

27/09/2022

Mr Geoff Dunlop
gdunlop@pacefarm.com

RE: REQ/ENC/2022/387

Crown road within Lot 52 DP 1168698

Dear Geoff

I refer to your enquiry regarding Crown roads within Lot 52 DP 1168698

If the free-range egg production does not require any structures on the Crown road within Lot 52 DP 1168698 and will be used solely for the purpose of grazing the current Enclosure Permit (EP) is all that is required. If structures will be constructed on the Crown road within Lot 52 DP 1168698 or the area is cultivated a Licence will be required for the purpose of grazing, cultivation and structures.

The current Enclosure Permit within Lot 52 DP 1168698 is EP 507813 - I have attached the map, schedule and conditions for this EP.

Below is a link to what is permitted and authorised by an enclosure permit.

<https://www.crownland.nsw.gov.au/licences-leases-and-permits/apply-or-manage-enclosure-permit>

What is an enclosure permit?

An enclosure permit is an **authorisation** issued by the NSW Department of Planning and Environment (the department) to an owner of an adjoining property and allows the Crown road to be:

- *used for the grazing of stock*
- fenced into the owner's private land.

An enclosure permit does not give a person ownership of the Crown road or allow them to restrict public access along the Crown road.

Does an enclosure permit allow construction on the Crown road?

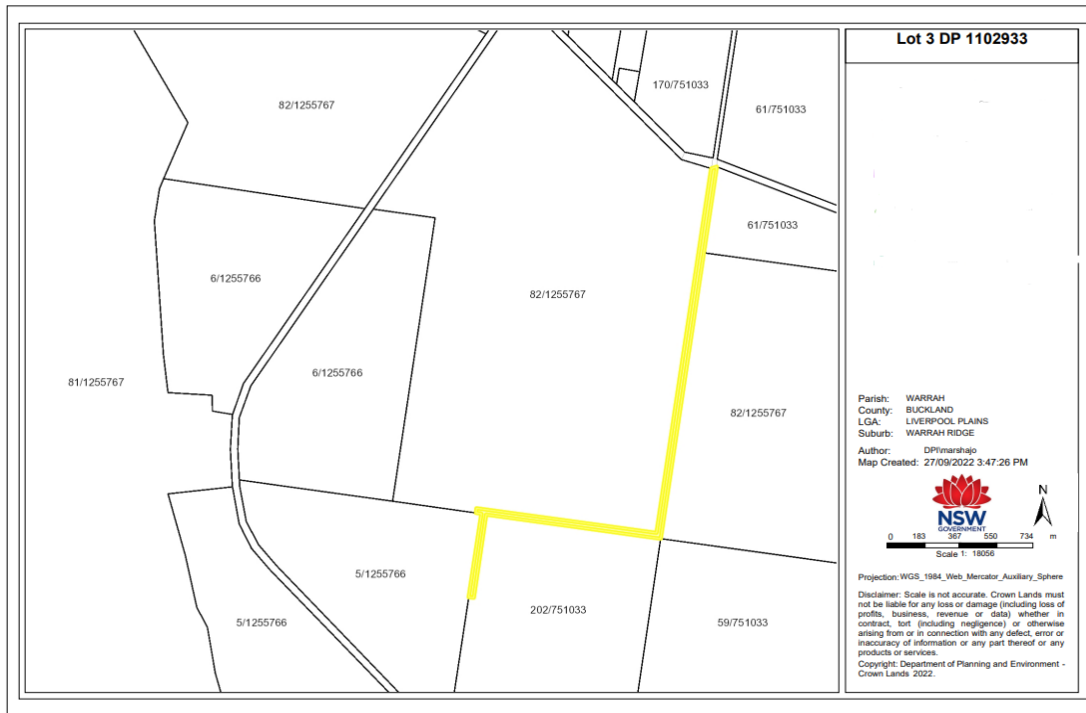
No, enclosure permits only allow for the Crown road to be grazed upon and fenced into adjoining land. *Structures other than fencing and gates are not permissible.*

If structures are required on the Crown road within Lot 52 DP 1168698 or if the area is cultivated a licence will be required. Below is information regarding Licences.

