

Old System conversion or removal of a caution by an official search

An official search of the Old System Deeds Register is one undertaken by qualified Land and Property Information (LPI) staff which will, wherever possible, extend to a **good root of title** sufficient to prove uninterrupted ownership. The official search can be used as the basis for issue of:

- a Limited title
- a full Torrens title
- the removal of a caution from an existing Qualified Torrens title.

This method of title conversion can provide an alternative to conversion by primary application.

The conversion of Old System title to fully guaranteed Torrens title or the removal of a caution is complex and time-consuming. Official searches will be completed (as far as possible) on a first-come first-served basis, the Registrar General accepts no responsibility for any delays.

Possession excluded

An official search cannot be used where ownership is based on possession, or if there is evidence of adverse occupation. For example:

- where the title has a Caution under Section 28J (1b)
- the plan or identification survey indicates that the land may be adversely occupied
- the official search raises doubts about the owner's title.

In these cases a primary application should be used.

To request an official search

Complete the attached forms:

- Application for official search
- the statutory declaration confirming ownership
- consent of mortgagee if necessary.

Lodge the forms by hand at:
Land and Property Information
1 Prince Albert Road
Queens Square
Sydney NSW 2000

Alternatively you can mail the forms to:
Land and Property Information
GPO Box 15
Sydney NSW 2001

Where the search involves party walls additional search fees will apply as the search will be extended to confirm the uninterrupted enjoyment of that right.

An undertaking to pay **all** fees incurred by the search is incorporated in the application form and must be completed.

A letter detailing the result, the fees and other requirements will be sent on completion of the search.

Using an official search as the basis for Old System title conversion

An official search may be used to convert Old System land to a limited Torrens Title.

If the search is satisfactory, a departmental plan will be drawn to show the deed boundaries and a title will issue with a limitation regarding the boundaries.

If lodged in conjunction with a plan of delimitation and if the search and plan investigation are satisfactory it may be possible to issue a full Torrens title see **Removal of limitation and exemptions from new plans.**

Removing a caution from a qualified Torrens title

The application for official search form may also be used to request removal of a caution recorded on a qualified Torrens title. In addition to the lodgment of the application forms, if the title has no limitation the application may require:

- a survey report and identification survey prepared by a surveyor that specifies the age and nature of all buildings, fences and occupations existing on the land and their relationship to the parcel boundaries.

For further information please contact the Manager, Old System Plans E: plan-info@lpi.nsw.gov.au.

See **Exemptions from new plans of survey**.

Lodgment of a cancellation

Following completion of a satisfactory search, the applicant will be asked to lodge:

- the qualified Torrens title and
- a *Cancellation of caution* (form 17CC) with
 - *part (c) of a statutory declaration at (E) completed on the manual form or
 - *item 28MC [based on Official Search] of the statutory declaration at (E) complete on the interactive form.

A standard lodgment fee is charged.

For further information on removal of cautions generally refer to paragraph 485.300 in *Land Titles Office Practice* by Baalman and Wells.

Removing a limitation notification from title

The applicant may do one of the following to remove a limitation notification from a Certificate of Title.

1. Lodge a new deposited plan of survey at the same time as the official search.
2. Apply for an exemption.

Exemptions from new plans of survey

Subject to the written approval of the Manager, Old System Plans LPI, a new plan of survey is not required where the subject parcel is a lot in:

- a registered deposited plan of survey made within 12 years of the date of lodgment or the land is surrounded by registered deposited plans

of survey made within 12 years of the date of lodgment, there must be no conflict between the surveys represented in these plans

- a registered deposited plan of survey more than 12 years old and evidence is furnished that the land and adjoining lands are vacant and unfenced
- a registered deposited plan of survey more than 12 years old, the land is fenced and the consents of all adjoining owners to the plan and the position of the occupations/fencing shown thereon are furnished
- a registered compiled deposited plan based on a prior registered deposited plan of survey made within 12 years from the date of lodgment
- a registered compiled deposited plan and is surrounded by registered deposited plans of survey made within 12 years of the date of lodgment, there must be no conflict between the surveys represented in these plans.

