

## Oysters Tasmania input to Red Tape Reduction Coordinator

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## Minister Howlett, Product Integrity section, Natural Resources and Environment Tasmania

Topic	What is the red tape issue? (unnecessary licensing, unreasonable or duplicative licence conditions, and compliance and form issues in licensing processes)	What can change to fix the issue?
Accreditation	<p>Under the <i>Primary Produce Safety Act 2011</i>, all food businesses require accreditation from the Product Integrity section of NRET.</p> <p>In at least one instance it has taken more than a year to provide a new seafood business such an approval.</p> <p>Under the <i>Primary Produce Safety (Seafood) Regulations 2014</i>, seafood businesses must renew accreditation every 12 months. The Product Integrity section of NRET has a standard practice of sending seafood businesses an annual renewal form, updating the business's accreditation upon receipt of this form and an annual fee, and issuing a certificate of accreditation expiring in twelve months.</p> <p>However the Product Integrity section of NRET has on occasion failed to send seafood businesses an annual renewal form. This has left seafood businesses without a current certificate of accreditation, has created uncertainty for seafood businesses, and has arguably meant that the continued operation of their businesses has been illegal.</p>	<p>The Product Integrity section of NRET should commit to making a decision regarding whether a food business has approval to operate within 30 days of receipt of all relevant information.</p> <p>The Product Integrity section of NRET should extend the period of accreditation for seafood businesses beyond twelve months, should issue certificates of accreditation with corresponding expiry dates, and should maintain the practice of sending seafood businesses accreditation renewal forms well before expiry of the current accreditation.</p>
Audits	<p>The Product Integrity section of NRET require the food safety practices of all farmers of mature oysters to be audited annually, despite most farmers routinely receiving unqualified audits and NRET having the discretion to reduce the frequency of audits.</p>	<p>The Product Integrity section of NRET should require a farmer who has received unqualified audits consistently over the past decade to obtain an audit every two years.</p>

Topic	What is the red tape issue? (unnecessary licensing, unreasonable or duplicative licence conditions, and compliance and form issues in licensing processes)	What can change to fix the issue?
Food safety management forms and conditions	<p>The Product Integrity section of NRET has endorsed an approach to food safety management for farmers of mature oysters that involves conditions, and the completion of multiple forms, not required by food safety law.</p>	<p>The Product Integrity section of NRET should endorse an approach to food safety management for farmers of mature oysters that no longer requires the completion of the following forms:</p> <ul style="list-style-type: none"> <li>-Form 1 Site map</li> <li>-Form 3 Pre-harvest hygiene and packing inspection</li> <li>-Form 6 Induction</li> <li>-Form 9 Customer specifications</li> <li>-Form 10 Supplier specifications</li> <li>-Form 11 Approved supplier list</li> <li>-Form 12 System improvement request</li> <li>-Form 13 Staff training</li> <li>-Form 17 Monthly maintenance checklist</li> </ul> <p>The Product Integrity section of NRET should not require a farmer to gain its approval for the movement of oysters from their marine farm lease to their land base ('harvest and hold').</p> <p>The Product Integrity section of NRET should endorse an approach to food safety management for farmers of mature oysters that no longer impose conditions that go beyond food safety, are not required by food safety law, and can duplicate conditions imposed by and within the area of responsibility of other agencies, including requirements on amenities other than toilets, on lighting, and on personal protective equipment.</p>

