

Date : 25/02/2021 9:50:43 AM
From : "MUSGRAVE Kerrie"
To : "REES Marcus", "SHAW Chris"
Cc : "EDDINGTON Ross"
Subject : DoR policy position on NOEs for directional drilling
Attachment : image001.png;
Hi Marcus and Chris,

I have drafted the following email to be sent to sch4p4(6) for your review.

I suggest that it be sent under your signature Chris.

Draft email

To: sch4p4(6) Personal inform

Good morning sch4p4

You have asked us to provide the Department of Resource's policy position on whether a notice of entry is required for directional drilling, noting that these activities do not impact the surface of the land.

The Entry Notice to Private Land is not an approved form and is provided by the department as guidance - it is not mandatory. The changes to the Entry Notice to Private Land were made in response to a recommendation made by the Queensland Audit Office in its report into CSG regulation – '... to facilitate ways to further enhance the exchange of information between industry, government and landholders in situations where landholders have not been given the information to make an informed decision.'

The work undertaken by the department to deliver on this recommendation included:

- updating the [website](#) to emphasise the importance of resource operators building good relationships with landholders to ensure transparent and respectful communication; and
- adding best practice entry notice examples to the [Entry Notice to Private Land form](#) related to the most common exploration and mining activities (including aerial surveying and directional drilling).

The objective is to promote the social licence of resource operations in Queensland communities and to ensure that landholders are given fulsome information in order to assess the impact on their operations. The rights and obligations for resource companies and landholders are set out in [A guide to land access in Queensland, April 2019](#).

The following legislative provisions are relevant to interpreting whether a notice of entry is required to be given for activities such as directional drilling, which occur below the surface of the land:

- Schedule 2 of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) confirms that "land", for the purpose of the P&G Act, includes subterranean land;
- section 6 of the MERCP Act requires that Act to be read as if it formed part of the P&G Act; and
- section 67 of the MERCP Act which defines "prescribed activity" contemplates authorised activities that are carried out below the surface of land in a way that is likely to cause an impact on the surface of the land, including, for example, subsidence of the land.

The Land Access Framework (the framework) is a key part of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERCP Act). The framework applies to activities on private land, which can include activities such as directional drilling. In the instance of directional drilling where the well location is not on the person's property, the activity would be considered a preliminary activity. Therefore, before the activity can occur the resource company has an obligation to give an entry notice to each owner and occupier of the land at least 10 business days prior to the activity being undertaken, pursuant to section 39(1) of the MERCP Act. Note that section 39 of the MERCP Act is an offence provision which carries a maximum penalty of 500 penalty units.

In addition, the company is liable to compensate landholders for compensatable effects (should there be any) arising from the authority holder's activities on the landholder's property. These compensatable effects are listed in section 81(4) of the MERCP.

Please feel free to give me a call if you wish to discuss this further.

[signature]

End of draft email



Kerrie Musgrave
A/Policy Manager
Georesources Policy | Georesources Division
Department of Resources

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W: www.resources.qld.gov.au

Date : 26/02/2021 9:32:40 AM
From : "MUSGRAVE Kerrie"
To : "REES Marcus"
Cc : "EDDINGTON Ross", "SHAW Chris", "GeoPoIOED"
Subject : RE: DoR policy position on NOEs for directional drilling
Attachment : image001.png;

Thanks Marcus

From: REES Marcus <Marcus.Rees@resources.qld.gov.au>
Sent: Friday, 26 February 2021 9:17 AM
To: MUSGRAVE Kerrie
Cc: EDDINGTON Ross; SHAW Chris; GeoPoIOED
Subject: RE: DoR policy position on NOEs for directional drilling

Hey Kerrie

Thanks for this – it's a good start. I might have a little play with it and get it back to you today hopefully – will also just run it past Steve Ward to see if he has anything to add, as I understand he has dealt with a few landholder complaints around this one as well.

Cheers

Marcus

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>
Sent: Thursday, 25 February 2021 9:52 AM
To: REES Marcus; SHAW Chris
Cc: EDDINGTON Ross
Subject: FW: DoR policy position on NOEs for directional drilling

Hi

Have attached the relevant IHL advice.



Kerrie Musgrave
A/Policy Manager
Georesources Policy | Georesources Division
Department of Resources

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E: kerrie.musgrave@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002
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From: MUSGRAVE Kerrie
Sent: Thursday, 25 February 2021 9:51 AM
To: REES Marcus; SHAW Chris
Cc: EDDINGTON Ross
Subject: DoR policy position on NOEs for directional drilling

Hi Marcus and Chris,

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I suggest that it be sent under your signature Chris.

Draft email

To: sch4p4(6) Personal informa

Good morning sch4p

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the Entry Notice to Private Land were made in response to a recommendation made by the Queensland Audit Office in its report into CSG regulation –'... to facilitate ways to further enhance the exchange of information between industry, government and landholders in situations where landholders have not been given the information to make an informed decision.'

The work undertaken by the department to deliver on this recommendation included:

- updating the [website](#) to emphasise the importance of resource operators building good relationships with landholders to ensure transparent and respectful communication; and
- adding best practice entry notice examples to the [Entry Notice to Private Land form](#) related to the most common exploration and mining activities (including aerial surveying and directional drilling).

The objective is to promote the social licence of resource operations in Queensland communities and to ensure that landholders are given fulsome information in order to assess the impact on their operations. The rights and obligations for resource companies and landholders are set out in [A guide to land access in Queensland, April 2019](#).

