

## TSR Tender North Coast Local Land Services

### PART B – Long-term Grazing Permit (LGP) Terms and Conditions

The following Terms and Conditions are standard for Local Land Services issued long-term grazing permits under the *Local Land Services Act 2013*. The conditions are provided to all respondents to ensure they are understood and can be complied with in the event an LGP is issued.

#### Definitions and Interpretation

##### Interpretation

Unless the context requires otherwise, in this Agreement:

- (a) **Permit terms and conditions prevail:** If any inconsistency arises between the Permit and this Agreement, the terms of the Permit and any special conditions attached to it will prevail to the extent of the inconsistency.
- (b) **Applicable Law:** The laws of New South Wales apply to this Agreement.
- (c) **Headings and notes:** Headings and notes have been inserted for guidance only and do not form part of this Agreement.
- (d) **Joint and Several Liability:** Any covenant or agreement on the part of two or more persons binds those persons jointly and severally.
- (e) **Persons:** A reference to a person includes a corporation and vice versa.
- (f) **Plurals/Grammar:** Words importing the singular number include the plural number and vice versa, and where a word or phrase is defined, its other grammatical forms have corresponding meanings.
- (g) **Include:** A reference to include or including means includes, without limitation, or including, without limitation, respectively.
- (h) **Parts:** Anything includes each part of it e.g. a reference to the Reserve includes any part of the Reserve.
- (i) **No permitting Breaches:** Any obligation on the Permit Holder under this Agreement to do or not to do anything includes a further obligation that the Permit Holder will not permit or allow a breach of such obligation by any other person.
- (j) **References to legislation:** References to statutes, regulations or instruments includes all statutes, regulations or instruments amending, consolidating or replacing them.
- (k) **Severability:** If any provision in this Agreement is invalid or unenforceable this Agreement will remain otherwise in full force apart from that provision, which will be deemed deleted.

## 1 Definitions

In this Agreement the following terms, unless the contrary intention appears, mean:

- (a) **Act** means the *Local Land Services Act 2013* (NSW) and includes any regulations issued under that Act.
- (b) **Agreement** means the Permit and the terms and conditions of this Agreement.
- (c) **Commencing Date** means the date on which the Permit commences, as specified in the Permit.
- (d) **Crown** means Her Majesty Queen Elizabeth II in right of the State of New South Wales, her officers, contractors, employees and agents.
- (e) **Permit** means the permit for grazing granted to under the Act, of which this Agreement forms part.
- (f) **Permit Holder** means the entity or person described as the Permit Holder on the Permit and includes their employees and agents.
- (g) **Reserve** means the travelling stock reserve over which the Permit is granted.
- (h) **Term** means the duration of the Permit as specified in the Permit unless terminated earlier in accordance with this Agreement.
- (i) **Terminating Date** means the date on which this Permit expires as specified in the Permit or any sooner date on which the Permit is cancelled.

## 2 Rights and Responsibilities of the Permit Holder

### 2.1 Conditions of Permit

- (a) The Permit Holder may use and occupy the Reserve only for the purposes specified in the Permit.
- (b) The Permit Holder may only carry out those activities on the Reserve which are necessary for the proper care and control of the stock permitted by the Permit to graze the Reserve.
- (c) This Agreement does not confer on the Permit Holder any right of exclusive possession of the Reserve nor any proprietary right in the Reserve.
- (d) The Permit Holder must permit persons authorised by the Act (including persons carrying out recreational activities) to access the Reserve.
- (e) The Permit Holder must not transfer or create any interest in this Agreement.
- (f) Subject to any rights the Permit Holder may have under the Act, the Permit Holder is not entitled to any compensation, costs or damages on suspension or termination of this Agreement.

### 2.2 Condition of Reserve

- (a) The Permit Holder must at all times keep the Reserve in a clean and tidy condition.
- (b) The Permit Holder must repair all fences, gates and flood crossings on a Reserve as necessary to keep the Reserve stockproof.
- (c) The Permit Holder must promptly notify Local Land Services if any poisonous plants or pests are discovered on the Reserve. The Permit Holder must remove any poisonous

plants, pests or abandoned or discarded materials (such as car batteries) which may cause stock disease or death.

- (d) An authorised officer of Local Land Services may at all reasonable times enter the Reserve and inspect the Reserve and any stock on the Reserve and take such action to ensure compliance with the Agreement and the Act.
- (e) On the Terminating Date the Permit Holder must make sure that the Reserve is in good repair and condition, reasonable wear and tear excepted, and is clear and free from all rubbish.

