



IMPORTANT INFORMATION:

This Landgate 'How to Guide' is currently under review to reflect changes to Landgate's processes and/or the implementation of the Western Australian Registrar and Commissioner of Titles Joint Practice: **Verification of Identity (VOI)**.

The VOI Practice aims to minimise the risk of land related fraud including identity theft and other improper dealings. The Practice is a more robust standard for confirming the identity of the person(s) authorised to transact or sell land. Landgate highly recommends that you read about VOI on its website [here](#).

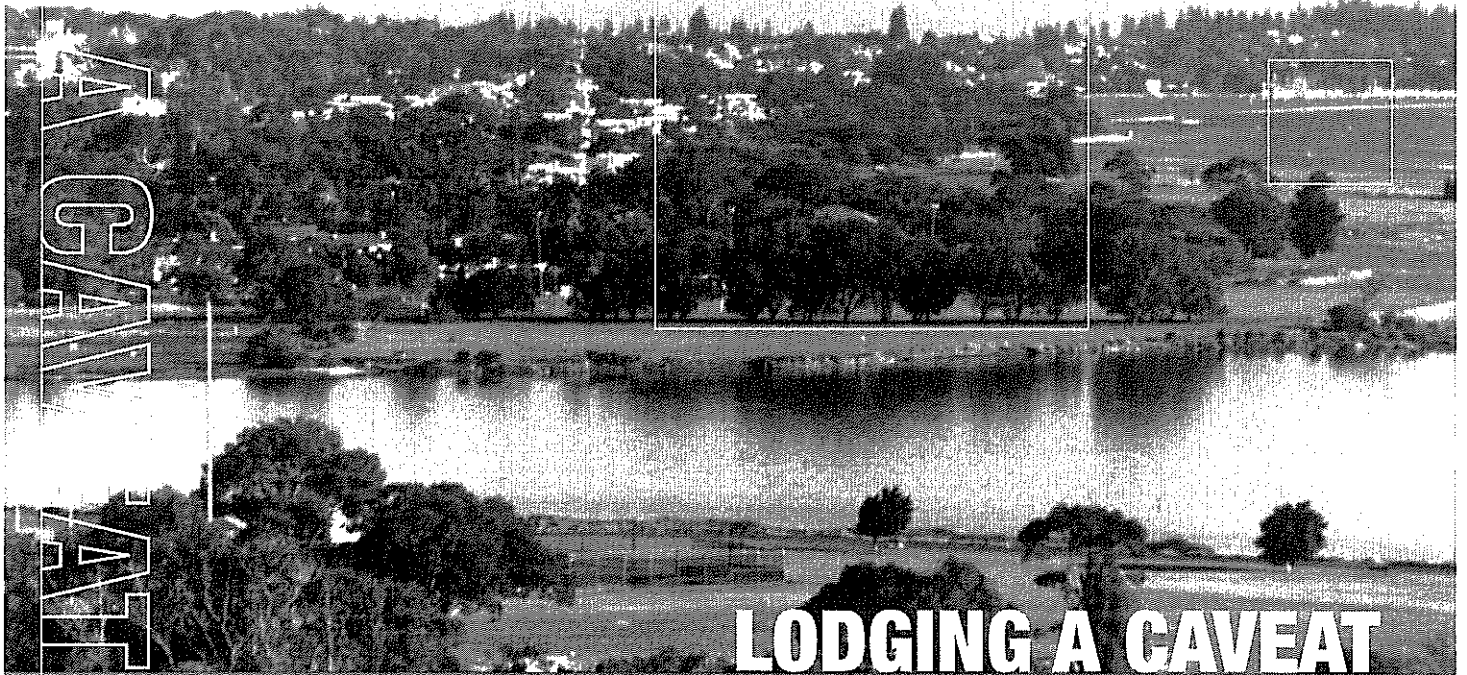
If you are a **SELF-REPRESENTED PARTY**, then you are advised to go to Landgate's website [here](#) as there are additional requirements under VOI for self-represented parties. The transaction documents where self-represented parties are required to undergo VOI are:

- Transfer of Land (Transferor/Seller)
- Survivorship Application
- Transmission Application
- Power of Attorney
- Application for Lost Titles
- Application requesting issue of duplicate Certificate of Title for a Non-Issue.

Note: VOI is not required for a purchase of a property.

**For further support or assistance, please contact Landgate's advice line
9273 7044 or email advice@landgate.wa.gov.au**

LODGING A CAVEAT



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A guide to
preparing the documents

Preparing to Lodge a Caveat

This step-by-step guide is designed to provide you with an understanding of how to prepare and lodge a Caveat. It does however provide limited information and should be used as a guide only when deciding whether lodging a Caveat is the appropriate action.