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Depuration/ wet storage approval	<p>The sale of oysters direct from a tank, rather than a waterway, requires approval from the Product Integrity section in NRET.</p> <p>The Product Integrity section of NRET impose a number of unwarranted conditions in this approval process.</p> <p>Unwarranted conditions include conditions that are unrelated to its responsibility for food safety, such as requirements to provide documentation from unspecified, other agencies — either outlining compliance with those agencies’ requirements, or declaring that those agencies do not impose any relevant requirements. These other agencies include planning, building, plumbing, marine farming, Crown land, environmental, and biosecurity authorities.</p> <ul style="list-style-type: none"> <li>• Getting an agency official to provide a written declaration that none of the agency’s rules apply to a circumstance can be nigh on impossible.</li> <li>• Through its baseless insistence that its approval must come after the approvals of all other agencies, the Product Integrity section of NRET creates the potential for agency stand-offs leading to long delays in gaining overall approval.</li> </ul> <p>Unwarranted conditions include conditions on wet storage (where the tank holds oysters originally from food-safe waterways) that are as onerous as conditions on depuration (where the tank holds oysters originally from a waterway with questionable food safety).</p> <p>Unwarranted conditions include conditions not imposed in other jurisdictions.</p> <p>The Product Integrity section of NRET has also taken years to provide an approval.</p>	<p>The Product Integrity section of NRET should no longer make its approval of the sale of oysters direct from a tank conditional on matters that are the responsibilities of other agencies. Product Integrity Branch conditions should relate solely to food safety.</p> <p>The Product Integrity section of NRET should not impose conditions for approval of wet storage that are as onerous as conditions for approval of depuration (such as conditions on stock limits, disinfection, drain-down).</p> <p>The Product Integrity section of NRET should not impose conditions for its approval of the sale of oysters direct from a tank that are not imposed in other jurisdictions (such as a condition that stock cannot be added once a tank is filled with water, a condition that tank cleaning chemicals need to be from an approved supplier, a condition for monthly water testing at the spray bar, and conditions on flow rates and stocking volumes that are more onerous than in other jurisdictions).</p> <p>The Product Integrity section of NRET should commit to making a decision regarding the sale of oysters direct from a tank within 30 days of receipt of all relevant information.</p>

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Delegation	<p>The aforementioned red tape issues associated with the Product Integrity section of NRET, particularly the delays in approvals, arise in part from that section's lack of specialisation in shellfish food safety — relative to the Shellfish Market Access Program (ShellMAP) in the Marine Resources Branch of NRET, which operates under a delegation from the Product Integrity section of NRET.</p>	<p>To reduce the aforementioned red tape, including the aforementioned delays in approvals, associated with the Product Integrity section of NRET, that section should expand its current delegation to the Shellfish Market Access Program (ShellMAP) in the Marine Resources Branch of NRET, to cover shellfish business accreditation, audits, food safety management forms and conditions, and depuration / wet storage approvals.</p>

## Minister Abetz, Marine Resources branch, Natural Resources and Environment Tasmania

Topic	What is the red tape issue? (unnecessary licensing, unreasonable or duplicative licence conditions, and compliance and form issues in licensing processes)	What can change to fix the issue?
Pacific oyster fishing licence	Under the <i>Living Marine Resources Management Act 1995</i> , the Wild Fisheries section of NRET require oyster farmers to obtain a fishing licence before they can regularly remove Pacific oysters, an introduced species, from State waters.	The requirement to have a fishing licence has exceptions listed at subsection 60(2) of the <i>Living Marine Resources Management Act 1995</i> . The removal of Pacific oysters should be added to this list of exceptions.
F3176 Permit	<p>Sometimes the Marine Resources Branch in NRET requires oyster farmers to complete a F3176 form and obtain approval before they can undertake an activity. However NRET does not provide a list of activities for which they will require a F3176 form to be completed.</p> <p>An example of when the Marine Resources Branch in NRET required a F3176 form to be completed is when an oyster farmer sought to bring a species to an on-land, biosecure, Tasmanian facility before returning the species to the mainland state. This activity was already approved by Biosecurity Tasmania.</p> <p>Another example is a one-off removal of Pacific oysters, an introduced species, from State waters.</p>	<p>Marine Resources in NRET should provide a list of activities that for which completion of a F3176 form is required (in other words, a list of activities that breach the <i>Living Marine Resources Management Act 1995</i> in the absence of a permit).</p> <p>The list should not include activities approval by Biosecurity Tasmania under Biosecurity legislation, or the removal of Pacific oysters from State waters. As a result, a F3176 form would not need to be completed to undertake activities already approved by Biosecurity Tasmania under Biosecurity legislation, or to remove Pacific oysters from State waters.</p>

