

Minister's consent to transfer a Crown land lease by assignment or change of control

Depending on the conditions of the lease and notifications on the NSW Land Title Register, you may need to obtain the consent of the minister to transfer a Crown land lease by assignment or change of control. Use this form to seek the minister's consent to transfer a lease by way of assignment or change of control.

In completing the form, the following terms of reference are used:

- 'Transferor(s)' refers to the current holder of the lease seeking the minister's consent to transfer the Crown land lease by assignment or change of control
- 'Transferee' refers to the party or person to whom the Crown land lease is to be transferred
- 'Department' refers to the Department of Planning and Environment—Crown Land
- 'Change of control' means a change in a tenant's business structure enabling:
 - the appointment or control of more than 50% of the number of directors of the holder's board
 - the exercise (directly or indirectly) of more than 50% of votes entitled to be cast at any general meeting of the holder
 - the holding of more than 50% of the issued share capital of the holder (other than shares issued with no rights other than to receive a specified amount in distribution).

The transferor and transferee must sign this form. The transferor must lodge the form.

A deed of consent and assignment is required between the transferor, the transferee and the Department to capture the obligations of the parties and the minister's consent. Upon receipt of an application and assessment of the supporting documentation, the deed will be drafted and provided to the parties for consideration.

The department will consult Liquor & Gaming NSW for any application to transfer a lease of a licensed premises before undertaking any further assessment.

For additional information on the minister's consent to transfer by assignment or change of control, refer to Guideline—Management of Crown land leases, www.industry.nsw.gov.au/_data/assets/pdf_file/0007/284389/Guideline-Leasing-Crown-Land.pdf

Lodgement

Email: leasing@crowmland.nsw.gov.au

Upon receipt, a tax invoice will be issued for the prescribed fee

Fee

There is a non-refundable fee of \$308.00. The department will not assess an application until the fee is paid.

More information

Phone: 1300 886 235

Email: leasing@crowmland.nsw.gov.au

Web: www.industry.nsw.gov.au/lands

Type of request

Please check the relevant box to indicate if this application is for:

Transfer by assignment | Transfer by change of control

Details of the transferor

For a business entity

Tick if transferor is a **business entity**. If so, please complete section below.

Entity name	
ABN/ACN	
Address	
Contact name and role	
Email address	
Telephone	
Mobile	

For individuals or sole traders

Tick if transferor is an **individual or sole trader**. If so, please complete section below.

Salutation	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Miss <input type="checkbox"/> Dr <input type="checkbox"/> Other _____
Given name	
Family name	
Home address	
Postal address	
Email address	
Telephone	
Mobile	

Details of authorised representative for the transferor (if applicable)

I authorise the following representative to act on my behalf in managing my application (for example, if you have instructed a solicitor to act for you)

Salutation	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Miss <input type="checkbox"/> Dr <input type="checkbox"/> Other _____
Given name	
Family name	
Entity name	
Relationship to applicant eg Lawyer	
Email address	
Telephone	
Mobile	

Details of the transferee

For a business entity

Tick if transferee is a **business entity**. If so, please complete section below.

Entity name	
ABN/ACN	
Address	
Contact name and role	
Email address	
Telephone	
Mobile	

For individuals or sole traders

Tick if transferee is an **individual or sole trader**. If so, please complete section below.

Salutation	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Miss <input type="checkbox"/> Dr <input type="checkbox"/> Other _____
Given name	
Family name	
Home address	
Postal address	
Email	
Telephone	

Lease to be transferred

Crown lease account	
Lot/DP	
Current use of land	
Proposed use	
Lease expiry date	
Date of proposed transfer	
Is the lease area licensed with Liquor and Gaming NSW?	

Experience and capability

Evidence of the transferee's skills, qualifications and work experience to meet the obligations of the lease

Please give details of any similar business activities or projects in which the transferee has had significant and direct involvement. Please include in this description, name, and location of business activity or/project(s), contact details of key personnel involved, and names and contact details of any regulatory agencies involved in these projects.

Financial capability

Evidence of transferee's capacity to finance the operation of the business or activity and any proposed capital works

Application requirements

Please tick each box to confirm you have included the documents to support the application.

For all transferees

For each individual transferee or each office bearer of a business entity transferee:

- Current Australian driver's licence or other government-issued photo identification showing current residential address
- Current Australian or foreign passport
- Completed **Appendix A—Fitness to hold Crown tenure** for **each** individual transferee or each office bearer of a business entity transferee
- Evidence of the transferee's financial capacity, which may include evidence of a lender's commitment to fund capital works including the proposed split of debt and equity
- Details of significant events, including pending litigation, which may affect the transferee's financial or business capacity
- Certified copy of all contracts for the transfer of the lease, sale of the business, transfer of capital or any other associated agreement to be assigned in addition to the lease
- Evidence of required public liability insurance
- Two referee statements attesting to the business capability and experience of the transferee, appropriate to lease purpose
- Prescribed fee detailed on page 1 of this form

For individuals/sole trader transferees

- Copy of tax returns and statements of net worth for the past three years

For business entity transferees

- Current business partnership deed
- Current and historical company extract
- Current certificate of incorporation of an association
- Current certificate of registration of a cooperative
- Current trust deed (if applicable)
- Statements from financiers confirming financial arrangements
- For companies, trusts, joint ventures and consortia: For each legal entity, provide a copy of annual reports, including profit and loss statements and balance sheets for the past three years.
- For joint ventures, partnerships or consortia: Evidence of the business relationship between the participants, including copies of any agreements.
- Other transferee types: Evidence of current financial status and financial performance for the past three years.