It is important that you understand the effect a Caveat will have and its possible repercussions before you prepare and lodge the documentation. If you consider that your claim is worth protecting, then we strongly suggest that you seek legal advice.

A competent professional, such as a solicitor, should prepare your Caveat. Landgate officers are not able to give legal advice or help draft your Caveat.

What is a Caveat?

The word "Caveat" is not expressly defined in the Transfer of Land Act (TLA), but means generally "a caution or warning". A Caveat confers no proprietary interest itself. Its purpose and function is to preserve and protect the rights of a Caveator. It prohibits the Caveator's interest from being defeated by the registration of a dealing without the Caveator having first had the opportunity to invoke the assistance of a Court to give effect to the interest. The interest may arise through the application of legal rules and principles or it may arise because a specific equitable remedy exists to protect it.

A Caveat's purpose

Caveats lodged under the TLA have a twofold effect until removed. These are:

- a warning to a person searching the Register of an outstanding equity claimed by the Caveator against any land lease mortgage or charge; and
- a Caveat acts as a statutory injunction preventing the Registrar of Titles from registering any instrument either absolutely, or until after notice of the intended registration or dealing be given to the Caveator, or unless such instrument be expressed to be subject to the claim of the Caveator.

When does a Caveat take effect?

Provided a Caveat sufficiently identifies the land sought to be affected and claims an estate or interest in land, entry on the Certificate of Title is almost automatic. A Caveat is effective from the time of its lodgment and is not entered on the duplicate Certificate of Title.

Improper lodgement of a Caveat

Where an improper Caveat is lodged, Section 138 of the TLA states the Registered Proprietor may summon the Caveator to appear before the Supreme Court or a Judge in chambers, to show cause why the Caveat should not be withdrawn.

NOTE: Where a Caveat is lodged without reasonable cause, the law provides that the Caveator may be liable to pay compensation for damage caused.

SOME HELPFUL DEFINITIONS

Caveat:

A warning on the original Certificate of Title that there is a claim lodged against the land

Caveator:

The person claiming a Caveat on a Certificate of Title

Certificate of Title:

The original title deed retained by Landgate that specifies ownership of a defined parcel of land, and the lodged or registered interests or claims (encumbrances) against that ownership

Chattels:

A fixture (moveable good) which has become part of the land by being attached to it

Easement:

Gives a person or a company "rights of use or

engagement" over land owned by another

Encumbrance:

A lodged or registered interest such as mortgages, lease agreements, caveats and easements

The role of the Registrar of Titles

The correctness and validity of a Caveator's claim is for the Caveator and, in appropriate cases, a Court to decide. The Registrar's role is simply to:

- be satisfied that a Caveat meets the requirements of form;
- ensure that other statutory requirements (eg: stamp duty) are met;
- in appropriate cases, draw attention to perceived defects in the substance of the claim made, or of the sufficiency of evidence and of the risks being run by the Caveator;
- record the Caveat; and
- give notice of the Caveat to the Registered Proprietor.

It is not the Registrar's duty to determine the validity of a claim or to determine whether or not the particular claim made is a Caveatable interest, that the evidence offered is sufficient to support that claim or that the nature of the Caveator's claim is appropriate.

Who can lodge a Caveat?

Any person or corporate body capable of taking a registered interest in the land or in any mortgage, lease or charge, may lodge a Caveat. The following persons or corporate bodies may also lodge caveats:

- Unincorporated bodies - must Caveat by their trustees personally.
- Business associates or firms - by all the individual members of the business or firm, in their personal capacity. Identification of the trustees as "trustees of ..." or members of a firm "trading as ..." is permitted.
- Certain persons with statutory authority may lodge Caveats.
- Minors can lodge a Caveat but a Court Order will be required if the Caveat is to be withdrawn before the minor attains full age.

Lodging a Caveat on your own property?

The Registered Proprietor of land may lodge a Caveat against land registered in his or her own name. Such Caveats are usually lodged in the following circumstances:

- the Caveator/Registered Proprietor has lost possession of the duplicate Certificate of Title either by fraud, theft or misplacement;
- the Caveator/Registered Proprietor has revoked a Power of Attorney but has been unable to contact the attorney to give advice of the revocation;
- the Caveator has lost possession of a signed instrument (eg Transfer of Land) and has not been paid.

The evidence to support such a Caveat would be a Statutory Declaration by the Caveator setting out the facts and repeating the claim of the Caveator. A Caveat lodged by a Registered Proprietor against his or her land would be accepted by the Registrar.

