

# CAV-01 Caveats - overview and purpose

Version 2 - 06/08/2018

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## Verification of Identity

The caveator in an application will be subject to the Verification of Identity process as of 5 June 2018. This process is completed by Australia Post for self-represented parties. Refer to the [Australia Post website](#) to complete your verification of identity. For information regarding the Verification of Identity Practice refer to [Verification of Identity webpage](#) on the Landgate website.

[1 New paragraph added on 06/08/2018]

## 1 Overview

The word caveat is not expressly defined in the Transfer of Land Act 1893 (TLA), but means generally a caution or warning. 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 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 (the latter being commonly called a subject to claim caveat).

## 2 Purpose

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.

Under s.138 of the TLA 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the caveator to appear before the Supreme Court or a Judge in chambers to show cause why the caveat should not be withdrawn.

Section 140 of the TLA provides that a caveator lodging a caveat without reasonable cause shall be liable to pay such compensation for damage caused as a Judge on a summons in chambers may order.

### 3 Also see

[- CAV-02 Caveats - further reading](#)

[- CAV-03 Caveats - types of](#)

[- CAV-04 Caveats - document preparation and lodgement](#)

[- CAV-05 Caveats - removal](#)

[- CAV-06 Caveats - removal - document preparation lodgement](#)

[- Guides for Lodging or Removing a Caveat](#)

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