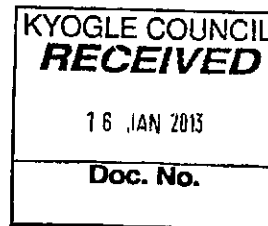




**Trade &
Investment**
Crown Lands

General Manager
Kyogle Council
PO Box 11
KYOGLÉ NSW 2474



Our Reference: 11/11391 - - DOC13/003879
Your reference:
Attention: Graham Kennett

Dear Sir/Madam,

I refer to your enquires with Crown Lands regarding acquisition of Crown land at Tabulam for fire services depot.

Crown land required comprises Lot 7300 DP 1146195. Lot 7300 is within Reserve 752397 for Future Public Requirements notified 29 June 2007 and is also part Licence 384527 issued to Mr Colin Marsh for grazing.

The Minister administering the Crown Lands Act 1989 agrees pursuant to section 29 of the Land Acquisition (Just Terms Compensation) Act 1991 (LA (JTC) Act) to the acquisition by Kyogle Council of 4306m² of lot 7300 DP 1146195 for fire services depot, car park and access road as detailed in attachment "A" titled Tabulam Rural Fire Services Building. The Minister agrees that compensation for the acquisition shall be \$10,000 as per agreement between Kyogle Council and Crown lands plus application fee.

Please note that the Minister administering the Crown Lands Act 1989 may not be the only owner of the land for the purposes of obtaining agreement under section 30 of the LA (JTC) Act. Kyogle Council should rely on its own investigations to form a determination as to whether or not Native Title has been extinguished. Kyogle Council may have an obligation under section 24MD of the Commonwealth Native Title Act 1993 to accord potential native title holders with certain procedural rights in relation to the proposed acquisition. In particular, section 24MD requires that notice of the proposed future act (in this case, acquisition) must be given to any representative Aboriginal and Torres Strait Islander bodies for the area concerned.

Accordingly, in NSW a notice should be sent to both the NSW Aboriginal Land Council (formerly appointed as the representative Aboriginal body) and NSW Native Title Services Limited (the entity that currently performs the functions of the Aboriginal representative body but which has not been formally recognised).

Notices to the NSW Aboriginal Land Council should be addressed as follows:

Manager, Legal Division
NSW Aboriginal Land Council
33 Argyle Street
PARRAMATTA NSW 2150

GRAFTON OFFICE
Level 3, 49-51 Victoria Street
Grafton NSW 2460
T: 02 6640 3400

Please address all correspondence to:
Crown Lands (Grafton)
PO Box 2185
DANGAR NSW 2309

ABN 33 537 762 019 | www.lands.nsw.gov.au

Notices to NSW NTS Corp should be addressed as follows:
Manager
NSW Native Title Services Ltd
Suite 15, 245 Chalmers Street
REDFERN NSW 2016

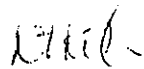
Whilst acquisition should be undertaken as soon as practicable Kyogle Council will need to comply with its obligations in relation to land acquisitions under their relevant legislation in the first instance.

In summary there are no objections to Kyogle Council acquiring part lot 7300 DP 1146195 as detailed in attachment "A" Tabulam Rural Fire Services Building under the Land Acquisition (Just Terms Compensation) Act 1991, subject to;

1. Payment of application fee of \$487.70 (application fee paid 12 August 2011 Receipt 4365618).
2. Suitable plan prepared by Kyogle Council detailing lot to be acquired and residual lot. Residual lot to have its own identifier and certificate of title. Plans prepared by Council to be examined by Lands and lodged at Land and Property Information for registration at Kyogle Councils expense. Certificates of titles affected by acquisition to be amended at Kyogle Councils expense.
3. Licence holder 384527 currently held by Mr Colin Marsh would appear to have interests in terms of parts 2 and 3 of the Land Acquisition (Just Terms Compensation Act) 1991. Kyogle Council to hold discussion with affected landowner regarding compensation eg fencing.
4. Acquisition to be gazetted and notification of date of gazettal to be forwarded to Nessbit Hurcum by email nessbit.hurcum@lands.nsw.gov.au with reference number A/c 490734 displayed in subject line.
5. Compensation payable to the Crown determined at \$10,000. Compensation monies to be paid as soon as possible from date of gazettal to avoid late fees accruing under Land Acquisition (Just Terms) Compensation Act.

