

11/11/2024

Record Number: 24/06269#58

[Planning Number: SSI-65020460](#)

Clarrie Hall Dam Raising

The Department of Planning, Housing and Infrastructure – Crown Lands ('the department') has reviewed the proposal.

According to our preliminary searches, several Crown reserve/s, Crown waterways and Crown roads are affected by this proposal (mapping images in appendix A). Status of these parcels should be confirmed by a formal status search. See <https://www.crownland.nsw.gov.au/resources/order-search-status-crown-land>

DPHI - Crown Lands authorisation required

Irrespective of any development consent or any approval given by other public authorities, any access, work or occupation of Crown land/roads/waterway cannot commence without statutory authorisation by the department first in place (either under the *Roads Act 1993* (NSW) or *Crown Land Management Act 2016* (NSW)). It is recommended that the proponent therefore contacts the department as early as possible to discuss and initiate the processes required to authorise use/occupation of Crown land/waterway/roads.

See: applying for authorisation under the *Crown Land Management Act 2016* (NSW) – Crown land/waterways, where the principles of *Ad Medium Filum Aquae* do not apply
<https://www.crownland.nsw.gov.au/licences-leases-and-permits/apply-or-manage-licence>

See: applying for authorisation under the *Roads Act 1993* (NSW) – Crown roads.
<https://www.crownland.nsw.gov.au/licences-leases-and-permits/information-about-crown-roads>.

Crown Roads access, use or occupation and long-term management

The department advises that Crown roads should not be relied upon for practical access to the project site. Crown roads may provide legal access to the development but may not enable practical access.

Crown roads required for access to the development, works or occupation, will need to be transferred to Tweed Shire Council, or application made to close and purchase the roads, noting an Enclosure Permit over road #5 below. The department will also require deferred commencement: with a consent condition which activates the development only after road closure or purchase under the *Roads Act 1993* (NSW) or transfer of the subject Crown roads to Tweed Shire Council. More information regarding Enclosure Permits follows: <https://www.crownland.nsw.gov.au/licences-leases-and-permits/apply-or-manage-enclosure-permit>

The following Crown Roads have been identified as being affected by the proposal:

1. CADID 108182930, Crown road within Lot 1 DP 877100,
2. CADID 108183034, Crown road within Lot 156 DP 755730,
3. CADID 108183101, Crown road within Lot 12 DP 260821,
4. CADID 179972589, Crown road within Lot 1 DP 1246411,
5. CADID 108183309, Crown road within Lot 5 DP 1130130, Enclosure Permit 44701.

Lineal Infrastructure (e.g. Pipelines, Conductor Lines/Electricity Transmission lines) traversing Crown land/roads

If lineal infrastructure is expected to traverse Crown land, roads and/or waterways, an easement over said Crown land, roads and/or waterways will be required for protection of the infrastructure. To discuss easement requirements, please contact the Acquisitions team at the earliest opportunity at: cl.acquisitions@crowmland.nsw.gov.au.

See: <https://www.crowmland.nsw.gov.au/protection-and-management/easements>

As the easement process may be lengthy, it is also recommended that the proponent apply for a licence for each Crown road and Crown land lot as soon as possible. A licence will temporarily authorise use and access for the infrastructure to traverse Crown roads and Crown land whilst the easement applications are being processed.

Before acquiring land, the authority must consider the rights and interests of Aboriginal people and communities. Compulsory acquisition cannot go ahead where there is an undetermined Aboriginal claim over the land. Native title applies to all Crown land unless the Federal Court has made a native title determination.

Other

- We note proposed upgrades to the road cased within Lot 7006 DP 92894 (Crown Land Reserve 51330) reserved for 'Quarantine' purposes. This parcel adjoins the proposed sites freehold access road at the intersection of Clarrie Hall Dam Road and Kyogle Road. The proponent must apply for an Easement over the Crown reserve.
- Our preliminary assessment identifies that the raising level of the dam encroaches on the Crown waterway, Doon Doon Creek, South of the dam and McCabes Bridge. Also, the Scoping Report does not indicate if the old bridge is to be left and flooded or removed. Please advise.
- The department will need to be referenced also during the development assessment phase.

If the proponent requires further information, or has any questions, please contact Tina Clemens, NRM Project Officer, DPHI - Crown Lands, on 1300-886-235 or at grafton.crownlands@crowmland.nsw.gov.au.

