

Kempsey - Armidale Road Restoration

Appendix C

Crown Land Management Licence

L I C E N C E

Crown Land Management Act 2016 - Section 2.18

File Reference

20/09209

Licence Number

RN 623890

MINISTER

The Minister administering the Crown Land Management Act 2016,
(hereinafter referred to as the Minister)

grants to

LICENSEE name & address

ARMIDALE REGIONAL COUNCIL
135 Rusden St
ARMIDALE NSW 2350
(hereinafter referred to as the Holder)

a Licence pursuant to the provisions of Section 2.18 of the Crown Land Management Act 2016 in respect of the land described hereunder in Parts 1 and 2 and subject to the terms and conditions contained in the following pages and Schedule 1, and in any additional Schedules or documents referred to in Schedule 1.

EXECUTION

Dated this 11th day of January 2021

THE MINISTER

N Bon as delegate of the Minister
administering the Crown Land
Management Act 2016

Kerrelle Carr name and position
*A/ Supervisor Business Centre
Licences & Searches*

THE HOLDER

In consideration of the grant of this Licence I / We agree to be bound by the terms, conditions and provisions of the Licence.
Certified on behalf of the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Corporation: ARMIDALE REGIONAL COUNCIL

Signature of authorised person: *J Key*
Name of authorised person: *J Key*
Office held: *Acting General Manager*
Signature of authorised person: *J*
Name of authorised person: _____
Office held: _____

DESCRIPTION OF LANDS

PART 1

Local Govt. Area	ARMIDALE REGIONAL		
County	CLARKE		
Parish	GEORGE,BIG HILL		
Locality	JEOGLA,LOWER CREEK		
Status:	Lot	Section	DP
Crown land being part	7010		DP: 1057457
Crown land being part	7300		DP: 1147811

PART 2

Plan/diagram: Schedule 3	Area: 6162m2
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TEXT DESCRIPTION: Crown Land being the most southern part of Lot 7300 DP 1147811(Reserve 26970 for camping and travelling stock, notified 4 December 1897) and Part of Lot 7010 DP 1057457 (Reserve 26971 for camping and travelling stock, notified 4 December 1897), as shown in red on the schedule 3 diagrams.

***** End of Description of Land *****

1. Definitions

In this Licence unless the contrary intention appears:

"Act" means the Crown Land Management Act 2016

"Commencement Date" means the date on which this Licence is stated to commence.

"Holder" means the person described as the Holder on the front page of this Licence.

"Improvements" means all buildings structures facilities works and pontoons situated on or in the land or which under the terms of this Licence are to be situated on or in the land.

"Land" means the land specified in Parts 1 and 2 of this Licence under the heading "DESCRIPTION OF LAND" (including any submerged land and waterway) or where the context so admits any part thereof.

"Licence" means this Licence including the Schedules and Annexures hereto.

"Minister" means the Minister referred to on the front page of this Licence as the Minister and where not repugnant to the context includes the Successors of Minister and the servants and agents of the Minister.

"Pontoon" means a floating landing stage.

"Premises" means the Land the Improvements and the Holder's Plant and where the context so permits any part of the foregoing.

"RA" means the Roads Act 1993.

"Rent" means the rent provided for in this Licence.

"Term" means the period commencing on the "Commencement Date" and terminating on the "Termination Date".

"Termination Date" means the date on which the Licence is revoked or ceases to have effect in accordance with the provision of this Licence. (6.002)

2. Plurals and Genders

- (a) Words importing the singular number shall include the plural and vice versa.
- (b) Words importing the masculine gender shall include the feminine or neuter and vice versa.
- (c) Any reference to a person shall be deemed to include a reference to a corporation and vice versa. (6.004)

3. Contra Proferentum

No rules of construction shall apply to the disadvantage of a party on the basis that that party was responsible for the preparation of this Licence or any part of it. (6.005)

4. Headings Plans and Code Numbers

- (a) Headings (and subheadings within clauses) marginal notes the matter appearing in Column 1 of Schedule 1 and the Table of Contents have been inserted for guidance only and shall be deemed not to form any part of the Licence.