### **3 Local Land Services' Powers and Functions**

#### **3.1 Exercise of Power**

- (a) Local Land Services may exercise any power, delegation, authority, duty or function as provided by Act in relation to any matter arising out of the terms of this Agreement. Nothing in this Agreement fetters, restricts or affects Local Land Services' discretion as to the use of Local Land Services' statutory powers.
- (b) The Permit Holder must not:
  - (i) directly or indirectly hold out or permit to be held out to any member of the public any statement, act, deed, matter or thing indicating that the Reserve is being carried on or managed or supervised by Local Land Services; or
  - (ii) act or represent to be the servant or agent of Local Land Services.
- (c) Local Land Services may vary the terms and conditions of this Agreement at any time. The Permit Holder will be notified in writing of any variations to the terms and conditions of this Agreement and must comply with any such variations after having been duly notified.
- (d) Any reference to approvals or consents of Local Land Services in this Agreement must be given in writing to be effective. Unless this Agreement provides otherwise, Local Land Services may give or withhold approval or consent to any act, matter or thing in its absolute discretion, and subject to such conditions as it may determine. Any such condition will become a condition of this Agreement.

### **4 Emergencies**

#### **4.1 In the case of emergencies:**

- (a) Local Land Services reserves the right to allow third parties' stock to be placed on any Reserve during emergency situations, such as floods, bushfires and other disasters. Grazing stock may need to be removed during such situations.
- (b) Local Land Services may order the permit Holder to remove or reduce stock numbers on a Reserve at any time when Local Land Services considers there to be an emergency situation or considers that further grazing may be detrimental to the recovery of pastures or that further grazing may degrade the Reserve.
- (c) Local Land Services may, at its own discretion, refund all or part of any fees where it issues any directions or orders under this clause.

### **5 Risk**

#### **5.1 The Permit Holder agrees that:**

- (a) The Permit Holder occupies and uses the Reserve at their own risk.

- (b) The Permit Holder releases, to the full extent permitted by law, Local Land Services and the Crown and their respective officers and employees, from all claims, demands, actions, proceedings, damages, losses, liabilities, costs and expenses of every kind in respect of or resulting from:
  - (i) any accident, damage, death, loss or injury in connection with the Reserve and the Permit Holder's use and occupation of the Reserve;
  - (ii) any poisoning from pesticides, chemicals or poisonous plants on the Reserve; or
  - (iii) any disease spreading to stock on the Reserve.

## **6 Indemnity**

**6.1** The Permit Holder must indemnify Local Land Services and the Crown from and against all liabilities, actions, suits, claims and demands of whatsoever nature and all damages, costs, charges and expenses in respect of any accident or injury to any person or property arising out of or in connection with:

- (a) The Permit Holder's use or occupation of the Reserve (including where arising from any act or thing which the Permit Holder may be authorised or compelled to do under this Agreement);
- (b) The Permit Holder's stock including the escape of any stock from the Reserve; and
- (c) Any breach of this Agreement,

except to the extent caused or contributed by the negligence or wilful act or omission on the part of Local Land Services or the Crown.

## **7 Insurance**

The Permit Holder must:

- (a) Effect and maintain for the Term with reputable insurers a public liability insurance policy for the amount specified in the Permit (and if no amount is specified minimum \$20 million) for any one occurrence, which policy must note the interest of Local Land Services and anyone else nominated by Local Land Services; and
- (b) Provide Local Land Services with a certificate of currency on or before the commencement date, and otherwise provide a certificate of currency and a copy of the insurance policy on reasonable request.

## **8 Compliance**

**8.1** The Permit Holder must:

- (a) Comply with the requirements of all statutes, regulations or by-laws (including the Act), and with the requirements of all relevant public and local authorities, in so far as they apply in relation to the use and occupation of the Reserve;
- (b) Contain stock on the Reserve, and if any stock escape from the Reserve the Permit Holder must immediately return them to the Reserve;
- (c) Ensure that the Permit Holder's occupation and use of the Reserve does not encroach outside the Reserve;
- (d) Ensure that stock on the Reserve is free of lice and diseases;

- (e) Comply with their general biosecurity duty to prevent, eliminate or minimize the biosecurity risk they pose (see Biosecurity Act 2015). Priority weeds for the North Coast are listed at <http://weeds.dpi.nsw.gov.au>. Standard methods for herbicide use and weed control are outlined in the NSW DPI Weed Control Handbook: [https://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0017/123317/weed-control-handbook.pdf](https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0017/123317/weed-control-handbook.pdf).
- (f) Provide Local Land Services with a plan of any proposed revegetation and/or planting works. Consent of Local Land Services must be obtained prior to the commencement of any revegetation and/or planting works; and
- (g) Immediately notify Local Land Services of the discovery of any artefact and comply with the Local Land Services' directions in relation to those artefacts.