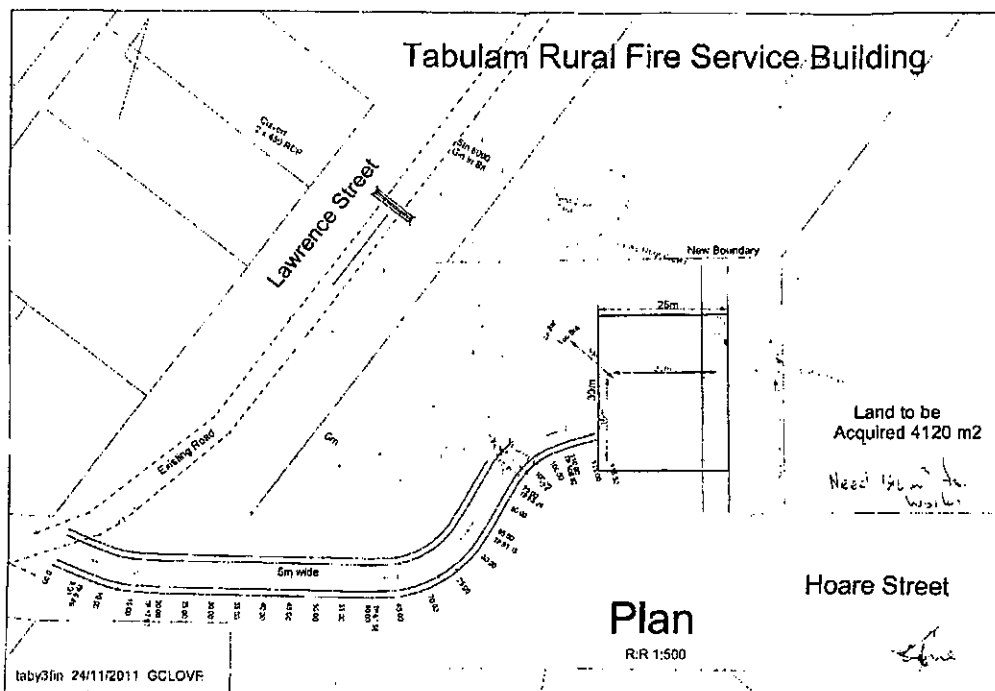
Any clarifications please contact Nessbit Hurcum 02 6640 3410 or e-mail nessbit.hurcum@lands.nsw.gov.au