Further information

Inquiries regarding Old System conversions or removal of a caution should be made by contacting the Customer Service Centre T: 1300 052 637 or E: plan-info@lpi.nsw.gov.au

Disclaimer

This fact sheet must not be relied on as legal advice. For more information about this topic, refer to the appropriate legislation.
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Customer Services

T 1300 052 637
T +61 2 9228 6666
F +61 2 9233 4357
www.lpi.nsw.gov.au

Official Search No:

Date:

Application for an official search (removal/creation purposes)

A separate form is required for each search

Applicant(s)

Lodging Party: Reference:

Address/DX/Delivery Box:

Post Code: Telephone: Fax:

I/We request an Official Search or a continuation of Official Search No. to enable:

- Removal of Caution from Qualified title F.I. / Vol Fol
- Creation of a Non-Qualified folio of the Torrens Register for the land in Book No

If the land forms only part of the above deed please complete the relevant details below:

Lot No Section No Plan Town

Portion Parish County

Other relevant information:

Official Searches will be completed (as far as possible) on a first come first served basis, the Registrar General accepts no responsibility for any delays.

Undertaking to pay fees

I/We undertake to pay, upon request, all search and investigation fees incurred.

Signature Date

Office use only

Department Dealing Prepared Initial Fee: \$.....

CA No. Docket No.

Plan No. Total Fee: \$

Dealing No. Balance: \$

Reference Map: Docket No.

This form, together with the statutory declaration and mortgagee's consent, if necessary, should be lodged at Land and Property Information, 1 Prince Albert Road, Sydney or mailed to Land and Property Information GPO Box 15, Sydney NSW 2001.

Statutory Declaration

Oaths Act 1900, NSW, Eighth Schedule

I/ We

Do solemnly and sincerely declare that:

1. That the estate in fee simple in the land comprised in Deed(s) Book No..... or Qualified Title F.I. / or Volume Folio is vested in
2. So far as I am/we are aware:
 - a) Choose one of the following.
 - i) There is no person in possession or occupation of the said land or any part thereof adversely to the estate or interest of the registered owner(s).
 - ii) Apart from the adjoining owner(s) who may be in possession or occupation of part of the land as shown in DP...../ Attached Identification Survey, there is no person in possession or occupation of the said land or any part thereof adversely to the estate or interest of the registered owner(s).
 - b) There does not exist any lease or agreement for lease of the said land for any term exceeding a tenancy for one year, or from year to year, other than any registered in the General Register of Deeds or as set out below.
 - c) There does not exist any right of way, right of drainage, cross easements in respect of party walls or other easement affecting the said land.
 - d) There does not exist any mortgage, restrictive covenant, lien, writ of execution, order, charge, encumbrance, will, settlement, deed, writing, contract or dealing giving any right, claim or interest in the said land, or any part thereof, to any person other than any registered in the General Register of Deeds or as set out below.
 - e) There is no resumption or instrument whereby minerals or substrata have been excepted or reserved to any person, other than any registered in the General Register of Deeds or as set out below.
3. The Applicant(s)/I/We have not become bankrupt or assigned their/my/our estate for the benefit of creditors.
4. I/We make this solemn declaration conscientiously believing the same to be true and by virtue of the *Oaths Act 1900* and I/We hereby undertake to notify the Registrar General promptly of any further interest in the said land created after the execution of this declaration.

Declared at: on
Place Date

.....
Signature of Declarant

in the presence of an authorised witness, who states:

I, , a
Name of Authorised Witness Qualification of Authorised Witness

certify the following matters concerning the making of this statutory declaration by the person who made it: [* please cross out any text that does not apply]

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR *I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was
Describe Identification Document relied on

.....
Signature of Authorised Witness

.....
Date

Consent of mortgagee

..... being the mortgagee under

mortgage registered, hereby joins and consents to:

- The creation of a non-qualified folio of the Register subject to a notification relating to such mortgage being entered on the Certificate of Title to issue.
- Removal of Caution from qualified folio of the Register subject to a notification relating to such mortgage remaining on the new edition of the Certificate of Title to issue.

and the delivery of the Certificate of Title to

.....

.....

Witness

.....

Mortgagee