Types of Caveats that can be lodged

Caveats may be lodged under the provisions of the following sections of the TLA:

- section 137 - the most common type. A Caveat lodged by any beneficiary or other person claiming an estate or interest in land under the TLA or in any lease, mortgage or charge;
- section 30 - a Caveat forbidding the bringing of land under the TLA;
- section 176 - a Caveat against the granting of an application to rectify the boundaries or area of a Certificate of Title;
- section 223A - a Caveat against the granting of an application to be registered as the Proprietor by adverse possession of land already under the TLA;
- section 188(iii) - a Caveat lodged by the Registrar.

Executor:

A person appointed by a Will to administer the Testators estate

Fee Simple:

The greatest estate that can be held by a person without being the absolute owner

Lessee:

A person or entity who leases land from registered proprietor

Proprietor:

Holder or owner of property

Restrictive Covenant:

A restriction on the use or enjoyment of the land, binding third parties who acquire the said land and their successors

Statutory Injunction:

A specific purpose court order directing all parties involved to comply with and carry out the decision made by that court

Caveatable Interests in Land

The grounds upon which a Caveat may be lodged are many and complex. Many cases have been argued before the Courts, and much of the law on Caveats is based on decisions of the Court rather than laid out in a statute. In such circumstances the law is subject to change as new decisions extend, modify or further explain the grounds on which a Caveat may (or may not) be maintained on the Certificate of Title.

Despite the fact that an interest claimed may not, as yet, have been decided by the Courts, a Caveat that is procedurally correct and expressly sets out the nature of the estate or interest claimed will be accepted by the Registrar. In these instances, Caveators may be required to complete a Statutory Declaration that clearly and concisely states the estate or interest claimed and the facts on which that claim is based. It will then be for the Courts to determine whether or not the particular estate or interest is a Caveatable interest in land, should a party to the Caveat take court action.

The Registrar will not reject a Caveat that complies with the statutory requirements merely because the Registrar considers that the claimed estate or interest is not Caveatable or is inadequately described. If there are defects in these areas, then the Registered Proprietor has a remedy under Section 140 of the TLA for damages or compensation from the Caveator.

As a general rule, a Caveator's claim should arise through some dealing with the Registered Proprietor. Where the Caveator is not dealing directly with the Registered Proprietor, the Caveat must clearly recite the step by step events that tie the Caveator to the Registered Proprietor. Where the claim arises out of rights under an easement or restrictive covenant, such claim must be made by or through the Proprietor of land appurtenant to the land against which the Caveat is lodged.

The document by virtue of which a Caveat is lodged, must normally be signed by the Registered Proprietor of the land against which the Caveat is lodged or by his or their duly appointed representative. Where such document is a contract of sale, it may be signed by the solicitor or licensed estate agent on behalf of the vendor. Contracts by a married couple signed by one party both personally and on behalf of his or her partner, are also acceptable.

Interest in land capable of supporting a Caveat

To assist Caveators the following forms of interests have been accepted by the Courts as caveatable interests and may be used as a guide:

- a purchaser under an agreement for the sale of land;
- a person having an option to purchase land;
- the grantee of an easement;
- a mortgagee;
- an equitable mortgagee;
- a lessee of a lease of land;
- as chargee;
- the beneficiary of a trust, against land held by a trustee for the trust;
- the holder of an unregistered instrument;
- a person entitled to an annuity charged on the land;
- the grantee of a right to take from the land some natural product of it, such as peat, stone or timber, or to shoot game thereon, and to take it away for the grantee's own benefit;
- a person having the right to a restrictive covenant running with the land; and
- a claimant who bases his or her claim upon the doctrine of resulting trusts.

In addition, Section 6 of the Chattels Securities Act, creates a securable interest over goods attached to land owned by a third party. The interest will support a Caveat.

Section 19 of the Imperial Judgments Act 1838 (I and II Vict) provides for the recording in the Supreme Court of Judgments created in Superior and other Courts, which then, by virtue of Section 13 of the same Act, operate as a charge against land. The charge has in the past, been protected by a Caveat

Title Search:

Copy of the original Certificate of Title that always lists all encumbrances against ownership. Fee payable for this service

claiming an estate or interest as chargee "by virtue of a judgment of the (Name of Court) made on the (date of order) in action/plaint (number of plaintiff) and entered in the Supreme Court of Western Australia pursuant to Section 19 of the Imperial Judgments Act 1838 on the (date of entry in the Supreme Court)".

However, in the case of Bank of Western Australia vs Connell (Supreme Court Library No 960433) His Honour Owen J decided that the scheme for execution introduced by TLA (sec 133) could not stand together with sections 13 and 19 of the Imperial Judgements Act. According to this decision, the Judgments Act does not apply to land under the TLA. Therefore judgment creditors, their solicitors and agents should consider the effect of this decision and the implications of lodging a Caveat without reasonable cause. Acceptance of Caveats based on claims under the Imperial Judgments Act does not signify that Landgate is expressing a view as to whether or not they will be upheld in court proceedings.