<p>Marine Farming Development Plan amendment</p>	<p>Oyster farmers can incur significant compliance costs, and wait more than two years, to obtain approval for even minor amendments to marine farming development plans. This is the result of there being no time limit or excessive time limits at each of the stages of consideration.</p> <p>The process is biased towards refusal and gives too much power to the unelected Marine Farming Planning Review Panel.</p> <ul style="list-style-type: none"> <li>• If the Panel supports an amendment request, the Minister can override this. But if the Panel opposes an amendment request, the Minister is not advised of this, and not given an opportunity to override the Panel.</li> </ul>	<p>The <i>Marine Farming Planning Act 1995</i> should be amended to:</p> <ul style="list-style-type: none"> <li>-require the planning authority to make a recommendation to the Marine Farming Planning Review Panel within 21 days of receiving an amendment request (currently 35+ days),</li> <li>-require the Panel to support or oppose the amendment request within 21 days of receiving a recommendation from the planning authority (currently no time limit),</li> <li>-require the Minister to be advised of the Panel’s position on the amendment request and allow the Minister to agree to the amendment request even if the Panel opposes it,</li> <li>-require the Minister to advise the Panel of a decision on the amendment request within 21 days of being advised of the Panel’s support or opposition (currently no time limit),</li> <li>-require the planning authority to submit a draft amendment to the Panel within 21 days of being advised that the Minister supports the amendment request (currently 70 days),</li> <li>-require the Panel to send the draft amendment, or a revision by the Panel, to the Minister, or to demand a revision by the planning authority, within 21 days (currently 28+ days),</li> <li>-if the Panel demands the planning authority to revise the draft amendment, require the planning authority to submit a revision to the Panel within 14 days (currently no time limit), and then require the Panel to send the revised draft amendment, or a revision by the Panel of this revised draft amendment, to the Minister within 14 days (currently no time limit),</li> <li>-require the Minister to decide on whether there is to be a public exhibition within 21 days of receipt of the draft amendment (currently no time limit),</li> </ul>
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		<p>-require the planning authority to publicly exhibit the draft amendment within 21 days of the Minister deciding that there should be a public exhibition (currently 21+ days),</p> <p>-require the planning authority to forward to the Panel a report on public representations within 21 days of the end of the public exhibition period (currently 35+ days),</p> <p>-require the Panel to send a recommendation to the Minister on the draft amendment, or a revision by the Panel, or to demand a revision by the planning authority, within 21 days of receipt of a report on public representations (currently a 3+ month time limit for sending a recommendation on the draft amendment, and no time limit if revisions are to be pursued), and</p> <p>-require the Minister to decide whether to approve the draft amendment, or the Minister's alteration of the draft amendment, within 21 days of receipt of a recommendation from the Panel (in instances where there was public exhibition), or within 21 days of original receipt of the draft amendment (in instances where the Minister agreed with a Panel recommendation against public exhibition) (currently no time limits apply to either instance).</p> <p>The planning authority should undertake a site visit upon receipt of an amendment request to ascertain when requested amendments are 'not of a substantial nature', for inclusion in subsequent advice to the Panel.</p>



Topic	What is the red tape issue? (unnecessary licensing, unreasonable or duplicative licence conditions, and compliance and form issues in licensing processes)	What can change to fix the issue?
Unwarranted management controls	Under the <i>Marine Farming Planning Act 1995</i> , a number of conditions for maintaining a lease for shellfish farming, known as management controls, are unwarranted as there are no equivalent requirements imposed on land-based farms or Crown leases on land, and the conditions dictate about how to farm.	<p>Gaining and maintaining permission to hold a shellfish farming lease should continue to be conditional on management controls requiring:</p> <ul style="list-style-type: none"> <li>-the lease area to be kept neat and tidy,</li> <li>-loose equipment to be removed, and</li> <li>-only authorised vessels to be kept on the lease area.</li> </ul> <p>More intrusive management controls that require:</p> <ul style="list-style-type: none"> <li>-equipment to be grey to black, to be low profile, to be a uniform size and shape, and in a serviceable condition, and</li> <li>-posts and row markers to be a uniform height should be removed.</li> </ul>
Management control wording	Under the <i>Marine Farming Planning Act 1995</i> , a particular condition for maintaining a lease for shellfish farming, known as a management control, is couched in terms of old technology, and so creates uncertainty about whether the use of new technology is allowed.	The management control that limits a farmer's stock should be reworded so that references to 'stocked racking', 'stocked effective backbone longline', and 'stocked post and wire farming equipment' are followed by a catch-all reference to alternative systems holding the same biomass.
Redundant licensing of shellfish farms	Under the <i>Living Marine Resources Management Act 1995</i> , the Marine Resources Branch of NRET requires shellfish farmers to obtain a licence to farm, despite most farmers not requiring a licence to farm, shellfish farming generating no negative spillovers, and necessary regulation and charges being achieved or achievable through the <i>Marine Farming Planning Act 1995</i> , <i>Biosecurity Act 2019</i> , <i>Primary Produce Safety Act 2011</i> , and <i>Environmental Management and Pollution Control Act 1994</i> .	<p>Remove the requirement for shellfish farmers to obtain a licence, with consequential changes as follows:</p> <ul style="list-style-type: none"> <li>-Ensure lease fees reflect Government costs of inspecting shellfish farm leases, in line with inspections of leases over Crown land.</li> <li>-Establish the ShellMAP levy under the <i>Primary Produce Safety Act 2011</i> instead of the <i>Living Marine Resources Management Act 1995</i>.</li> </ul>