- (b) Any plan or diagram attached or annexed to this licence, which purports to depict the land shall be deemed not to form any part of the licence unless that plan or diagram is referred to in PART 2 in the DESCRIPTION OF LAND.
- (c) The code number appearing at the end of each clause of the Licence shall be deemed not to form part of the Licence. (6.006)

5. Clauses and Schedules

References to Clauses Parts and Schedules are references to clauses parts and schedules of this Licence. (6.007)

6. Statutes

- (a) A reference to a statute statutory instrument or ordinance includes amendments to that statute statutory instrument or ordinance whether by subsequent statutes statutory instruments or ordinances or otherwise and any statute statutory instrument or ordinance passed in substitution for the statute statutory instrument or ordinance referred to or incorporating any of its provisions.
- (b) A reference to a statute includes a reference to any regulation made thereunder. (6.008)

7. Joint and Several Covenants

Any covenant or agreement on the part of two or more persons shall be deemed to bind them jointly and severally. (6.009)

8. Severability

Any provision of this Licence which is prohibited or unenforceable in any jurisdiction shall as to such jurisdiction be ineffective to the extent of such prohibition or inability to enforce without invalidating the remaining provisions of such provision in any other jurisdiction. (6.010)

9. Applicable Law

This Licence shall be construed and interpreted in accordance with the law of New South Wales. (6.011)

10. Licence a "Holding" for purposes of the Act

The Holder acknowledges that this Licence is a Holding within the meaning of the Act and the Holder is a Holder within the meaning of the Act and the provisions of the Act relating to holdings and holders apply to this Licence and the Holder. (6.012)

11. Performance of Functions etc

Any power authority duty or function conferred or imposed upon the Minister under this Licence may be exercised or performed by any person authorised by the Minister. (6.013)

12. Authorised Officer

Where under this Licence the Minister is empowered to authorise any person to perform or exercise any power authority duty or function under this Licence such person shall be validly authorised if he is authorised to exercise any power authority duty or function conferred by any Licence granted by the Minister or any Licence of a specified type or any Licence within a specified locality. (6.014)

13. Minister as Public Authority

The Minister and Holder acknowledge that nothing in this Licence can in any way restrict or otherwise affect the Minister's unfettered discretion as to the use of the Minister's statutory powers as a public authority. (6.015)

14. Approval by the Minister

- (a) In any case where pursuant to this Licence the doing or executing of any act matter or thing by the Holder is dependent upon the approval or consent of the Minister such approval or consent shall not be effective unless given in writing and may be given or withheld by the Minister in the Minister's absolute discretion and may be given subject to such conditions as the Minister may determine unless otherwise herein provided.
- (b) The Holder expressly agrees that any failure to comply with a condition imposed by the Minister will constitute a failure by the Holder to comply with a condition of this Licence. (6.016)

15. Opinion of the Minister

Any opinion to be formed by the Minister for the purposes of this Licence may be formed by the Minister on such grounds and material as the Minister determines to be sufficient after consultation if the Minister deems it necessary with any New South Wales Government Department or other public authority Standards Australia or any other body whose objects and functions are relevant. In forming any such opinion the Minister shall be deemed to be exercising merely administrative functions. (6.017)

16. Holder to pay Cost of Work

Whenever the Holder is required in this Licence to do or effect any act matter or thing then the doing of such act matter or thing shall unless this Licence otherwise provides be at the sole risk cost and expense of the Holder. (6.018)

17. Notices

- (a) All notices or communications required to be or which may be given or served by the Minister to or upon the Holder under this Licence or which may be convenient to be given or served in connection with this Licence shall be in writing and shall be sufficiently given or served if left at or sent by ordinary post addressed to the Holder at his address specified in Column 2 of Item 1 of Schedule 1 or at the Premises or at such other place as notified in writing by the Holder to the Minister.
- (b) All notices or communications required to be or which may be given or served by the Holder to or upon the Minister under this Licence or which may be convenient to be given or served in connection with this Licence shall be in writing and shall be sufficiently given or served if signed by the Holder or if the Holder is a corporation by the Secretary of the Holder or the person acting as such for the time being and if left at or sent by ordinary post addressed to the person specified in Column 2 of Item 2 of Schedule 1.
- (c) Any notice or communication given or served by post shall be deemed to have been duly given or served at the time when it would in the ordinary course be delivered. (6.019)

18. Manner of Payment of Rent and Other Moneys

The rent and other moneys payable in accordance with this Licence shall be paid to the Minister at the address specified in Column 2 of Item 3 of Schedule 1 or to such other person or at such other address as the Minister may from time to time direct by notice in writing served on the Holder. (6.020)