Other interests have been listed in legal texts such as "The Principles of the Australian Land Titles (Torrens) System" by Donald Kerr. Conveyancers are also referred to a very informative paper on Caveatable interests, by Mrs S Boyle LLB, called "Caveatable Interests, The Common Lore Distinguished " which was delivered to the "Equity and The Transfer of Land Act" seminar held by the Law Society of Western Australia on 22nd June, 1993 and published in the Murdoch Law Review 1993. Another useful publication is "Caveats Against Dealings in Australia and New Zealand " by Shannon Lindsay.

NOTE: If you are uncertain of your rights or estate or interest claimed, please seek professional legal advice.

Types of Claims

A Caveator can restrict dealings by a Registered Proprietor through one of three types of claim.

These are:

- Absolutely
- Unless such instrument be expressed subject to the caveator's claim
- Until after notice of any intended registration or dealing to be given to the caveator

Absolutely

An Absolute Caveat bars the registration of any instrument affecting the estate and interest. Parties to a transaction wishing to register an instrument must either negotiate its withdrawal or have it removed by initiating action by the Registrar under Sections 138 or 138B of the TLA, or action by the Commissioner under Section 141A, or action by the Courts under Section 138.

Unless such instrument be expressed subject to the caveator's claim (also known as 'Subject to Claim')

Instruments showing the Caveat as an interest may be registered.

If the parties to the transaction do not wish to register their instrument subject to the Caveator's claim, they must either negotiate its withdrawal or have it removed by initiating action by the Registrar under Sections 138 or 138B of the TLA, or action by the Commissioner under Section 141A, or action in the Courts under Section 138.

It should be noted that while the Registrar may not question the type of claim made by the Caveator, the Courts may do so. In general terms a claim based on an interest in fee simple, such as a Purchaser's Caveat, may be "absolute" and Caveats based on a lesser interest, such as an equitable mortgage, should be made "subject to claim".

Until after notice of any intended registration or dealing to be given to the Caveator

Caveats in this form are useful for those Caveators whose claim will not be defeated by the registration of any change of interest in the land and who merely wish to be informed of any change in interest occurring on the Certificate of Title. If the change in interest is detrimental to the Caveator, the Caveator may choose to negotiate with the parties or obtain an injunction to prevent the registration of the instrument.

These Caveats may be shown in the Limitations, Interests, Encumbrances and Notifications panel of any instrument, dealing with the land in the Certificate of Title affected by the Caveat.

Before an instrument is lodged against land affected by such a Caveat, notice must be given to the Caveator. The notice:

- must be addressed to the Caveator, and if more than one Caveator, be separately addressed;
- must refer to the Caveator, and the Caveat number;
- must give the particulars of the instrument(s) to be lodged subject to the Caveat by reference to:
 - the nature of the instrument;
 - the parties to the instrument; and
 - the date of the instrument;
- must state the intention to register the instrument at the expiration of the 14 days notice period.

Conveyancers should refer to Section 240(4) of TLA when calculating the expiry date of the notice period.

The documents or instruments may then be lodged with the Registrar at the end of the notice period. Proof of compliance with the above in the form of a Statutory Declaration setting out the action taken and annexing a copy of the notice must accompany the dealing. The dealing must be lodged as soon as possible after the expiry of the notice period or the process of serving notice must be repeated. If the parties to the transaction do not wish to register their instrument subject to the Caveators claim, they must either negotiate its withdrawal or have it removed by initiating action by the Registrar under Sections 138 or 138B of the TLA, or action by the Commissioner under Section 141A, or action in the Courts under Sections 138.

Describing the land being Caveated

The land must be accurately described in the "Description of Land" panel of the Caveat form. This information is obtained directly from a copy of the Certificate of Title.

Where the interest being claimed is against a mortgage, lease or charge the appropriate qualifying words, "As to", must precede the description of land. For example, in the case of a mortgage the words "As to mortgage F123456" must precede the land description.

There is a need to ensure that no more land is Caveated than is necessary. Where a 'portion' and not 'whole' of the land is to be Caveated, it is desirable to support the land description with a sketch that identifies the land being Caveated. The sketch should be drawn on an additional sheet affixed to the Caveat and bear sufficient measurements to enable the land affected to be accurately plotted.

The sketch should be signed and noted "Sketch Correct" by the Caveator and, if time permits, referred to the Survey Advice Officer in the Land Registration Centre at Landgate (Midland).

- Where portion of the land in a certificate of title is to be Caveated and it is desired to make an "absolute" claim, such portion must be defined by a sketch
- Where portion of the land in a title is involved that is not the 'whole' of a lot or the whole of a part lot in that Certificate of Title, then such portion must be defined by a sketch.

It is not necessary for the sketch to be the same standard as required for registered documents.

