



James Williams (Bel's Oysters)

Crown Lands Tenure Issues in the Shoalhaven

Introduction

- My name is James Williams, I am an oyster farmer speaking today about Crown Lands tenure issues in the Shoalhaven/Crookhaven estuary.
- Views expressed in this presentation are based on my own experiences and opinions, and do not constitute advice for others (legal or otherwise).

Background & Context

- Four Ha oyster depot located on Shoalhaven/Crookhaven River divided into 20 sub blocks
- Depot site was bought freehold by Crown Lands for oyster farmers in 1982
- Canal, land reclamation, roads, power and water were paid by oyster farmers
- Crookhaven Oyster Farmers (COF) is the head lease holder, 10 years into a 25 year special lease with option to extend for another 25 years



Land Tenure Issues

- In 2021 Crown Lands advised COF of a number of compliance issues including selling oysters to the public, farm buildings without Development Approval and the lack of valid subleases under the main COF head lease
- Crown Lands instructed COF to urgently apply for Minister's Consent for the 20 subleases as a matter of priority
- In 2022 all 20 sublease applications were returned/rejected, with no explanation
- Application process cost COF \$25,000 in legal fees

Land Tenure Issues

- COF have attempted to comply with Crown Lands instructions including obtaining Council DA, but obtaining DA requires land owner's consent
- Crown Lands will not give landowner's consent, one reason they give is that as with most of NSW there is an Aboriginal Land Claim over the depot site (see next slide!)
- Interestingly Crown Lands have said they would consider an unsolicited offer from COF to purchase the depot site, which would allow oyster farming activities to continue

Aboriginal Land Claim

- Jerrinja LALC lodged a land claim over the depot site in 2016
- Clearly the intent of 1983 ALRA is to ensure that Crown Land is being lawfully used or occupied is not claimable
- Even though COF has lawfully leased the site for 40 years under a 25 year lease, Crown Lands view is the use may not be 'lawful' due to compliance issues including retailing oysters, shipping containers, awnings etc without DA
- Crown Land's circular logic has placed us in an unwinnable situation

Claimable Crown land

Section 36(1) of the *Aboriginal Land Rights Act 1983* states that:

'claimable Crown lands means lands vested in Her Majesty that, when a claim is made for the lands under this Division:

- (a) *are able to be lawfully sold or leased, or are reserved or dedicated for any purpose, under the Crown Lands Consolidation Act 1913 or the Western Lands Act 1901*
- (b) *are not lawfully used or occupied*
- (b1) *do not comprise lands which, in the opinion of a Crown Lands Minister, are needed or are likely to be needed as residential lands*
- (c) *are not needed, nor likely to be needed, for an essential public purpose*
- (d) *do not comprise lands that are the subject of an application for a determination of native title (other than a non-claimant application that is an unopposed application) that has been registered in accordance with the Commonwealth Native Title Act, and*

Lack of Secure Land Tenure - Impacts

- Oyster farming businesses have very little value without a nearby land base.
- Difficult for farms to be bought or sold. Particularly after bushfires, floods and COVID this is a major issue.
- No turnover means no 'new blood' can enter the industry.
- Kills incentive to maintain existing business let alone attracting any new investment or research and development.
- Lack of legal subleases means no way for COF directors to enforce individual block maintenance and repairs, or collection of rents and utilities contributions.

Benefits of Oyster Farming in the Shoalhaven

- Sustainable source of Australian grown seafood
- Direct employment for 50 people, including plenty of workers with limited alternative job options
- Indirect employment for Crown Lands, NSW Maritime, DPI, Safe Work, Safe Food etc No farms means no need for compliance officers or research!
- Significant tourist attraction with visitors from Sydney and interstate
- Government revenue including taxes, rents and licence fees
- Improved river health



What are some Options?

- Try and negotiate with Crown Lands to buy your land base
- Raise community awareness through petitions and the media
- Lobby your sitting MP and their Opposition counterpart
- **Join NSW Farmers** there is strength in numbers
- Mount a legal challenge

OR do nothing. You will be going up against government bureaucracy with essentially limitless resources. Resistance will take its toll on your time, money and mental health.



Save Shoalhaven Oyster Farms



Started 26 September 2023
Petition to Stephen KAMPER (Minister for Small Business, Minister for Lands and Property, Minister for Multiculturalism, and Min) and [1 other](#)

Why this petition matters



Started by [James Williams](#)

The livelihoods and mental wellbeing of 50 local oyster farmers, their families and employees is under threat at Greenwell Point on the NSW South Coast!

12,238

Signatures


15,000

Next goal

 Support now



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