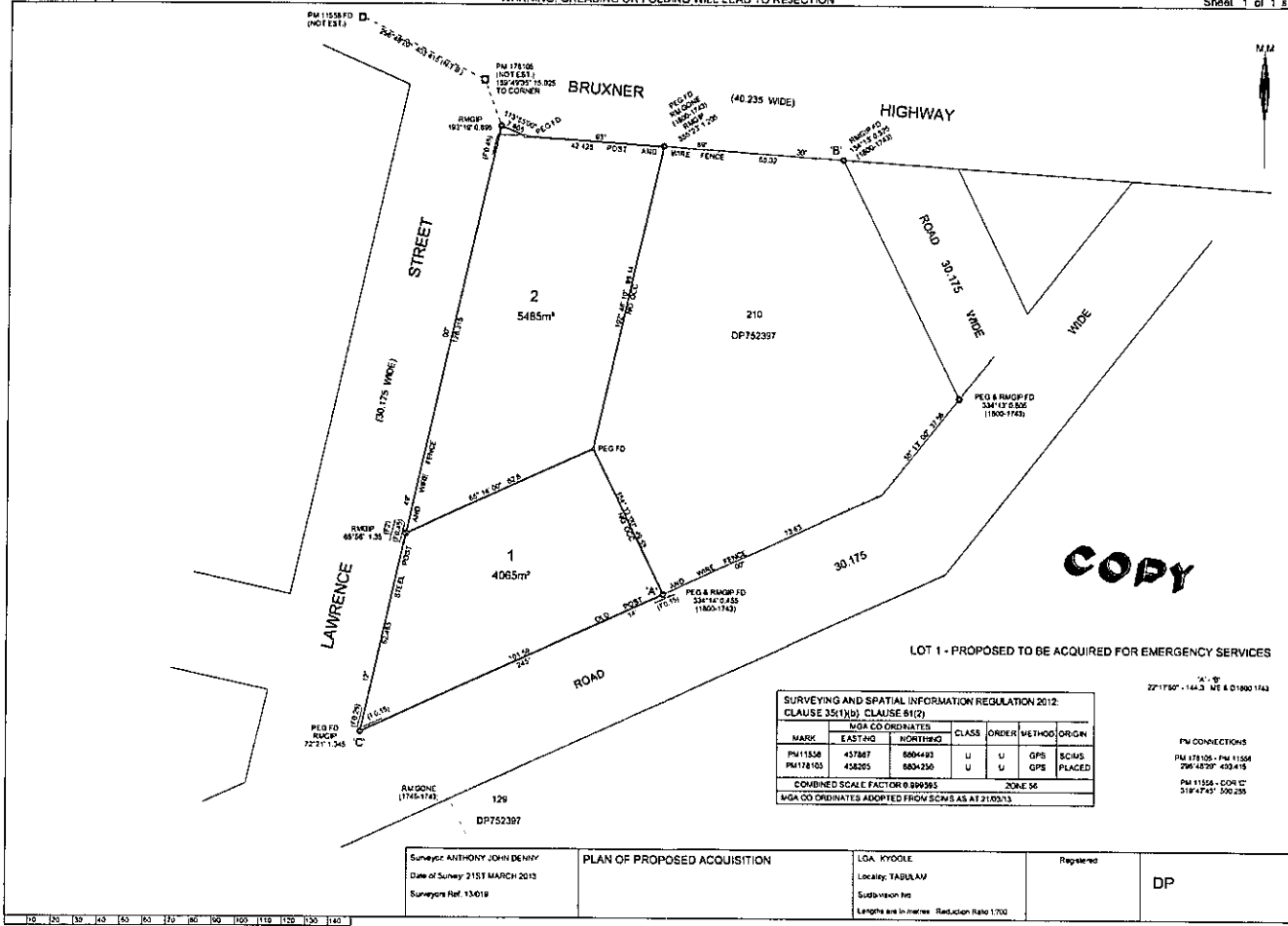
Yours sincerely,


Narelle Hooton
Property Officer
Crown Lands Division, North Coast

14 January 2013

TABULAM RURAL FIRE SERVICE BUILDING





LOT 1 - PROPOSED TO BE ACQUIRED FOR EMERGENCY SERVICES

SURVEYING AND SPATIAL INFORMATION REGULATION 2012:
 CLAUSE 35(1)(b), CLAUSE 51(2)

MARK	MGA COORDINATES		CLASS	ORDER	METHOD	ORIGIN
	EASTING	NORTHING				
PM115506	457867	8004493	U	U	GPS	SCMS PLACED
PM178103	458205	8004230	U	U	GPS	PLACED

COMBINED SCALE FACTOR 0.999955 ZONE 56
 MGA COORDINATES ADOPTED FROM SCMS AS AT 21.03.13

4° 0' 22" E
 22° 17' 50" - 142.3 WE & D1800-1743

PN CONNECTIONS
 PL 178105 - PM 115506
 296° 48' 29" 430418
 PM 115506 - COR 17
 319° 47' 45" 500235

Surveyor: ANTHONY JOHN DENNY Date of Survey: 21ST MARCH 2013 Surveyors Ref: 13018	PLAN OF PROPOSED ACQUISITION	LGA: KYOOLE Locality: TABULAM Subdivision: 116 Lengths are in metres Reduction Ratio 1700	Registered DP
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JOHN F. GIBSON

SOLICITOR

"OUR SERVICE IS ▲ YOUR SUCCESS!"