If the land in a Certificate of Title is defined as being 'Lot 1 on Plan 1' and the Caveat refers to 'portion of Lot 1 on Plan 1' with no further description, then that Caveat has in the past been accepted with reluctance. However, Caveators need to be aware that certain problems can flow from this practice, which may result in a claim against them for compensation under section 140 of the TLA. Having no way of determining what part of the land the Caveat applies to, the Registrar has no alternative but to deal with it as if it binds the whole land.

In a subdivision or creation of a strata/survey-strata scheme:

- the Caveat will carry forward onto part of every lot or strata lot;
- if part of the land in the lot is to vest in the Crown under Section 20A of the Town Planning and Development Act or otherwise, then it will be necessary for the Caveat to be withdrawn as to that portion; and
- if it is unclear as to which portion of land a Caveat affects, it may create difficulties for, or prevent the Registered Proprietor dealing with other parts of the land.

As the Registrar does not know which part of the land is affected, a withdrawal of the Caveat from the portion of the land being dealt on may be insisted upon. Since comments by Malcolm C J and Rowland J in *Kuper & Keywest Construction Pty Ltd (1990) 3 WAR 419*, the Registrar has requested the Caveator to accurately and clearly define the land being Caveated.

The Registrar will accept lines and measurements on either a photocopy of an architect's plan or of a sketch on a copy of the Certificate of Title. What is being asked for is an accurate description of the land to be affected by the Caveat, that need not necessarily be the same as the land the subject of the claimed estate or interest.

All that is required is that sufficient dimensions or descriptions be provided to enable the Registrar and searchers of a Caveat to ascertain the land affected by the Caveat. If that is done, then the Registrar is not concerned as to whether or not the stated dimensions accurately define the boundaries and location of the claimed estate or interest.

The degree of accuracy provided is a matter of judgment for the Caveator. That judgment may be affected by available time, cost, and purpose of lodging the Caveat not to mention the concerns with Caveating the wrong land or too much or too little of the land.

It is suggested that in many cases, the purpose of lodging a Caveat will be achieved if the land to be Caveated is less than the area the subject of the claimed estate or interest. In many cases, a client may prefer to personally make the measurements, allow for a margin of error and nominate a lesser area for protection by Caveat so as to facilitate early lodgment of a Caveat and to avoid survey costs.

A statement could be made in the Caveat that the land Caveated may be less than the area being the subject of the claimed estate or interest. For example, in a Purchaser's Caveat in the section 'Estate or Interest Claimed (Note 6)', the claim may be stated as;

"by virtue of a contract of sale dated 1st January, 1993 made between the Registered Proprietor as vendor and the Caveator as purchaser in respect of land that comprises or includes the land being Caveated"

That is, the land the subject of the claimed estate or interest comprises or includes the Caveated land.

Notifying Registered Proprietors of Caveats

The Registrar is required by Section 138 to give notice of the lodgment of a Caveat to the Registered Proprietor. The notice consists of a memorandum containing the essential details of the Caveat sent by ordinary mail to the address of the Registered Proprietor shown in the Certificate of Title. Notice will also be sent by ordinary mail to any other address of which the Registrar has knowledge.

Section 31 of the TLA requires the Registrar to notify any person applying to bring land under the TLA, that a Caveat has been lodged prohibiting the Registrar from proceeding with the application. Applicants are also notified of Caveats lodged against applications under Sections 176 and 223A of TLA.

Notifying Caveators - Address for Service of Notices

The address for service of notices to the Caveator is most important. Each Caveator must state either an address or a number of a facsimile machine within Australia where notices relating to the Caveat may be served. Caveators and persons acting on their behalf should ensure that such address is kept current.

The Caveator's responsibility for the Caveat does not end when the Caveat is lodged. Caveators must deal with any statutory notice sent to them, as their rights will always be affected. If they do not understand the nature or effect of the notice, they should immediately seek legal advice.

The Caveator may make application under Section 240A of the TLA to change the address or the number of a facsimile machine given on a Caveat for service of notice. The application must be made on an Application form (A5) and contain:

- a description of the land Caveated;
- the name and address of the Caveator;
- the document number of the Caveat;
- a request to amend the address or the number for a facsimile machine for service of notices from the old address or facsimile number to the new address or facsimile number; and
- the date and signature of the Caveator.

Removing Caveats

Caveats can be removed by one of the following means;

- By the registration of a Withdrawal of Caveat form (W1) by the Caveator
- By Application pursuant to Section 138B of TLA (21 day notice of TLA)
Note: Some caveats are excluded from this method of removal
- By the registration of an instrument under Section 138 (14 Day Notice)
- By Application pursuant to Section 141A of TLA (14 day notice)
- By the motion of Judge or Court ordering its removal and Landgate's receipt of an Application form (A5)
- By the Local Government Act 1960 to sell land for non-payment of rates
- By the taking or Acquisition of land under the Land Administration Act 1997 or Lands Acquisition Act, whereby your Caveat is converted into a right to claim for compensation
- By sale under Property (Seizure and Sale) Orders

For further information on withdrawal and removal of caveats contact a Registration Advice Officer at the Land Registration Centre on (08) 9273 7044 or by email to Irc@landgate.wa.gov.au

Preparing your Caveat...

What documents do I need for my Caveat?

Some of the documents you may need are:


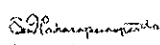
- A copy of the original Certificate of Title (Title Search) from Landgate's Customer Contact Centre (Midland). A fee is payable for this service.
- A Caveat form (C1) from either Landgate (Midland), the State Law Publisher, or any large stationery retailer.
- A duty-stamped claim document or a photocopy of it as evidence and/or
- A Statutory Declaration form (B3) from Landgate (Midland), the State Law Publisher, or any large stationery retailer. Details of the claim are to be outlined in this form. Please refer to 'How to state your claim' section of this brochure.

3 steps to lodging your Caveat

1. Complete the relevant Caveat form (C1) by referring to information contained within this brochure and with a copy of the original Certificate of Title (Title Search) and typing or clearly handwriting in dark ink in the spaces provided. Please refer to the sample form in this brochure to assist you.
2. Collect evidence to support your claim and/or complete the Statutory Declaration (B3) form noting the details of your claim.
3. Lodge the Caveat form, in person or by post, together with any stamped documentary evidence and/or the Statutory Declaration and the required fees at any of Landgate's three offices.

NOTE: Where a Caveat is lodged without reasonable cause, the law provides that the Caveator may be liable to pay compensation for damage caused.

Use the Guideline Notes on the following page to assist in completing your Caveat form...

AGREEMENT DATED		STAMPED		FEE PAID	
CAVEAT					
DESCRIPTION OF LAND (IN FULL)					
Lot 10 on Deposited Plan 3004			CHARGE	AMOUNT	TYPE
			VOID	2100	C20
CAVEATOR(S) NAME(S)					
Timothy James Burns					
ADDRESS (FULL) (IN FULL) (IN FULL) (IN FULL) (IN FULL) (IN FULL)					
10 Interation Avenue, South Midland					
CAVEATED BY (FULL) (IN FULL)					
John Alan Croft and Mary Lou Croft (both of 11 Langdon Street, Midland (both formerly of 2 High Road, Fremantle))					
STATE OF THE CLAIM (IN FULL) (IN FULL)					
Claims an equitable estate or interest as purchaser of the fee simple.					
THE CAVEAT IS CLAIMED AS EVIDENCE OF THE CLAIMANT'S INTEREST IN THE LAND AND IS NOT A STATUTORY DECLARATION OF THE CLAIMANT'S INTEREST IN THE LAND.					
A contract of sale dated 20th May 2006, made between the registered proprietor as vendor and the claimant as purchaser.					
CAVEAT IS CLAIMED AS EVIDENCE OF THE CLAIMANT'S INTEREST IN THE LAND.					
Absolute					
Created on 20th day of May year 2006					
CAVEAT IS CLAIMED AS EVIDENCE OF THE CLAIMANT'S INTEREST IN THE LAND.					
Signed					
					
SOLICITORS FOR THE CAVEATED BY 115 JAMES STREET, MIDLAND WEST AUSTRALIA 5000					

Note 1

Note 5

Note 6

Note 7

Note 8

Guidelines to Preparing your Caveat

The notes and instructions provided in this brochure are a guide only in helping you to complete the relevant panels of a Caveat form. Further instructions are available on the Caveat form (C1).

NOTE: If you are uncertain of your rights or interest to claim, please seek professional legal advice. Landgate staff are not able to give legal advice or help draft your Caveat.

Description of Land (Note 1)

The land being Caveated must be accurately described in this panel on the Caveat form. Please refer to the sample form in this brochure to assist you.

Where the interest claimed is against a mortgage, lease or charge the appropriate qualifying words "As to..." must precede the land description. For example, in the case of a mortgage, the words "As to mortgage F123456" must precede the land description.

Attaching sketches

There is a need to ensure that no more land is Caveated than is necessary. It is therefore desirable that where a 'portion' of the land is being Caveated, it should be supported by a sketch which identifies that portion of the land being Caveated. Please refer to the section 'Describing the Land being Caveated' for further information about attaching sketches.

Estate or Interest being Claimed (Note 5)

The claim of the Caveator must be set out clearly in the Caveat. The example below should be used as a guide only and where required, insert information pertinent to your claim, ie dates etc.

Where the Caveator's claim arises from a contract of sale to purchase a property insert into Note 5;

"claims an estate or interest in fee simple as purchaser"

The Caveator claims an Estate or Interest being specified by Virtue of (Note 6)

In all Caveats the estate or interest being claimed is required to be supported by documentary evidence of that claim.

Where the Caveators claim arises from a contract of sale insert into Note 6;

"a contract of sale dated 25 May 2001 made between the Registered Proprietor as vendor and the Caveator as purchaser"

The duly stamped contract of sale (or a photocopy showing stamp duty has been paid) must be produced as evidence.

Please refer to the following section Supporting your Claim for guidance on types of documentary evidence.

And Forbids the Registration... (Note 7)

In this panel, insert the wording of one of either;

- Absolutely
- Unless such instrument be expressed to be subject the Caveator's Claim
- Until after notice of any Intended registration or dealing to be given to the Caveator

Please refer to the section Types of Claims for an explanation of your claim type.

Who can sign my Caveat? (Note 8)

Caveats may be signed by:

- the Caveator(s) personally;
- the Caveator's solicitor, signing as his or her solicitor and agent;
- a licensed estate agent, signing as agent for the Caveator;
- a principal of a settlement service, signing as agent for the Caveator;
- a responsible officer of a Caveator company, ie: director, secretary or manager;
- the attorney or senior securities officer of a bank being a Caveator; or
- the attorney for the Caveator.

Supporting your claim

If a Caveat is lodged and excludes the supporting documentation, a requisition notice will be issued under Section 137 of the TLA asking for supporting documentation in the form of documentary evidence or a Statutory Declaration. Fees can be charged for the issue of a requisition notice.

Failure to comply with the requisition within seven days from the date of issue makes the Caveat absolutely null and void.

You are required to provide one or both of the following to support your claim.

Documentary Evidence

Where a claim is alleged to arise out of a document or deed, the document or deed must be lodged to support the Caveat.

If the document or deed requires stamp duty, then the document or deed must have the stamp duty paid prior to being included as evidence for the Caveat. If the Office of State Revenue (Revenue Services - Stamp Duties) is holding the document or deed for stamp duty assessment, then an appropriate letter or endorsed photocopy of the document (from Commissioner of State Revenue) or a Statutory Declaration stating that the documents have been lodged with the Commissioner of State Revenue for stamping, must be produced in its place.

If you need to know if your evidence requires stamp duty to be paid, contact the Office of State Revenue - Revenue Services - Stamp Duties by phone on 9262 1100.

Note: Stamping and then producing evidence after the lodgement of a Caveat is considered to be contrary to Section 28(4) of the Stamp Act 1921, and such a Caveat would be rejected without further notice.

Statutory Declarations

Where the estate or interest has not been created by a document a Statutory Declaration will be required, setting out the nature of the claim and how it arose in a manner that complies with the requirements of Section 137. That is, the declaration must state "the nature of the estate or interest claimed and the title thereto".

Declarants are required to state in their Statutory Declaration:

- the nature of the estate or interest claimed is ...
- the title to the estate or interest claimed arises by virtue of ...

If the declaration fails to meet the above requirements the Caveat will, on the expiration of the 7 days set out in the notice, be endorsed null and void without further reference to the lodging party.

NOTE: If you are uncertain of your rights or interest to claim or how to complete a Statutory Declaration, please seek professional legal advice. Landgate staff are not able to give legal advice or help draft your Caveat.



Need more information?

Please contact one of Landgate's experienced Advice Officers at our Land Registration Call Centre. See contact details on back page.

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WESTERN AUSTRALIA

RECORD OF CERTIFICATE OF TITLE
UNDER THE TRANSFER OF LAND ACT 1993

10/DP35004

3 8/03/2001

REGISTRAR OF TITLES

LAND DESCRIPTION:

A LOT 10 ON DEPOSITED PLAN 35004

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

F JOHN ALAN CITIZEN
MARY LOUISE CITIZEN
BOTH OF 2 HIGH ROAD, FREMANTLE
AS JOINT TENANTS

(1171102) REGISTERED 8 MARCH 2001

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

1. H70404 MORTGAGE TO AUSTRALIA & NEW ZEALAND BANKING GROUP LTD REGISTERED 26 10 2000

2. H71402 RESTRICTIVE COVENANT BURDEN REGISTERED 8 3 2001

STATEMENTS:

SKETCH OF LAND PREVIOUS TITLE PROPERTY STREET ADDRESS LOCAL GOVERNMENT AREA

DP/SR/ST/NO PREVIOUS TITLE INFORMATION AVAILABLE NO STREET ADDRESS INFORMATION AVAILABLE NO LOCAL GOVERNMENT AUTHORITY INFORMATION