The following legislative provisions are relevant to interpreting whether a notice of entry is required to be given for activities such as directional drilling, which occur below the surface of the land:

- Schedule 2 of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) confirms that "land", for the purpose of the P&G Act, includes subterranean land;
- section 6 of the MERC Act requires that Act to be read as if it formed part of the P&G Act; and
- section 67 of the MERC Act which defines "prescribed activity" contemplates authorised activities that are carried out below the surface of land in a way that is likely to cause an impact on the surface of the land, including, for example, subsidence of the land.

The Land Access Framework (the framework) is a key part of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act). The framework applies to activities on private land, which can include activities such as directional drilling. In the instance of directional drilling where the well location is not on the person's property, the activity would be considered a preliminary activity. Therefore, before the activity can occur the resource company has an obligation to give an entry notice to each owner and occupier of the land at least 10 business days prior to the activity being undertaken, pursuant to section 39(1) of the MERC Act. Note that section 39 of the MERC Act is an offence provision which carries a maximum penalty of 500 penalty units.

In addition, the company is liable to compensate landholders for compensatable effects (should there be any) arising from the authority holder's activities on the landholder's property. These compensatable effects are listed in section 81(4) of the MERC Act.

Please feel free to give me a call if you wish to discuss this further.

[signature]

End of draft email



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Date : 1/03/2021 12:19:00 PM
From : "MUSGRAVE Kerrie"
To : "REES Marcus", "WARD Steven (Resources)"
Subject : RE: DoR policy position on NOEs for directional drilling
Attachment : image001.png;

Thanks Marcus – I am happy with this response.

From: REES Marcus <Marcus.Rees@resources.qld.gov.au>
Sent: Monday, 1 March 2021 11:56 AM
To: WARD Steven (Resources); MUSGRAVE Kerrie
Subject: FW: DoR policy position on NOEs for directional drilling
Importance: High

Steve can you please review the following and sanity test my thinking?

Kerrie – any issues?

Draft email

To sch4p4(6) Personal inform

Hi sch4p

At the last APPEA-Department of Resources catch up on 24 February 2021, we committed to get back to you in relation to the reasons behind the department's position in relation to Entry Notices for directional drilling.

The department considers that where directional drilling is occurring under a property, it is best practice from a social licence to operate perspective to inform the landholder of what is occurring. I note that the department has received a number of concerns raised by landholders about directional drilling and concerns about potential impacts and requirements. We consider that these matters should be discussed with landholders prior to any drilling occurring, and that an entry notice is a suitable vehicle for such a conversation.

In relation to the change to the Entry Notice form, it was updated in September 2020 in response to a recommendation made by the Queensland Audit Office in its report into CSG regulation – '... to facilitate ways to further enhance the exchange of information between industry, government and landholders in situations where landholders have not been given the information to make an informed decision.' The objective is to promote the social licence of resource operations in Queensland communities and to ensure that landholders are given fulsome information in order to assess the impact on their operations. One of the updates included the addition of an example relating to directional drilling under a landholder's property.

From a regulatory perspective, in the instance where directional drilling is occurring under someone's property (regardless of whether the well head is located on the same property), the department's view is that, generally, the resource company has an obligation to give an entry notice to each owner and occupier of the land, pursuant to section 39(1) of the MERC Act.

The legislative provisions that inform this view include:

- Section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) requires that Act to be read as if it formed part of the each resource Act (including the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act));
- Schedule 2 of the P&G Act provides that "land", for the purpose of the P&G Act, includes subterranean land; and
- Section 15B of the MERC Act defines a preliminary activity as one that has no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Note that section 39 of the MERC Act is an offence provision which carries a maximum penalty of 500 penalty units (2,500 penalty units for a company).

Whilst it is the department's view that directional drilling will generally be a preliminary activity, there may be some scenarios where the impact on a landholder means that the activity could constitute an advanced activity, therefore triggering the need for conduct and compensation agreement. This will need to be considered on a case-by-case basis.

You should also note that the company is liable to compensate landholders for compensatable effects (should there be any) arising from the authority holder's activities on the landholder's property. These compensatable effects are listed in section 81(4) of the MERC Act.

Please feel free to give me a call if you wish to discuss this further.

Happy to discuss.

Chris Shaw

From: MUSGRAVE Kerrie
Sent: Thursday, 25 February 2021 9:51 AM
To: REES Marcus; SHAW Chris

Cc: EDDINGTON Ross

Subject: DoR policy position on NOEs for directional drilling

Hi Marcus and Chris,

I have drafted the following email to be sent to [sch4p4\(6\)](#) for your review.

I suggest that it be sent under your signature Chris.

Draft email

To: [sch4p4\(6\) Personal inform](#)

Good morning [sch4p](#)

You have asked us to provide the Department of Resource's policy position on whether a notice of entry is required for directional drilling, noting that these activities do not impact the surface of the land.

The Entry Notice to Private Land is not an approved form and is provided by the department as guidance - it is not mandatory. The changes to the Entry Notice to Private Land were made in response to a recommendation made by the Queensland Audit Office in its report into CSG regulation –'... to facilitate ways to further enhance the exchange of information between industry, government and landholders in situations where landholders have not been given the information to make an informed decision.'

The work undertaken by the department to deliver on this recommendation included:

- updating the [website](#) to emphasise the importance of resource operators building good relationships with landholders to ensure transparent and respectful communication; and
- adding best practice entry notice examples to the [Entry Notice to Private Land form](#) related to the most common exploration and mining activities (including aerial surveying and directional drilling).

The objective is to promote the social licence of resource operations in Queensland communities and to ensure that landholders are given fulsome information in order to assess the impact on their operations. The rights and obligations for resource companies and landholders are set out in [A guide to land access in Queensland, April 2019](#).