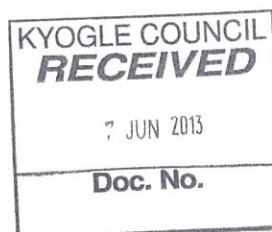
ABN 43 886 011 407

Our Ref: 2013/027 FAIRMOUNT LEGAL PTY LTD
Contact: John Gibson ABN: 41 142 940 207
Your Ref:

JOHN F. GIBSON
B.A., B.Leg S
Principal

Thursday, 6 June 2013

The General Manager
Kyogle Council
PO Box 11
KYOGLA NSW 2474



ATTENTION: JEFF BREEN, EXECUTIVE MANAGER, INFRASTRUCTURE

Dear Sir

**RE: ACQUISITION OF CROWN LAND FOR
RURAL FIRE SERVICE FACILITY OF TABULAM**

I refer to our recent meeting on this issue.

I note (as we discussed) the letter from the Crown dated 14th January 2013 which agreed to the "Acquisition" and the compensation to the Crown of the sum of \$10,000.00.

The disappointing aspect is that despite the consent to the acquisition – the procedure for actually completing the matter is the same as for any other compulsory acquisition. You will see from what follows why I pursued the Crown for their agreement to simply issue a lease or have the Minister vest the land in the Council.

Since there is little point in pursuing this course further and valuable time has been wasted there, I shall pursue the acquisition process expeditiously.

Whilst there appears to have been a resolution by the Council with respect to obtaining a "licence" to conduct preliminary works and investigations the necessary Council resolution for acquisition needs to be done as soon as possible. Thus, could you bring the resolution (attached at Annexure "A") to the Council?

I'm sure you can draft an appropriate report for the Council to support the resolution and forgive me if this has already been done.



Liability limited
by a Scheme
approved under
Professional Standards
Legislation

PO BOX 84 KYOGLA PH 02 6632 3083 FAX 02 6632 3073
82 SUMMERLAND WAY KYOGLA NSW 2474
Email: kyoglaw@nrg.com.au

.../2

Anticipating that the resolution has been made or will be made soon I will write to Department of Local Government enclosing the required Application for the Compulsory Acquisition of Land (s.39) draft copy enclosed at Annexure 'B'. I need the resolution date to complete along with a copy of the minutes and the report recommending the compulsory acquisition. There are a number of other issues in this Application to be resolved relating to proof of Native Title extinguishment and avoiding the cost etc of a State Valuation Office report and contact with the licence holder.

A "Proposed Acquisition Notice" will be sent by me to the Licensee of the land (Marsh). With such Notice I intend to provide a copy of the proposed acquisition plan and the diagram outlining the position of the dividing fence.

Under s.37 of the *Just Terms Act*, despite the limited value of their holding, the licensee is entitled to be paid compensation. I will need to apprise them of this and send to them a "Claim for Compensation" form under s.39. I trust the offer to construct the fence will be sufficient particularly having regard to their "non-compliance" with their licence anyway. However, they will lose a reasonable size portion of land that would have some \$ value.

Generally, there seem quite a number of steps to be followed and time periods to observe. I'm sure there is a better way out there somewhere. I note that the crown says it is simply a matter of "gazettal" but then note in their own letter "Kyogle Council will need to comply with its obligations in relation to land acquisitions in the first instance".

Yours faithfully
JOHN F. GIBSON, SOLICITOR

per:

