



Crown Land leases and subleases NSW

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In NSW, you can lease Crown Land as a company or as an individual. A Crown Land lease provides the lessee with use of that piece of land for a specified term and purpose. There are also options for you to sublease part of the land. In this blog, we explore:

- what land is owned by Crown Land;
- Crown Land lease applications; and
- Subleases under a Crown Land lease.

What is Crown Land NSW?

Crown Land accounts for nearly 50% of all land in NSW and is any public land held by the Crown on behalf of the people. It is managed by the NSW the Department of Industry (Crown Lands).

The current legislation relating to Crown Lands is the *Crown Land Management Act 2016 (NSW)*. This legislation provides a framework for the administration and management of all Crown Land.

Crown Lands includes property such as:

- public reserves;
- cemeteries;
- national parks; and
- most NSW tidal waterway land and many non-tidal waterways.

One of the many roles of Crown Lands is to determine water boundaries in addition to protecting foreshores and conserving natural resources such as water.

Applications for a lease or licence of Crown Land

In order to make use of Crown Land, whether as an individual or a company, you require permission in the form of a lease or license granted by the NSW Department of Industry (Crown Lands).

A licence allows occupation of the land for a specific term and purpose but does not provide for exclusive use and possession of the land.

A lease provides a legal right to exclusive possession of land for a specified period of time. A lease of Crown Land cannot exceed 100 years, including any option period.

You can find more information on how to obtain a lease or licence on the [NSW Crown Lands website here](#), including information on:

- types of licences available;
- types of leases available;
- fact sheets on licences and leases; and
- application processes for licences and leases.

What is a sublease?

A sublease is a contract between you and the sub-lessee, providing exclusive possession of the land to the sub-lessee for a specified term that is less than the term of the lease granted to you by Crown Lands.

In granting the sublease, you are giving up your exclusive use of the land, or part of the land, and providing it to the sub-lessee. This means that you will no longer have access to that part of the land while the sub-lessee is in possession.

As well as being bound to the terms of the sublease between you and the sub-lessee, the sub-lessee will also be bound to the terms of the lease between you and Crown Lands. It is, therefore, important that a copy of the lease between you and Crown Lands is provided to any prospective sub-lessee before they enter into the sublease.

We can assist you in preparing the sublease and in obtaining Crown Land consent to the sublease.

[Call us for advice and assistance: 02 9997 2111](#)

Why do I need consent to sublease Crown Land?

The lease granted to you by Crown Lands gives you a right of exclusive use of the land. It does not convey any ownership of the land to you.

Accordingly, if you want to deal with the land in any way other than provided to you in your lease, you will require consent from the landowner, being Crown Lands.

How do I sublease Crown Land?

There are many reasons a Crown Land leaseholder may wish to sublease part of the land. An example of this is a commercial marina owner.

If you are a commercial marina owner seeking to sublease part of the land, you will require consent from Crown Lands. You will require consent whether you intend to sublease part of the marina (for example, for use as a commercial office), or any waterfront/jetty aspect of the marina (for example, to sublease to a boatbuilder or watersports enterprise).

In order to obtain consent from Crown Lands to sublease part of the land, the following must be prepared and then provided to Crown Lands:

1. A sublease;
2. A current company search of the proposed sub-lessee (if the sub-lessee is a company);
3. Bankruptcy searches for each sublessee or of the director/directors of the sub-lessee entity if the sub-lessee is a company;
4. The driver's licence of the sublessee, or driver's licence of the director/directors of the sub-lessee entity if the sub-lessee is a company;
5. A plan of the land proposing to be subleased;
6. A certified copy of any registered Power of Attorney (where applicable);
7. A signed declaration by you confirming that you believe that the sub-lessee is credible, capable, and has the capacity to enter into the sublease.
8. The required consent fees; and
9. A Crown Land consent application, signed by the sub-lessor.

The Crown Land consent application requires details about the sub-lessee, and the sublease itself, including the proposed use of the land. The term of the sublease itself must not exceed the term of the lease between you and Crown Lands. If, for any reason, the lease between you and Crown Lands is terminated, the sublease will also terminate.

Before providing consent to the sublease, Crown Lands will review all of the documentation provided and make a determination.

What if I sublease Crown Lands without consent?

Without consent from Crown Lands, you may be in direct breach of your lease from Crown Lands if you proceed with a sublease. This may give Crown Lands the right to terminate your lease. Accordingly, it is imperative that consent is obtained before you allow any party to use the land (whether by way of lease or licence).

Get help from a property and commercial lawyer

At E&A Lawyers, our [leasing team](#) has extensive experience in matters with Crown Lands and can assist you in preparing this every step of the way.

Contacting a family lawyer

For more information or to arrange a consultation with a lawyer, you can call or email us.

[02 9997 2111](tel:0299972111)

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