by means of an electronic signature using a system that meets the criteria in s228(1) of the CCLA, e.g. the ADLS’s WebForms digital signing service.” In respect of A&I forms, practitioners should also read the ADLS Protocol, as adapted for COVID-19 conditions by the Interim ADLS Protocol Supplement. When using ADLS digital signing for an A&I form, the verification function must be switched on by the practitioner. It is also highly recommended that the matching function be switched on. These are explained in the adjoining panel.

For a step-by-step ADLS Digital Signing User Guide, see www.adls.org.nz and for further assistance email: webforms@adls.org.nz or phone: 09 303 5283.

Audio-visual witnessing:

In terms of audio-visual solution, Zoom is proving popular by reason of its

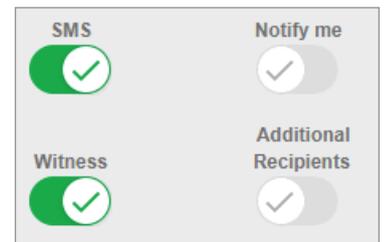
ease of use. Certainly, the screen share function available by Zoom makes witnessing simple and thorough. Once you are both in the Zoom meeting, simply have the client click the green square at the bottom of the screen to view them apply their signature digitally to the document you have uploaded (or created via WebForms). Zoom also has a record function.



1. Witness

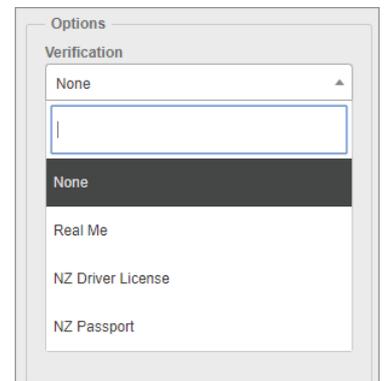
When setting up a document for digital signing you **must** have Witness turned on, in the Invite to Sign screen:

Note: The signing party sets up the Witness details. It is important for the lawyer witnessing to ensure the signing party enters the correct details



2. Verification

Verification **must** be selected in the Invite to Sign screen to activate the real-time identity check with the Department of Internal Affairs. (Note: only NZ Driver Licence and NZ Passport are to be selected for A&I forms):



3. Matching

ADLS strongly recommends that for significant documents, such as A&I forms, matching is also turned on. (Matching will match the signing parties’ details held on file by the law firm, with those provided by the online ‘verification’ option.)

