

Part 11 – Caveat

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Part 11 – Caveat

General Law

Definitions

[11-0000]

A ‘caveat’ is a notice to the Registrar which, subject to some exceptions, has the effect of prohibiting the registration of an instrument or document, including a prior unregistered instrument or document (unless expressly excluded in the caveat) affecting the interest claimed by the caveator until the caveat is withdrawn, removed, lapses or is cancelled. The purpose of a caveat is to allow time for parties to apply to the court to enforce or determine an interest in a lot, or a lease, sub-lease, licence or an interest in a reserve under the *Land Act 1994*.

²However, as a caveat does not provide all of the benefits of the Torrens System and the *Land Title Act 1994*, it should not be seen as a viable alternative to registering the interest.

‘Caveator’, for a lot, or a lease, sub-lease, licence or an interest in a reserve under the Land Act over which a caveat has been lodged, means a person in whose favour the caveat is lodged (s. 4 of the Land Title Act or s. 3 of the Land Act).

‘Caveatee’, for a lot, or a lease, sub-lease, licence or an interest in a reserve under the Land Act over which a caveat has been lodged, means:

- a registered proprietor of the lot; or
- a lessee or sub-lessee of the lease or sub-lease; or
- a licensee of the licence; or
- the holder of an interest in a reserve;
- or someone (other than the caveator) who has an interest in the lot (s. 4 of the Land Title Act or s. 3 of the Land Act).

Requirements of a Caveat

[11-0010]

Sections 121(1), (2) and (2A) of the *Land Title Act 1994* and s. 389C (1), (2) and (2A) of the *Land Act 1994* provide that a caveat must be signed by or on behalf of the caveator and the caveat must state:

- the name of the caveator;
- an address where documents can be served on the caveator (the address stated may be the address of a stated legal practitioner);
- ²unless dispensed with by the Registrar, the name and address of the registered owner of the lot affected by the caveat and anyone else having the right to deal with the lot affected by the caveat;
- ^{1,3}unless dispensed with by the Registrar, the name and address of the lessee or licensee affected by the caveat and anyone else having the right to deal with the lease or licence affected by the caveat;
- the registered interest affected by the caveat;

- ²if the caveat relates to only a part of the lot or part of a water allocation – a description of the affected part or in the case of a water allocation the number of megalitres affected;
- the interest claimed by the caveator; and
- the grounds on which the interest is claimed.

These requirements apply to all caveats under the Land Title Act and the Land Act other than a caveat prepared and registered by the Registrar under s. 17 of the Land Title Act or s. 389L of the Land Act (s. 121(3) of the Land Title Act or s. 389C (3) of the Land Act).

See further at [11-2000] to [11-2010].

Persons Who May Lodge Caveat

[11-0020]

²Part 7, Division 2 relating to interests in or over interests in freehold land and water allocations is the division of the *Land Title Act 1994* that generally deals with the lodgement of caveats. Pursuant to s. 122(1) of the Land Title Act a caveat may be lodged by:

- a person claiming an interest in a lot;
- the Registrar under s. 17;
- a registered owner of the lot;
- a person to whom an Australian court has ordered that an interest in a lot be transferred
- a person who has the benefit of a subsisting order of an Australian court in restraining a registered proprietor from dealing with a lot.

²Section 122(2) of the Land Title Act makes it clear that an equitable mortgagee can only lodge a lapsing caveat.

²Provision is also made for the lodgement of a caveat in the following circumstances:

- ¹by a person objecting to an application for adverse possession (s. 104 of the Land Title Act);
- pursuant to an order of the Supreme Court when a person applies for an order that another person be registered as proprietor of a lot (s. 114 of the Land Title Act); and
- by a purchaser under an instalment contract (s. 74 of the *Property Law Act 1974*); and
- by an interest holder in a water allocation who has given notice under s. 73(1)(b) of the *Water Act 2000* (s. 171(3) of the Water Act).

^{1,3}Chapter 6, Part 4, Division 11A of the *Land Act 1994* deals with the lodgement of caveats relating to interests in State land. Pursuant to s. 389D (1) of the Land Act a caveat may be lodged by:

- the Chief Executive under s. 389L(1); or
- a person to whom an Australian court has ordered that an interest in a lease or licence be transferred; or

- a person who has the benefit of a subsisting order of an Australian court in restraining a lessee from dealing with a lease or licensee from dealing with a licence.

²A Person Claiming an Interest in a Lot

[11-0030]

Pursuant to s. 122(1)(a) of the *Land Title Act 1994*, a person claiming an interest in a lot may lodge a caveat. The caveator must identify an interest in the lot in the caveat.

Section 122 of the Land Title Act replaces s. 98 of the *Real Property Act 1861*. Pursuant to s. 98 of the Real Property Act, a person with ‘an estate or interest in any land’ had a right to lodge a caveat. There are many cases which discuss exactly what constitutes ‘an estate or interest in land’.

In the drafting of the Land Title Act, the term ‘interest’ has been substituted for ‘estate or interest’ as used in s. 98 of the Real Property Act. The term ‘interest’ is defined in s. 36 of the *Acts Interpretation Act 1954* to mean, in relation to land or other property:

- ‘a legal or equitable estate in the land or other property; or
- a right, power or privilege over, or in relation to, the land or other property’.

It is likely that ‘an interest in a lot’ will not have a narrower meaning than ‘an estate or interest in any land’ and therefore, the case law in relation to s. 98 of the Real Property Act is of assistance in the interpretation of s. 122(1)(a) of the Land Title Act.

It is not within the scope of this manual to give an exhaustive list of caveatable and non-caveatable interests. The following are some examples of caveatable interests:

- That of a purchaser under a contract of sale of an estate in fee simple, water allocation or a lesser estate. A copy of the contract of sale is not required to be lodged with the caveat, however, the Registrar does require details of the contract, such as the date and names of parties, to be included on the caveat (in Item 4 of the Form 11).

While this represents a valid interest, the need for such a caveat has generally been superseded by priority notices (see Part 23 – Priority Notice, Extension of Priority Notice and Withdrawal of Priority Notice).

- That of an unregistered mortgagee of an estate in fee simple, water allocation or of a lesser estate (i.e. an equitable mortgagee). An equitable mortgagee can only lodge a lapsing caveat (s. 122(2) of the Land Title Act). If the caveator is an equitable mortgagee, Item 4 of the Form 11 is to include details of the grounds to support the claim (e.g. agreement [date] and specific clause number of the agreement).