The following legislative provisions are relevant to interpreting whether a notice of entry is required to be given for activities such as directional drilling, which occur below the surface of the land:

- Schedule 2 of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) confirms that "land", for the purpose of the P&G Act, includes subterranean land;
- section 6 of the MERC Act requires that Act to be read as if it formed part of the P&G Act; and
- section 67 of the MERC Act which defines "prescribed activity" contemplates authorised activities that are carried out below the surface of land in a way that is likely to cause an impact on the surface of the land, including, for example, subsidence of the land.

The Land Access Framework (the framework) is a key part of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act). The framework applies to activities on private land, which can include activities such as directional drilling. In the instance of directional drilling where the well location is not on the person's property, the activity would be considered a preliminary activity. Therefore, before the activity can occur the resource company has an obligation to give an entry notice to each owner and occupier of the land at least 10 business days prior to the activity being undertaken, pursuant to section 39(1) of the MERC Act. Note that section 39 of the MERC Act is an offence provision which carries a maximum penalty of 500 penalty units.

In addition, the company is liable to compensate landholders for compensatable effects (should there be any) arising from the authority holder's activities on the landholder's property. These compensatable effects are listed in section 81(4) of the MERC Act.

Please feel free to give me a call if you wish to discuss this further.

[signature]

End of draft email



Kerrie Musgrave
A/Policy Manager
Georesources Policy | Georesources Division
Department of Resources

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W: www.resources.qld.gov.au

Date : 3/03/2021 9:18:09 AM

From : sch4p4(6) Person

To : "SHAW Chris"

Cc : "REES Marcus"

Subject : RE: DoR policy position on NOEs for directional drilling

Attachment : image002.jpg;image003.png;

Thanks for the quick response.

I'll discuss with members and come back to you.

Best regards,

sch4p4(

sch4p4(6) Person

Director – Environment and Queensland Policy

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e

sch4p4(6) Personal informati



ENERGY FOR A
BETTER AUSTRALIA



From: SHAW Chris <Chris.Shaw@resources.qld.gov.au>

Sent: Wednesday, 3 March 2021 7:26 AM

To: sch4p4(6) Personal information

Cc: REES Marcus <Marcus.Rees@resources.qld.gov.au>

Subject: DoR policy position on NOEs for directional drilling

Importance: High

Hi sch4p4

At the last APPEA-Department of Resources catch up on 24 February 2021, we committed to get back to you in relation to the reasons behind the department's position in relation to Entry Notices for directional drilling.

The department considers that where directional drilling is occurring under a property, it is best practice from a social licence to operate perspective to inform the landholder of what is occurring. I note that the department has received a number of concerns raised by landholders about directional drilling and concerns about potential impacts and requirements. We consider that these matters should be discussed with landholders prior to any drilling occurring, and that an entry notice is a suitable vehicle for such a conversation.

In relation to the change to the Entry Notice form, it was updated in September 2020 in response to a recommendation made by the Queensland Audit Office in its report into CSG regulation – '... to facilitate ways to further enhance the exchange of information between industry, government and landholders in situations where landholders have not been given the information to make an informed decision.' The objective is to promote the social licence of resource operations in Queensland communities and to ensure that landholders are given fulsome information in order to assess the impact on their operations.

From a regulatory perspective, in the instance where directional drilling is occurring under someone's property (regardless of whether the well head is located on the same property), the department's view is that, generally, the resource company has an obligation to give an entry notice to each owner and occupier of the land.

The legislative provisions that inform this view include:

- Section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) requires that Act to be read as if it formed part of the each resource Act (including the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act));
- Schedule 2 of the P&G Act provides that "land", for the purpose of the P&G Act, includes subterranean land; and
- Section 38 of the MERC Act provides entry notice provisions apply to "an entry to private land for the purpose of:
 - a. carrying out an authorised activity for a resource authority"

Additional requirements may also apply in some circumstances.

If you wish to discuss the matter further please contact Marcus Rees on sch4 Contrary r at Marcus.Rees@resources.qld.gov.au

Best regards

Chris



Chris Shaw
Executive Director - Policy
Georesources Division
Department of Resources

P: (07) 3199 7391 **M:** sch4p4(6) P
E: chris.shaw@dnrme.qld.gov.au
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Date : 26/03/2021 12:00:42 PM

From : sch4p4(6) Persona

To : "SHAW Chris"

Cc : "REES Marcus"

Subject : RE: DoR policy position on NOEs for directional drilling

Attachment : image002.jpg;image003.png;

Hi Chris

Thanks again for sending the info below through. Would we be able to discuss next week some time?

We don't disagree with the point that landholders should be informed about directional drilling. What we'd like to talk about is how best to do that.

Best regards,

sch4p4(

sch4p4(6) Perso

A/g Queensland Director

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e

sch4p4(6) Personal informati

ENERGY FOR A
BETTER AUSTRALIA



From: SHAW Chris <Chris.Shaw@resources.qld.gov.au>

Sent: Wednesday, 3 March 2021 7:26 AM

To: sch4p4(6) Personal information

Cc: REES Marcus <Marcus.Rees@resources.qld.gov.au>

Subject: DoR policy position on NOEs for directional drilling

Importance: High

Hi sch4(

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From a regulatory perspective, in the instance where directional drilling is occurring under someone's property (regardless of whether the well head is located on the same property), the department's view is that, generally, the resource company has an obligation to give an entry notice to each owner and occupier of the land.