Topic	What is the red tape issue? (unnecessary licensing, unreasonable or duplicative licence conditions, and compliance and form issues in licensing processes)	What can change to fix the issue?
Defined shellfish farm licence conditions	<p>The Marine Resources Branch of NRET imposes unwarranted conditions when granting licences to farm shellfish — conditions not imposed on farmers generally.</p> <p>These conditions:</p> <ul style="list-style-type: none"> <li>-restrict which species of shellfish can be farmed (separate from the ban on farming prohibited species under the <i>Biosecurity Act 2019</i>),</li> <li>-require quarterly reporting of production and employment,</li> <li>-require record-keeping on the location of equipment within a lease,</li> <li>-duplicate general legal duties that apply to everyone (e.g. to not release fish to State waters),</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>-duplicate conditions on farmers under other legislation, including food safety requirements, disease notification requirements, and conditions to not harm the environment.</li> </ul>	<p>Remove all conditions under licences to farm shellfish, which:</p> <ul style="list-style-type: none"> <li>-regulate which shellfish species a farmer can farm,</li> <li>-require quarterly production and employment reporting,</li> <li>-require record-keeping on the location of equipment within a lease,</li> <li>-duplicate general legal duties under the <i>Living Marine Resources Management Act 1995</i> that apply to everyone,</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>-duplicate conditions of: food safety law; biosecurity law; and environmental law.</li> </ul>
Undefined shellfish farm licence conditions	<p>The granting and renewal of a shellfish farming licence is at the Minister’s discretion. This discretion sits alongside defined conditions for a licence, and so represents an additional, undefined condition for obtaining and retaining a shellfish farming licence. Just as it would be unreasonable to allow a Minister discretion to grant or renew an application for a drivers licence, such a discretion is unreasonable with respect to a shellfish farming licence. This discretion also weakens the property right of a shellfish farm lease, and so reduces access to finance for shellfish farmers.</p>	<p>As set out in Oysters Tasmania’s <a href="#">submission</a> to the review of the <i>Living Marine Resources Management Act 1995</i>, various provisions of that Act should be amended (e.g. inserting ‘must’ and deleting ‘may’) so that shellfish farm licence decisions are subject only to defined, relevant conditions, not Ministerial discretion.</p>

Topic	What is the red tape issue? (unnecessary licensing, unreasonable or duplicative licence conditions, and compliance and form issues in licensing processes)	What can change to fix the issue?
Forms for multiple shellfish farm licences	<p>The Marine Resources Branch of NRET require separate forms and payments when renewing multiple shellfish farm licences.</p> <p>The Marine Resources Branch of NRET do not allow the consolidation of multiple shellfish farm licences (each authorising farming in one specific lease) into one shellfish farm licence (authorising farming in all of the business's leases). This is akin to requiring someone to have a drivers licence to drive in the Hobart City Council area, a separate drivers licence to drive in the Clarence City Council area, etc.</p>	<p>The renewal of multiple shellfish farm licences should be allowed through a single form and payment.</p> <p>The consolidation of multiple shellfish farm licences into one shellfish farm licence should be allowed.</p>
Duration of shellfish farm licences	<p>The duration of shellfish farm licences is one year, such that renewals are annual, despite shellfish farming being a multi-year enterprise, and the duration of shellfish farm leases being 30 years.</p>	<p>The duration of shellfish farm licences should be extended to avoid annual renewal processes.</p>
Shellfish farm lease and licence form compliance	<p>Shellfish farm lease and licence forms require the lease/licence-holder to fill in details already held by the Marine Resources Branch of NRET, such as the address of the lease/licence-holder. The Marine Resources Branch of NRET require signatures to be completed by hand from two directors and a secretary.</p>	<p>Shellfish farm lease and licence forms should pre-fill the information already held by NRET, and provide an option for the lease/licence-holder to advise of any changes.</p> <p>Only one signature should be required, and electronic signatures should be accepted.</p>

## Minister Abetz, Marine Resources branch, NRET, and Minister Ellis, State Planning Office, Department of State Growth

Topic	What is the red tape issue? (unnecessary licensing, unreasonable or duplicative licence conditions, and compliance and form issues in licensing processes)	What can change to fix the issue?
Aquaculture tourism development one-stop-shop	Tasmania is yet to adopt a red tape workaround adopted by our competitor state, South Australia, in its <i>Aquaculture (Tourism Development) Amendment Act 2021</i> . This Act creates a one-stop-shop for assessment and approval for aquaculture tourism developments, avoiding the need to seek approval from multiple agencies.	Tasmania should introduce new provisions equivalent to the South Australian <i>Aquaculture (Tourism Development) Amendment Act 2021</i> to allow oyster farmers to seek assessment and approval of aquaculture tourism developments by the Minister responsible for our <i>Marine Farming Planning Act 1995</i> , as an optional alternative to seeking approval via relevant planning authorities.