Mortgagees seeking the best protection available under the Torrens System should register their mortgage. An equitable mortgagee’s caveat lapses unless an action is commenced in a court of competent jurisdiction. Equitable mortgagees’ caveats are only appropriate if the mortgagee needs to commence a court action to enforce their mortgage.

- That of a transferee under an executed transfer, whether or not supported by a contract in writing (see also Part 23 – Priority Notice, Extension of Priority Notice and Withdrawal of Priority Notice).
- That of a grantee of an option to purchase, but sufficient details of the option must be quoted in the caveat to support the claim (*Friedmann v Barrett; ex parte Barrett* [1962] Qd R 498).

- The right to set aside a contract (*Andel Pty Ltd v Century Car Care Pty Ltd* [1989] Q Conv R 54-315).
- That of a beneficiary of a constructive, resulting or implied trust.
- In some situations a unit holder in a trust may have a caveatable interest in land comprising trust property (*Costa & Duppe Properties Pty Ltd v Duppe and Ors* [1986] VR 90 and *Connell v Bond Corporation Pty Ltd* [1992] 8 WAR 352).
- A purchaser under a rescinded contract may have an equitable lien supportable by a caveat in respect of deposit and other money paid pursuant to the contract (*Ex parte Lord* [1985] 2 Qd R 198).
- That of a mortgagor seeking to impeach a sale by the mortgagee on the grounds that the mortgagee improperly exercised the power of sale (*Re Cross and National Australia Bank Limited* [1992] Q Conv R 54-433).
- Pursuant to s. 189AB of the *Bankruptcy Act 1966* (Cth), a statutory charge is created over the debtor's property in the amount of the debtor's unsecured debts when the debtor signs an authority under s. 188 of the *Bankruptcy Act*. This charge may be registered by the controlling trustee where a law of the Commonwealth, or of a State or Territory, provides for registration of a charge over the property.

Item 3 of the Form 11 should state, for example:

‘statutory charge of the fee simple’ or ‘statutory charge of the water allocation’

Item 4 of the Form 11 should state, for example:

‘pursuant to the provisions of s. 189AB (7) of the *Bankruptcy Act 1966* (Cth)’.

These are examples of caveats which only provide the caveator time to either register his/her interest or commence action in the Supreme Court to substantiate the interest claimed.

There have been numerous decisions in which the estate or interest of a caveator **did not** constitute an interest in land or otherwise failed to sustain a valid caveat. For example:

- A vendor's lien (for unpaid purchase money) is not capable of giving rise to any equitable lien on the lot (s. 191 of the *Land Title Act*).
- A registered owner of land who seeks the appointment of statutory trustees for the sale of the land, once having executed a Form 1 – Transfer to Trustees and divested himself/herself of the legal estate, has no caveatable interest as against the registered trustee (*Re Trapas Pty Ltd* [1991] Q Conv R 54-398).
- An agreement to share in the profits on resale of land (developed with the use of funds lent by the caveator) in the absence of an intention to give the caveator security over the land for its loan did not confer on the caveator an interest sufficient to support a caveat (*Simons v David Bengel Motors Pty Ltd* [1974] VR 585).
- A mere application under s. 196 of the *Property Law Act 1974* for relief where the caveator alleged that he mistakenly made improvements on the caveatee's land was held not to be a sufficient interest to support a caveat (*Ex parte Goodlet and Smith Investments Pty Ltd* [1983] 2 Qd R 792).
- A mere right of pre-emption was held not to be a sufficient interest to support a caveat (*Re Rutherford* [1977] 1 NZLR 405).

- A beneficiary under a discretionary trust does not have an interest in land owned by the trust that will support a caveat (*Walter v Registrar of Titles* [2003] VSCA 122).

The interest of the caveator may be for a lesser estate or interest than the fee simple or water allocation. In such circumstances, it is important that the caveat does not restrain dealings in relation to a greater interest in the land than necessary. If the caveat is too wide, the caveatee will be able, pursuant to s. 127 of the Land Title Act, to obtain an order from the Supreme Court that the caveat be removed.

See further [11-2020].

²Registrar

[11-0040]

Pursuant to ss. 17(1) to (4) of the *Land Title Act 1994*, the Registrar may prepare and register a caveat over a lot or an interest in a lot, in favour of a person, to prevent a dealing with the lot that may prejudice:

- a State, the Commonwealth or a local government;
- a minor;
- a person who is intellectually or mentally impaired or is incapable of managing his/her own affairs;
- a person who is absent from the State;
- a person whose rights are endangered by a misdescription of the lot or its boundaries, or by fraud or forgery;
- a person to whom a notice has been given, or has been required to be given, under s. 30(3) of the Land Title Act;
- a person, other than a person mentioned in any of the above, who has an interest in the lot.

Also, the Registrar may act under this section in response to an order directed to the Registrar by a court of competent jurisdiction or upon the receipt of a submission in writing, provided it is supported by relevant evidence, from a person who is in a position to protect the interest, for example:

- the Attorney General in respect of the State or the Commonwealth;
- the guardian of a minor or some other person concerned about the rights of a minor;
- the Public Trustee or an administrator appointed for a person who has impaired capacity for a matter; or
- a person absent from the State or his/her solicitor.

In all cases, good reasons would have to be demonstrated before the Registrar would act.

The Registrar may only prepare or register a caveat under s. 17 of the Land Title Act in one of the circumstances set out in the Act.

A Registrar's caveat does not lapse (s. 126(1)(d) of the Land Title Act).

A Registrar's caveat may be removed by:

- voluntary withdrawal by the Registrar; or
- a court order.

The remedy available to the caveatee to apply to the Supreme Court under s. 127 of the *Land Title Act* for an order that the caveat be removed, applies equally to caveats lodged by the Registrar (*Re Caveat No. 735; Ex parte Davenport* (1872) 3 QSCR 95 held that s. 99 of the *Real Property Act 1861* applied to the caveats mentioned in s. 11 of that Act, as well as to caveats against dealings lodged under s. 98 of that Act).

^{1,3}Chief Executive

[11-0045]

Pursuant to ss. 389L(1) to (4) of the *Land Act 1994*, the Chief Executive may prepare and register a caveat over a relevant tenure in favour of the State, to prevent a dealing with the relevant tenure that may prejudice:

- a State, the Commonwealth or a relevant local government;
- a person who is intellectually or mentally impaired or is incapable of managing his/her own affairs;
- a person who is absent from the State;
- a person because of misdescription of the tenure, or by fraud or forgery;
- a person to whom a notice has been given, or has been required to be given, under s. 295(2) of the *Land Act*;
- a person, other than a person mentioned in any of the above, who has an interest in the relevant tenure.