FORM OF CAVEAT

APPROVAL NO 01668

WESTERN AUSTRALIA TRANSFER OF LAND ACT 1993 AS AMENDED

AGREEMENT DATED STAMPED SIGNED

CAVEAT

DESCRIPTION OF LAND (PAGE 1)	EXTENT	VOLUME	FOLIO
A Lot 10 on Deposited Plan 35004	Whole	B 2186	C 090

CAVEATOR (PAGE 2)

D Rodney James Bulletin

ADDRESS OR FACSIMILE ADDRESS NUMBER FOR SERVICE OF NOTICE ON CAVEATOR (PAGE 3)

E 12 Information Avenue, South Midland

REGISTERED PROPRIETOR (PAGE 4)

F John Alan Citizen and Mary Louise Citizen both of 1 Dola Street, Midland (both formerly of 2 High Road, Fremantle)

STATE OR STATEMENT BEING CLAIMED (PAGE 5)

G Claims an Equitable estate or interest as purchaser of the fee simple

THE CAVEATOR CLAIMS AN ESTATE OR INTEREST AS SPECIFIED HEREIN OF THE ESTATE OR INTEREST OF THE ABOVE-NAMED REGISTERED PROPRIETOR IN THE LAND ABOVE DESCRIBED BY VIRTUE OF:

H A contract of sale dated 25 May 2001, made between the registered proprietor as vendor and the caveator as purchaser

AND I KNOW OF THE EXISTENCE OF ANY DOCUMENT AFFECTING THE ESTATE OR INTEREST OF:

I Absolutely

Dated this 25th day of May Year 2001

CAVEATOR OR ACCEPTOR (PAGE 6)

Signed R Bulletin in the presence of Andrew Kemp
Andrew Kemp
7 Sulliana Ave, Shelly
Box 1 Inspector

- A** — To be copied from Certificate of Title
- B** — To be copied from Certificate of Title
- C** — To be copied from Certificate of Title
- D** — State full name of Caveator(s)
- E** — Insert address for service of notice
- F** — To be copied from Certificate of Title
- G** — See Note 5 Guidelines
- H** — See Note 6 Guidelines
- I** — See Note 7 Guidelines
- J** — Date to be shown
- K** — Usual signature of Caveator(s)
- L** — Usual signature of Witness and print name, address and occupation

CONTACT LIST

Landgate

Advice Officers - Land Registration Centre
Cnr Morrison Road & Great Northern Highway,
MIDLAND 6056

Postal Address: PO Box 2222, MIDLAND 6936

Tel: (08) 9273 7044

Fax: (08) 9273 7651

Email: lrc@landgate.wa.gov.au

Website: www.landgate.wa.gov.au

Perth Branch Office

(Lodgement centre only - no advice service)

Mt Newman House / Terrace Level

200 St Georges Terrace, PERTH

Bunbury Regional Office

(Lodgement centre only - no advice service)

61 Victoria Street, BUNBURY

Tel: (08) 9791 0834

Fax: (08) 9791 0838

State Law Publisher

10 William Street, PERTH

Tel: (08) 9321 7688

Website: www.slp.wa.gov.au

Office of State Revenue

(Revenue Services - Stamp Duties)

Mt Newman House / Plaza Level

200 St Georges Terrace, PERTH

Tel: (08) 9262 1100

Website: www.dtf.wa.gov.au

Probate Office

111 St Georges Terrace, PERTH

Tel: (08) 9421 5152

Website: www.justice.wa.gov.au

Registrar General

(Births / Deaths / Marriages)

141 St Georges Terrace, PERTH

Tel: (08) 9264 1555

Website: www.justice.wa.gov.au

Ministry for Planning

Albert Facey House

469-489 Wellington Street, PERTH

Tel: (08) 9264 7777

Website: www.wapc.wa.gov.au

Guardianship & Administration Board

Hyatt Centre / Level 1

20 Terrace Road, EAST PERTH

Tel: (08) 9278 7350

Website: www.justice.wa.gov.au

State Administrative Tribunal

(Direct General Enquiries to Landgate)

Level 4

12 St Georges Terrace, PERTH

Tel: 1300 306 017

(08) 9219 3111

Website: www.justice.wa.gov.au

4 ways to obtain a Title Search

1. Visit the Customer Contact Centre at Landgate's Head Office in Midland
2. Phone Landgate's Customer Contact Centre on (08) 9273 7333 and request an order form to be sent to you via post, fax or email.
3. Visit our website www.landgate.wa.gov.au and click on Title Searching. Please select the order form you require, complete the details and fax or post to Landgate.
4. E-mail TISmail@landgate.wa.gov.au

PLEASE NOTE: Providing us with precise details about the land you are searching will ensure a fast, accurate and cost effective service. For more information about the details we require, please call our Customer Contact Centre on (08) 9273 7333.