<https://www.crownland.nsw.gov.au/licences-leases-and-permits/do-i-need-licence-or-lease>

Previous Crown road bordering Lot 202 DP 751033

The yellow area was previously a crown road, however the road was closed and purchased by the landholder at the time and is now freehold land (Lot 3 DP 1102933).



Kind Regards



Joanne Marshall
Property Management Officer
joanne.marshall@crowmland.nsw.gov.au
02 6763 3026

File Reference
12/07746

ENCLOSURE PERMIT

Crown Lands Act 1989

Enclosure Permit
507813

The Minister administering the Crown Lands Act, (*hereinafter referred to as the Minister*)

grants to

(hereinafter referred to as the Holder)

a Permit to enclose the road(s) as set out hereunder for the following reason.

Following the subdivision and transfer of the whole or part of the land in respect of which Enclosure Permit(s) have been granted under the provisions of the Crown Lands Act, 1989 and pursuant to Section 65 of that Act, an enclosure permit is taken to have been granted to enclose the road(s) described in Schedule 1 with the land described in Schedule 2 at the annual rent specified in Schedule 3 and subject to the conditions as specified in the attached Schedule 5. The commencement date of the permit is as specified in Schedule 4.

Dated this _____ day of _____ 20 _____

name & position

SCHEDULE 1 - DESCRIPTION OF ROAD(S) ENCLOSED

TEXT DESCRIPTION: Parish of WARRAH, County of BUCKLAND: Crown public road East and within Lot 52 DP 1168698, being the road(s) highlighted on the attached Diagram Schedule 6 comprising an **AREA** of about 3.295ha

SCHEDULE 2 - LAND WITH WHICH ROAD(S) IS ENCLOSED

Land District:	QUIRINDI	Local Govt. Area:	LIVERPOOL PLAINS
Lot 52 DP 1168698 Parish Warrah County Buckland			

SCHEDULE 3 - ANNUAL RENT

\$432 payable annually in advance on February, 11th of each year, being the DUE DATE for payment.

SCHEDULE 4 - EFFECTIVE DATE

The effective date of this permit is the 18th July, 2012

SCHEDULE 5 - CONDITIONS

1. Payment

The holder shall pay -

- (a) on demand, the proportionate part of the annual rent from the commencement/effective date of the permit to the DUE DATE for payment specified in Schedule 3 next occurring after the commencement/effective date of the permit and the date of such demand shall be taken to be the due date for payment of such proportionate rent for the purposes of Section 148 of the Crown Lands Act, 1989;
- (b) without demand, the annual rent specified in Schedule 3 yearly in advance on the DUE DATE for payment specified in that Schedule.

2. Goods and Services Tax

- (a) Definitions

In this clause the expressions "GST", "supply", and "taxable supply" have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999.

- (b) Amounts GST Exclusive

With the exception of any amount payable under this clause, unless otherwise expressly stated all amounts stated to be payable under this Permit are exclusive of GST.

- (c) Responsibility for GST

- (i) Despite any other provision in this Permit, if GST is imposed on any supply made under this Permit, the recipient must pay to the supplier an amount equal to the GST payable on the taxable supply.
- (ii) The recipient must pay the amount referred to in subclause (c)(i) in addition to and at the time payment for the taxable supply is required to be made under this Permit.

- (d) Valuer/Umpire to return GST Exclusive Value

Any valuer or umpire returning a valuation must return a GST exclusive market value for it in any case where the valuation is for the purpose of determining a supply value to which GST is to be added under this Permit.

3. Definition of "Land"

For the purposes of the following conditions "land" means the road(s) and/or watercourse(s) specified in Schedule 1, unless the contrary intention appears.

4. Compliance with law

This enclosure permit does not authorise the holder or any servant, agent, employee or contractor of the holder to carry out any activity prohibited by any law and the holder or any servant, agent, employee or contractor of the holder shall comply with the requirements of all laws, statutes, regulations or by-laws and the requirements of all relevant public authorities in so far as they apply to the land enclosed.

5. Acts not permitted

Without limiting the generality of the "Compliance with law" clause, the holder or any servant, agent, employee or contractor of the holder shall not -

- (a) impede or interfere with the public rights of passage and access that exist with respect to the land, whether such rights be exercised on foot, in a vehicle (including farm machinery), water craft or otherwise, and to drive stock or other animals;
- (b) erect any structures on the land (other than fencing, gates or substitutes for gates as permitted by the "Holder to erect gates or other means of access" clause), or undertake any construction or other work on the land, except with the written consent or other express authority of the Minister;
- (c) cultivate the land, except with the authority of the Minister given under section 72 of the Crown Lands Act 1989;
- (d) destroy, clear or remove any vegetation on the land, whether growing or dead, other than as required by the "noxious plants, animals and insects" clause;
- (e) destroy or deface any aboriginal relic or place on or within the land;

except as permitted and in accordance with any relevant laws, statutes, regulations or by-laws in force in New South Wales from time to time and in accordance with the requirements of any relevant public authority.

6. Holder to Erect Gates, Ramps or Other Means of Access

The Minister may, pursuant to the Crown Lands Act 1989 and/or Roads Act 1993 direct the holder to take action specified in a direction, including the erection, removal or replacement of gates or other means of access and or the removal or replacement of any fence or other structure on the land.

7. Indemnity

- (a) The holder shall indemnify and keep indemnified the Minister from and against all actions, suits, liabilities, claims, proceedings, orders, directions, costs and demands whatsoever arising in respect of personal injury or death of any person and in respect of loss or damage to any property whatsoever occurring on, in, over, under, adjacent to or in any way connected with the road and or watercourse described in Schedule 1, arising from or in relation to:
 - (i) the condition of the holder's lands;
 - (ii) any activity at or use of the holder's lands and/or the land comprising the road and or watercourse described in Schedule 1 undertaken by the holder or with the holders express or implied consent;
 - (iii) any object, animal, work or thing present on, in, over, or under the holder's lands whether temporary, permanent, intermittent or otherwise;
 - (iv) any object, animal, work or thing present on, in, over, under, or adjacent to the road and or watercourse described in Schedule 1 whether temporary, permanent, intermittent or otherwise which is attributable to the holder;

and any, each or all of the above.

- (b) For the purposes of this clause, the term Minister shall include Her Majesty the Queen Her Heirs and Successors the State of New South Wales the Minister and agents servants employees and contractors of Her Majesty Her Majesty's Heirs and Successors the State of New South Wales and the Minister.

8. Reasonable care

Without in any way limiting the operation of the "Indemnity" clause, the holder shall take any necessary action in any use and activities undertaken by the holder or any servant, agent, employee or contractor of the holder, in respect of the land and the holder's land with which the land comprised in this permit is enclosed, to remove any risk that may reasonably be anticipated to cause personal injury or property damage to any person making lawful use of the road and or watercourse specified in Schedule 1.

9. Holder to Pay Rates Etc

The holder shall pay all rates, taxes, assessments, duties, charges and fees which are at any time during the currency of the enclosure permit lawfully charged upon, imposed or levied in respect of the land.

10. Noxious plants, animals and insects

The holder will take steps to eradicate or control all noxious plants, noxious animals and noxious insects on the land which may by law be required to be eradicated or controlled.

General information for holders of enclosure permits (over a Crown road and/or a watercourse)

A crown road is a public road, managed by the Minister as roads authority under the Roads Act 1993, over which the public has rights of passage and access, subject to any restrictions that may be imposed. The Roads Act provides for the grant of an enclosure permit under the Crown Lands Act 1989.

If an enclosure of Crown road or watercourse has not been subject to any specific directions regarding structures -

- (a) In respect of a Crown road, which as yet may not have been used for public passage, which the holder has enclosed by a fence across the road (in which the provision of a gate or other means of access has not as yet been required) and the road is required to be used as a road for passage by the public, the holder has an obligation to facilitate public passage through the fence, along the route of the road.
- (b) The enclosure of a watercourse (where the bed of the watercourse is Crown land) and the waters are from time to time capable of navigation by any water craft, is subject also to general control of navigation by the Waterways Authority. Any structure in, upon or over the bed of such a watercourse should not unreasonably impede the movement or passage of persons or water craft or imply that such passage is not available along the watercourse.
- (c) If a structure exists or is placed on or across the normal line of public passage on a Crown road or watercourse and that structure is not visible to normal traffic from a reasonable distance, signs should be placed in an appropriate position to warn the public of the structure.

SCHEDULE 6