Yours sincerely

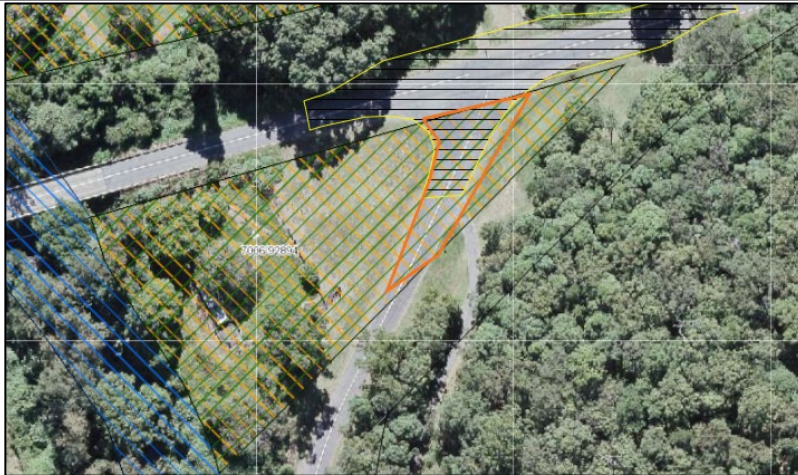


Shannon Powell

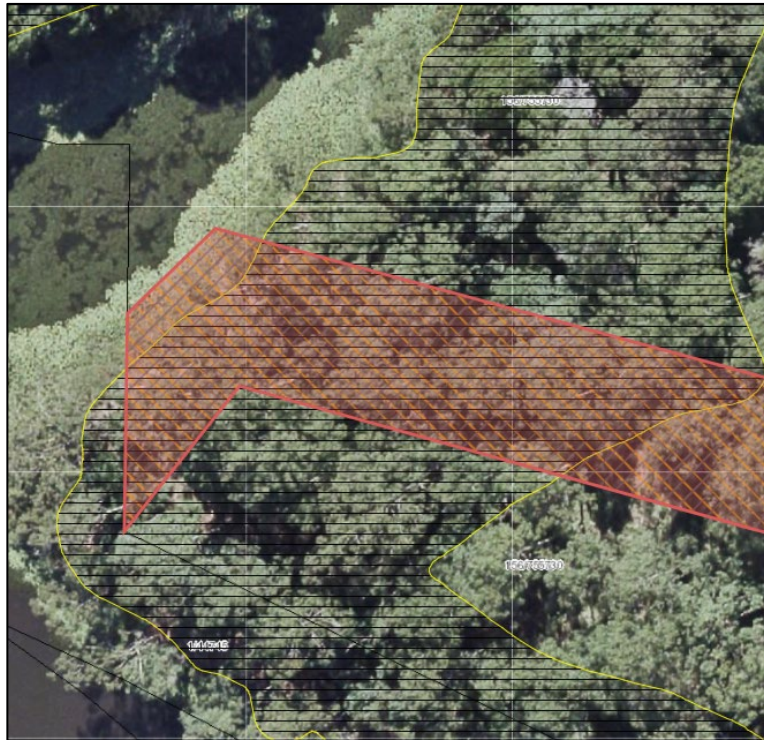
Group Leader, North Coast

T 1300-886-235 | E shannon.powell@crowmland.nsw.gov.au

Appendix A – CROWN ESTATE

Site	Map	Location	Comment
1.		Crown road within Lot 5 DP 1130130 - where black hatching yellow outline intersects orange polygon.	Requires purchase/transfer to Tweed Shire Council prior to Consent being provided. Crown Road is under a current Enclosure Permit.
2.		Formed public road (Clarrie Hall Dam Road) within Lot 7006 DP 1130130 - where black hatching yellow outline intersects orange polygon. This is also a contaminated site- cattle dip site (Note ID 106360331). Reserve: 51330 Management: Minister (01 Jul 2018) Purpose: Quarantine Gazetted: 25/2/1916	Apply for Easement prior to Consent being provided, and while awaiting Easement outcome, apply for a Crown Lands licence.

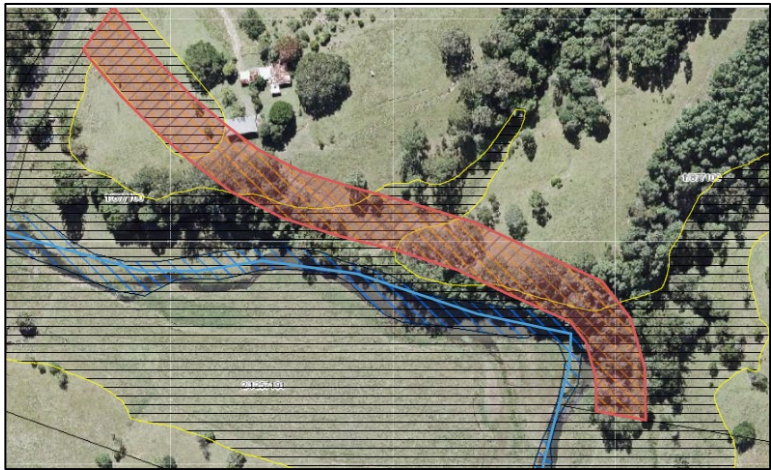
3



Crown road within
156/755730 - where
black hatching yellow
outline intersects
orange polygon.