The Chief Executive may also act under s. 389L(1) to prepare and register a caveat to prevent a dealing with a relevant tenure if the relevant tenure is to be extinguished; or to give effect to an order of a court of competent jurisdiction directed to the Chief Executive.

²Registered Owner

[11-0050]

The general rule is that a registered owner (irrespective of tenancy) is entitled to lodge a caveat which does not lapse (ss. 122(1)(c) and 126(1)(a) of the *Land Title Act 1994*). However, this does not entitle a registered owner to lodge a caveat without valid grounds to support it (*Sinclair v Hope Investments Pty Ltd* [1982] 2 NSWLR 870). The caveat will be requisitioned if valid grounds are not included to support the caveat. If details of the grounds are not then provided, the caveat will be rejected.

The exception to the general rule that a caveat lodged by a registered owner does not lapse is where the lot is subject to a mortgage and the grounds stated in the caveat relate to the actions of the mortgagee in relation to registration of the mortgage (if the mortgage is already registered) or in relation to the mortgagee's power of sale (s. 126(1A) of the *Land Title Act*). In these situations the caveat will be subject to the lapsing provisions of s. 126 of the *Land Title Act* (see [11-0190]).

Section 124(2) of the *Land Title Act 1994* identifies instruments which are not prevented from being registered by lodgement of a caveat.

A joint tenant cannot, by caveat, prevent other joint tenants severing the joint tenancy.

Court Order**[11-0060]**

Section 122(1)(d) of the *Land Title Act 1994* and s. 389D(1)(b) of the *Land Act 1994* provide that a person to whom an Australian court has ordered that an interest in a lot, or an interest in a lease or licence under the Land Act be transferred, may lodge a caveat. For example, if the Family Court ordered that a person transfer his/her interest in the matrimonial home to his/her spouse, this would be an interest sufficient to support a caveat. However, a caveat may not be lodged on this ground if the court order does not order an interest transferred, but rather merely indicates that a spouse has an interest and can register a caveat.

Pursuant to s. 122(1)(e) of the Land Title Act and s. 389D(1)(c) of the Land Act, when an Australian court has given an order restraining a registered proprietor, or a lessee or licensee under the Land Act from dealing with a lot or interest, the person with the benefit of that order may lodge a caveat.

Order under the *Criminal Proceeds Confiscation Act 2002***Forfeiture Order****[11-0063]**

Sections 58 and 151 of the *Criminal Proceeds Confiscation Act 2002* provide that a court may issue a forfeiture order. If a forfeiture order is made, an interest sufficient to sustain a caveat in keeping with s. 122(1)(d) of the *Land Title Act 1994* and s. 389D(1)(b) of the *Land Act 1994* exists.

Either the Crime and Misconduct Commission or the Commissioner of Police may lodge a caveat if a forfeiture order is made and that caveat prevents registration of any instrument or document in keeping with s. 122(1)(d) of the Land Title Act and s. 389D(1)(b) of the Land Act.

An authorised officer of the Crime and Misconduct Commission or the Commissioner of Police may execute a caveat lodged pursuant to ss. 58 or 151 of the Criminal Proceeds Confiscation Act.

The Registrar will not inquire as to the authority of the person who executes these caveats.

No lodgement fee is payable by the State for the registration of the caveat (s. 264 of the Criminal Proceeds Confiscation Act).

Restraining Order**[11-0066]**

Under s. 31 of the *Criminal Proceeds Confiscation Act 2002*, a restraining order may be made in relation to property. If a restraining order is made under s. 31, an interest sufficient to sustain a caveat in keeping with s. 122(1)(e) of the *Land Title Act 1994* and s. 389D(1)(c) of the *Land Act 1994* exists (ss. 51(5) and 142(5) of the Criminal Proceeds Confiscation Act).

The Crime and Misconduct Commission or the Commissioner of Police or the Director of Public Prosecutions may lodge a caveat if a restraining order is made and that caveat prevents registration of any dealing in keeping with s. 122(1)(d) of the Land Title Act and s. 389D(1)(b) of the Land Act (ss. 51(5) and 142(5) of the Criminal Proceeds Confiscation Act).

The Registrar will not inquire as to the authority of the person who executes these caveats.

No lodgement fee is payable by the State for the registration of the caveat (s. 264 of the Criminal Proceeds Confiscation Act).

^{1,2}Adverse Possession**[11-0070]**

Section 104 of the *Land Title Act 1994* makes provision for a person who claims an interest in a lot to lodge a caveat over the lot at any time before the applicant (adverse possessor) is registered as owner of the lot.

If the Registrar assesses the caveator's claim to be valid, the Registrar will:

- refuse the adverse possessor's application (s. 107(1)(a) of the Land Title Act); or
- register the applicant as the holder of a lesser interest in the lot (s. 107(1)(b) of the Land Title Act); or
- if the caveator does not agree to the registration of the lesser interest, issue a written notice to the caveator of the Registrar's intention to register the lesser interest and the caveator then has one month in which to begin proceedings in the Supreme Court. The caveator must, within one month of receiving the Registrar's notice, give written notice to the Registrar, in the way the Registrar requires, that the proceeding has started. If the caveator fails to commence proceedings within this time, the caveat will lapse and the Registrar may proceed to register the applicant (ss. 107(2), (3), (3A) and (4) of the Land Title Act).

If the Registrar is not satisfied that the caveator has an interest in the lot, or is satisfied that the interest of the caveator has been extinguished under the *Limitation of Actions Act 1974*, the Registrar will issue a notice to the caveator to start proceedings to recover the lot within six months of the notice (s. 105(1) of the Land Title Act). The caveat will lapse six months after the notice is given unless the caveator commences proceedings and notifies the Registrar, in the way the Registrar requires, of this within this period (s. 105(2) of the Land Title Act).

In addition, s. 105(3) of the Land Title Act provides that the caveat will lapse if:

- the proceedings are withdrawn or dismissed;
- judgment is given against the caveator and the time for appeal has expired; or
- an appeal is dismissed or withdrawn.

While the applicant's application as adverse possessor is still current, a further caveat of the caveator can never be lodged in relation to the interest claimed on the same, or substantially the same, grounds unless the leave of the Supreme Court to lodge the further caveat has been granted (s. 106 of the Land Title Act). If a further caveat is lodged without leave of the Court, the caveatee may take action to have the caveat removed (s. 127 of the Land Title Act).