**8.2** The Permit Holder must not:

- (a) Carry on or permit any person to carry on any noxious, noisome or offensive activity in the Reserve;
- (b) Do anything that might damage the Reserve and the Permit Holder must immediately repair any damage the Permit Holder cause or contribute to the Reserve;
- (c) Do or permit any person to do any act, matter or thing which results in nuisance, damage or disturbance to Local Land Services or owners or occupiers of adjoining or neighbouring land, including promptly removing rogue stock that are causing nuisance to adjoining landholders;
- (d) Carry out any hazard reduction burning on the Reserve except with the approval of Local Land Services, any necessary approval from the Rural Fire Service and in accordance with any required environmental approvals;
- (e) Undertake any works (including buildings, structures or fences) to the Reserve without the consent of Local Land Services;
- (f) Place a lock on any gate on a Reserve without approval from Local Land Services, and where approval is given the Permit Holder must supply a spare key to the local office of Local Land Services;
- (g) Shoot, trap, bait or otherwise harm native fauna on the Reserve;
- (h) Cultivate the Reserve;
- (i) Overstock the Reserve, as determined by Local Land Services, having regard to good practice;
- (j) Mine, remove, extract, dig up or excavate any sand, stone, rock (including bush rock), gravel, clay, loam, shell, timber or similar substance on the Reserve; or
- (k) Clear the Reserve (including native vegetation) without the consent of Local Land Services and without all other approvals. The *Native Vegetation Act 2003* and *Threatened Species Conservation Act 1995* were repealed in August 2017. Clearing of native vegetation on rural land is legislated by the *Local Land Services Act 2013* and the *Biodiversity Conservation Act 2016*.

**8.3** If the Permit Holder fails to comply with any term or condition of this Agreement, then Local Land services may by notice direct the Permit Holder to:

- (a) Cease anything that the Permit Holder is doing on the Reserve; and/or

- (b) Carry out within the time specified in the notice, or such other time as Local Land Services may direct in writing, any works necessary to rectify or remedy the non-compliance.

**8.4** The Permit Holder must comply with any notice issued by Local Land Services at the Permit Holder's expense. If the Permit Holder fails to comply with the notice within the specified time (or if no time is specified within a reasonable time), Local Land Services may remedy the default and recover the cost of the remedy from the Permit Holder.

## **9 Other Matters**

**9.1 No Males.** No entire male horse (including a stallion, colt or rig), cattle (including bull or stag) or ram (including a stag) is permitted to be grazed on the Reserve without prior written approval from Local Land Services.

### **9.2 Cattle**

- (a) All cattle placed on a Reserve must be identified with an NLIS device prior to being moved onto the Reserve.
- (b) Calves born on Reserves must be tagged with NLIS devices registered for the Reserve.
- (c) Cattle from dairy holdings must have a Dairy BJD Assurance Score of 7 or above and that score must be maintained while the cattle are on the Reserve.

### **9.3 Yard Structure**

- (a) The yard structure does not form part of the Permit or this Agreement. However, Permit Holders may use the yard structure to handle and load stock from the Reserve.
- (b) The Permit Holder is responsible for the cost of repairs and maintenance of the yard structure where the damage has been caused or contributed to by the Permit Holder or the Permit Holder's stock.

## **10 Financial considerations**

### **10.1 Permit Fees**

- (a) The timeframe the permit is valid for is 1 July 2015 until 30 June 2020 (5-year permit).
- (b) Invoices for permits will be issued annually and are payable in full by 30 days unless prior approval is provided.
- (c) No stock will be allowed on reserves until a grazing permit is issued.
- (d) If successful, the amount payable for a reserve will include GST and represents the annual fee for an individual reserve. Following the first year of the tender period the payment which will be invoiced annually for subsequent years will be indexed by the Consumer Price Index (CPI).
- (e) Reserves not paid in full within 30 days of invoice being issued may be eligible for Expression of Interest by another applicant.
- (f) The grazing permit is issued subject to changes that may occur as a result of policy or legislative changes to the *Local Land Services Act 2013* or regulations. NCLLS reserves the right to review and amend its current TSR management practices and permit conditions at any time. All permit holders will be notified in writing 30 days prior to any changes taking place. A refund for monies paid for any financial year will only be issued if NCLLS terminates the agreement.