The legislative provisions that inform this view include:

- Section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERCPC Act) requires that Act to be read as if it formed part of the each resource Act (including the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act));
- Schedule 2 of the P&G Act provides that "land", for the purpose of the P&G Act, includes subterranean land; and
- Section 38 of the MERCPC Act provides entry notice provisions apply to "an entry to private land for the purpose of:
 - a. carrying out an authorised activity for a resource authority"

Additional requirements may also apply in some circumstances.

If you wish to discuss the matter further please contact Marcus Rees on sch4p4(6) Pe or at Marcus.Rees@resources.qld.gov.au

Best regards

Chris



Chris Shaw
Executive Director - Policy
Georesources Division
Department of Resources

P: (07) 3199 7391 **M:** [sch4p4\(6\) Per](tel:0731997391)
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The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material. Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

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Date : 14/04/2021 2:06:27 PM
From : "EDDINGTON Ross"
To : "FERRIS Shaun"
Subject : FW: DoR policy position on NOEs for directional drilling
Shaun

This is the email I was referring to, it was drafted by Kerrie and sent through Marcus's team. I believe Steve Ward also has some legal advice on the issue if needed.

Ross

From: REES Marcus <Marcus.Rees@resources.qld.gov.au>
Sent: Monday, 1 March 2021 12:52 PM
To: SHAW Chris
Cc: MUSGRAVE Kerrie; EDDINGTON Ross; BELLAMY-MCCOURT Anita
Subject: FW: DoR policy position on NOEs for directional drilling
Importance: High

Chris – as discussed, draft email to send back to sch4p4(6) after the APPEA catch up. Our action out of that meeting was to provide APPEA with the rationale around why an entry notice is required for directional drilling under a property.

Happy to discuss.

Cheers

Marcus

Draft email

To: sch4p4(6) Personal infor

Hi sch4p

At the last APPEA-Department of Resources catch up on 24 February 2021, we committed to get back to you in relation to the reasons behind the department's position in relation to Entry Notices for directional drilling.

The department considers that where directional drilling is occurring under a property, it is best practice from a social licence to operate perspective to inform the landholder of what is occurring. I note that the department has received a number of concerns raised by landholders about directional drilling and concerns about potential impacts and requirements. We consider that these matters should be discussed with landholders prior to any drilling occurring, and that an entry notice is a suitable vehicle for such a conversation.

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From a regulatory perspective, in the instance where directional drilling is occurring under someone's property (regardless of whether the well head is located on the same property), the department's view is that, generally, the resource company has an obligation to give an entry notice to each owner and occupier of the land, pursuant to section 39(1) of the MERC Act.

The legislative provisions that inform this view include:

- Section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) requires that Act to be read as if it formed part of the each resource Act (including the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act));
- Schedule 2 of the P&G Act provides that "land", for the purpose of the P&G Act, includes subterranean land; and
- Section 15B of the MERC Act defines a preliminary activity as one that has no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Note that section 39 of the MERC Act is an offence provision which carries a maximum penalty of 500 penalty units (2,500 penalty units for a company).

Whilst it is the department's view that directional drilling will generally be a preliminary activity, there may be some scenarios where the impact on a landholder means that the activity could constitute an advanced activity, therefore triggering the need for conduct and compensation agreement. This will need to be considered on a case-by-case basis.

You should also note that the company is liable to compensate landholders for compensatable effects (should there be any) arising from the authority holder's activities on the landholder's property. These compensatable effects are listed in section 81(4) of the MERC Act.

If you wish to discuss the matter further please contact Marcus Rees on sch4p4(6) P or at Marcus.Rees@resources.qld.gov.au

Regards

Published on Resources Disclosure Log
RTI Act 2009

Date : 16/04/2021 12:18:43 PM

From : "MUSGRAVE Kerrie"

To : "EDDINGTON Ross"

Cc : "SHAW Chris"

Subject : FOR REVIEW: Draft Fact Sheet - Notice of entry to private land for directional drilling on adjacent land

Attachment : Fact Sheet - Notice of entry to private land for directional drilling on adjacent land.docx;image001.png;

Hi Ross,

I have **attached** the draft Fact Sheet – Notice of entry to private land for directional drilling on adjacent land for your review.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

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Entry notices for directional drilling on adjacent land

This fact sheet sets out the regulatory framework regarding the requirement for a resource authority holder to give an Entry Notice to Private Land for directional drilling activities (i.e. the practice of drilling non-vertical bores) to occur on adjacent land. The subterranean entry to private land for the purpose of directional drilling triggers the requirements of section 39 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) except where exemptions apply.

Regulatory framework

The department regulates the land access framework under Chapter 3 of the MERC Act and subordinate legislation. The framework applies to activities on private land, which can include activities such as directional drilling.

Schedule 2 of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) defines 'petroleum well' as a 'hole in the ground made or being made by drilling, boring or other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced' and applies to both conventional and unconventional resources, such as coal seam gas. On this basis, the definition of 'petroleum wells' in the P&G Act includes directional drilling as it is not limited to vertical drilling.

Section 38 of the MERC Act applies to an entry to private land for the purposes of carrying out an authorised activity for a resource authority, which includes a petroleum lease and an authority to prospect (see section 10(b) of the MERC Act). Section 22 of the P&G Act provides the meaning of authorised activities as those which the holder of a petroleum authority is entitled to carry out under the authority.

In the instance of directional drilling where the well location is not on the surface of a person's property, the activity would be considered a preliminary activity. Under section 39 of the MERC Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, before giving an entry notice at least 10 business days prior to the activity being undertaken, subject to an exemption which may apply under section 40 of the MERC Act. A maximum penalty of 500 penalty units applies to the section 39 offence provision.

