

## FAQs – Removal of Restrictions

August 2020

### What are s77A and 77B restrictions?

When certain perpetual Crown leases were converted to freehold title it was a requirement that notations were placed on title to restrict or maintain certain activities to protect and conserve the natural environment. The restrictions or covenants were placed on title under Sections 77A and 77B of the *Crown Lands Act 1989* at the time of conversion as agreed to by the title holders.

### What if I want to remove s77A and 77B restrictions?

You will need to complete both application forms as there is not a form for both.

### Can I use these forms to apply to remove other notations/restrictions/covenants on title?

No, these forms are specifically for application/s to remove s77A and/or s77B restrictions

## **Removal of Restrictions on use (s77A)**

### Am I eligible to apply to remove the s77A restriction from my title?

Yes. Title holder/s of lands subject to s77A restrictions can formally apply to remove the restrictions.

### What happens if my land is deemed sensitive?

The application will be referred to Department of Energy, Environment and Science (EES) for consent. Once the response is received from EES the application will be progressed/finalised, with no guarantee of the outcome.

### How do I know if my land is sensitive?

Sensitive land is that which has any boundary adjoining or within 100m of any National Park Estate land, including National Park, Nature Reserve, Wilderness Area, Declared Wilderness Area, State Conservation Area and Aboriginal Place. The application is subject to assessment with no guarantee of the outcome.

### How do I check sensitivity?

Contact EES/NPWS or use NPWS App and SixMaps to confirm sensitivity prior to applying.

### Can I apply to vary or modify the restrictions?

No, there is only provision to apply to fully remove the restrictions from the affected title.

### Who can complete and lodge the application?

The application must be completed and signed by the current title holder/s of land subject to a s77A restriction or a solicitor/conveyancer instructed to act on behalf of the holder/s. Crown Lands

## Frequently asked questions

strongly advises engaging a solicitor/conveyancer to lodge the application and liaise with the department throughout the full application process.

### Where can I find an application form?

The application form is located on the Crown Lands website:

[https://www.industry.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0017/144350/Lease-perpetual-removal-of-restrictions-on-use-application.pdf](https://www.industry.nsw.gov.au/__data/assets/pdf_file/0017/144350/Lease-perpetual-removal-of-restrictions-on-use-application.pdf)

### How much will it cost?

The current application fee is listed on the form and is subject to change each financial year. The application form is updated on the Department's website every year to ensure the current fee is indicated.

### Where do I send my application form once complete?

The address for lodgement of the form and fee payment is indicated on the current form on the website link indicated above.

### How do I pay the application fee?

The application fee must be paid by cheque or money order **only** – refer to the details/instructions listed on the application form.

### How long will it take to process my application?

Approximately 2 weeks from date of receipt by Crown Lands for non-sensitive land and approximately 8 weeks for sensitive land (subject to EES timelines).

### Can I use one form and fee payment for multiple titles?

No, separate forms and fees are required for each land title (former Perpetual Lease).

### If my application is approved, what happens next?

If approved, the applicant/title holder/solicitor/conveyancer will be provided with a dealing document to be lodged with Land Registry Services (LRS) to remove the restriction from title. LRS will charge dealing lodgement fees, payable directly to LRS at time of lodgement.

### How is the dealing lodged at LRS?

Generally, via a secure/internal delivery system (DX) by a registered lodging agent. The department recommends engaging the services of a solicitor or conveyancer for secure lodgement. Alternatively, you can contact LRS to discuss other suitable options, an individual is unable to post/mail the dealing.

### What can I do on the property when the restrictions have been removed (what rules apply)?

You will need to comply with all rules and regulations in accordance with any relevant legislation, including Forestry Rights, Biodiversity Conservation Act & Local Land Services Act.

## Can I apply for a Private Native Forestry (PNF) Agreement with Local Land Services (LLS) if my title has s77A restrictions?

No, you will need to apply to remove the restrictions.

## Review of the removal of restriction on subdivision and/or separate dealing (s77B)

### Am I eligible to remove the s77B restriction from my title?

Yes, the current title holder/s of lands subject to s77B restrictions can formally apply to have the restriction reviewed for removal; subject to a formal assessment process with no guarantees of the outcome.

### Where can I find an application form?

The application form is located on the Crown Lands website:

[https://www.industry.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0007/144349/Lease-perpetual-lease-subdivision-restrictions-review-application-form.pdf](https://www.industry.nsw.gov.au/__data/assets/pdf_file/0007/144349/Lease-perpetual-lease-subdivision-restrictions-review-application-form.pdf)

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### Can I use one form and fee payment for multiple titles?

No, separate forms and fees are required for each land title (former PL).

### Do I need to submit a plan of subdivision with my application?

Yes, applications to remove the s77B subdivision restriction will require a plan for assessment.

### Why do I need in-principle support from Council for the proposal?

Whilst not critical for the application it is in the best interest of the holder to determine if the proposal will be supported by Council and is allowable prior to investing time & money developing a plan and applying for removal of restrictions.

### Are there any other supporting documents required?

The application form lists the supporting documents that are generally required; these may vary from case-to-case. Separate dealing applications do not require a plan.

### Does approval of the application provide consent for a proposed subdivision?

No, approval to remove the s77B subdivision restriction simply allows the proposal to be considered by Council under a DA process.

If the land is not deemed sensitive (sensitive land is defined as land which is within 100 metres or adjoining the National Park Estate) an assessment will be undertaken by Crown Lands staff to determine if the restriction can be removed. If the land is deemed sensitive a referral will be sent upon receipt of the application to Department of Environment, Energy and Science (formerly Office of Environment and Heritage) for assessment as concurrence from the Minister for Environment is required prior to Crown Lands administering the dealings for removal if successful.

### Can I apply to remove s77B subdivision and separate dealing restrictions from my title using one form/fee payment?

Yes, if your title has both s77B restrictions you can apply to remove both using the same form and single fee payment.

### If the separate dealing application is approved will separate titles be created automatically?

No, you will need to apply to LRS for the creation of separate titles using the relevant form.

### Does the department need to sign the plan of subdivision?

No, the department is not responsible for approving the plan or development consent, only facilitating the removal of the s77B restriction/s.

### What if my plan only involves a minor boundary adjustment or consolidation?

The s77B restriction on subdivision will need to be removed prior to lodgement of any boundary adjustment or consolidation plans.