- (g) Payment plan options are at the discretion of the Manager and will only be considered for AGPs over \$3,500 per annum.

## **10.2 Other Expenses**

Where water is supplied via a town water supply or other utilities including electricity are a connected service, the Permit Holder is responsible for the costs of supply. This charge is in addition to the annual permit fee and will be billed as a separate tax invoice when received from the supply authority. The Permit Holder is responsible for the cost of repair and maintenance of the water structure and the consumer repair and maintenance costs of any other utilities infrastructure.

## **11 Termination**

**11.1** The Permit Holder may terminate this Agreement on not less than 30 days' prior written notice to Local Land Services.

**11.2** Local Lands Services may at any time terminate the permit on the direction of either The Minister, The Board of Chairs or the Regional Local Land Service Board.

## **12. Notices**

**12.1** Unless otherwise stated in this Agreement, all Notices to be given under this Agreement must be in writing, and hand-delivered, posted, faxed or emailed to the contact details for the Contact Person specified in the Agreement Details or as otherwise notified in writing.

**12.2** Any Notice is deemed to be received by the receiving party as follows:

- (a) If hand delivered, the day on which it is delivered or left at the relevant address;
- (b) If sent by regular post within Australia, four (4) Business Days after the day on which it is posted;
- (c) If sent by facsimile, the date and time the sender received a delivery confirmation report; and
- (d) If sent by email, on entering the information system of the recipient party, provided that any such Notices which are hand-delivered, faxed or emailed, are delivered before 5.00pm on a Business Day, otherwise they will be deemed to be received on the next Business Day.

## **13 Entire Agreement**

This Agreement states all the express terms agreed by the parties as to the matters referred to in this Agreement. It supersedes all prior contracts, obligations, representations, conduct, agreements and understandings between the parties relating to the subject matter of this Agreement.

## **14 Variation**

This Agreement may only be varied by agreement in writing signed by the parties.

## **15 Waiver**

- (a) If a party fails to exercise any of its rights under this Agreement, or delays exercising those rights, that failure or delay will not operate as a waiver of those rights or any future rights or in any respect estop a party from relying on the terms of this Agreement to their full force and effect.
- (b) Any waiver by a party of a breach of this Agreement must be in writing and will not be construed as a waiver of any further breach of the same or any other provision.

## 16 Governing Law

The laws of New South Wales govern this Agreement and the parties submit to the non-exclusive jurisdiction of the courts in that State.

## Part 2: Additional special conditions

### 1. Early termination by You

You may terminate this Agreement on not less than 30 days' prior written notice to Local Land Services.

### 2. Weed control

You must control weeds and environmental weeds by hand methods or by selective herbicide application that will not damage, kill or destroy native vegetation.

### 3. Pugging prevention stock exclusion

You must exclude stock access to any waterlogged or partially waterlogged land, inclusive of public and private roads, where there is any likelihood of stock causing localised treading compaction (known as "pugging") of the Reserve.

### 5. Cattle

- a. All cattle placed on a Reserve must be identified with an NLIS device prior to being moved onto the Reserve.
- b. Calves born on Reserves must be tagged with NLIS devices registered for the Reserve.
- c. Cattle from dairy holdings given access to TSRs must have a minimum DAS of 8 and the ability to maintain this DAS. The Local Land Service cannot guarantee that TSRs have not been grazed by adult dairy cattle in the previous 12 months and so cattle grazing TSRs will not be eligible for "Beef Only" status. Grazing on TSRs may impact on the eligibility of cattle to move to Queensland without BJD testing.

### 6. Yard structure

1. The yard structure does not form part of the Permit or this Agreement. However, You may use the yard structure to handle and load stock from the Reserve.
2. You are responsible for the cost of repairs and maintenance of the yard structure where the damage has been caused or contributed to by You or Your stock.