19. Time to be of the Essence

The Minister and the Holder expressly agree that where in any provision of this Licence the Holder is given or allowed a specified time within which to undertake or do any act or thing or any power is conferred or any event occurs after the lapsing of a specified time time shall be the essence of the contract in that regard. (6.021)

20. Whole agreement

The conditions covenants and provisions contained in the Licence expressly or by statutory implication and any provision of the Act which apply to this Licence cover and comprise the whole of the agreement between the parties hereto and it is expressly agreed and declared that no further or other covenants or provisions whether in respect of the Premises or otherwise shall be deemed to be implied herein or to arise between the parties hereto by reason of the invitation by the Minister to the Holder to submit a proposal for the redevelopment of the Premises or any document issued by the Minister prior thereto or by reason of the subsequent negotiations between the parties hereto or by reason or any promise representation warranty or undertaking given or made by any party hereto to another on or prior to the execution hereof or during the Term and the existence of any such implication or collateral or other agreement is hereby negated. (6.022)

21. Permitted Use

- (a) This Licence confers on the Holder a right to occupy the Premises for the purpose specified or referred to in Column 2 of Item 4 in Schedule 1.
- (b) The Holder will not use the Premises or allow them to be used for any purpose other than the purpose specified in Column 2 of Item 4 in Schedule 1. (6.023)

22. No Exclusive Possession

The Holder acknowledges that this licence does not confer exclusive Possession of the Premises upon the Holder. (6.023A)

23. Holder not to Commit Nuisance etc

The Holder will not at any time during the Term of this Licence:

- (a) carry on or permit to be carried on at the premises any noxious nuisance or offensive trade business.
- (b) do or permit to be carried on at the premises any act matter or thing which results in nuisance damage or disturbance to the Minister or owners or occupiers of adjoining or neighbouring lands or buildings.
- (c) use the premises for any illegal activity. (6.024)

24. No Residence on Premises

The Holder will not reside or permit any other person to reside on the Premises other than as may be specified or referred to in Column 2 of Item 4A of Schedule 1. (6.025)

25. Commencement and Revocation of Licence

- (a) This Licence shall commence on the date specified or referred to in Column 2 of Item 5 of Schedule 1 and shall continue in force until it is revoked in accordance with the provisions of this clause.
- (b) The Minister may in his absolute discretion revoke this Licence at any time by serving on the Holder a notice in writing revoking this Licence.
- (c) A revocation made under this clause shall take effect on the date specified in the notice or where no date is specified in the notice on the date on which the notice is served on the Holder.
- (d) Except as may be expressly provided for in this Licence the Holder acknowledges and agrees that the Holder will not be entitled to any compensation costs or damages in respect of the revocation of this Licence. (6.027)

26. Licence Granted subject to Aboriginal Land Claim

- (a) The Holder is granted this licence subject to a possible Aboriginal Land Claim over this land provided in s36 of the Aboriginal Land Rights Act 1983.

- (b) Notwithstanding any other provision of this Licence, this Licence shall terminate or require alteration in the event that the Minister determines that the land is claimable Crown land or a Court determines that the land is claimable Crown land.
- (c) Except as may be expressly provided for in this Licence the Holder acknowledges and agrees that the Holder will not be entitled to any compensation costs or damages in respect of the termination or alteration of this Licence by operation of this clause. (6.029C)

27. Transfer upon grant of Aboriginal Land Agreement

- (a) Despite anything else in this Licence, the Holder agrees to and approves of the transfer of this Licence as it applies to any or all of this Site (which for the purposes of this clause, includes any access routes associated with use of the Site) without any further notice if an Aboriginal Land Agreement (ALA) within the meaning of section 36AA(1) of the Aboriginal Land Rights Act 1983, affecting the Site or part thereof, provides for the transfer of this Licence as it applies to any or all of this Site.
- (b) Except as may be expressly provided for in this Licence, the Holder acknowledges and agrees that the Holder will not be entitled to any compensation, costs or damages in respect of the transfer of this Licence as it applies to any or all of this Site by operation of this clause.
- (c) The Holder agrees that the date of transfer under this clause is the date provided for in the ALA, or if it is not so provided, the date the ALA is entered into.
- (d) The Minister may give notice to the Holder of the transfer of this Licence as it applies to any or all of this Site under this clause but is not required to do so to effect the transfer. (6.029F)

28. Payment of Rent (CPI)

- (a) For the purposes of this clause:

"Initial Rent" means the rent specified in Column 2 of Item 11 of Schedule 1.

"Consumer Price Index number" has the same meaning given to that term in the Act.

"CPI Review Date" means each anniversary date of the Commencement Date.

"CPI Review Period" means the period between each CPI Review Date.

"Due Date" means each anniversary date of the Commencement Date.

"Market Rent Review Date" means the date of the expiration of each period of years as specified in Column 2 of Item 12 of Schedule 1 calculated from the Commencement Date.

"Market Rent Review Period" means the period between each Market Rent Review Date.

- (b) The Holder covenants with the Minister that the Holder will during the whole of the Term pay to the Minister in accordance with the provisions of this clause without demand free of exchange and without deduction whatsoever the rent hereinafter provided.
- (c) The Holder will pay to the Minister on the commencement Date the Initial Rent and thereafter shall pay on each Due Date rent in advance adjusted as hereinafter provided.
- (d) (i) On the CPI Review Date the rent shall be adjusted in accordance with the following formula:

$$R = B \times \frac{C}{D}$$

where:

- R represents the adjusted rent;
- B represents the annual rent payable during the year preceding the CPI Review Date;
- C represents the Consumer Price Index number for the last quarter for which such a number was published before the CPI Review Date; and
- D represents the Consumer Price Index number for the last quarter for which such a number was published before the immediately preceding CPI Review Date (or if there is no immediately preceding CPI Review Date then the Commencement Date).

- (ii) Any rent adjusted under this subclause shall be adjusted to the nearest whole dollar.
- (e) In addition to the indexation review provided for in subclause (d) on the first Market Rent Review Date after commencement and thereafter on each Market Rent Review Date the rent may be redetermined by the Minister pursuant to the provisions of Sections 6.5 and 6.7 of the Act.
- (f) A redetermination of rent for the purposes of subclause (e) shall be deemed to have been made on the Market Rent Review Date if it is made at any time within the period of six months before the market Rent Review Date.
- (g) Where the Minister does not redetermine the rent as provided for in subclause (e) he may redetermine the rent pursuant to the provisions of Sections 6.5 and 6.7 of the Act at any time prior to the next Market Rent Review Date and no succeeding Market Rent Review Date shall be postponed by reason of the operation of this subclause.
- (h) Where the Minister does not redetermine the rent on the First Market Rent Review Date or a Market Rent Review Date as provided for in subclause (e) the Holder may by notice in writing served on the Minister require that the Minister redetermine the rent pursuant to the provisions of Sections 6.5 and 6.7 of the Act. Where the Holder requires the Minister to redetermine the rent under this subclause he shall pay on demand the costs of the Minister (or so much of the cost as the Minister may require) in making that determination.
- (i) The Holder may object to a redetermination of rent under Section 6.8 of the Act. A redetermination of rent as provided for in subclauses (e) (g) and (h) shall take effect and be due and payable from the date of issue of the notice of redetermination under Section 6.7 of the Act, even if an objection under that Section 6.8 has been lodged. On the completion of the objection process any necessary adjustments shall be made.
- (j) A redetermination of rent made before its relevant Market Rent Review Date as provided for in subclause (f) shall take effect from the relevant Market Rent Review Date even if an objection under Section 6.8 of the Act has been lodged. On the completion of the objection process any necessary adjustments shall be made.
- (k) The Holder acknowledges that the Minister may make a direction under Section 12.16 of the Act in respect of any rent payable under this Licence. (6.031)

29. Continuing Obligation

The obligation of the Holder to pay the Rent shall be a continuing one during the term of this Licence and shall not abate in whole or in part or be affected by any cause whatsoever. (6.037)

30. Holder to Pay Rates etc

The Holder will when the same become due for payment pay all (or in the first and last year of the term of this Licence the appropriate proportionate part) rates taxes (including Land Tax) assessments duties charges and fees whether municipal local government parliamentary or otherwise which are at any time during the currency of this Licence lawfully charged upon imposed or levied in respect of the Premises or on the Minister or the Holder on account thereof and will if required by the Minister produce to the Minister the receipts for such payments within ten business days after the respective due dates for payment AND in case such rates taxes duties and fees so covenanted to be paid by the Holder are not paid when the same shall become due the Minister may if the Minister thinks fit pay the same and any such sum or sums so paid may be recovered by the Minister as if such sums were rent in arrears. (6.039)

31. Holder to Pay Other Charges

The Holder will pay all other fees charges and impositions which are at any time during the Term payable in respect of the Premises or on account of the use and occupation of the Premises by the Holder. (6.040)

32. 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 Licence are exclusive of GST.

