

PROPERTY, STOCK AND BUSINESS AGENTS ACT 2002

SECTION 49

CONSENT TO REAL ESTATE AGENT/SALESPERSON¹ OBTAINING A BENEFICIAL INTEREST IN PROPERTY

TO: [Insert name and address of client]

Your sale of [insert address of property]

I/We* propose to obtain a beneficial interest in the above property. I/We* set out below a brief description of the nature of the interest and who proposes to obtain it:

Nature of the interest²

Person(s) obtaining the interest³

.....
(Signature of real estate agent(s)/salesperson(s)
proposing to obtain beneficial interest)
[Print name of the real estate agent(s)/salesperson(s)]

DATED:

¹ The agent or salesperson should delete the inapplicable word. Other places where an inapplicable word must be deleted are also indicated by *. **NB** Agents or salespersons completing this form should note that s. 49 of the *Property, Stock and Business Agents Act 2002*, among other things:

- defines a “beneficial interest” in property widely and non-exhaustively;
- deems them to obtain a beneficial interest in circumstances where a person associated with them acquires the beneficial interest eg a close relative. Those deemed circumstances are wide and non-exhaustive.

² Briefly describe the interest. Examples include:

- purchasing property,
- obtaining an option to purchase property, or
- being granted a general power of appointment in respect of property.

However, the above examples are *not* exhaustive. See s. 49(5) of the Act.

³ Briefly describe the person(s) proposing to obtain the interest. Examples of persons considered to obtain a beneficial interest in property are:

- the agent or salesperson or a close relative of the agent or salesperson obtaining a beneficial interest in the property, or
- a corporation obtaining a beneficial interest in the property where an executive officer of the corporation is the agent or salesperson or a close relative of the agent or salesperson.

NB Neither the above examples nor the further examples given in s. 49(4) of the Act are exhaustive. Section 49(6) of the Act defines “close relative” and “property”.

IMPORTANT NOTICE TO THE CLIENT

This form must be given to you before the real estate agent/salesperson obtains a beneficial interest in the above property eg the agent or salesperson purchases or obtains an option to purchase it. If this form is given to you afterwards you should not sign below.

A real estate agent retained by a client to sell property or a real estate salesperson employed by that agent must not obtain an interest in that property or be remunerated in relation to the transaction by which the interest is obtained. However, the agent or salesperson may do so, if the client consents in writing in this form.

TO: [insert name(s) of real estate agent(s)/salesperson(s) seeking consent]

I/we* consent to:

- you obtaining the beneficial interest in the above property;
- the payment of the commission or other reward payable to you in relation to the transaction by which the interest is obtained not being affected merely by reason of you obtaining or being concerned in the obtaining of that interest.

.....
(Signature of each client)
[Print name of each client]

DATED: