

Part 11 – Caveat

Table of Contents

General Law	
Definitions	[11-0000]
Requirements of a Caveat.....	[11-0010]
Persons Who May Lodge Caveat	[11-0020]
A Person Claiming an Interest in a Lot	[11-0030]
Registrar.....	[11-0040]
Registered Owner.....	[11-0050]
Court Order	[11-0060]
Order under the <i>Criminal Proceeds Confiscation Act 2002</i>	
Forfeiture Order	[11-0063]
Restraining Order	[11-0066]
¹ Adverse Possession.....	[11-0070]
Transmission by Death, Application for Substitute Instrument	
and Dispensing with Production of an Instrument.....	[11-0080]
Purchaser under an Instalment Contract.....	[11-0090]
Interest Holder under a Notice Deposited under the <i>Water Act 2000</i>	[11-0095]
Effect of Caveat	[11-0100]
Notification of Caveat.....	[11-0110]
Caveatee's Notice to Caveator	[11-0120]
Caveator's Notice to Registrar	[11-0130]
Caveatee's Proceedings in the Supreme Court	[11-0140]
Further Caveat.....	[11-0150]
Compensation.....	[11-0160]
Lapsing of Caveat.....	[11-0170]
Consent of Registered Owner.....	[11-0180]
Automatic Lapsing	[11-0190]
Removal.....	[11-0200]
Withdrawal	
Registered Caveat.....	[11-0210]
Unregistered Caveat.....	[11-0220]
Cancellation	[11-0230]
Overriding of Caveat.....	[11-0240]
Legislation	[11-1000]
Application of the <i>Land Title Act 1994</i> to the <i>Water Act 2000</i>	
Practice	
Requirements of a Caveat	
General	[11-2000]
Rejection	[11-2010]
Examination of Caveat or Caveatable Interest.....	[11-2020]
Notification of Caveat.....	[11-2030]
Caveator's Notice to Registrar	[11-2040]
Lapsing of Caveat.....	[11-2050]
Withdrawal	
Registered Caveat.....	[11-2060]
Unregistered Caveat.....	[11-2070]
Removal by the Court.....	[11-2080]
Cancellation	[11-2090]
Forms	
General Guide to Completion of Forms.....	[11-4000]
Guide to Completion of Form 11	
Duty.....	[11-4010]
Item 1	[11-4020]
Item 2	[11-4030]
² Freehold Description	
Water Allocation Description	
Item 3	[11-4040]
Item 4	[11-4050]
Item 5	[11-4060]

Item 6	[11-4070]
Item 7	[11-4080]
Case Law	
Persons Who May Lodge a Caveat	
A Person Claiming an Interest in a Lot	[11-7000]
Registrar	[11-7010]
Registered Owner	[11-7020]
Purchaser under an Instalment Contract	[11-7030]
Proceedings in the Supreme Court	[11-7040]
Lapsing of Caveat	
Consent of Registered Owner	[11-7050]
Fees	[11-8000]
Cross References and Further Reading	[11-9000]
Notes in text	[11-9050]

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 (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 land.

However, 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 over which a caveat has been lodged, means a person in whose favour the caveat is lodged (s 4 of the *Land Title Act 1994*).

‘Caveatee’, for a lot over which a caveat has been lodged, means a registered proprietor of the lot or someone (other than the caveator) who has an interest in the lot (s 4 of the *Land Title Act 1994*).

Requirements of a Caveat

[11-0010]

Sections 121(1) and (2) of the *Land Title 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;
- the address where documents can be served on the caveator;
- unless 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;
- the registered interest affected by the caveat;
- if 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 1994* other than a caveat prepared and registered by the Registrar under s 17 of that Act (s 121(3) of the *Land Title Act 1994*).

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

Persons Who May Lodge Caveat

[11-0020]

Part 7, Division 2 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* 1994 a caveat may be lodged by:

- a person claiming an interest in a lot;
- the Registrar;
- 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; and
- an interest holder in a water allocation who has given notice under s 101(1)(b) of the *Water Act* 2000.

Section 122(2) of the *Land Title Act* 1994 makes it clear that an equitable mortgagee can only lodge a lapsing caveat.

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

- ²by a person objecting to an application for adverse possession (s 104 of the *Land Title Act* 1994);
- when a person applies to the Supreme Court for an order that another person be registered as proprietor of a lot (s 114 of the *Land Title Act* 1994); and
- by a purchaser under an instalment contract (s 74 of the *Property Law Act* 1974).

A 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* 1994 replaces s 98 of the *Real Property Act* 1861. Pursuant to s 98 of the *Real Property Act* 1861, 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* 1994, the term ‘interest’ has been substituted for ‘estate or interest’ as used in s 98 of the *Real Property Act* 1861. 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 interest 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* 1861 is of assistance in the interpretation of s 122(1)(a) of the *Land Title Act* 1994.

It is not within the scope of this work 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 settlement notices (see Part 23 – Settlement Notices).

- That of an unregistered mortgagee of an estate in fee simple, water allocation or of a lesser estate (ie an equitable mortgagee). An equitable mortgagee can only lodge a lapsing caveat (s 122(2) of the *Land Title Act* 1994). If the caveator is an equitable mortgagee, Item 4 of the Form 11 is to include details of the grounds to support the claim (eg agreement date [date]).

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 – Settlement Notices).
- That of a grantee of an exercised 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.
- A purchaser under a rescinded contract has 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* 1966 (Cth). 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* 1994).
- 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 Benge 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).
- The equitable interest as a beneficiary under a trust where the trust property comprises or includes land was held to be an insufficient interest to support a caveat (*Re Pile's Caveats* [1981] Qd R 81). However note *Costa & Duppe Properties Pty Ltd v Duppe and Ors* [1986] VR 90 and *Connell v Bond Corporation Pty Ltd* [1992] 8 WAR 352. On the basis of this latter case, it is arguable in some situations that a unit holder in a trust may have a caveatable interest in land comprising trust property.
- ²A purchaser of a unit in a building unit plan under a contract of sale prior to the registration of that plan is not entitled to an equitable interest in the land under that contract (*Re Premier Freehold Pty Ltd's Caveat* [1981] Qd R 547).
- In some instances, a purchaser under a conditional contract of sale, that is, a contract that is subject to an unsatisfied condition precedent, will not have a caveatable interest until after the condition has been satisfied (*Re Bosca Land Pty Ltd's Caveat* [1976] Qd R 19; *Re C M Group Pty Ltd's Caveat* [1986] 1 Qd R 381 and *Re Dimbury Pty Ltd's Caveat* [1986] 2 Qd R 348. Note also *Nicholson v Fowler* [1981] NZLR 97; *Jessica Holdings Pty Ltd v Anglican Property Trust Diocese of Sydney* [1992] NSW Conv R 55-626 and *Re Bluestone Pty Ltd's Caveat* [1993] Q Conv R 54-447) (see also Burr P, 'Purchaser under Conditional Contract has Caveatable Interest' (1993) 67 *ALJ* 295).

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* 1994, to obtain an order from the Supreme Court that the caveat be removed.

See further ¶[11-2020].

Registrar

[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; or
- a person whose rights are endangered by a misdescription of the lot or its boundaries, or by fraud or forgery; or
- 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* 1994; or
- a person, other than a person mentioned in any of the above paragraphs, 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 the committee of an intellectually or mentally impaired person or one who is incapable of managing his/her own affairs; 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* 1994 in one of the circumstances set out in the Act.

A Registrar's caveat does not lapse (s 126 of the *Land Title Act* 1994).

A Registrar's caveat may be removed by:

- voluntary withdrawal by the Registrar; or
- by way of a prerogative order in the nature of mandamus under the *Judicial Review Act* 1991).

The remedy available to the caveatee to proceed by way of summons against the caveator to show cause, applies equally to caveats lodged by the Registrar (*Re Caveat No. 735; Ex parte Davenport* (1872) 3 QSCR 95). This case 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.

Registered Owner

[11-0050]

Section 122(1)(c) entitles a registered owner of a lot, irrespective of tenancy, to lodge a caveat which does not lapse. However, this does not entitle a registered owner to file a caveat without valid grounds to support it (*Sinclair v Hope Investments Pty Ltd* [1982] 2 NSWLR 870). The registered owner will be requisitioned if valid grounds are not included to support the caveat. If details of the grounds are not provided, the caveat will be rejected.

Section 124(2) identifies instruments which are not prevented from being registered by lodgement of a caveat. However, a caveat by a registered owner against a transfer by a mortgagee exercising a power of sale will prevent registration of such transfer until the caveat is withdrawn or the matter settled by the court (s 124(4) of the *Land Title Act* 1994 and *McKean's Caveat* [1988] Qd R 524 and *Re Cross v National Australia Bank Ltd* [1992] Q Conv R 54-433).

On the other hand, a caveat by a mortgagor can only prevent the registration of dealings which affect the rights the mortgagor may have in respect of the land. It cannot prevent any dealings affecting the land (*Mir Bros Projects Pty Ltd v 1924 Pty Ltd* [1980] 2 NSWLR 907). This case was not followed in *Websdale v S & J Investments Pty Ltd* (1991) 24 NSWLR 573.

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

Court Order

[11-0060]

Prior to the enactment of the *Land Title Act* 1994, a person to whom a court had ordered that an interest in land be transferred or a person having the benefit of a court order preventing the registered proprietor from dealing with the land was not entitled to lodge a caveat.

Section 122(1)(d) of the *Land Title Act* 1994 provides that a person to whom an Australian court has ordered that an interest in a lot be transferred is capable of lodging 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* 1994, when an Australian court has given an order restraining a registered proprietor from dealing with a lot, the person with the benefit of that order may lodge a caveat.

Order under the *Criminal Proceeds Confiscation Act 2002*

Forfeiture Order

[11-0063]

Section 58 of the *Criminal Proceeds Confiscation Act 2002* provides 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 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 in keeping with s 122(1)(d) of the *Land Title Act* 1994.

An authorised officer of the Crime and Misconduct Commission or the Commissioner of Police may execute a caveat lodged pursuant to s 58 of the *Criminal Proceeds Confiscation Act 2002*.

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 2002*).

Restraining Order

[11-0066]

Under s 51(5) 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 51(5), an interest sufficient to sustain a caveat in keeping with s 122(1)(e) of the *Land Title Act 1994* exists.

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 instrument in keeping with s 122(1)(d) of the *Land Title Act 1994* (s 142(5) of the *Criminal Proceeds Confiscation Act 2002*).

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 2002*).

¹Adverse 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 1994*); and
- register the applicant as the holder of a lesser interest in the lot (s 107(1)(b) of the *Land Title Act 1994*); 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 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 1994*).

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 104(1) of the *Land Title Act 1994*). The caveat will lapse six months after the notice is given unless the caveator commences proceedings and notifies the Registrar of this within this period (s 105(2) of the *Land Title Act 1994*).

In addition, s 105(3) of the *Land Title Act 1994* 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* 1994). 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* 1994).

Transmission by Death, Application for Substitute Instrument and Dispensing with Production of an Instrument

[11-0080]

Upon request to the Registrar for the following:

- a transmission by death (see part 5, 5A, 6 – Transmission Applications); or
- ²a substitute instrument or to dispense with the production of an instrument (see part 17 – Request for Substitute Instrument or to Dispense with Production of Instrument)

An applicant may be required by the Registrar to give public notice of the 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* 1994). 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* 1994 would be applicable.

Any person with substantive grounds may, by caveat, oppose registration of any of these applications.

Pursuant to ss 114(1) and (2) of the *Land Title Act* 1994, 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* 1994).

Purchaser 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* 1974 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* 1994). 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* 1974 '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* 1974). As a result of s 74(1A) of the *Property Law Act* 1974, the provisions of the *Land Title Act* 1994 in respect of caveats do not apply to caveats lodged under s 74. Section 73 of the *Property Law Act* 1974 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 (eg a lease or easement), the caveat must be withdrawn and a further caveat lodged, as s 129 of the *Land Title*

Act 1994 does not apply. The exceptions to the prevention of registration in s 124(2) of the *Land Title Act 1994* do not apply to caveats lodged under s 74 of the *Property Law Act 1974*.

A caveat lodged under s 74 of the *Property Law Act 1974* must recite that it was lodged pursuant to s 74 of the *Property Law Act 1974* and the date of the instalment contract must also be included in Item 4 of the Form 11 – Caveat. 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 1974* 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 1974* 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.

Interest Holder under a Notice Deposited under the *Water Act 2000*

[11-0095]

Under s 150A(3) of the *Water Act 2000* (the Act) an interest holder in a water entitlement who has given the chief executive a notice under s 101(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 150A 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 150A(3) of the Act).

Under s 150A(4) of the Act the Registrar may only register on a water allocation, a notice mentioned in s 150B(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 affecting the lot 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*).

²Lodgement of a caveat, other than a caveat lodged pursuant to s 150A(3) of the *Water Act 2000*, does not prevent registration of the following:

- An instrument specified in the caveat as an instrument to which the caveat does not apply. The instrument may be identified by 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 to which the caveator has given written consent for its registration.
- An instrument 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 and the caveator claims an interest in the lot as security for the payment of money or money's worth. This exception does not apply to a Registrar's caveat.
- An instrument of 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.
- An instrument 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.

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 each person whose interest or whose right to register an instrument is affected by the caveat (s 123 of the *Land Title Act* 1994).

See further ¶[11-2030].

Caveatee's Notice to Caveator

[11-0120]

The caveatee may serve a notice on the caveator to commence proceedings 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). For further information, see ¶[52-0020].

Caveator's Notice to Registrar

[11-0130]

When proceedings are commenced in a court of competent jurisdiction by the caveator, s 126 of the *Land Title Act* 1994 requires a notice of this fact to be given to the Registrar. See further ¶[11-0170] and also ¶[11-2040].

Caveatee's Proceedings in the Supreme Court

[11-0140]

Pursuant to s 127 of the *Land Title 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 1861*, 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]

Section 129 of the *Land Title Act 1994* provides that 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.

Compensation

[11-0160]

Pursuant to s 130(1) of the *Land Title Act 1994*, a person who lodges or continues a caveat without reasonable cause must compensate anyone else who suffers loss or damage as a result. Section 130(2) of the *Land Title Act 1994* 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 person who lodged or continued it proves that there was reasonable cause (s 130(3) of the *Land Title Act 1994*).

Lapsing 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 1994*, a caveat will not lapse if it is lodged:

- by the registered owner 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 1994*;
- by the Registrar under s 17 of the *Land Title Act 1994*; or
- other than under Part 7, Division 2 of the *Land Title Act 1994*, eg a caveat by a purchaser under an instalment contract.

By virtue of s 122(2) of the *Land Title Act 1994*, a caveat lodged by an equitable mortgagee lapses, even if the consent of the registered proprietor was deposited at the time of lodgement.

Consent 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 lodged 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 lodged with the caveat and the caveator is not an equitable mortgagee (*Caveat No G496816 by AVCO Financial Services Ltd*, Supreme Court of Queensland, unreported, Connolly J, OS No 757 of 1981).

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).

Automatic Lapsing

[11-0190]

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

- Pursuant to s 126(2) of the *Land Title Act* 1994, the caveatee may send to the caveator a notice requiring the caveator to start proceedings in a court of competent jurisdiction to establish the interest claimed under the caveat. The caveatee must notify the Registrar within 14 days of service of this notice upon the caveator (s 126(3) of the *Land Title Act* 1994).
- If the caveator does not commence proceedings in a court of competent jurisdiction within 14 days after the notice is served and notify the Registrar within that 14 day period that the proceedings have been instituted, the caveat will lapse at the expiry of the 14 days (s 126(5) of the *Land Title Act* 1994). Therefore, even if the caveator commences proceedings, but fails to inform the Registrar, the caveat will lapse 14 days after the caveatee's notice was served (s 126(4)(b) of the *Land Title Act* 1994).
- If proceedings are commenced and the Registrar is notified within the required period, the caveat will remain in force until the proceedings are determined by the court or the caveat is withdrawn.
- If the caveatee does not act, the caveator may start proceedings in a court of competent jurisdiction to establish the interest claimed within three months of lodgement of the caveat and must notify the Registrar within that period that proceedings have been initiated (ss 126(4)(b) and 126(4)(a)(ii) of the *Land Title Act* 1994). In this case, the caveat will remain in force until the proceedings are determined by the court or the caveat is withdrawn. If proceedings are not brought within three months, the caveat will lapse.

Removal

[11-0200]

Pursuant to s 127 of the *Land Title 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).

See further ¶[11-2060].

Unregistered Caveat

[11-0220]

See ¶[11-2070].

Cancellation

[11-0230]

Pursuant to s 128 of the *Land Title Act 1994*, the Registrar may cancel a caveat upon receipt of a request to cancel 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 that has been lodged.

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 1994*). If no response is received within the seven days, the caveat will be cancelled.

If an instrument that has been lodged will, on registration, give effect to the interest claimed in the caveat, the Registrar may remove the caveat immediately before registering the instrument (s 128(3) of the *Land Title Act 1994*).

See further ¶[11-2090].

Overriding of Caveat

[11-0240]

²A sale of land or application for registration as owner by a local government under Chapter 14 Part 7 Divisions 3 or 4 of the *Local Government Act 1993* cancels any caveat lodged against the subject land.

²Pursuant 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 as security for the payment of money or money's worth (s 124(2)(c) of the *Land Title Act 1994*). 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 1994*).

Legislation

[11-1000]

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

Under the provisions of ss 150(1) and 151 of the *Water Act 2000*, subject to the exceptions provided in ss 150(2), 151(1) and (5) of the *Water Act 2000*, the *Land Title Act 1994* applies to the registration of an interest or dealings for a water allocation on the water allocations register.

Under s 151(3) of the *Water Act 2000* an interest or dealing mentioned in s 150 may be registered in a way mentioned in the *Land Title Act 1994* and the Registrar of Water Allocations may exercise a power or perform an obligation of the Registrar of Titles under the *Land Title Act 1994*:

- (a) as if a reference to the Registrar of Titles were a reference to the Registrar appointed under Chapter 2 Part 4 Division 6 of the *Water Act 2000*; and
- (b) as if a reference to the freehold land register were a reference to the water allocations register; and
- (c) as if a reference to freehold land or land were a reference to a water allocation; and
- (d) as if a reference to a lot were a reference to a water allocation; and
- (e) as if a reference to an indefeasible title were a reference to a title; and
- (f) with any other necessary changes.

Practice

Requirements of a Caveat

General

[11-2000]

²The Certificate of Title need not be deposited for cancellation with any caveat.

Rejection

[11-2010]

If a caveat is requisitioned pursuant to s 156(1) of the *Land Title 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) of the *Land Title Act 1994*). 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.

Caveats lodged with the consent of the registered proprietor 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. Caveats in this category may be referred to the Senior Land Officer for determination.

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 (ie, at Items 3 and 4 of the Form 11) shows a valid caveatable interest and substantive grounds will be accepted for lodgement. ‘Claims’ (in Item 3) and ‘grounds’ (in Item 4) are scrutinised to ensure that a ‘caveatable interest’ is supported.

Notification of Caveat

[11-2030]

When notifying a caveat under s 123 of the *Land Title Act* 1994, the Registrar only relies on the information provided by the caveator.

The names and addresses of the persons upon whom notices must be served are shown in Items 5 and 6 of the Form 11.

Caveator’s Notice to Registrar

[11-2040]

If a caveator does not want a caveat to lapse the caveator must start proceedings in a court of competent jurisdiction to establish the interest claimed under the caveat, notify the Registrar that proceedings have started and identify the proceedings (s 126 of the *Land Title Act* 1994).

For further information see part 52 – Administrative Advices, esp ¶[52-0010].

Lapsing of Caveat

[11-2050]

A lapsed caveat can be removed from the indefeasible title, whether registered or unregistered. No fee is payable for lapsing.

Lapsed caveats can be removed on production of a completed Form 14 – General Request requesting the removal.

On receipt of a request for removal of a lapsed caveat, the caveat is checked by a Senior Titling Officer to ensure that it has lapsed (see also ¶[11-0170]).

Withdrawal

Registered Caveat

[11-2060]

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). This Form may be signed by a caveator or by the caveator’s solicitor on the caveator’s behalf.

²The Certificate of Title, if issued, is not required to be deposited.

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 (s 159 of the *Land Title 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). The office copy of the order of the court is lodged with a Form 14 – Request to Remove. There is no duty payable on the Request, however normal lodgement fees are payable.

²The Certificate of Title, if issued, is not required to be deposited.

Cancellation

[11-2090]

Any person, including the caveatee, may invoke the provisions of s 128 of the *Land Title Act* 1994 by a Form 14 – Request to Cancel, setting out the grounds for cancellation. Normal lodgement fees apply. A Form 20 – Declaration, supporting the cancellation of the caveat, with relevant documentary evidence, is required.

Forms

General Guide to Completion of Forms

[11-4000]

For general requirements for completion of forms see part 59 – Forms, esp ¶[59-2000].

Dealing Number



OFFICE USE ONLY

Privacy Statement

Collection of this information is authorised by the Land Title Act 1994 and the Water Act 2000 and is used to maintain the publicly searchable registers in the land registry and the water register. For more information about privacy see the department's website.

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

2. Lot on Plan Description LOT 16 ON RP32361	County STANLEY	Parish WARNER	Title Reference 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 JOHN IAN CLEWS 34 LONG STREET WYNNUM QLD 4178	6. Other parties full name and address (eg Mortgagees) 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

20/10/2007
Execution Date

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

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 and postal address of the caveator.

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.

Item 2

[11-4030]

²Freehold Description

The description of the relevant lot/s should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (eg ‘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.

The entire panel of Item 2 must be completed. All information needed to complete Item 2 will appear on a search of the title.

eg	Lot on Plan Description	County	Parish	Title reference
	Lot 27 on RP 204939	Stanley	South Brisbane	11223078

Water Allocation Description

A water allocation should be identified as ‘Water Allocation’, ‘Allocation’ or ‘WA’. A water allocation has no reference to County or Parish, hence these fields are not completed. All plans referring to water allocations are Administrative Plans. Administrative Plan is abbreviated to AP as the prefix of the plan identifier.

All information needed to complete Item 2 will appear on a search of the water allocation title.

eg	Lot on Plan Description	County	Parish	Title reference
	WA 27 on AP 7900			46012345

²If 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).

²A 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.

²If 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.

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 should be clearly expressed and must be related to the fee simple or 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’.

The claim must be precise and be in respect of an interest in the lot.

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:

- in the case of a purchaser ‘pursuant to a contract/agreement in writing dated [date] between [registered owner] as vendor and [caveator] as purchaser’
- in 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 dated [date] charging the property to secure to [caveator] the money therein stated’.

If 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 the full name of each individual registered owner and their postal address.

Item 6

[11-4070]

Insert full name and postal address of any other person, company, institution, etc, having an interest in the land that may be affected by the caveat (eg, the mortgagee).

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 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, eg ‘Transfer from A to B dated [date]’ or ‘any lease by X as lessor’.

¶[11-6000 to 6040] deleted

Case Law

Persons Who May Lodge a Caveat

A 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 Premier Freehold Pty Ltd’s Caveat* [1981] Qd R 547.
- *Re Bosca Land Pty Ltd’s Caveat* [1976] Qd R 19.
- *Re C M Group Pty Ltd’s Caveat* [1986] 1 Qd R 381.
- *Re Dimbury Pty Ltd’s Caveat* [1986] 2 Qd R 348.
- *Nicholson v Fowler* [1981] NSWLR 97.
- *Jessica Holdings Pty Ltd v Anglican Property Trust Diocese of Sydney* [1992] NSW Conv R 55-626.
- *Re Henderson’s Caveat* [1993] Q Conv R 54-450.
- *Re Bluestone Pty Ltd’s Caveat* [1993] Q ConvR 54-447.
- Butt, P, ‘Purchaser under Conditional Contract has Caveatable Interest’ (1993) 67 *ALJ* 295.

Registrar

[11-7010]

See ¶[11-0040].

- Re Caveat No. 735; Ex parte Davenport (1982) 3 QSCR 95.

Registered 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.

Purchaser 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

Consent of Registered Owner

[11-7050]

See ¶[11-0180].

- *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 land registries are subject to an annual review. See the current:

- ²*Land Title Regulation 2005* – Schedule 2, item numbers 2(h), 2(m) and 7; and
- *Water Regulation 2002* – Schedule 16, item numbers 11, 15 and 18.

Cross References and Further Reading

[11-9000]

Part 2 – Mortgage

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]

Note ¹ – This numbered section is not applicable to water allocations or the Water Allocations Register.

Note ² – This paragraph or statement is not applicable to water allocations or the Water Allocations Register.