



THOMSON REUTERS

# Update Summary

PLEASE CIRCULATE IMMEDIATELY!

**UPDATE 192**

**MARCH 2025**

## **BAALMAN AND WELLS LAND TITLES OFFICE PRACTICE**

**Frank Ticehurst**

Currently updated by

**Greg Stilianou**

**Material Code 42725320**

**Print Post Approved PP255003/00332**

© Thomson Reuters (Professional) Australia Limited 2025

### **Looseleaf Support Service**

You can now access the current list of page numbers at:

<http://www.thomsonreuters.com.au/support/product-support.aspx?id=/mediaTree/58599>. If you have any questions or comments, or to order missing pages, please contact Customer Care LTA ANZ on 1300 304 195 Fax: 1300 304 196 Email: [Care.ANZ@thomsonreuters.com](mailto:Care.ANZ@thomsonreuters.com)

## UPDATE COMMENTARY

Greg Stilianou has provided new and updated commentary to the following chapters:

- Ch 3 - Caveats
- Ch 5 – Corporations (Aboriginal corporations)
- Ch 9 – General Register of Deeds

A summary of the updates in the attached files follows:

### **Ch 3 – Caveats**

In the last update, he had commenced the overhaul of the “Caveats” chapter so that it would be revised in modern language and clearer expression, the commentary was fleshed out to be more practically useful and current with the latest judicial commentary. In that regard, the revised and new commentary to the chapter will include reference to 40+ key Court decisions that were not previously included in the chapter.

In this update, he has continued his review of the chapter, and deals with the following subject matters:

- Caveats Against Dealings
  - Caveat requirements: strict compliance with formalities not necessary
  - Duty assessments
  - lodgment of a caveat
  - Caveat effective from lodgment
  - Recording a lodged caveat in an ordinary folio of the register
  - Recording a lodged caveat in a lease folio of the register
  - Assessing the prohibitive effect of a lodged caveat
  - Mortgage sales and caveats
  - Caveator consent to registration
  - Restrictions on lodgment of further caveats
- Removal of caveats
  - Processes for removing caveats
  - Withdrawal of caveats
  - Court orders for removing caveats

- Lapse of caveat upon acquisition of claimed interest
- Overview of the lapsing notice process

The remainder of the chapter will be updated in a forthcoming update.

### **Ch 5 – Corporations (Aboriginal corporations)**

Updates have been made to this chapter to account for the changes made to the *Aboriginal Land Rights Act 1983* as a result of the commencement of the *Aboriginal Land Rights Amendment Act 2022* on 25 November 2022. The updates relate to land dealings entered into by an Aboriginal Land Council (ALC) and include:

- purchase price must not exceed 15% of market value,
- processes about amending land dealing approvals, and
- execution of documents by a Local ALC and the NSW ALC.

To give context to the chapter, he has taken the opportunity to add content about:

- the preamble to the *Aboriginal Land Rights Act 1983*,
- the purpose of the *Aboriginal Land Rights Act 1983*,
- the objects of a Local ALC, and
- the functions of a Local ALC.

He has also added content about the introduction of section 42M of the *Aboriginal Land Rights Act 1983* (on 31 March 2010) and its requirement for a Registration Approval Certificate (or a statement of non-requirement) to accompany a land dealing, and how that provision now overrides the decision in *Koompahtoo Local Aboriginal Land Council v KLALC Property Investment Pty Ltd* [2008] NSWCA 6 (that a land dealing by an ALC in contravention of s 42D or s 42E is void).

### **Ch 9 – General Register of Deeds**

Updates have been made to this chapter to account for the changes made to the *Conveyancing (General) Regulation 2018* as a result of the commencement of the *Conveyancing (General) Amendment (Miscellaneous) Regulation 2023* on 13 October 2023. The object of the amending Regulation was to:

- clarify how the Registrar-General allocates distinctive references to instruments lodged for registration in the General Register of Deeds electronically, and
- require the Registrar-General to give persons who lodge instruments electronically a copy of the registered instrument, and

- remove the requirement for the appointment of a receiver of land to be registered in the General Register of Deeds.