²Transmission by Death**[11-0080]**

The applicant of a lodged Transmission Application (see part 5, 5A, 6 – Transmission Applications) may be required by the Registrar to give public notice of the Transmission Application request (s. 18(2) of the *Land Title Act 1994*).

The Registrar may specify what the applicant is to include in the public notice (s. 18(4)(a) of the Land Title Act). For example, the Registrar may specify that the advertisement is to include a date after which registration will take place unless a caveat is lodged before that date. In such a case, the provisions in Part 7, Division 2 of the Land Title Act would be applicable.

Any person with substantive grounds may oppose registration of a Transmission Application by lodging a caveat.

Pursuant to ss. 114(1) and (2) of the Land Title Act, certain persons may apply to the Supreme Court for an order that another person be registered as proprietor of a lot. In such a case, the Supreme Court may make an order that a caveat be lodged to protect a person's interest in the lot (s. 114(3)(c) of the Land Title Act).

²Purchaser under an Instalment Contract

[11-0090]

Section 74(1) of the *Property Law Act 1974* gives a purchaser under an instalment contract the right to lodge a caveat. Section 74(1A) of the Property Law Act specifically states that such a caveat is not taken to have been lodged under Part 7, Division 2 of the *Land Title Act 1994*. Therefore, it is a non-lapsing caveat (s. 126 of the Land Title Act). However, the caveat is limited to the duration of the instalment contract (*Re Moore's Caveat* [1985] 1 Qd R 310, followed in *Chettle v Brown* [1993] 2 Qd R 604).

Caveats lodged under s. 74(1) of the Property Law Act 'forbid the registration of any instrument affecting the land the subject of the contract until completion of the instalment contract', or until the caveat is removed or withdrawn (s. 74(2) of the Property Law Act). As a result of s. 74(1A) of the Property Law Act, the provisions of the Land Title Act in respect of caveats do not apply to caveats lodged under s. 74. Section 73 of the Property Law Act makes provision for sale or mortgage of the land the subject of the instalment contract with the consent of the purchaser. However, to allow any other transaction (e.g. a lease or easement), the caveat must be withdrawn and a further caveat lodged, as s. 129 of the Land Title Act does not apply. The exceptions to the prevention of registration in s. 124(2) of the Land Title Act do not apply to caveats lodged under s. 74 of the Property Law Act.

A caveat lodged under s. 74 of the Property Law Act must recite at Item 4 of the Form 11 – Caveat that it was lodged pursuant to s. 74 of the *Property Law Act 1974* and include the date of the instalment contract. The interest being claimed in Item 3 of the Form 11 may be specified as 'the interest of a purchaser under an instalment contract as defined by s. 71 of the *Property Law Act 1974*'. The Registrar requires a copy of the instalment contract to be lodged with the caveat. Item 7(a) of the Form 11 is to be amended to refer to the instalment contract.

Section 74(2) of the Property Law Act provides that instalment contract caveats lodged under s. 74 may be removed by interested parties. Removal follows proof to the satisfaction of the Registrar of Titles or the court that:

- the purchaser under the instalment contract has consented to the removal; or
- the instalment contract has been rescinded, determined or discharged by performance or otherwise; or
- other grounds exist that justify the removal.

Section 72 of the Property Law Act clarifies that an instalment contract is not determined immediately on default in the payment of an instalment by the purchaser. Before the contract may be determined, at least 30 days must have expired since service on the purchaser of a notice of default as prescribed in the Act.

^{2,3}Interest Holder under a Notice Deposited under the *Water Act 2000*

[11-0095]

Under s. 171(3) of the Water Act (the Act) an interest holder in a water entitlement who has given the Chief Executive a notice under s. 73(1)(b) of the Act may, within 60 business days of the water allocation being recorded in the register under s. 121(1)(b) of the Act or before the interest mentioned in the notice is recorded in the register, lodge a caveat claiming an interest in the water allocation.

Once the caveat is lodged under s. 171 of the Act claiming an interest in the water allocation, the equivalent interest continues until the claimed interest is recorded on the register or the caveat lapses, is cancelled, removed or withdrawn (s. 171(3) of the Act).

Under s. 171(4) of the Act the Registrar may only register on a water allocation, a notice mentioned in s. 172(1) of the Act, until the caveat ceases to have effect in relation to the interest.

Effect of Caveat

[11-0100]

Subject to some exceptions, the lodgement of a caveat prevents the registration of an instrument or document affecting the lot or interest from the date and time endorsed on the caveat by the Registrar at lodgement until the caveat is withdrawn, removed, cancelled, rejected or lapses (ss. 124(1) and (1A) of the *Land Title Act 1994* or ss. 389F(1) and (2) of the *Land Act 1994*).

¹Lodgement of a caveat, other than a caveat lodged pursuant to s. 171(3) of the *Water Act 2000*, does not prevent registration of the following:

- An instrument or document specified in the caveat as an instrument or document to which the caveat does not apply. The instrument or document may be identified by a dealing number if lodged prior to the caveat or by way of description if it is to be lodged subsequent to the caveat.
- An instrument or document to which the caveator has given written consent for its registration. Please note that the consent of the Caveator to an instrument or document provided by way of a Form 18 – General Consent must be deposited with the instrument or document being consented to (see [18-2000]).
- An instrument or document executed by a mortgagee whose interest was registered before lodgement of the caveat if the mortgagee has power under the mortgage to execute the instrument or document and the caveator claims an interest in the lot or lease under the Land Act as security for the payment of money or money's worth. This exception does not apply to a Registrar's caveat.
- A transfer of mortgage executed by a mortgagee whose interest was registered before lodgement of the caveat. This exception does not apply to a Registrar's caveat or to a caveat lodged by the registered owner.
- for a caveat lodged by a person with the benefit of an order restraining a registered proprietor under s. 122(1)(e) of the Land Title Act or a lessee under 389D(1)(c) of the Land Act – a dealing other than a dealing restrained by the order. For example, a caveat lodged by a person with the benefit of an order that restrains the registered owner of a lot from transferring or mortgaging the lot will not prevent the registration of an instrument of lease for the lot.
- An instrument or document creating or affecting another interest that, if registered, would not affect the interest claimed by the caveator. For example, a release of mortgage or a change of name.
- a writ of execution lodged after the caveat.
- a writ of execution lodged before the caveat that is unregistered at the time of lodgement of the caveat.

However, the caveat will prevent registration of a Sheriff's transfer pursuant to a writ of execution. Lodgement of a caveat does not prevent a caveat by another caveator being lodged.

