



# Using Crown land for oyster farming

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# What is Crown land?

- Land held by the NSW Government on behalf of the public
- Responsible NSW Government agency cluster is Department of Planning, Housing and Infrastructure (DPHI)
- Crown Lands is the relevant agency in DPHI responsible for its administration
- Administered in accordance with the *Crown Land Management Act 2016* and *Crown Land Regulation 2018*
- Includes many parks, reserves, unconstructed roads, foreshores, beaches and the beds of waterways and estuaries.

To find out more about Crown Land generally, scan this QR Code



# Breakdown of Crown land tenures

An aerial photograph showing a coastal area with several buildings, a road, and a body of water. The text "Breakdown of Crown land tenures" is overlaid on the left side of the image.

There are approximately 50,000 tenured sites across NSW, comprising:

- 24,000 enclosure permits (over Crown roads)
- 18,000 Licences
- 7,000 Leases

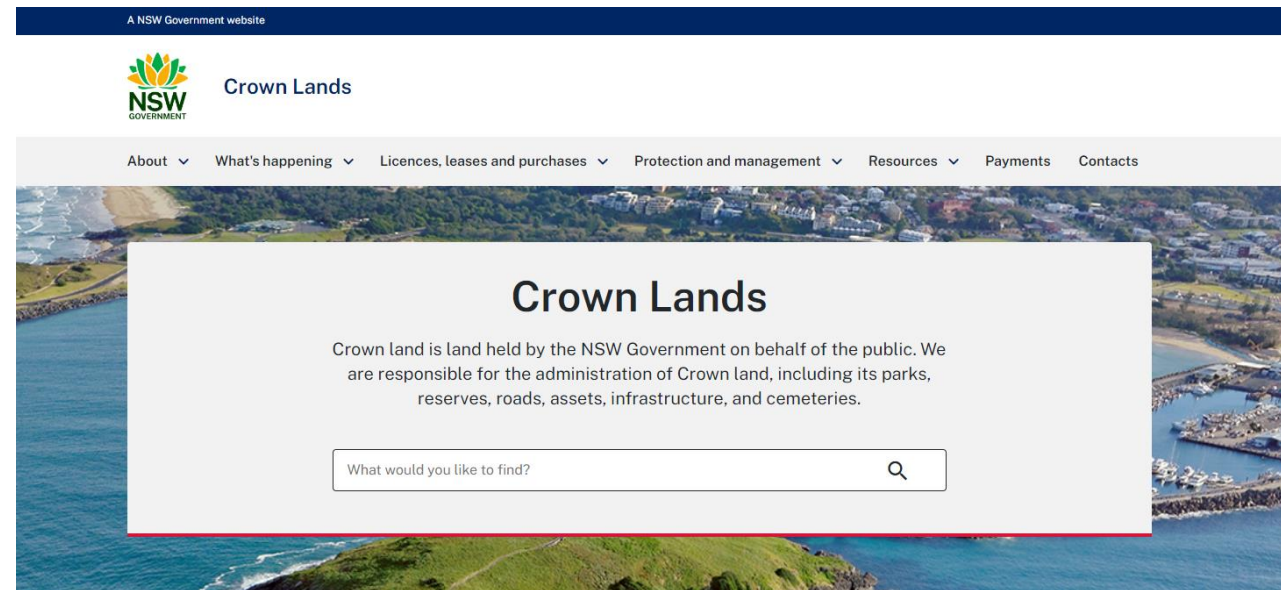
Of these tenures, there are about 235 oyster land base sites either individual sites, in clusters or precincts, or on islands accessible by water only, comprising:

- 128 leases
- 90 licences
- 17 under review

# Information for the oyster industry

For ease of access, a new webpage has been created on the Crown Lands website specifically for Oyster farming tenures on Crown land

Either type NSW Crown lands into your web browser and navigate to the page shown below, then under the “Resources” drop list select ‘Oyster farming tenures on Crown land’



Or scan this QR code  
to access the webpage  
direct!



# Oyster farming tenures on Crown land

The webpage provides a suite of fact sheets that have recently been updated and contain links to relevant Crown Lands information and forms:

- Leases and licenses for oyster farming on Crown land
- How native title rights affect oyster farming tenures on Crown land
- Information for Crown land tenants about Aboriginal land claims
- Definition of terms relating to Aboriginal land claims

Also a new fact sheet has recently been developed:

- Using Crown land for oyster farming

The remainder of this presentation will provide a high level overview of this most recent fact sheet.

## Using Crown land for oyster farming

Crown Lands is assisting the oyster industry to utilise Crown land for oyster farming and aquaculture activities.

### Important

This is general information about land-based oyster farming on Crown land. It should not be used as a substitute for legal or professional advice and tenure holders should seek professional advice.

Crown Lands issues Crown leases and licences (tenures) under the *Crown Land Management Act 2016* for land-based oyster farming activities.