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

- the resource authority holds the land; or
- the resource authority has an independent legal right to enter the land for the purpose; or
- the entry is to preserve life or property or because of an emergency that exists or may exist; or
- the entry is authorised under the Resource Act for the resource authority; or
- the entry is prescribed by Regulation.

The obligation also does not apply under section 40(2) of the MERCP Act, if the resource authority holder has one of the following with each owner and occupier of the land:

- a waiver of entry notice for the entry that is in effect, or
- a conduct and compensation agreement which provides for alternative obligations for the entry and the holder complies with the alternative obligations; or
- an opt-out agreement.

Authorised activities apply to subterranean land

Authorised activities apply to activities that occur below the surface of the land, which includes directional drilling. This is confirmed under section 6 of the MERCP Act (which requires the MERCP Act to be read as if it formed part of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act)) and the meaning of “land” in Schedule 2 Dictionary of the P&G Act which includes subterranean land.

Further to this, section 67(a) of the MERCP Act defines prescribed activity for a resource authority to mean an authorised activity that is carried out on the surface of land; or below the surface of land in a way that is likely to cause an impact on the surface of the land, including, for example, subsidence of the land.

Published on Resources Disclosure
RTI Act 2009

Date : 16/04/2021 1:26:10 PM

From : "EDDINGTON Ross"

To : "WARD Steven (Resources)" , "REES Marcus"

Cc : "MUSGRAVE Kerrie" , "SHAW Chris"

Subject : draft factsheet on directional drilling

Attachment : Fact Sheet - Notice of entry to private land for directional drilling on adjacent land.docx;

Marcus\Steve

Kerrie has kindly drafted an explanatory factsheet on directional drilling – attached. Grateful any comments you might have.

Please note we intentionally did not go into the issues of differing depths of directional drilling or what the departments views are on retrospective circumstances where a notice has not been given as these issues would necessitate it becoming an operational policy rather than a fact sheet and would require further legal advice .

Happy to discuss further once you have had a chance to digest

Ross

Published on Resources Disclosure Log
RTI Act 2009

Entry notices for directional drilling on adjacent land

This fact sheet sets out the regulatory framework regarding the requirement for a resource authority holder to give an Entry Notice to Private Land for directional drilling activities (i.e. the practice of drilling non-vertical bores) to occur on adjacent land.

Permit holders should note that the subterranean entry to private land for the purpose of directional drilling triggers the requirements of section 39 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) except where exemptions apply.

Regulatory framework

The department regulates the land access framework under Chapter 3 of the MERC Act and subordinate legislation. The framework applies to activities on private land, which can include activities such as directional drilling.

Schedule 2 of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) defines 'petroleum well' as a 'hole in the ground made or being made by drilling, boring or other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced' and applies to both conventional and unconventional resources, such as coal seam gas. On this basis, the definition of 'petroleum wells' in the P&G Act includes directional drilling as it is not limited to vertical drilling.

Section 38 of the MERC Act applies to an entry to private land for the purposes of carrying out an authorised activity for a resource authority, which includes a petroleum lease and an authority to prospect (see section 10(b) of the MERC Act). Section 22 of the P&G Act provides the meaning of authorised activities as those which the holder of a petroleum authority is entitled to carry out under the authority.

In the instance of directional drilling where the well location is not on the surface of a person's property, the activity would be considered a preliminary activity. Under section 39 of the MERC Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, before giving an entry notice at least 10 business days prior to the activity being undertaken, subject to an exemption which may apply under section 40 of the MERC Act. A maximum penalty of 500 penalty units applies to the section 39 offence provision.

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

- the resource authority holds the land; or
- the resource authority has an independent legal right to enter the land for the purpose; or
- the entry is to preserve life or property or because of an emergency that exists or may exist; or
- the entry is authorised under the Resource Act for the resource authority; or

- the entry is prescribed by Regulation.

The obligation also does not apply under section 40(2) of the MERCP Act, if the resource authority holder has one of the following with each owner and occupier of the land:

- a waiver of entry notice for the entry that is in effect, or
- a conduct and compensation agreement which provides for alternative obligations for the entry and the holder complies with the alternative obligations; or
- an opt-out agreement.

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Authorised activities apply to activities that occur below the surface of the land, which includes directional drilling. This is confirmed under section 6 of the MERCP Act (which requires the MERCP Act to be read as if it formed part of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act)) and the meaning of “land” in Schedule 2 Dictionary of the P&G Act which includes subterranean land.

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Published on Resources Disposal
RTI Act 2009

Date : 16/04/2021 1:30:39 PM
From : "MUSGRAVE Kerrie"
To : "EDDINGTON Ross"
Subject : RE: FOR REVIEW: Draft Fact Sheet - Notice of entry to private land for directional drilling on adjacent land

Hi Ross,

Just tried to call you on Teams re your further question.

Kerrie

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Friday, 16 April 2021 1:02 PM
To: MUSGRAVE Kerrie
Subject: Re: FOR REVIEW: Draft Fact Sheet - Notice of entry to private land for directional drilling on adjacent land

Kerrie if your still around after lunch I have one further question
Ross

Sent from my iPhone

On 16 Apr 2021, at 12:36 pm, EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au> wrote:

Thanks Kerrie

I will review and then send to Steve/Marcus for their comments by this afternoon and copy to Chris

Ross

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>
Sent: Friday, 16 April 2021 12:19 PM
To: EDDINGTON Ross
Cc: SHAW Chris
Subject: FOR REVIEW: Draft Fact Sheet - Notice of entry to private land for directional drilling on adjacent land

Hi Ross,

I have **attached** the draft Fact Sheet – Notice of entry to private land for directional drilling on adjacent land for your review.