Notification of Caveat

[11-0110]

When a caveat is lodged, the Registrar must give written notice to:

- ²each registered owner of the lot;
- ^{1,3}each lessee/licencee affected by the caveat; and
- each other person whose interest or whose right to register an instrument or document is affected by the caveat.

See further [11-2030] and s. 123 of the *Land Title Act 1994* or s. 389E of the *Land Act 1994*.

²Caveatee's Notice to Caveator

[11-0120]

The caveatee may serve a notice on the caveator to commence a proceeding in a court of competent jurisdiction, within 14 days of service of the notice, to establish the interest claimed in the caveat (s. 126(2) of the *Land Title Act 1994*). The caveatee must deposit a Form 14 – General Request (Caveatee's Notice) notifying the Registrar of the service of the notice within 14 days after the notice is served (refer to [52-0020]).

²Caveator's Notice to Registrar

[11-0130]

When a proceeding is commenced in a court of competent jurisdiction by the caveator, s. 126(4) of the *Land Title Act 1994* requires the caveator to notify the Registrar by depositing a Notice of Action in a Form 14 – General Request (refer to [52-0010], see also [11-0170] and [11-2040]).

Caveatee's Proceedings in the Supreme Court

[11-0140]

Pursuant to s. 127 of the *Land Title Act 1994* or s. 389H of the *Land Act 1994*, the caveatee may apply to the Supreme Court for an order that the caveat be removed.

While there is no specific requirement that the caveator 'show cause' as to why the caveat should not be removed, it is likely that the court would consider the same matters as were considered under s. 99 of the now repealed *Real Property Act 1861*. Accordingly, the case law on that section may still be of assistance.

Generally, on the basis of cases in relation to s. 99 of the Real Property Act, in an application for removal of a caveat, the caveator must first satisfy the court that his/her claim raises a serious question to be tried. Having established this, the caveator must go on to show that on the balance of convenience it would be better to maintain the status quo until trial of the action. The court applies similar principles to those applied in an application for an interlocutory injunction (*Re Jorss' Caveat* [1982] Qd R 458 and *Burman and Anor v AGC (Advances) Limited* [1994] 1 Qd R 123).

Further Caveat

[11-0150]

If a caveat (the original caveat) is lodged in relation to an interest, a further caveat with the same caveator can never be lodged on the same, or substantially the same, grounds as the grounds stated in the original caveat unless the leave of a court of competent jurisdiction to lodge the further caveat has been granted (s. 129 of the *Land Title Act 1994* and s. 389J of the *Land Act 1994*). Evidence of the leave of a court of competent jurisdiction to lodge the further caveat must be deposited with the further caveat. The Registrar will scrutinise previous caveats lodged by the caveator over the same title to determine whether the current caveat has been lodged on the same, or substantially the same grounds.

²Compensation

[11-0160]

Pursuant to s. 130(1) of the *Land Title Act 1994*, a caveator under a caveat lodged or continued without reasonable cause must compensate anyone else who suffers loss or damage as a result. Section 130(2) of the *Land Title Act* specifically provides that a court of competent jurisdiction, when determining the compensation in such a proceeding, may include a component for exemplary damages. It is presumed that a caveat has been lodged or continued without reasonable cause until the caveator proves that there was reasonable cause (s. 130(3) of the *Land Title Act*).

²Lapsing of Caveat

[11-0170]

When a caveat lapses, the Registrar may remove it from the register (s. 126(7) of the *Land Title Act 1994*).

See further [11-2050].

Pursuant to s. 126(1) of the *Land Title Act*, a caveat will not lapse if it is lodged:

- by the registered owner (except for when s.126(1A) of the *Land Title Act* applies) or if his/her consent is deposited when the caveat is lodged;
- pursuant to a court order mentioned in ss. 122(1)(d) or (e) of the *Land Title Act*;
- by the Registrar under s. 17 of the *Land Title Act*; or
- other than under Part 7, Division 2 of the *Land Title Act*, e.g. a caveat by a purchaser under an instalment contract.

By virtue of s. 122(2) of the *Land Title Act*, a caveat lodged by an equitable mortgagee lapses, even if the consent of the registered proprietor was deposited at the time of lodgement. (*Circuit Finance Australia Ltd v Registrar of Titles* [2005] QSC 283).

²Consent of Registered Owner

[11-0180]

If a person with an interest in the lot lodges a caveat with the consent of the registered owner, the caveat will not lapse. The consent of the registered owner in Form 18 – General Consent must be deposited with the caveat and not at a later date. Whether the dating of the registered owner’s consent is concurrent with, prior to or subsequent to the execution of the caveat is immaterial, as long as it is deposited with the caveat and the caveator is not an equitable mortgagee.

The consent of the registered owner renders a caveat non-lapsing. However, this does not mean that a person may lodge a caveat, whether or not he/she has an interest in the land, by relying simply on the consent (*Queensland Estates Pty Ltd v Collas* [1971] Qd R 75).

²Automatic Lapsing

[11-0190]

Section 126 imposes time limits on the duration of a caveat lodged under Part 7, Division 2 of the *Land Title Act 1994*, depending upon the action (or inaction) of the caveator and the caveatee after the caveat is lodged. The scenarios are as follows:

Scenario 1 – Notice by Caveatee pursuant to s. 126(2) of the *Land Title Act*

- Pursuant to s. 126(2) of the *Land Title Act*, the caveatee may:

- serve on the caveator a notice requiring the caveator to start a proceeding in a court of competent jurisdiction to establish the interest claimed under the caveat; and
- notify the Registrar by depositing a Form 14 – General Request within 14 days of service of this notice upon the caveator (refer to [52-0020]).

Even if the caveatee serves a notice on the caveator, but fails to notify the Registrar by depositing a Form 14 – General Request (Caveatee’s Notice), the notice will not be effective under s. 126(2) of the Land Title Act.

- If the caveatee complies with the above process and the caveator does not:
 - start a proceeding to establish the interest claimed in a court of competent jurisdiction within 14 days after the notice is served; and
 - notify the Registrar by depositing a Notice of Action in a Form 14 – General Request (see [52-0010]) within that 14 day period;

the caveat will lapse at the expiry of the 14 days or three months after lodgement of the caveat, whichever is earlier (s. 126(5) of the Land Title Act).

Even if the caveator starts a proceeding, but fails to notify the Registrar, the caveat will lapse at the end of the applicable period as above (s. 126(4)(b) of the Land Title Act).

- If the caveator starts a proceeding and the Registrar is notified within the required period, the caveat will remain in force until the proceeding is determined by the court or the caveat is withdrawn.

Scenario 2 – No notice by Caveatee pursuant to s. 126(2) of the Land Title Act

- If the caveatee does not act pursuant to s. 126(2) of the Land Title Act (by serving a notice on the caveator and notifying the Registrar) – to prevent the caveat lapsing the caveator must within three months of the lodgement of the caveat:
 - start a proceeding to establish the interest claimed in a court of competent jurisdiction to establish the interest claimed; and
 - notify the Registrar by depositing a Notice of Action in a Form 14 – General Request (see [52-0010] and ss. 126(4)(a)(ii) and 126(4)(b) of the Land Title Act).

In this case, the caveat will remain in force until the proceeding is determined by the court or the caveat is withdrawn.

- If a proceeding is not started and a Notice of Action in a Form 14 – General Request deposited within three months of the lodgement of the caveat, the caveat will lapse.

Note: Under s. 126(6) the caveator is taken to have complied with s. 126(4)(a) if before the caveat was lodged a proceeding has been started in a court of competent jurisdiction to establish the interest claimed under the caveat; and the proceeding has not been decided, discontinued or withdrawn.

Removal

[11-0200]

Pursuant to s. 127 of the *Land Title Act 1994* or s. 389H of the *Land Act 1994*, a caveatee may apply at any time to the Supreme Court for an order that a caveat be removed. The caveat remains in force until the matter is determined by the court or the caveat is withdrawn.

Withdrawal

Registered Caveat

[11-0210]

A registered caveat may be withdrawn by the caveator by lodging a Form 14 – Request to Withdraw (s. 125 of the *Land Title Act 1994* or s. 389G of the *Land Act 1994*).

See further [11-2060] and [14-2100].

Unregistered Caveat

[11-0220]

See [11-2070] and [14-2100].

Cancellation

[11-0230]

Cancellation on the basis of a Form 14 – General Request to Cancel a Caveat

Pursuant to s. 128 of the *Land Title Act 1994* or s. 389I of the *Land Act 1994*, the Registrar may cancel a caveat upon receipt of a Form 14 – General Request to Cancel Caveat (see [11-2090 and [14-2100]) if the Registrar is satisfied that:

- the interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn; or
- the claim of the caveator has been settled by agreement or otherwise satisfied; or
- the nature of the interest claimed does not entitle the caveator to prevent registration of an instrument or document that has been lodged; or
- for a caveat lodged by a person who has the benefit of an order mentioned in section 122(1)(e) of the *Land Title Act* or 389D(1)(c) of the *Land Act* – the proceeding in which the order was made has been discontinued or dismissed, or has otherwise ended.

The Registrar must notify the caveator of the Registrar's intention to cancel the caveat at least seven days before it is cancelled (s. 128(2) of the *Land Title Act* or s. 389I(3) of the *Land Act*). If no response is received within the seven days, the caveat will be cancelled.

Cancellation in other circumstances

The Registrar may cancel a caveat immediately before registering:

- an instrument or document that has been lodged that will give effect to the interest claimed in the caveat (s. 128(3) of the *Land Title Act* or s. 389I(4) of the *Land Act*); and
- a transfer or other dealing lodged by a prior registered mortgagee if the Registrar is satisfied that section 124(2)(c) of the *Land Title Act* applies to allow the registration of the dealing (s. 128(3) of the *Land Title Act*).

The Registrar may also cancel a caveat lodged by a person who has the benefit of an order mentioned in section 122(1)(e) of the *Land Title Act* or 389D(1)(c) of the *Land Act* if:

- an instrument for a dealing other than a dealing restrained by the order is registered; and
- because of the registration of the instrument, the order can have no further effect to restrain dealings by the person subject to the order.

Overriding of Caveat

[11-0240]

¹ Pursuant to s. 12(5) of the *Acquisition of Land Act 1967*, a resumption of land by the State, a local government or some other ‘resuming authority’ cancels any caveat over the land.

A transfer by a prior registered mortgagee exercising a power of sale overrides a caveat if

- the mortgagee has power under the mortgage to execute the transfer; and
- the caveator claims an interest in the lot; or lease under the *Land Act 1994*, as security for the payment of money or money’s worth (s. 124(2)(c) of the *Land Title Act 1994* or s. 389F(3)(c) of the *Land Act*).

However, this does not apply to caveats lodged by the Registrar.

Registration of a transfer of mortgage by a mortgagee whose interest was registered before the caveat is only prevented by a caveat of the Registrar or the registered owner (ss. 124(3) and (4) of the *Land Title Act*).

Legislation

[11-1000]

²Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the *Water Act*, the *Land Title Act* applies to the registration of an interest or dealings for a water allocation on the water allocations register subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the *Land Title Act* and the Registrar of Water Allocations may exercise a power or perform an obligation of the Registrar of Titles under the *Land Title Act*:

- as if a reference to the Registrar of Titles were a reference to the Registrar of Water Allocations; and
- as if a reference to the freehold land register were a reference to the water allocations register; and
- as if a reference to freehold land or land were a reference to a water allocation; and
- as if a reference to a lot were a reference to a water allocation; and
- with any other necessary changes.

^{1,3}Reference to the Chief Executive in the *Land Act 1994*

The functions of the Chief Executive under the *Land Act* relating to the keeping of registers are carried out by the Registrar of Titles under delegation given under s. 393 of that Act.

Practice

Requirements of a Caveat

[11-2000] deleted

Rejection

[11-2010]

If a caveat is requisitioned pursuant to s. 156(1) of the *Land Title Act 1994* or s. 305(1) of the *Land Act 1994* and the requisition is not complied with within the rejection period specified in the requisition notice, the caveat may be rejected (s. 157(1)(a) of the *Land Title Act* or s. 306(1)(a) of the *Land Act*). However, a notice of intention to reject is generally given by the Registrar, allowing seven days for the lodger to respond prior to rejection. However, the failure to give a seven day courtesy notice does not give the caveator protection against rejection.²Caveats lodged with the consent of the registered owner and caveats in cases where a notice of action has been deposited may be rejected if the requisition has not been complied with at the expiry of the rejection period.

A caveat requisitioned pursuant to s. 156(7) of the *Land Title Act* or s. 305(7) of the *Land Act* may be rejected at the end of the period specified in the requisition notice (s. 157(1)(b) of the *Land Title Act* or s. 306(1)(b) of the *Land Act*).