Land-based oyster sites on Crown land are strategically located near oyster growing areas and are often small in size and scarce. They are industrial in nature and mostly found in sensitive estuarine environments.

Crown Lands, the *NSW Oyster Industry Sustainable Aquaculture Strategy Fourth Edition 2021* and the NSW planning system seek to protect land-based oyster sites from inappropriate uses and land-use conflict.

The NSW Department of Primary Industries and Regional Development – Fisheries issues aquaculture leases and permits under the *Fisheries Management Act 1994*. This fact sheet does not advise on oyster farm areas under that Act.

## Use of Crown land for oyster farming activities

There are several important points to consider when assessing the use of Crown land for land-based oyster farming activities:

- There must be a current tenure from Crown Lands for the land use and occupation for purposes including but not limited to: oyster farming, production and processing, reclamation, retaining walls, jetties, ramps, storage, structures and berthing areas.
- Site use must be consistent with the purpose of the tenure and compliant with tenure terms and conditions.



# Oyster farming tenures on Crown land

## Important

This is general information about land-based oyster farming on Crown land. It should not be used as a substitute for legal or professional advice and tenure holders should seek professional advice.

### Key factors about land-based oyster sites:

- Separate jurisdiction to NSW Department of Primary Industries and Regional Development – Fisheries who administer aquaculture leases and permits under the *Fisheries Management Act 1994*
- Limited in supply; if lost they will be very difficult to replace
- Often small in size and located in sensitive environments

# Oyster farming tenures on Crown land

## Use of Crown land for oyster farming activities:

- Must be a current tenure from Crown Lands for use and occupation of the site
- Tenure must cover all areas of land use, including production and processing, land reclamation, retaining walls, jetties, boat ramps, materials and waste storage, structures, parking and berthing areas
- Use must be consistent with the tenure purpose and conditions
- Must be an oyster farmer with a current aquaculture permit and Food Authority Licence to cultivate and/or harvest oysters
- All development must have landowners consent, be permissible under the land use zone and consistent with all planning consents from the local Council.



# Oyster farming tenures on Crown land

It is the tenure holder's responsibility to ensure the site is lawfully used and occupied, by:

- using the site only for the permitted use
- paying rent
- meeting environmental obligations
- complying with other relevant laws
- holding current insurance and permits
- complying with all tenure terms and conditions
- obtaining all environmental planning, development, building, and operating approvals.

# Oyster farming tenures on Crown land



## Environmental planning approvals:

- development that requires planning consent or approval, requires the holder to first obtain landowners consent from Crown Lands
- before applying for planning approval, check the zoning and land use tables in the relevant planning instrument (e.g. LEP)
- planning and building approvals are required for constructing or demolishing buildings, retaining walls, jetties and tar pits
- also to set up onsite sewerage management systems or the change of use of the land for agritourism, farm gate premises or retail premises.

# Oyster farming tenures on Crown land

## Planning Controls:

- Planning controls are set by the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000* and the applicable environmental planning instruments
- The controls vary across NSW for land-based oyster farming
- The NSW Planning Portal is a useful online tool to check zoning
- The duty planner from the local council may be able to assist with planning enquiries regarding the relevant local environmental plan
- For more complex matters it may be necessary to seek advice from a planning consultant.



Scan this QR code to access the Planning Portal Map



# Oyster farming tenures on Crown land

Retail activities:

## Can I sell oysters to the public from my land base?

- each site needs to be considered individually
- depends on the zoning of the land and permissibility under applicable environmental planning instruments
- requires consistency with the Crown Lands tenure conditions
- must consider other relevant planning controls.

## Can I sell other food and drink from my land base?

- 'food and drink premises' such as 'restaurants', 'cafés', 'take aways' and 'bars' are unlikely to be characterised as oyster production or processing and may require separate planning and tenure approval
- these uses may reduce the land available for oyster processing, increase environmental impacts (e.g., additional demands on sewerage systems) or create land-use conflict (due to noise, odour, traffic or parking)
- if approved, these uses are likely to attract a commercial rent.

# Oyster farming tenures on Crown land

## Oyster agritourism

- In addition to oyster production, agritourism is a way oyster farmers can create or diversify business
- Under the NSW planning system, 'agritourism' may be permissible on land where oysters are produced with development consent



For more information about agritourism scan this code to see 'Setting up an agritourism business – A guide to planning approvals' on the NSW Planning Portal.

# Crown Lands Contacts

Phone enquiries: 1300 886 235

## North Coast Area – Tweed to Port Macquarie-Hastings

- Shona Cowley, Acting Area Manager
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## Hunter Area – Mid Coast to Central Coast

- Rob Micheli, Area Manager
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## Metropolitan Area – Northern Beaches to Sutherland

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## South East Area – Wollongong to Bega Valley

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