<image001.png> **Kerrie Musgrave**
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105

E: kerrie.musgrave@resources.qld.gov.au

A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002

W: www.resources.qld.gov.au

Date : 19/04/2021 11:06:22 AM

From : "WARD Steven (Resources)"

To : "Alice Prince" , "David B Limburg"

Subject : FW: draft factsheet on directional drilling

Attachment : Fact Sheet - Notice of entry to private land for directional drilling on adjacent land.docx;image001.png;

Alice, David

Could you please have a look at the attached draft factsheet & provide me with any feedback by COB today?

Cheers

Steve



Dr Steve Ward

Director, Engagement and Compliance

Divisional Support | Georesources

Department of Resources

P: 4529 1566 M: [sch4p4\(6\) Per](tel:0800137322)

E: steven.ward@resources.qld.gov.au

A: 203 Tor Street, Toowoomba QLD 4350 | PO BOX 318

W: www.dnrme.qld.gov.au

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>

Sent: Monday, 19 April 2021 10:51 AM

To: WARD Steven (Resources); REES Marcus

Cc: EDDINGTON Ross; SHAW Chris

Subject: FW: draft factsheet on directional drilling

Hi Marcus and Steve,

I have added a further information section – please review the **attachment**.



Kerrie Musgrave

Acting Policy Manager

Georesources Policy | Georesources Division

Department of Resources

P: 3199 8105

E: kerrie.musgrave@resources.qld.gov.au

A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002

W: www.resources.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Friday, 16 April 2021 1:26 PM

To: WARD Steven (Resources); REES Marcus

Cc: MUSGRAVE Kerrie; SHAW Chris

Subject: draft factsheet on directional drilling

Marcus\Steve

Kerrie has kindly drafted an explanatory factsheet on directional drilling – attached. Grateful any comments you might have.

Please note we intentionally did not go into the issues of differing depths of directional drilling or what the departments views are on retrospective circumstances where a notice has not been given as these issues would necessitate it becoming an operational policy rather than a fact sheet and would require further legal advice .

Happy to discuss further once you have had a chance to digest

Ross

Published under Resources Disclosure Log
RTI Act 2009

Date : 19/04/2021 12:56:19 PM
From : "LIMBURG David B."
To : "Steven Ward (Resources)" , "Alice Prince"
Subject : RE: draft factsheet on directional drilling
Attachment : image001.png;

Hi Steve,

Nil changes recommended. Reads well and gives a greater amount of direction to resources holders and the public.



David Limburg
Acting Manager – Chair, North West Region RMCN
Georesources | Engagement & Compliance Unit
Department of Resources

P: 07 4745 4102 M: sch4p4(6) Per
E: David.Limburg@resources.qld.gov.au
A: 13 Isa Street, Mount Isa QLD 4825 | PO Box 334, Mount Isa QLD 4825

From: WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>

Sent: Monday, 19 April 2021 11:06 AM

To: PRINCE Alice; LIMBURG David B.

Subject: FW: draft factsheet on directional drilling

Alice, David

Could you please have a look at the attached draft factsheet & provide me with any feedback by COB today?

Cheers

Steve



Dr Steve Ward
Director, Engagement and Compliance
Divisional Support | Georesources
Department of Resources

P: 4529 1566 M: sch4p4(6) Pe
E: steven.ward@resources.qld.gov.au
A: 203 Tor Street, Toowoomba QLD 4350 | PO BOX 318
W: www.dnrme.qld.gov.au

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>

Sent: Monday, 19 April 2021 10:51 AM

To: WARD Steven (Resources); REES Marcus

Cc: EDDINGTON Ross; SHAW Chris

Subject: FW: draft factsheet on directional drilling

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Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105
E: kerrie.musgrave@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002
W: www.resources.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Friday, 16 April 2021 1:26 PM

To: WARD Steven (Resources); REES Marcus

Cc: MUSGRAVE Kerrie; SHAW Chris

Subject: draft factsheet on directional drilling

Marcus\Steve

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Please note we intentionally did not go into the issues of differing depths of directional drilling or what the departments views are on retrospective circumstances where a notice has not been given as these issues would necessitate it becoming an operational policy rather than a fact sheet and would require further legal advice .

Happy to discuss further once you have had a chance to digest

Ross

Date : 19/04/2021 10:51:13 AM

From : "MUSGRAVE Kerrie"

To : "WARD Steven (Resources)" , "REES Marcus"

Cc : "EDDINGTON Ross" , "SHAW Chris"

Subject : FW: draft factsheet on directional drilling

Attachment : Fact Sheet - Notice of entry to private land for directional drilling on adjacent land.docx;image001.png;

Hi Marcus and Steve,

I have added a further information section – please review the **attachment**.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

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W: www.resources.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Friday, 16 April 2021 1:26 PM

To: WARD Steven (Resources); REES Marcus

Cc: MUSGRAVE Kerrie; SHAW Chris

Subject: draft factsheet on directional drilling

Marcus\Steve

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Ross

Published on Resources Disclosure Log
RTI Act 2009

Entry notices for directional drilling on adjacent land

This fact sheet sets out the regulatory framework regarding the requirement for a resource authority holder to give an Entry Notice to Private Land for directional drilling activities (i.e. the practice of drilling non-vertical bores) to occur on adjacent land. The subterranean entry to private land for the purpose of directional drilling triggers the requirements of section 39 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) except where exemptions apply.

Regulatory framework

The department regulates the land access framework under Chapter 3 of the MERC Act and subordinate legislation. The framework applies to activities on private land, which can include activities such as directional drilling.