### 7. Other Matters

1. Fencing
  - a. Existing accesses and fencing must be maintained.
  - b. Public roads, and private access roads to holdings, are not to be obstructed. An electric ramp or other acceptable method may be approved by an authorised officer.
  - c. If a LGP is not renewed the LGP holder will have no right to compensation for the cost of the erection of the fence of the cost of materials.
  - d. Fencing is at the LGP holder expense and remains the property of the LGP holder.
2. Entire male stock are only allowed on TSRs with approval from an authorised LLS Officer.
3. **Agistment** - The LGP Holder shall not graze or allow to graze upon the land any stock not owned by him/her (*other than travelling stock to travel onto and through the area*).
4. Exact information as to the stock grazing upon the land shall be given by the LGP Holder at any time on request to an Officer of the LLS.
5. **Travelling stock will have 'Right of Way'** – Drivers operating under NT Local Land Services authority are not required to wait for the LGP holder's convenience to walk his stock through the Reserve. Drivers may camp if they have completed the distance required that day or if proceeding further will not give them a suitable or safe camp before day's end.



6. **Stock Warning Signs** - Where the area is intersected by an unfenced public road the LGP Holder will display the prescribed stock warning signs.
7. **Notice Boards** - The LGP Holder must display a sign (maintained in a legible state) giving the LGP Holder's name, address & telephone number at both ends of the LGP area.
8. **Shut the gate** - The LGP holder must display shut the gate signs on all gates/entrances to the LGP when stock is present in the LGP area.
9. Seventy percent (70%) groundcover must be maintained on the LGP area.
10. Time controlled grazing should be applied to incorporate regular rest periods and minimise selective overgrazing.
11. Rest periods allowing perennial grasses to mature and set seed should be allowed for in grazing the LGP area.
12. **Listed weeds Biosecurity Act 2015-** LGP holders are responsible for the control of weed weeds.
13. **Rogue stock** – rogue stock that are giving trouble to adjoining landholders are to be removed immediately.
14. **Diseases** - Sheep must be apparently free of lice, footrot, ovine brucellosis and meet Regional Biosecurity Area Plan entry requirements. It is an offence to walk diseased stock on a public road or TSR.
15. **Animal Health Statement (AHS) (Cattle or Sheep):** A completed AHS for sheep or cattle must be provided for an LGP. A new AHS **must** be supplied if any details change during the period.
16. **Supplementary feeding** - Prior approval for supplementary feeding of stock on, or with access to, a TSR must be gained from an authorised LLS officer.
17. **Stock Inspection** - Stock may be inspected at any time by an Officer of the LLS.
18. **Cancellation** - If, for any reason, this LGP is no longer required during the duration of the LGP, the LGP Holder **MUST** advise the LLS, in writing, that the LGP is to be cancelled.
19. **LGP non transferable** - If the area over which this LGP is issued adjoins the LGP Holder's holding, and the holding is sold, the LGP is **NOT** transferable to the new owner of the holding. The LLS **MUST** be advised in writing that the LGP is to be cancelled. The new owner of the holding must make written application to the LLS for consideration of a Grazing LGP over the area if they wish to make use of the area.
20. All provisions of the LLS Act 2013 and associated regulations, the Stock Diseases Act and associated regulations, and the fees and conditions relating to this LGP must be adhered to.
21. Through written advice the Minister, or delegate, may at anytime for any reason cancel or withdraw this LGP prior to the current expiration date of the permit. A minimum of 30 days notice will be provided to the LGP holder under this clause.
22. **Disputes** -
  - a. The LGP permit holder must give written notice to the General Manager, North Coast LLS specifying the nature of the dispute.
  - b. On receipt of that notice, North Coast LLS will endeavor in good faith to resolve the dispute expeditiously.
23. **Failure to comply with any of the above conditions may result in immediate termination of the LGP by North Coast Local Land Services.**

## **Warnings & Disclaimers**

### **Toxic plants and chemical residues**

Many plants are toxic to stock given the right conditions. Pesticides or Agricultural Chemicals used in the district could well find their way onto TSRs and roads. These are matters over which the LLS has no control. Any person using TSRs and roads must satisfy themselves as to the risk. A condition of the issue of this LGP is that no claim shall be made against the LLS, its Directors or employees for any loss or injury resulting from pesticides, chemical residues or toxicities and plant poisoning on any land on which stock graze under this LGP.

### **Ovine and Bovine Johne's Disease**

The LLS is unable to guarantee the status of the TSR regarding Ovine or Bovine Johne's Disease. LGP holders are encouraged to take appropriate risk management measures