CAV-06 Caveats - removal - document preparation and lodgement

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Verification of Identity

The caveator in any caveat document and withdrawal of caveat document will be subject to the Verification of Identity process as of 5 June 2018 refer to Verification of Identity webpage

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 What do I need for the Withdrawal of Caveat?

- Title Search (recommended) - used to complete the caveat form

- Forms - caveat form Withdrawal of caveat/Application (21 days) to remove caveat

- Any evidence to support the removal (including original statutory declarations if required)

- Registration fees payable to Landgate

1.1 Title Search – a copy of the current Original Certificate of Title

A record of certificate of title search is recommended, but not compulsory, as the search provides you with a complete up to date view of the current ownership and legal property details.

1.2 Withdrawal of caveat form
Withdrawal of Caveat forms are available from a Landgate office or online from the Landgate Website.

Withdrawal of Caveat W1 can be lodged electronically.

See requirements to format in the Document Preparation section.

2 Preparing the Withdrawal of Caveat form

In addition to the below information, please refer to: DOC-01 Document Preparation.

2.1 Description of Land/Extent

Over Whole

As per the standard document preparation guide

Over Part

A part of a caveat can be removed where it is followed by a subdivision. The portion(s) must be clearly defined on an Interest Only Deposited Plan.

Where the portion is over portion of the land, the ‘Extent’ panel should state ‘Part’.

Over an Interest

Where the interest claimed is against a mortgage, lease or charge, the appropriate 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.

2.2 Volume / Folio

As per the standard document preparation guide

2.3 Caveator

The true name of the caveator must be stated.

The Caveator is not required to include:

- their address

- their status, such as ‘As Trustee for....’. However, they can include ‘trading as ....’ or ‘as the partners of ....’.

2.4 Caveat Number
The caveat number as shown on the certificate of title must be clearly stated, N123456 or year document 152/1952.

2.5 Whole or Part of the Land in the Caveat

Where the whole of the interest in the caveat is being removed this panel should state ‘Whole’. Where only portion of the part caveat is being removed, this panel can state ‘Part’.

Note: Care must be taken, as any ambiguity will result in the document being requisitioned.

2.6 Who can sign the Withdrawal Caveat?

The withdrawal of caveat document must normally be signed by the Caveator or by their duly appointed representative i.e. their attorney appointed in a Power of Attorney.

The exception to this is where a caveat has been lodged by a purchaser pursuant to a sale of land on terms and a transfer of the same land to the caveator is being lodged, it is permissible for the solicitor lodging the transfer to sign the withdrawal on behalf of the caveator, provided the transfer and withdrawal of caveat are lodged together.

In these cases, the withdrawal should be drawn in the name of the caveator and the attestation should indicate that the solicitor signs as solicitor for the caveator. The signature of the solicitor must be witnessed in the usual manner.

See also: SIG-01 Signing of Documents.

3 Lodging the withdrawal of Caveat

Each interest being removed incurs a standard lodgement fee.

4 Preparing the Application to Remove Caveat form

In addition to the below information please refer to:

See also: DOC-01 Document Preparation.

4.1 Application to Remove Caveat form

Application (21 days) to remove caveat forms are available from a Landgate office or online from the Landgate Website.

See requirements to format in the Document Preparation section.

4.2 Description of Land / Extent

Over Whole or Part
The removal of a caveat using this method will result of the whole caveat being removed from the certificate of title.

Where the caveat encumbers more than one certificate of title, the application can list more than one property.

Over an Interest

Where the interest claimed is against a mortgage, lease or charge the appropriate 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.

4.3 Volume/Folio

As per the standard document preparation guide

4.4 Applicant

The Applicant is the registered proprietor of the land affected by the caveat. The Applicant must also state their address for service of notice.

Where the Applicant is the Mortgagee in Possession, they must make the application in the name of the registered proprietor of the land affected by the caveat, but signed by the mortgagee under its power to dispose of ownership pursuant to s.108 of the TLA. The application is to be accompanied by a statutory declaration.

For example: ‘Commonwealth Bank of Australia (ACN....) of ... for and on behalf of ... as Mortgagee in Possession’

4.5 Reason for Application

The only element required for this panel is the caveat number as shown on the certificate of title must be clearly stated, N123456 or year document 152/1952.

Note: Only ONE caveat can be removed using this Form. Where the Registered Proprietor wishes/needs to remove multiple caveats, separate forms must be used.

4.6 Who can sign the Application?

The Application is normally signed by the registered proprietor of the land against which the caveat is lodged or by his or their duly appointed representative i.e. their attorney appointed in a Power of Attorney.

Where the application is made by the Mortgagee in Possession the application is normally signed by the Mortgagee’s representative under Power of Attorney.
5 Also see

- **DOC-01 Document Preparation**
- **CAV-01 Caveats - overview**
- **CAV-02 Caveats - further reading**
- **CAV-03 Caveats - types of**
- **CAV-04 Caveats - document preparation and lodgement**
- **CAV-05 Caveats - removal**
- **Guides for Lodging or Removing a Caveat**