Schedule 2 of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) defines 'petroleum well' as a 'hole in the ground made or being made by drilling, boring or other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced' and applies to both conventional and unconventional resources, such as coal seam gas. On this basis, the definition of 'petroleum wells' in the P&G Act includes directional drilling as it is not limited to vertical drilling.

Section 38 of the MERC Act applies to an entry to private land for the purposes of carrying out an authorised activity for a resource authority, which includes a petroleum lease and an authority to prospect (see section 10(b) of the MERC Act). Section 22 of the P&G Act provides the meaning of authorised activities as those which the holder of a petroleum authority is entitled to carry out under the authority.

In the instance of directional drilling where the well location is not on the surface of a person's property, the activity would be considered a preliminary activity. Under section 39 of the MERC Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, before giving an entry notice at least 10 business days prior to the activity being undertaken, subject to an exemption which may apply under section 40 of the MERC Act. A maximum penalty of 500 penalty units applies to the section 39 offence provision.

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

- the resource authority holds the land; or
- the resource authority has an independent legal right to enter the land for the purpose; or
- the entry is to preserve life or property or because of an emergency that exists or may exist; or
- the entry is authorised under the Resource Act for the resource authority; or
- the entry is prescribed by Regulation.

The obligation also does not apply under section 40(2) of the MERC Act, if the resource authority holder has one of the following with each owner and occupier of the land:

- a waiver of entry notice for the entry that is in effect, or
- a conduct and compensation agreement which provides for alternative obligations for the entry and the holder complies with the alternative obligations; or
- an opt-out agreement.

Authorised activities apply to subterranean land

Authorised activities apply to activities that occur below the surface of the land, which includes directional drilling. This is confirmed under section 6 of the MERC Act (which requires the MERC Act to be read as if it formed part of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act)) and the meaning of "land" in Schedule 2 Dictionary of the P&G Act which includes subterranean land.

Further to this, section 67(a) of the MERC Act defines prescribed activity for a resource authority to mean an authorised activity that is carried out on the surface of land; or below the surface of land in a way that is likely to cause an impact on the surface of the land, including, for example, subsidence of the land.

Further information

For further information, please contact the Resource community Infoline on 13 71 07 or email resources.info@resources.qld.gov.au.

Date : 19/04/2021 4:00:20 PM

From : "Marcus Rees"

To : "Kerrie Musgrave" , "Steven Ward (Resources)"

Cc : "Ross Eddington" , "SHAW Chris"

Subject : FW: draft factsheet on directional drilling

Attachment : Fact Sheet - Notice of entry to private land for directional drilling on adjacent land.docx;image001.png;

Kerrie/Steve

My 2 cents worth in the attached. Happy to discuss.

Cheers

Marcus

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>

Sent: Monday, 19 April 2021 10:51 AM

To: WARD Steven (Resources); REES Marcus

Cc: EDDINGTON Ross; SHAW Chris

Subject: FW: draft factsheet on directional drilling

Hi Marcus and Steve,

I have added a further information section – please review the **attachment**.



Kerrie Musgrave

Acting Policy Manager

Georesources Policy | Georesources Division

Department of Resources

P: 3199 8105

E: kerrie.musgrave@resources.qld.gov.au

A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002

W: www.resources.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Friday, 16 April 2021 1:26 PM

To: WARD Steven (Resources); REES Marcus

Cc: MUSGRAVE Kerrie; SHAW Chris

Subject: draft factsheet on directional drilling

Marcus\Steve

Kerrie has kindly drafted an explanatory factsheet on directional drilling – attached. Grateful any comments you might have.

Please note we intentionally did not go into the issues of differing depths of directional drilling or what the departments views are on retrospective circumstances where a notice has not been given as these issues would necessitate it becoming an operational policy rather than a fact sheet and would require further legal advice .

Happy to discuss further once you have had a chance to digest

Ross

Published on Resources Disclosure Log
RTI A000009

Entry notices for directional drilling on adjacent land

This fact sheet sets out the regulatory framework regarding the requirement for a resource authority holder to give an Entry Notice to Private Land for directional drilling activities (i.e. the practice of drilling non-vertical bores) to occur on adjacent land. The subterranean entry to private land for the purpose of directional drilling triggers the requirements of section 39 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) except where exemptions apply.

Regulatory framework

The department regulates the land access framework under Chapter 3 of the MERC Act and subordinate legislation. The framework applies to activities on private land, which can include activities such as directional drilling.

Schedule 2 of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) defines 'petroleum well' as a 'hole in the ground made or being made by drilling, boring or other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced' and applies to both conventional and unconventional resources, such as coal seam gas. On this basis, the definition of 'petroleum wells' in the P&G Act includes directional drilling as it is not limited to vertical drilling.

Section 38 of the MERC Act applies to an entry to private land for the purposes of carrying out an authorised activity for a resource authority, which includes a petroleum lease and an authority to prospect (see section 10(b) of the MERC Act). Section 22 of the P&G Act provides the meaning of authorised activities as those which the holder of a petroleum authority is entitled to carry out under the authority.

In the instance of directional drilling where the well location is not on the surface of a person's property, the activity would be considered a preliminary activity. Under section 39 of the MERC Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, before giving an entry notice at least 10 business days prior to the activity being undertaken, subject to an exemption which may apply under section 40 of the MERC Act. A maximum penalty of 500 penalty units applies to the section 39 offence provision.

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

- the resource authority holds the land; or
- the resource authority has an independent legal right to enter the land for the purpose; or
- the entry is to preserve life or property or because of an emergency that exists or may exist; or
- the entry is authorised under the Resource Act for the resource authority; or
- the entry is prescribed by Regulation.