## Minister Ellis, State Planning Office, Department of State Growth

Topic	What is the red tape issue? (unnecessary licensing, unreasonable or duplicative licence conditions, and compliance and form issues in licensing processes)	What can change to fix the issue?
Planning treatment of shellfish farming shore facilities	Shellfish farming shore facilities are bundled in with land-based farms under the 'Resource Development' use of planning law, leading to excessive planning permit requirements and prohibitions.	<p>Amend the 'Resource Development' use as follows:</p> <p>Zone 10 (low density residential), Zones 12 to 19 (business zones), and Zone 25 (port and marine): Refer to shellfish farming shore facility as 'discretionary'.</p> <p>Zone 11 (rural living): Add 'shellfish farming shore facility' alongside 'grazing' so both are 'no permit required'.</p> <p>Zone 30 (future urban): Add 'shellfish farming' alongside 'agriculture' so both are 'permitted'.</p>

## Minister Duigan, Parks and Wildlife Service, Natural Resources and Environment Tasmania

Topic	What is the red tape issue? (unnecessary licensing, unreasonable or duplicative licence conditions, and compliance and form issues in licensing processes)	What can change to fix the issue?
Approvals on and seaward of Crown land leases	<p>The Parks and Wildlife Service in NRET asserts, sometimes without legal basis, that a range of activities on and adjacent to Crown land leases require its approval, and then imposes unwarranted conditions, referrals to other authorities, and delays before granting approval. Sometimes these approvals are unnecessarily time-limited, such that the approval process needs to be repeated.</p> <p>For example, the Parks and Wildlife Service in NRET has asserted, without apparent legal basis, that the installation of a removable lean-to on a Crown land lease requires its approval, and that such approval should be conditional on the provision of advice from local government that either all local government requirements are met, or there are no local government requirements. Yet it is not the responsibility of the Parks and Wildlife Service to first imagine, and then enforce compliance with, local government requirements. Moreover, in instances where there are no local government requirements, a single part of a local government may be reluctant, and has no obligation, to provide a written declaration to this effect. In this example, the Parks and Wildlife Service is acting as a landlord prying into minutiae that are none of its business. Such prying leads to months of delays to obtain approval.</p> <p>A further example is where the Parks and Wildlife Service in NRET imposes unwarranted conditions, delays, and referrals to local government before providing only a six-month approval for routine silt removal from channels immediately seaward of the high-tide line. Unwarranted conditions include testing requirements that were not previously imposed and that should not require repeating every six months. Referrals to local government in such instances are unwarranted as local government does not regulate seaward of the high-tide line.</p>	<p>The Parks and Wildlife Service in NRET should accept that lessees of Crown land leases are wholly responsible for compliance with the requirements of other agencies regarding activities on that land. The Parks and Wildlife Service in NRET should not require lessees to seek its approval for activities on that land, such as the installation of a removable lean-to.</p> <p>The Parks and Wildlife Service in NRET should, within 30 days of an application, provide an open-ended approval of routine silt removal from channels immediately seaward of the high-tide line.</p>

## Minister Jaensch, State Revenue Office, Treasury and Finance

Topic	What is the red tape issue? (unnecessary licensing, unreasonable or duplicative licence conditions, and compliance and form issues in licensing processes)	What can change to fix the issue?
Primary production definition	The State Revenue Office has required oyster farmers to set out the details of their operations on each part of their land before the Office has eventually declared that the land is primary production land subject to nil land tax. This has generated unnecessary compliance costs and delays.	The State Revenue Office should recognise that, regarding the land bases of oyster farmers, including those who sell oysters direct to the public, all the land is used for “maintaining animals... for sale” or “commercial... cultivating aquatic... animals” (from 7(2) of the Land Tax Act 2000), such that all the land should be treated as primary production land, and no delays and compliance costs arising from that question need be incurred.