(c) Responsibility for GST

- (i)** Despite any other provision in this Licence, if GST is imposed on any supply made under this Licence, 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 Licence.

(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 Licence. (6.040A)

33. Holder not to Impose Liability on Minister

Subject to any other provision of this Licence the Holder will not without the written consent of the Minister by any act matter or deed or by failure or omission cause or permit to be imposed on the Minister any liability of the Holder under or by virtue of this Licence. (6.042)

34. Holder not to undertake development without consent notwithstanding any other provision of this Licence

The Holder will not undertake any development within the meaning of the Environmental Planning and Assessment Act 1979 contrary to the provisions of that Act or in breach of any restriction condition or prohibition imposed by an Environmental Planning Instrument or condition of a development consent. (6.043)

35. Development Consent

The Holder will not undertake any activity on or within the Premises for which consent is required under the Environmental Planning and Assessment Act 1979 or any Instrument made thereunder without first obtaining such consent and in accordance with any condition or requirement of that consent. (6.044)

36. Compliance with Statutes

- (a) The Holder will comply with the requirements of all statutes regulations or by-laws and requirements of all relevant public and local authorities in so far as they apply in relation to the use and occupation of the premises.
- (b) The Holder will forthwith on being served with a notice by the Minister comply with any notice or direction served on the Minister by a competent authority relating to the destruction of noxious animals or plants or pests or the carrying out of repairs alterations or works on or to the Premises. (6.045)

37. Work Health and Safety

The Holder must comply with the *Work Health and Safety Act 2011* (NSW), the *Work Health and Safety Regulation 2017* (NSW) and all other requirements of any other legislation or statutory authority in this regard whilst on the Crown Land. (6.046)

38. Holder not to deal with Licence or part with possession of Premises

- (a) Subject to any other provision of this Licence the Holder will not during the Term of this Licence transfer or create any interest in the Licence or authorise or permit any person other than its contractors or subcontractors to occupy the Premises.
- (b) The Holder is liable for any breach of this Licence by any of its contractors or subcontractors as if that person was the Holder. (6.047)

39. Revocation on the Request of the Holder

The Holder may at any time by notice served on the Minister request that this Licence be revoked and the Minister if he is satisfied that the Holder has complied with the conditions and provisions of this Licence or the Act will as soon as practicable comply with such a request. (6.051)

40. Interest on Overdue Money

The Holder shall pay interest on any money due and payable under this Licence to the Minister at the rate prescribed from time to time under the provisions of Section 12.12 of the Act and any such interest shall for the purposes of this Licence be deemed to be Rent in arrears. (6.052)

41. Failure to pay money or Undertake Works

- (a) Where under this Licence the Holder is required to pay any money to a third party and neglects to do so for a period of 14 days after the money became due and payable it shall be lawful for but not obligatory upon the Minister (and without prejudice to any rights and powers arising from such default) to pay such money as if it were the Holder and the Holder will reimburse the Minister in respect of any such payments on demand.
- (b) Where under this Licence the Holder is required to do or cause to be done any work or thing and the Holder neglects to do the work or thing for a period of 14 days after that work or thing was due or required to be done it shall be lawful for but not obligatory upon the Minister (and without prejudice to any rights and powers arising from such default) to do or effect such work or thing as if the Minister were the Holder and for that purpose the Minister the Minister's officers agents contractors and workmen may enter upon the whole or any part of the Premises and there remain for the purposes of doing or effecting any such work or thing and the Holder will reimburse the Minister for the cost of the doing or effecting the work or thing on demand. For the purposes of this clause the word cost shall include any sums paid for any insurance indemnities under the laws relating to workers compensation.

- (c) The Holder expressly agrees that any money or cost payable to the Minister under this clause shall constitute a debt owed by the Holder to the Minister and may be recovered by the Minister accordingly.
- (d) Where the Premises has a common boundary with other land owned leased or held by the Holder (hereinafter called the "other land"). The Holder irrevocably grants to the Minister the Minister's officers agents contractors and workmen a licence to enter upon the said other land for the purpose of gaining access to the Premises or for the purpose of undertaking any work or thing authorised permitted or contemplated by this Clause.

In exercising any power conferred by this subclause the Minister the Minister's servants employees and agents will not be liable for any reasonable damage suffered or occasioned to the other land or anything constructed thereon.

- (e) The Holder expressly agrees that the provisions of this clause shall continue after the expiration or sooner determination of this Licence and the Minister may make any payment or effect any work or thing authorised by this clause after the expiration or sooner determination of this Licence as if such expiration or sooner determination had not taken place. (6.053)

42. Indemnity

- (a) 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 the agents servants employees and contractors of Her Majesty Her Majesty's Heirs and Successors the State of New South Wales and the Minister.
- (b) The Holder agrees that the Holder will indemnify and keep indemnified the Minister from and against all actions suits claims and demands of whatsoever nature and all costs charges and expenses in respect of any accident or injury to any person or property which may arise out of the use of the Premises or the construction or maintenance of works as may be authorised under the Licence notwithstanding that the conditions of this Licence shall in all respects have been observed by the Holder or that any such accident or injury shall arise from any act or thing which he may be authorised or compelled to do hereunder except to the extent that any such claims and demands arise from any negligence or wilful act or omission on the part of the Minister.
- (c) The Holder expressly agrees that the obligations of the Holder under this clause shall continue after the expiration or other determination of this Licence in respect of any act deed matter or thing happening before such expiration or determination except to the extent that any such claims and demands arise from any negligence or wilful act or omission on the part of the Minister. (6.054)

43. Insurance - Public Risk

The Holder will (without in any way limiting the liability of the Holder under any other provision of this Licence) forthwith take out and thereafter during the Term keep current a public liability insurance policy for the amount specified in Column 2 of Item 19 of Schedule 1 for any one claim whereby the Minister shall during the continuance of this Licence be indemnified against claims and demands arising from death or bodily injury or damage to third party property arising out of the Holder's use of the Premises. (6.057)

44. Provisions Re Policies

- a) All insurance policies to be required to be effected by the Holder pursuant to this Licence shall be in place prior to occupying the licensed lands.
- b) The Holder will produce to the Minister, within a reasonable time after receiving a request that it do so, a certificate of insurance or a certificate of currency in respect of the insurance policies required to be effected by the Holder pursuant to this Licence. If the Holder self insures in respect of risk, then its obligations under this clause will be satisfied by provision of a letter confirming that self insurance.

- c) The Holder will not at any time during the Term do or bring upon the licensed lands anything which it ought reasonably believe may render void or voidable any policy of insurance taken out by the Holder. If the Holder brings anything onto the licensed lands whereby the rate of premium on such insurance shall be liable to be increased the Holder will obtain insurance cover for such increased risk and pay all additional premiums on the licensed lands (if any) required on account of the additional risk caused by the use to which the licensed lands is put by the Holder.
- d) The Holder will use all reasonable endeavours to ensure that full true and particular information is given to the office or company with which the said insurances are effected of all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or policies of insurance or the payment of all or any moneys thereunder. (6.065)

45. Construction Of Improvements Not Permitted

- (a) For the purposes of this clause "Improvement" means any building structure facility work or pontoon.
- (b) The Holder will not construct effect erect or undertake any Improvements on the Premises. (6.066)

46. Ownership of Improvements the Act

The Holder acknowledges that the provisions of section 7.16 of the Act apply. (6.074)

47. Premises to be kept in clean and tidy condition

The Holder will at all times during the Term keep the Premises in a clean and tidy condition and will (subject to any other provision of this Licence) on the Termination Date leave the Premises in a clean and tidy condition. (6.088)

48. Minister's Right to Enter Inspect and Repair

The Minister and the Minister's agents may at all reasonable times upon giving to the Holder reasonable notice (except in the case of emergency when no notice shall be required) enter upon the Premises and view the state of repair thereof and may serve upon the Holder a notice in writing of any defect (the repair of which is the Holder's obligation hereunder) requiring the Holder within fourteen days to repair the same. (6.090)

49. Relics

- (a) Unless authorised to do so by a permit under Section 87 or a consent under Section 90 of the National Parks and Wildlife Act 1974 and subject to observance and compliance with any conditions imposed on the grant of such permit or consent the Holder will not knowingly disturb destroy deface or damage any aboriginal relic or place or other item of archaeological significance within the land and shall take every precaution in drilling excavating or carrying out other operations or works in the Land against any such disturbance destruction defacement or damage.
- (b) If the Holder becomes aware of any aboriginal relic or place or other item of archaeological significance within the Land the Holder will within 24 hours notify the Director General National Parks and Wildlife Service of the existence of such relic place or item.
- (c) The Holder will not continue any operations or works on the Land likely to interfere with or disturb any relic place or item referred to in subclause (b) without the approval of the Director General National Parks and Wildlife Service and the Holder will observe and comply with all reasonable requirements of the Director General in relation to the carrying out of the operations or works. (6.107)

50. Artefacts

All fossils artefacts coins articles of value articles of antiquity structure and other remains or things of geological historical or archaeological interest discovered on or under the surface of the Premises shall as between the Minister and the Holder be deemed to be the absolute property of the Minister and the Holder will as authorised by the Minister watch or examine any excavations and the Holder will take every precaution to prevent such articles or things being removed or damaged and shall immediately upon discovery thereof notify the Minister of such discovery and carry out at the reasonable expense of the Holder the Minister's orders as to the delivery up or disposal of such articles or things. (6.108)

51. Soil Conservation Act

The Holder will comply with the provisions of the Soil Conservation Act 1938. (6.116)

52. Minister not liable to provide Access

The Holder acknowledges that the Minister is not liable to provide access to the Premises over other land held by the Minister or any other land. (6.121)

53. Holder not to remove Materials

- (a) The Holder will not mine remove extract dig up or excavate any sand stone gravel clay loam shell or similar substance or permit any other person to undertake any such action without the prior consent in writing of the Minister and subject to such conditions as the Minister may determine.
- (b) Subclause (a) shall not apply to any removal digging up or excavation as may be necessary to construct or undertake any improvement authorised by or under this Licence provided that any such removal digging up or excavation is undertaken in accordance with the requirements of that authority.
- (c) The Minister and the Holder expressly agree that a failure by the Holder to comply with any condition imposed pursuant to subclause (a) shall constitute a failure by the Holder to comply with a provision or covenant of this Licence. (6.194)

54. Minister May Grant Licences to Extract Material

- (a) The Minister may during the Term grant a Licence to any person over the land specified in Column 2 of Item 66 of Schedule 1 to mine remove extract dig up or excavate any sand stone gravel clay loam shell or similar substances.
- (b) Upon the grant of a Licence under this clause the Holder will be entitled to the compensation specified in Column 2 of Item 67 of Schedule 1.
- (c) The Holder agrees that he will not hinder interfere or prevent any person authorised under this clause from entering upon the Premises together with such servants employees agents or contractors and equipment as may be necessary in exercising the rights conferred on him by any Licence authorised to be granted under this clause.
- (d) The Minister may authorise any person (hereinafter called "the Licencee") who is granted a licence in accordance with the provisions of subclause (a) to construct such gates roads bridges and other works as may be necessary and the Holder will not hinder the Licencee in undertaking such work. (6.195)

55. Holder to Yield Up

The Holder will forthwith upon the revocation of this Licence peaceably surrender and yield up to the Minister the Premises in good condition reasonable wear and tear excepted together with all conveniences amenities and appurtenances relating thereto clear and free from rubbish and in good and substantial repair order and condition in every case having regard to the age of what is being surrendered or yielded up. (6.199)

56. No Right to Purchase etc

The Holder expressly acknowledges that the grant of this Licence does not confer a right to purchase the land or to the grant of a lease or to the grant of a further licence. (6.200)

57. Special Conditions

The special conditions specified or referred to in Column 2 of Item 71 of Schedule 1 shall be deemed to be conditions and provisions of this Licence. (6.201)

******* End of Licence Clauses *******

Schedule 1

Item	Column 1 (description of variable particulars)	Column 2 (particulars)
1	Holder's Address for service of notices	PO Box 75A ARMIDALE NSW 2350
2	Minister's Address for service of notices	Department of Planning, Industry & Environment - Crown Lands PO Box 2185 DANGAR NSW 2309
3	Address for payment of rent	Department of Planning, Industry & Environment - Crown Lands PO Box 2155 Dangar NSW 2309
4	Purpose for which Premises may be used	Stockpile, Storage
4A	No Residence on Premises	No residence
5	Commencement Date	The date specified on page 1 of the Licence being the date of the execution of the Licence.
11	Initial Rent	\$505.00
12	Market Rent Review Period	3 years
19	Insurance - Public Risk	\$20 Million
66	Land over which Licence to extract Materials may be granted	Whole
67	Compensation in the event that Licence to extract Material is granted	Nil
71	Special conditions or provisions	Annexed as Schedule 2

***** End of Schedule 1 *****

Schedule 2

ADDITIONAL TERMS AND CONDITIONS

1. Native Title*

Native title under the *Native Title Act 1993 (Cth)* ("*NTA*") may exist with respect to the Land.

To the extent that the Holder is permitted to do something under this Licence, then the Holder's right to do the activity prevails over any native title rights and interests and the existence of those native title rights do not prevent the Holder from doing the activity.

In such a case, if the act is wholly inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests, that native title continues to exist in its entirety but the rights and interests have no effect in relation to the act.

For some activities under the Licence, you must first obtain the Minister's Consent. In those cases, the Minister may only be able to consent to those acts if that consent can be given in accordance with the *NTA*.

*These notes do not form part of this Licence's terms and conditions.

2. Work Health and Safety

The Holder is responsible for safety induction of all persons onto the site. The Holder is responsible at all times for ensuring safe systems of work and that the site poses no work, health or safety risks to workers or the public. All persons engaged in the activity relative to this approval must be qualified, trained or appropriately experienced or supervised in the running of the event including the safe operation of associated equipment, tools or machinery. Relevant advice should be obtained from NSW WorkCover.

3. Approvals

The Holder must ensure that all licences, permits and approvals are obtained and maintained as required throughout the life of the event. No condition of this Licence removes the obligation for the Holder to obtain, renew or comply with such licences, permits or approvals. The Holder must ensure that a copy of this Licence and all relevant approvals are available during the Licence term. The requirements of all relevant approvals including consent issued by local government must be met by the Holder.

4. Site

The licence holder must ensure that the site is kept in a clean and tidy condition at all times.

5. Termination/Resite/Rehabilitation

Prior to termination, the Holder shall removal all structures, at their own cost and restore the ground to the satisfaction of the Minister or his authorised representative.

6. Fencing

The proponent must fence the site to prevent entry by the public and travelling stock. The proponents must ensure that all access gates to the licence remain securely shut when not in use.

7. Access

Access by the public along existing tracks through the subject reserves must be maintained at all times.

8. Protection of waterways

No water, fluids or waste is to be directed from the licence site into the nearby waterway. No activity is to be conducted which may cause any pollution or erosion to adjoining lands & waterway. Where run-off from the site has the potential to enter the adjoining waterway, bunding or similar must be installed.

9. Disposal of waste

All waste produced at the site must be disposed of at an appropriate facility off-site. No waste is to be stored in the licence area.

10. Native Vegetation

The term "Native Vegetation" means any of the following types of indigenous vegetation;

- (a) trees
- (b) understorey plants
- (c) groundcover
- (d) plants occurring in a wetland

Vegetation is indigenous vegetation, if it is of a species of vegetation, or comprises species of vegetation that existed in the State before European settlement.

11. Clearing of Native Vegetation

No use shall be made of the area described nor any action taken thereon, which would result in the clearing of existing Native Vegetation from the land, or would interfere with the natural growth or regeneration of such Native Vegetation, without the prior consent in writing of the Minister administering the Crown Lands Act.

The term clearing, includes the following:

- (a) cutting down, felling, thinning, logging or removing Native Vegetation
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning Native vegetation
- (c) Severing, topping or lopping branches, limbs, stems or trunks of Native vegetation
- (d) Substantially damaging or injuring Native Vegetation in any way

12. Works

All works must conform to earthworks erosion mitigation standards, to prevent soil erosion both on Licence area and land adjoining licence area.

Diversion or alteration to the natural overland flow of surface water must not be altered in any way outside of the minimum necessary requirements for the protection of any surface from erosion.

13. Review of Environmental Factors

Conditions/Actions outlined in Table 5.1 (Summary of site-specific safeguards for proposed works) pages 36-37 of 'Review of Environmental Factors Kempsey Road Stockpile Site', (Geolink 2020) form part of the conditions of this licence.

14. Land subject to Aboriginal Land Claim

Part or all of the land(s) is subject to a claim(s) pursuant to the Aboriginal Land Rights Act 1983 (ALRA Act 1983)

Should investigations reveal that the land(s) was claimable Crown land within the meaning of the ALRA when the claim was made the land will be granted to the relevant Aboriginal Land Council and the licence will be terminated from the date of the grant.

Except as may be expressly provided for in this licence the Holder acknowledges and agrees that the Holder will not be entitled to any compensation, costs or damages, in respect of the termination/variation of this licence by operation of this clause.

