

CAVEAT prohibiting registration of dealings (Section 71E Water Management Act 2000)

Dealing Form W-08X: Instructions for Completion

Warning: Care should be exercised in completing a caveat form. An insupportable caveat may be challenged in the Land and Environment Court; damages may be awarded in the Supreme Court for lodging a caveat without justification; and penalties could be imposed for a breach of the Oaths Act 1900. See also section 9 Water Management Act 2000.

Note: If the caveator's name or address for service of notices changes, the Department of Lands, Land & Property Information Division, must be notified on form W-08CX.

1. Do not use an eraser or correction fluid to make alterations: rule through rejected material and initial the left-hand margin.
 2. 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) 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 heading on the form. In the case of signatures which cannot 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 in the centre. 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.
 3. Lodge the completed form together by hand at Department of Lands, Land & Property Information Division (LPI), Queens Square, 1 Prince Albert Road, Sydney (adjacent to Hyde Park Barracks). The licence certificate should not be lodged with the form.
 4. The following instructions relate to the letters on the form.
 - (A) If the caveator claims an interest pursuant to an unregistered mortgage, loan agreement or deed of charge, the form must be submitted to the Office of State Revenue for assessment of stamp duty *before* lodgment at LPI.
 - (B) Insert the lodging party's LPI document collection box number. If the lodging party does not have a LPI document collection box, leave this panel blank.
 - (C) Insert the lodging party's name, postal address or DX number, telephone number, and listed lodging party number ("LLPN") if any. Show any LLPN as the first item of the first line in the format: "LLPN: 12345". Include a fax number and an e-mail address if available.
 - (D) Provision of a reference is optional.
 - (E) If the form is part of a sequence of dealing forms to be lodged for registration, indicate its priority within the sequence, e.g. "1 of 3". If it is not part of such a sequence insert "1 of 1".
 - (F) Insert the number of the relevant water access licence.
 - (G) Specify the licence tenure type, i.e. continuing, specific purpose, or supplementary.
 - (H) If the caveat relates to a registered mortgage, charge or term transfer, insert the number of that mortgage, charge or term transfer. Otherwise leave this panel blank.
 - (I) Insert the full name and postal address of the registered holder of the licence or interest affected. If the claim relates to fewer than all the registered holders, insert only that of the registered holder(s) against whom the claim is made. The name must be identical to that shown on the licence certificate, apart from minor discrepancies, such as "Ann" for "Anne". In the case of a corporation, the ACN or ARBN is not required.
 - (J) 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.
 - (K) This is the 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 or Document Exchange box is not acceptable.
 - (L) Insert the numbers only of the item selected from Schedule 2 on page 2. One item only may be selected.
 - (M) Rule through "water access licence" or "registered dealing", whichever does not apply.
 - (N) The interest claimed by the caveator must be fully, clearly, accurately and unambiguously described. The caveator must have an interest in the licence or registered dealing specified in the caveat capable of being registered 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 holder of the licence would not, of itself, entitle that person to lodge a caveat against the licence.
If citing an instrument, specify the type of instrument, the date and the parties, e.g. "unregistered mortgage dated 1 June 2004 from the registered holders to the caveator".
 - (O) *Item 1* may not be amended.
Item 2 may be amended as required. If it is intended to prohibit dealing(s) not listed, they may be specified in the space provided.
Item 3: If this item is selected, specify the dealing(s) prohibited in the space provided.
- NOTE: The caveator may prohibit only those dealings which the nature of the claim justifies.

(P) Insert the full name of the declarant and the place and date of the declaration in the appropriate location. The witness must be a justice of the peace, practising solicitor, notary public, commissioner of the court for taking affidavits or a person otherwise 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.

The 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 in the appropriate location.

If the declarant is not the caveator insert the declarant's capacity in the appropriate location.

If the declarant is the caveator's attorney in addition to the above, the power of attorney must be registered at LPI and the registration number must be quoted.

If the declarant is the agent of the caveator's solicitor or a nominated employee thereof insert the full address of the declarant after the name. When lodged, the caveat must be accompanied by a letter from the caveator or the caveator's solicitor authorising the agent or nominated employee to make the declaration. Where the letter is from the caveator's solicitor, the solicitor must state that he/she: is the caveator's solicitor; is aware of the caveator's claim; and has instructed the agent or nominated employee to make the declaration.

NOTE: As the Department of Lands 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 Land & Property Information Division.

ENSURE THAT THE TOTAL NUMBER OF PAGES, INCLUDING ANY ANNEXURE (SEE 3 ABOVE), IS INSERTED IN THE SPACE PROVIDED AT THE FOOT OF THE FORM.

If you wish to make an enquiry relating to the terms and conditions of the licence, please call the local office of the Department of Water and Energy or visit the Department's website at www.dwe.nsw.gov.au. If you have a question about the form, please call the Department of Lands, Land & Property Information Division on 02 9228 6713.