

Caveat affecting a Primary Application form 00PAX: Instructions for Completion

WARNING: care should be exercised in completing a caveat form. An insupportable caveat may be challenged in the Supreme Court; damages may be awarded for lodging a caveat without justification; and penalties could be imposed for a breach of the Oaths Act 1900 and section 117 of the Real Property Act 1900. Furthermore failure to observe the requirements of section 117 of the Real Property Act 1900 and Schedules 3 and 4 of the Real Property Act Regulation 1998 may make the caveat invalid.

1. Complete the form in dense black or dark blue ink. If handwriting, use block capitals only.
2. Do not use an eraser or correction fluid to make alterations: rule through rejected material and initial the left-hand margin.
3. If the space provided at any point is insufficient, insert "See Annexure" at that point and include the required material on sheets of white A4 paper at least 80gsm (ordinary copier paper satisfies these requirements) using one side only. Insert a heading beginning "Annexure to ..." and specifying the type of form, the date and the parties to the transaction. Identify the material included, where possible by referring to the relevant marginal heading on the form. In the case of signatures which could not be fitted in the space provided, reproduce the text and layout used on the form. Number all pages in sequence with the form using the format "Page ... of ..."; the number must be placed at the foot of each page and must be centred. The first and last pages must be signed by the parties and any witness. Securely attach the additional pages to the upper left-hand corner of the form: a Nalclip is preferred; stapling should be avoided.
4. Insert the total number of pages, including any additional pages (see above), in the space provided at the foot of the form.
5. Lodge the completed form by hand at the the Plan Lodgment counter, Department of Lands, Land and Property Information Division, Queens Square, 1 Prince Albert Road, Sydney (adjacent to Hyde Park Barracks). If the caveator claims an estate or interest pursuant to an unregistered mortgage, loan agreement or deed of charge, the form must first be submitted to the Office of State Revenue for assessment of stamp duty.
6. The following instructions relate to the marginal letters on the form.

(A) LODGED BY

This section must be completed by the person or firm lodging the form at LPI ("the lodging party"). If the lodging party does not have a LPI document collection box, leave the relevant panel blank. If the lodging party has a Listed Lodging Party Number ("LLPN") insert it as the first item of the first line in the relevant panel; use the following format: "LLPN: 123456. Provision of a reference is optional.

(B) PRIMARY APPLICATION

Insert the number of the relevant primary application and the full name of the applicant.

(C) LAND AFFECTED BY CAVEAT

Rule through the panel which does not apply. If the caveat affects part of the land, describe the part: the description must be precise enough to enable the part to be identified.

(D) CAVEATOR

Insert the full name and postal address of the caveator. Ensure the postcode is included. In the case of a corporation, include the ACN or ARBN.

(E) NAME AND ADDRESS IN NEW SOUTH WALES FOR SERVICE OF NOTICES ON THE CAVEATOR

This is the name and address to which notices regarding the lapsing (i.e. removal) of the caveat will be sent, and to which Court documents may be sent. The address must be adequate for the purpose.

The address provided must be a street address in New South Wales (ensure the postcode is included). A post office box is not acceptable. If desired, a Document Exchange box in New South Wales may be included in addition to the street address.

(F) SCHEDULE estate or interest claimed

The caveator must have an estate or interest in the land specified in the caveat or some other interest recognised by the court as a caveatable interest. If the caveator does not have such an interest the caveat will be invalid. Note that a simple debt owed to a person by a registered proprietor of the land would not, of itself, entitle that person to lodge a caveat against the land. Describe the estate or interest fully, clearly, accurately and unambiguously (see Schedule 2 Real Property Act Regulation 1998).

(G) STATUTORY DECLARATION

Declarant may be the caveator, or where the caveator is a corporation an authorised officer of the corporation, or the caveator's solicitor, attorney or licensed conveyancer. Insert the full name. If the declarant is not the caveator, insert the capacity in which the declarant made the declaration in the appropriate location. In the case of an attorney for the applicant, add the registration number of the power of attorney.

Witness must be a justice of the peace, practising solicitor, notary public, commissioner of the court for taking affidavits, or any person authorised to administer an oath.

If signed outside New South Wales rule through "Oaths Act 1900" and substitute the local Act; the witness must be a person qualified by that Act to administer an Oath.

If clause 2 is ruled through the caveat must be accompanied by an order of the Supreme Court authorising lodgment or be consented to by the primary applicant.

NOTE: As LPI may not be able to provide the services of a justice of the peace or other qualified witness, the statutory declaration should be signed and witnessed prior to lodgment of the form at LPI.

If you have any questions about this form or privacy matters, please call the Department of Lands, Land and Property Information Division, Client Services on 02 9228 6713 or visit our website at www.lands.nsw.gov.au.