

Development on foreshore Crown land and waterways



Information for waterfront landowners


What you need to know

The Crown Lands branch within NSW Department of Planning, Industry and Environment is the agency responsible for managing Crown land in NSW on behalf of the NSW Government. We manage this land for the benefit of the people of NSW. This includes all waterfront land below the mean high-water mark.

We want communities to enjoy our waterways. But we need to make sure Crown land is used appropriately and for the benefit of all NSW. If you want to build any new structures or alter any existing structures on Crown lands or waterways, you first need to get consent from the department as the landowner.

Councils are the local planning authorities. So, once you have consent from us – the landowner – you will need to get any necessary planning approvals from your local council.

If council grants planning consent, you then need to apply for a licence from the department to go ahead and do the work.



It is an offence under the NSW Crown Land Management Act 2016 to construct anything on Crown land without the appropriate authority.

Domestic waterfront licences – guidelines

To help fairly assess applications to build on waterfront land, we have developed the *Domestic waterfront licences—guidelines*. Annexure A of the guidelines sets out the criteria the department uses to assess if a proposal is likely to be approved. It also outlines waterfront structures and uses that are not acceptable on Crown land.

You can download the guidelines from the [Domestic waterfront licence page](https://www.industry.nsw.gov.au/lands/use/licences/domestic-waterfront)¹ on our website.

Steps to compliance

Review the following steps to better understand the requirements should you wish to construct new structures or authorise existing structures on Crown waterway or foreshore land.

¹ <https://www.industry.nsw.gov.au/lands/use/licences/domestic-waterfront>

Step 1 – Apply for landowner’s consent

1.1. Prepare plans and environmental assessment report

Compile all the documents you will need to satisfy the requirements of the relevant council's planning application process. This may include plans, specifications and environmental assessment reports such as a statement of environmental effects or an environmental impact statement.

Relevant site plans must show the full dimensions of all existing and proposed structures and their location in relation to the side boundaries of your property.

You can engage private contractors or consultants to do this work on your behalf.

1.2. Obtain consent from other relevant NSW Government agencies

Contact and apply for written consent from NSW Department of Primary Industries – Fisheries and Transport for NSW – Maritime for the proposed development, alteration or authorisation of any existing domestic waterfront structures.

1.3. Submit the landowner’s consent application

Once Fisheries and Maritime have provided consent, submit a completed Landowner’s consent for domestic waterfront structures application form to the department attaching:

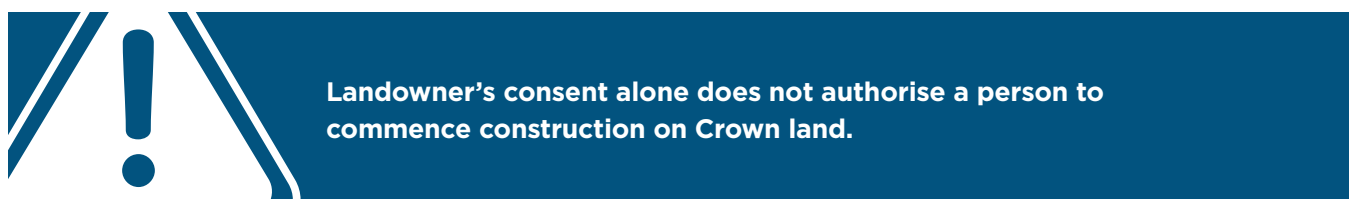
- site plans and survey showing the location of the proposed domestic waterfront facility
- a completed development application or, for existing unauthorised structures, a building information certificate application
- a detailed description of the proposal that allows us to understand the full extent and likely impacts of the proposal
- the environmental assessment reports
- photographs of the site at high and low tides from off-shore facing the property and from on-shore facing the waterway
- a copy of the written consent from Fisheries and Maritime
- the associated fee.

Where a proposal to authorise existing structures does not meet the criteria in the guidelines, we will not grant landowner’s consent and will not issue a licence. This means that the unauthorised structures must be removed.

Step 2 - Assessment of application for landowner’s consent

The department will assess the application for consistency with the objects and principles of the NSW Crown Land Management Act 2016 and the guidelines, including the criteria set out in Annexure A of the guidelines.

If landowner’s consent is given, we will issue you with a letter and signed plans. You must lodge this consent with your local council along with council's relevant planning application within 12 months of the date that landowner’s consent was granted.



Step 3 – Apply for a licence from Crown Lands

You can only complete this step after you receive planning consent from your local council.

A licence is an authority granted by the department to the registered owners of adjoining waterfront land to allow them to use the Crown land. It is a formal and binding agreement.

Licences contain details of the structures, the area of occupation and terms and conditions that have been confirmed between the parties within the executed licence.

Once council provides planning approval, submit a completed New Domestic Waterfront Licence application form to the department attaching:


- a copy of the approved development application or building information certificate and the stamped plans
- the fee stipulated on the form.

Once we receive the application, our Domestic Waterfront Team will:

- review and compare the planning and landowner's consents
- ensure the proposal is compliant with the guidelines
- apply suitable terms and conditions to the licence based on the planning consent.