Examination of Caveat or Caveatable Interest

[11-2020]

It is not the function of the Registrar to decide the rights and wrongs of any claim. Every caveat that has been properly completed and ‘on the face’ of the document (i.e. at Items 3 and 4 of the Form 11) shows a valid caveatable interest and substantive grounds will be accepted for lodgement.

Notification of Caveat

[11-2030]

The names and addresses of the persons upon whom notices are required to be served must be detailed in Items 5 and 6 of the caveat (refer to [11-0110]).

The Registrar relies on the information provided by the caveator when providing notice to relevant persons under s. 123 of the *Land Title Act 1994* or s. 389E of the *Land Act 1994*.

²Caveator’s Notice to Registrar

[11-2040]

If a caveator does not want a caveat to lapse the caveator must, under s. 126(4) of the *Land Title Act 1994*, start proceedings in a court of competent jurisdiction to establish the interest claimed under the caveat and notify the Registrar by depositing a Notice of Action in a Form 14 – General Request (refer to [52-0010]).

²Lapsing of Caveat

[11-2050]

A lapsed caveat can be removed from an indefeasible title by lodging a Form 14 – General Request to Remove Lapsed Caveat (see [14-2100]).

A lapsed caveat can be removed whether it is registered or unregistered.

No fee is payable.

Withdrawal

Registered Caveat

[11-2060]

A registered caveat may be withdrawn by the caveator by lodging a Form 14 – General Request to Withdraw Caveat (see [14-2100] and s. 125 of the *Land Title Act 1994* or s. 389G of the *Land Act 1994*).

This Form must be signed by a caveator or by the caveator's solicitor on the caveator's behalf.

Unregistered Caveat

[11-2070]

An unregistered caveat may be withdrawn by way of a letter signed by the caveator or the caveator's current solicitor (see [14-2100] and s. 159 of the *Land Title Act 1994* or s. 308 of the *Land Act 1994*).

Removal by the Court

[11-2080]

A caveatee can, at any time, apply to the Supreme Court for an order that a caveat be removed (s. 127 of the *Land Title Act 1994* or s. 389H of the *Land Act 1994*). A copy of the order of the court must be lodged with a Form 14 – General Request to Remove Caveat (see [14-2100]). There is no duty payable on the Request, however normal lodgement fees are payable.

Cancellation

[11-2090]

Any person, including the caveatee, may utilise the provisions of s. 128 of the *Land Title Act 1994* or s. 389I of the *Land Act 1994* to cancel a caveat by lodging a Form 14 – General Request to Cancel Caveat, setting out the grounds for cancellation (see [14-2100]).

A Form 20 – Declaration, supporting the cancellation of the caveat, with relevant documentary evidence, is required.

Normal lodgement fees apply.

Forms

General Guide to Completion of Forms

[11-4000]

For general requirements for completion of forms see part 59 – Forms.

A document that is lodged as an electronic conveyancing document must be accompanied by a set of lodgement instructions identifying the nominated Responsible Subscriber and the order in which the documents are to be lodged. The lodgement instructions must be digitally signed by all subscribers to the transaction.

Dealing Number



OFFICE USE ONLY

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

1. Caveator full name and address for service	Lodger (Name, address, E-mail & phone number)	Lodger Code
JOHN THOMAS CLARE 29 ALBERT STREET CAMP HILL QLD 4152	SMITH & CO. 45 ADELAIDE STREET BRISBANE QLD 4000 info@smiths.com.au (07) 3224 5398	858

2. Lot on Plan Description	Title Reference
LOT 16 ON RP32361	15432099

3. Interest being claimed
AN ESTATE IN FEE SIMPLE AS PURCHASER

4. Grounds of claim
CONTRACT OF SALE DATED 15/10/2007 BETWEEN JOHN IAN CLEWS AND JOHN THOMAS CLARE

5. Registered owner full name and address	6. Other parties full name and address (eg Mortgagees)
JOHN IAN CLEWS 34 LONG STREET WYNNUM QLD 4178	XYZ BANKING CORPORATION 1200 QUEEN STREET BRISBANE QLD 4000

7. Request/Execution

a) The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the registration of any instrument affecting the land described in item 2 until:

*this caveat is withdrawn by the Caveator
~~*the completion of the instalment contract mentioned in item 4 (only if Caveat is pursuant to Section 74 of the Property Law Act 1974)~~

~~#This caveat does not apply to the following instruments:-~~
Insert dealing number of lodged instrument or identify instrument type by date of execution and name of parties or delete if not applicable.

OR

b) ~~The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the entering of the application for adverse possession.~~

* delete if not applicable

R E Lee
ROBERT EDWARD LEE
.....
Caveator's or Solicitor's Signature

20/10/2007
Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Caveator

Guide to Completion of Form 11

Duty

[11-4010]

A duty notation is required on a caveat where the claim refers to a document creating a mortgage or charge and the document was first signed before 1 July 2008.

Item 1

[11-4020]

Insert the full name of the caveator and an address where documents can be served on the caveator where indicated (this address may be the address of a stated legal practitioner).

If there is more than one caveator, reference should be made in the address to ‘both of’ or ‘all of’, if such be the case, or individual addresses should be shown.

A Form 20 – Enlarged Panel should be used if there is insufficient space.

Insert the lodger details and lodger code (if applicable) where indicated (see [59-2030]).

Item 2

[11-4030]

^{1,2}Freehold Description

The description of the relevant lot/s should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘SP’ for a survey plan, ‘RP’ for a registered plan, ‘BUP’ for a building units plan, ‘GTP’ for a group titles plan or the relevant letters for crown plans). The area of the lot/s is not shown.

e.g.	Lot on Plan Description	Title reference
	Lot 27 on RP 204939	11223078

^{2,3}Water Allocation Description

A water allocation should be identified as ‘Water Allocation’, ‘Allocation’ or ‘WA’. All plans referring to water allocations are administrative plans. Administrative plan is abbreviated to AP as the prefix of the plan identifier.

e.g.	Lot on Plan Description	Title reference
	WA 27 on AP 7900	46012345

^{1,3}State Tenure Description

The description of the relevant State tenure should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘CP’ for crown plans).

e.g.	Lot on Plan Description	Title reference
	Lot 27 on CP LIV1234	40567123

^{1,2}If the caveat is against only part of the land, that part must be capable of precise identification and will require the inclusion of a sketch plan, otherwise the quantum of the caveat may be too large, rendering it defective as to form (*Powell’s Caveat* [1966] QWN 9).

^{1,2}A caveat against a lot on a plan which has not yet been lodged will be accepted with a sketch plan identifying the land, however, the description in Item 2 should be as per the title.

