

# LAND TITLES OFFICE OF REGULATORY SERVICES Department of Justice and Community Safety

CAVEAT



Form 036 - X

Land Titles Act 1925

#### IMPORTANT INFORMATION

This form is to be used to lodge a caveat under the *Land Titles Act 1925* (the Act). You can access the Act at <u>www.legislation.act.gov.au</u>. You may also obtain further information and forms at <u>www.ors.act.gov.au</u>.

### PRIVACY INFORMATION

The Act authorises the Registrar-General to collect the information required by this form. The Registrar-General provides identifiable information to various agencies including, but not limited to, the ACT Planning and Land Authority, ACT Treasury, Canberra Connect and ACTEWAGL for conveyancing, municipal account administrative, statistical and valuation purposes. These agencies may also use this information to prepare and sell property sales reports to commercial organisations concerned with the development, sale or marketing of land.

#### **CONTACT INFORMATION**

Lodge in person at the **Office of Regulatory Services:** Office Hours: General enquiries telephone number: Website address:

# 255 Canberra Avenue, Fyshwick ACT 2609 9:00am to 4:30pm Monday to Friday (02) 6207 0491 www.ors.act.gov.au

# INSTRUCTIONS FOR COMPLETION

- <u>WARNING</u> CARE SHOULD BE EXERCISED IN COMPLETING THIS FORM. AN INSUPPORTABLE CAVEAT MAY BE CHALLENGED IN THE SUPREME COURT; AND DAMAGES MAY BE AWARDED FOR LODGING A CAVEAT WITHOUT JUSTIFICATION.
- The certificate of title is not required for lodgement of this document.
- All information should be typed or clearly printed. If completing this form by hand please use a solid black pen only.
- This office will not accept lodgement of this form if it is not completed in full.
- Any alteration to information provided on this form must be struck through with a black pen. Substitute information must be clear and all parties must sign in the margin. Do not use correction fluid or tape.
- Ensure all required documents are attached. If there is insufficient space in any panel, please use an Annexure Sheet.
  Execution by:
  - a) A Natural Person Should be witnessed by an adult person who is not a party to the document.
  - b) Attorney if this document is executed by an Attorney pursuant to a registered power of attorney, it must set out the full name of the attorney and the form of execution must indicate the source of his/her authority e.g. "AB by his/her attorney XY pursuant to Power of Attorney ACT Registration No..... of which he/she has no notice of revocation". (This execution requires a witness).
  - c) **Corporation** Section 127 of the *Corporations Act* provides that a company may now validly execute a document with or without using a Common Seal if the document is signed by:
    - i. Two directors of the company;
    - ii. A director and a secretary of the company; or
    - iii. Where the company is a proprietary company and has a sole director who is also the sole company secretary, that director. (No witness is required for this execution).
- The following forms of execution are suggested –

# a) With A Common Seal

Signed by ABC Pty Ltd/Ltd ACN.....

.....(signature)

.....(director/secretary)\*

(\*repeat if necessary i.e. if two directors signing. If signing as sole director and sole secretary, state 'director/secretary') - (No witness is required for this execution).



I/We forbid the registration of any instrument affecting the land stated below in the "Action required by this Caveat" section of the form, unless this Caveat:

- Is withdrawn by me/us or by order of the court; or
- Lapses fully or partially in order to allow registration of an instrument.

LODGING PARTY DETAILS			
Name	Postal Address	Contact Telephone Number	

TITLE AND LAND DETAILS				
Volume & Folio	District/Division	Section	Block	Unit

<b>CAVEATOR</b> (Surname Last) (ACN required for all companies)	FULL POSTAL ADDRESS (DX Boxes not permitted)	
REGISTERED PROPRIETOR/S (Surname Last)	FULL POSTAL ADDRESS	
(ACN required for all companies)		

NATURE OF THE ESTATE OR INTEREST IN THE LAND (Information regarding what is considered a caveatable interest - overleaf)

ACTION REQUIRED BY THIS CAVEAT (Tick the appropriate box – one box should be Ticked)			
(a)	Prevention of all instruments with the land (refer to statutory exceptions overleaf).		
(b)	Prevention of all instruments with the land other than those dealings as identified at \$104(5) Land Titles Act 1925		
(c)	Prevention of instruments detailed below		
List dealings prevented above in (c)			

ADDRESS FOR SERVICE OF NOTICES FOR THE CAVEATOR (Must be an address in the Australian Capital Territory – DX Boxes not permitted)

Approved form AF 2009 – 201 approved by Danielle Krajina, Registrar-General on 12 October 2009 under Section 140 of the Land Titles Act 1925 (approved forms) – This form revokes

AF2006-225

#### DECLARATION BY CAVEATOR / CAVEATOR'S SOLICITOR OR CAVEATOR'S AGENT (Delete whichever is not applicable)

#### I, (insert full name/address/occupation)

Do solemnly and sincerely declare that to the best of my knowledge, information and belief, that the Caveator has a good and valid claim to the Estate and Interest set out in "Nature of Estate or Interest in the land"; and the caveat does not require leave of the Supreme Court (S107c(1) Land Titles Act 1925).

I make this solemn declaration by virtue of the Statutory Declarations Act 1959 and subject to the penalties provided by that Act for the making of false statements in Statutory Declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

Declared at -

Declared on -

day of

20

CAVEATOR/S EXECUTION		
Print full name of Caveator/Person making declaration	Print full name, address and qualification of witness	
Signature of Caveator	Signature of qualified witness	

OFFICE USE ONLY			
Lodged by		Certificate of title lodged	
Data entered by		Certificates attached to title	
Registered by		Attachments / Annexures	
Registration date		Production number	

#### **INFORMATION ON COMPLETION OF FORM**

- A simple debt owed to a person by a registered proprietor of land would not of itself, entitle that person to lodge a caveat against the land.
- Item 5(a) A caveat cannot prohibit the registration of a lapsing, withdrawal, cancellation or removal of a writ; the entry of, lapsing, withdrawal or removal of a caveat); dealing by a prior mortgagee; or a correction by the Registrar-General.
- If you tick item 5(b) the following dealings will be permitted: Notice of death, vesting, resumption or withdrawal of land; discharge of mortgage; registration, extinguishment or variation of an easement; transmission application; registration of new or additional trustees; registration of a declaration by an executor.
- Item 5 (c) Care should be taken not to forbid registration of any instrument for which the Caveator has no right to forbid.
- Section 10 Land Titles (Unit Titles) Act 1970 does not allow caveats to carry forward to a Units Plan.