Step 4 - Begin construction

You can only start construction once the department has issued you with an executed licence.



Construction on foreshore Crown land and waterways prior to the issue of a licence:

- does not comply with the requirements of the Act
- places you and the individuals undertaking the works in breach of the Act, risking compliance action and/or prosecution
- may render you unable to obtain public liability insurance for any structures on Crown land, placing you at risk of claims.

Regulation and compliance

We regularly undertake audits and inspections of Crown waterways to monitor for unauthorised works.

You, and any contractors or consultants who may be acting on your behalf, are expected to comply with the provisions of the Act, departmental policies and guidelines and other relevant legislation in relation to any development on and use of foreshore Crown land or waterways.

The department will undertake compliance enforcement action for unauthorised development and structures that do not comply with the Act.

Compliance enforcement actions may include:

- directions to remove structures or materials
- stop-activity orders issued 'on the spot' to stop unauthorised development
- termination or non-renewal of an existing domestic waterfront licence
- the issuing of penalty infringement notices – \$1,100 each notice for an individual
- the issuing of court orders
- prosecution or the commencement of civil proceedings – maximum penalty of \$110,000 for an individual.

More information

See the Frequently Asked Questions section of this document for further information about applying for landowner's consent. You can also visit the [Apply for a Crown land licence page](#)² of our website.

For further information on domestic waterfront licences, contact the Domestic Waterfront Business Centre on:

P: 1300 886 235 or 02 4925 4110

E: waterfront.tenures@crowmland.nsw.gov.au

W: industry.nsw.gov.au/lands/use/licences/domestic-waterfront

For more information on regulation, compliance and enforcement, contact the Compliance Strategy & Monitoring Team on:

P: 1300 886 235

E: cl.compliance@crowmland.nsw.gov.au

W: industry.nsw.gov.au/lands/what-we-do/management/compliance

Frequently asked questions

What is foreshore Crown land?

Foreshore Crown land is land that exists below the title boundary of waterfront properties, specifically below the mean high-water mark. The mean high-water mark is set out on the associated property's deposited plan and defines the legal boundaries of the land.

Any land (which includes the bed of rivers) that exists below the mean high-water mark is known as foreshore Crown land. This land is vested in the Crown under the control of the department on behalf of the minister administering the NSW Crown Land Management Act 2016.

What is an unauthorised structure?

An unauthorised structure is an existing structure that has been erected or altered without the consent of the department, council, NSW Department of Primary Industries – Fisheries or Transport for NSW – Maritime.

Can I lodge a landowner's consent application to authorise existing unauthorised structures?

Yes. Where unauthorised structures exist, and those structures meet the criteria set out in the guidelines, you can submit a landowner's consent application to the department to then enable you to lodge a request for a building information certificate with council.

Where we find that a proposal to authorise an existing unauthorised structure does not meet the criteria in the guidelines, we will not grant landowner's consent and we will not issue a licence. This means that the existing unauthorised structure will need to be removed.

² <https://www.industry.nsw.gov.au/lands/use/licences/apply>

I wish to build new structures on Crown land, but my property does not directly adjoin the waterway. Can the department consider an application?

No. The department has determined that structures adjoining reserves may impede the general public's use and enjoyment of this land. See the guidelines document for further information.

We will not grant consent as these structures cannot be insured by a tenure holder who does not own freehold land adjoining the structure. Insurance is a requirement of a domestic waterfront licence agreement.

Since 2009, we have taken a strategic approach to reducing the number of structures on Crown waterways where freehold land does not directly adjoin the waterway. In other words, where the proposed structure fronts a Crown reserve or a public road (public land – not private).

A proposal does not meet guideline criteria. Can I proceed with construction and seek authorisation later?

No. Where a proposal to authorise existing structures is not consistent with the guidelines, we will not grant landowner's consent or issue a licence. This means that any existing structure and occupation remains untenured and therefore unauthorised. The structure will need to be removed.

Can I build waterfront structures in a marine park?

Contact the Department of Primary Industries – Fisheries for information on marine park zoning and its implications for your proposal.

For more information visit the [Marine Parks page](#)³ on the DPI website.

An Aboriginal land claim and/or a native title claim has been lodged over the Crown waterway. Can the department still consider an application?

Yes. The department is responsible for assessing any proposed development on Crown land in line with the provisions of the NSW Aboriginal Land Rights Act 1983 and the Commonwealth Native Title Act 1996.

Where land is subject to Aboriginal land claim and/or a native title claim (determined or otherwise), we may need to undertake additional referrals before addressing the application.

For more information visit the [Aboriginal land claims page](#)⁴ and [Native title page](#)⁵ on our website.

⁴ <https://www.dpi.nsw.gov.au/fishing/marine-protected-areas/marine-parks>

⁵ <https://www.industry.nsw.gov.au/lands/what-we-do/our-work/aboriginal-land-claims>

⁶ <https://www.industry.nsw.gov.au/lands/what-we-do/our-work/native-title>