^{1,2}If the plan has been lodged but not yet registered, the description should be as per the plan and the number of the plan should be included in Item 7 to indicate that the caveat does not apply to it.

^{2,3}If a caveat is against only part of a water allocation, that part must be described by indicating the number of megalitres affected.

Item 3

[11-4040]

The nature of the claim must be precisely and clearly expressed and must relate to the fee simple, a lease, sub-lease, licence or an interest in a reserve under the *Land Act 1994*, or a water allocation where applicable. For example, in the case of the purchaser: ‘an equitable interest as purchaser of an estate in fee simple or water allocation’; or in the case of an equitable mortgagee: ‘an equitable share or interest as mortgagee of an estate in fee simple or water allocation’.

Item 4

[11-4050]

Insert the grounds of the claim. The grounds on which the claim is being made must be clear, and wherever possible, supported by reference to some documentary evidence. The grounds upon which the claim is based should include the date and particulars of any writings upon which the caveator bases the claim, for example:

- ²in the case of a purchaser ‘pursuant to a contract/agreement in writing dated [date] between [registered owner] as vendor and [caveator] as purchaser’
- ²in the case of an equitable mortgagee:
 - ‘pursuant to an unregistered mortgage in registrable form dated [date] executed by [registered proprietor] to secure to [caveator] the money therein stated’; or
 - ‘pursuant to clause number [number] in agreement between [name of parties] dated [date] charging the property to secure to [caveator] the money therein stated’.

²If the caveat is pursuant to s. 74 of the *Property Law Act 1974*, the wording of Item 7(a) should reflect this. A copy of the instalment contract must be deposited with this type of caveat.

While the Registrar does not presume to adjudicate a claim, he/she is not obliged to automatically register any caveat presented to him/her, even if it is lodged with the consent of the registered proprietor (*Queensland Estates Pty Ltd v Collas* [1971] Qd R 75).

Item 5

[11-4060]

Insert in this item:

- the full name of every ²registered owner of the lot (^{1, 3}or lessee or licensee) affected by the caveat; and
- the postal address of every ²registered owner of the lot (^{1, 3}or lessee or licensee) affected by the caveat.

A Form 20 – Enlarged Panel should be used if there is insufficient space.

Item 6**[11-4070]**

Insert the full name/s and postal address/es of any other person/company/institution etc. having an interest in the land or State tenure that may be affected by the caveat (e.g. the mortgagee). A Form 20 – Enlarged Panel should be used if there is insufficient space.

Item 7**[11-4080]**

Delete the paragraph and sentences that are not applicable to the type of caveat being dealt with and execute as required.

Instruments or documents to which the caveat does not apply must be identified by dealing number if they are lodged prior to the caveat. If the dealings are to be lodged subsequently, they must be identified by description, e.g. ‘Transfer from A to B dated [date]’ or ‘any lease by X as lessor’.

Item 7 (Electronic Form) – The requirements for the execution and certification are contained in the Participation Rules (Queensland) issued for electronic conveyancing.

[11-6000] to [11-6040] deleted

Case Law

Persons Who May Lodge a Caveat

²A Person Claiming an Interest in a Lot

[11-7000]

See [11-0030].

- *Friedmann v Barrett; ex parte Barrett* [1962] Qd R 498.
- *Andel Pty Ltd v Century Car Care Pty Ltd* [1989] Q Conv R 54-315.
- *Ex parte Lord* [1985] 2 Qd R 198.
- *Re Cross and National Australia Bank Limited* [1992] Q Conv R 54-433.
- *Re Trapas Pty Ltd* [1991] Q Conv R 54-398.
- *Simons v David Benge Motors Pty Ltd* [1974] VR 585.
- *Ex parte Goodlet and Smith Investments Pty Ltd* [1983] 2 Qd R 792.
- *Re Rutherford* [1977] 1 NZLR 504.
- *Re Pile’s Caveats* [1981] Qd R 81.
- *Costa & Duppe Properties Pty Ltd v Duppe and Ors* [1986] VR 90.
- *Connell v Bond Corporation Pty Ltd* [1992] 8 WAR 352.
- *Re Henderson’s Caveat* [1993] Q Conv R 54-450.

²Registrar

[11-7010]

See [11-0040].

- *Re Caveat No. 735; Ex parte Davenport* (1873) 3 QSCR 95.

²Registered Owner

[11-7020]

See [11-0050].

- *Sinclair v Hope Investments Pty Ltd* [1982] 2 NSWLR 870.
- *McKean's Caveat* [1988] Qd R 524.
- *Re Cross v National Australia Bank Ltd* [1992] Q Conv R 54-433.
- *Mir Bros Projects Pty Ltd v 1924 Pty Ltd* [1980] 2 NSWLR 907.
- *Websdale v S & J Investments Pty Ltd* (1991) 24 NSWLR 573.

²Purchaser under an Instalment Contract

[11-7030]

See [11-0090].

- *Re Moore's Caveat* [1985] 1 Qd R 310.
- *Chettle v Brown* [1993] 2 Qd R 604.

Proceedings in the Supreme Court

[11-7040]

See [11-0140].

- *Re Jorss' Caveat* [1982] Qd R 458.
- *Burman and Anor v AGC (Advances) Limited* [1994] 1 Qd R 123.

Lapsing of Caveat

²Consent of Registered Owner

[11-7050]

See [11-0180].

- *Circuit Finance Australia Ltd v Registrar of Titles* [2005] QSC 283.
- *Caveat No. G496816 by AVCO Financial Services Ltd*, Supreme Court of Queensland, (unreported) Connolly J, OS No 757 of 1981.
- *Queensland Estates Pty Ltd v Collas* [1971] Qd R 75.

Fees

[11-8000]

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see the current:

- ^{1, 2}Land Title Regulation;
- ^{1, 3}Land Regulation; or
- ^{2, 3}Water Regulation.

Cross References and Further Reading

[11-9000]

Part 2 – Mortgage (National Mortgage Form)

Part 5, 5A, 6 – Transmission Applications

Part 14 – General Request

Queensland Conveyancing Law and Practice, CCH Australia Limited (loose-leaf service)

Duncan and Vann, *Property Law and Practice*, Law Book Company Limited (loose-leaf service)

Lindsay, S, *Caveats Against Dealings in Australia and New Zealand*, The Federation Press, 1995

Notes in text

[11-9050]

Note¹ – This numbered section, paragraph or statement does not apply to water allocations.

Note² – This numbered section, paragraph or statement does not apply to State land.

Note³ – This numbered section, paragraph or statement does not apply to freehold land