Requires purchase/transfer
to Tweed Shire Council
prior to Consent being
provided.

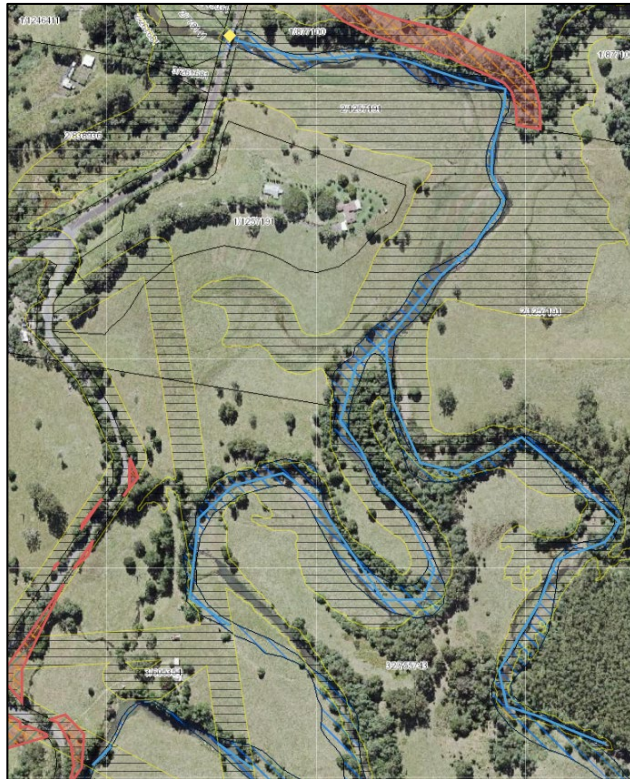
4



Crown road within Lot 1
DP 8777100 - where
black hatching yellow
outline intersects
orange polygon.

Requires purchase/transfer
to Tweed Shire Council
prior to Consent being
provided.

5



Various mapped Crown waterways (light blue lines).

Structure: bridge over waterway (yellow).

Proponent must apply for AMFA Status Search to Crown Lands to ascertain waterway ownership. Where ownership is Crown waterway, applications to purchase Crown estate must be made.

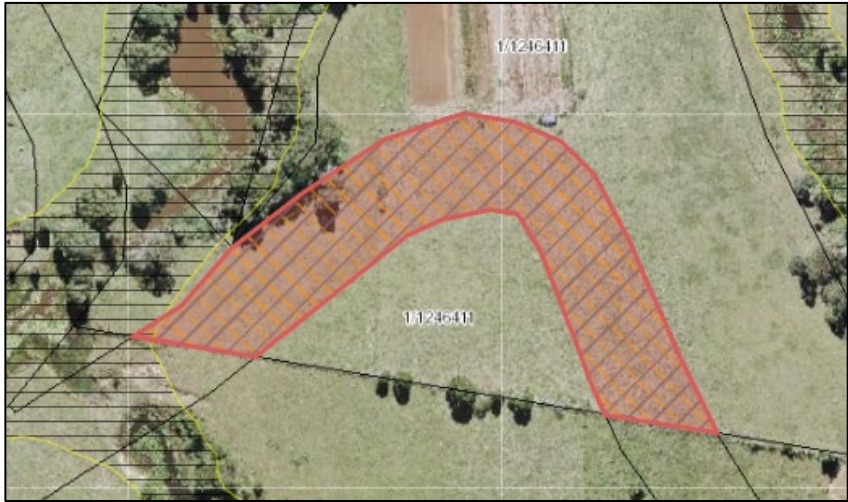
Bridge to be transferred to Tweed Shire Council, if not already a Council asset.

6



Various residual Crown reserve parts - where black hatching yellow outline intersects orange polygon.

Apply for Easement prior to Consent being provided, and while awaiting Easement outcome, apply for a Crown Lands licence.

7		Crown road within Lot 1 DP 124641 - where black hatching yellow outline intersects orange polygon.	Requires purchase/transfer to Tweed Shire Council prior to Consent being provided.