Additional Application Requirements (as applicable):

- Site plans and layout
- Building inspection report
- Safe food handling certificate
- Aquaculture Permit
- Liquor Licence
- Registered power of attorney
- Details of any subleases or licenses to be transferred
- For change of control: Diagram of the corporate structure of the current and proposed shareholdings and a copy of the proposed share transfer
- For uses where there is a potential risk of contamination and/or changed environmental conditions, an environmental site assessment and management plan prepared in accordance with NSW Environment Protection Authority guidelines by a certified environmental consultant identifying existing environmental conditions, potential effects of the proposed use and the controls proposed to minimise impacts and comply with environmental protection legislation. Examples of uses where this requirement applies include boating facilities, marinas, slipways, storage of fuel or chemicals and extractive industries. For more information, please contact the department before lodging your application.

Additional Application Requirements – Fitness to hold a Crown Tenure

Copies of documents relating to any of the following matters occurring within the past 10 years:

- Insolvency or bankruptcy
- Voluntary or Involuntary Administration, receivership or liquidation
- Crown Lands compliance action or debt management action
- Original (or certified copy) National Police Check issued by the Australian Federal Police, and if the individual has been in a country other than Australia for 12 months or more preceding the application, the original (or certified copy) criminal records checks issued by the authorities in that country.

Additional Information – Foreign entity or individual

- Copies of documents relating to any foreign ownership, interest or investment and relevant approvals:
 - a) An individual or an entity is a “foreign person” or a “foreign entity” if: an individual not ordinarily resident in Australia; or
 - b) a corporation in which an individual not ordinarily resident in Australia, a foreign corporation or a foreign government holds a substantial interest; or
 - c) a corporation in which 2 or more persons, each of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign government, hold an aggregate substantial interest; or
 - d) the trustee of a trust in which an individual not ordinarily resident in Australia, a foreign corporation or a foreign government holds a substantial interest; or
 - e) the trustee of a trust in which 2 or more persons, each of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign corporation or a foreign government, hold an aggregate substantial interest; or
 - f) a foreign government; or
 - g) any other person, or any other entity that meets the conditions, prescribed by the regulations of the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

Declaration of transferor (to be signed by each holder)

I declare:

- I am 18 years of age or over and am the current holder(s) of the Crown land lease
- I understand that any rebate or waiver in rent (if applicable) will cease on the transfer
- I have accurately completed the application regarding the transferee(s)
- I am liable to pay any additional costs associated with assessing this application, which may include search fees, inspection costs, legal fees, costs associated with production of certificates of title and the procurement of any specialist advice. The department will notify me of estimates of additional costs before proceeding.

Name	Position held (if applicable)	Signature	Date

Declaration of witness

This declaration was made before me at	
This	day of 20
Name	
Address	
Signature	
Date	

Declaration of transferee

I declare:

- I am 18 years of age or over and am the proposed transferee(s)
- The information included in support of this application accurately represents my business and financial capacity and my experience
- I understand and agree to abide by the obligations set out in the subject Crown land lease
- I understand that any rebate or waiver in rent applied to the lease (if applicable) will cease on the transfer
- I acknowledge the terminating date of the subject lease and that, unless specified in the lease, there is no right of renewal or extension
- I acknowledge that any discussions between the transferor and the department regarding variation of the lease or negotiating of a new lease are personal to the transferor and will terminate on transfer of the lease.

Name	Position held (if applicable)	Signature	Date

Declaration of witness

This declaration was made before me at	
This	day of 20
Name	
Address	
Signature	
Date	

Appendix A—Fitness to hold a Crown Tenure

Under the department’s Leasing of Crown Land Policy (IND-0-253), a lease may only be granted to a transferee who can demonstrate that they meet the ‘fit and proper’ criteria.

Please answer **yes** or **no** to each of the following questions asked in relation to **each** of the individuals, signatories and office bearers who are party to this application.

Name:	Position:
In the past 10 years	
Yes or No?	
Have you become insolvent, been declared bankrupt or sought protection from bankruptcy laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you entered into voluntary or involuntary administration, receivership or liquidation of a business?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you been banned or disqualified by the Australian Securities Investments Commission from being a company director or holding office of an Australian company or other business entity?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you had compliance action taken against you by NSW Crown Lands (including termination of a tenure for non-compliance, debt management or other compliance action)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you been convicted of a serious offence in Australia or overseas? If yes, see “Additional Application Requirements – Fitness to hold a Crown Tenure - National Police Check”.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you, the individual or entity, considered a “foreign person” or “foreign entity”? (Refer to definition in “Additional Information – foreign individual or entity”)	<input type="checkbox"/> Yes <input type="checkbox"/> No

If you have answered YES to any of the above questions, please attach records providing details of the circumstances - See Additional Application Requirements and Information.

Any information you provide in relation to any of these questions will be managed strictly in accordance with the Department’s Privacy Policy and your application will be considered respectfully and objectively on its merits.

Office use only—refer to receipting and referrals codes document						
<input type="checkbox"/> DO	Referral code	Leasing	Receipting code	TEN/MC/TFER	CM9	
Fee paid			Receipt #		Account#	
Date						

Information from this form is collected for the purpose of assessing your application. The supply of this information is voluntary. Your information will be stored and managed in accordance with the provisions contained under the *Privacy and Personal Information Protection Act 1998* and the *State Records Act 1998*. It will not be used for any other purpose and will not be given to any other third party except where required by law.