Commented [RM1]: Probably needs a little more information in here around the types of depths to which these things are drilled and the risks associated with the drilling – usually low etc

Also a section non what happens if there is something that causes a compensatable effect

Commented [RM2]: Could say this more clearly maybe and describe the issue which has given rise to the situation?

Commented [RM3]: Probably needs a little more structure – MERC and P&G Read together – then land definition - then what are preliminary and advanced activities and the requirements for each - then why is a deviated well likely to be preliminary activity?

Commented [RM4]: Administrators?

Commented [RM5]: Do we need to talk about public land and the requirements for it in here as well?

Commented [RM6]: Why? Because it has no, or low impact on the business and land use activities of the land owner. Also should note it is generally considered a preliminary activity – because there are some circumstances where it may not be preliminary.

Might need a bit in here about what is an advanced activity and the trigger for a CCA. Note that a preliminary activity becomes an advanced activity where the property is less than 100hectares and used for farming or on any block that is used for organic farming. There is a penalty of 500 penalty units for failure to have a CCA as well.

Commented [RM7]: What is the multiplier if the offence is committed by a corporation?



The obligation also does not apply under section 40(2) of the MERCP Act, if the resource authority holder has one of the following with each owner and occupier of the land:

- a waiver of entry notice for the entry that is in effect, or
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Further information

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Commented [RM8]: To give an entry notice?

Commented [RM9]: This might be better up front as it really is key to the conversation.

Commented [RM10]: Need to be careful here – 67 (a) relates to restricted land which sets up consent requirements for authorised activities in certain proximities to key buildings and infrastructure – may not apply outside the restricted land framework??

Date : 21/04/2021 9:39:42 AM
From : "MUSGRAVE Kerrie"
To : "REES Marcus", "WARD Steven (Resources)"
Cc : "EDDINGTON Ross", "SHAW Chris"
Subject : RE: draft factsheet on directional drilling
Attachment : Fact Sheet - Notice of entry to private land for directional drilling on adjacent land_MR.docx;image001.png;
Hi Marcus and Steve,

I have considered feedback received to date and attach the updated version of the Fact Sheet for your review.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105
E: kerrie.musgrave@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002
W: www.resources.qld.gov.au

From: REES Marcus <Marcus.Rees@resources.qld.gov.au>
Sent: Monday, 19 April 2021 4:00 PM
To: MUSGRAVE Kerrie; WARD Steven (Resources)
Cc: EDDINGTON Ross; SHAW Chris
Subject: FW: draft factsheet on directional drilling

Kerrie/Steve

My 2 cents worth in the attached. Happy to discuss.

Cheers

Marcus

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>
Sent: Monday, 19 April 2021 10:51 AM
To: WARD Steven (Resources); REES Marcus
Cc: EDDINGTON Ross; SHAW Chris
Subject: FW: draft factsheet on directional drilling

Hi Marcus and Steve,

I have added a further information section – please review the **attachment**.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105
E: kerrie.musgrave@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002
W: www.resources.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Friday, 16 April 2021 1:26 PM
To: WARD Steven (Resources); REES Marcus
Cc: MUSGRAVE Kerrie; SHAW Chris

Subject: draft factsheet on directional drilling

Marcus\Steve

Kerrie has kindly drafted an explanatory factsheet on directional drilling – attached. Grateful any comments you might have.

Please note we intentionally did not go into the issues of differing depths of directional drilling or what the departments views are on retrospective circumstances where a notice has not been given as these issues would necessitate it becoming an operational policy rather than a fact sheet and would require further legal advice .

Happy to discuss further once you have had a chance to digest

Ross

Published on Resources Disclosure Log
RTI Act 2009

Entry notices Accessing private land to carry out for directional drilling on adjacent land

This fact sheet sets out the regulatory framework for regarding the requirement for a resource authority holders to give an Entry Notice to Private Land access private land for to carry out directional drilling activities (i.e. the practice of drilling non-vertical bores) to occur on adjacent land.

Resource authority holders should note that the subterranean entry to private land for the purpose of directional drilling triggers the requirements of section 39 of the Mineral and Energy Resources (Common Provisions) Act 2014 (MERC Act) except where exemptions apply.

Regulatory framework

The department administers regulates the land access framework under Chapter 3 of the MERC Act and subordinate legislation. The framework applies to activities on private land, which can include activities such as directional drilling.

Authorised activities apply to subterranean land

Authorised activities apply to activities that occur below the surface of the land, which include directional drilling.

Section 6 of the MERC Act requires the MERC Act to be read as if it formed part of the Petroleum and Gas (Production and Safety) Act 2004 (P&G Act) Authorised activities apply to activities that occur below the surface of the land, which includes directional drilling. This is confirmed under section 6 of the MERC Act (which requires the MERC Act to be read as if it formed part of the Petroleum and Gas (Production and Safety) Act 2004 (P&G Act) and the meaning of "land" in Schedule 2 Dictionary of the P&G Act which includes subterranean land.

Definition of 'petroleum wells' includes directional drilling

Directional drilling refers to the practice of drilling non-vertical bores. Schedule 2 of the Petroleum and Gas (Production and Safety) Act 2004 (P&G Act) defines 'petroleum well' as a 'hole in the ground made or being made by drilling, boring or other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced' and applies to both conventional and unconventional resources, such as coal seam gas.

On this basis, the definition of 'petroleum wells' in the P&G Act includes directional drilling as it is not limited to vertical drilling.

Style Definition: Fact sheet title: Font: 16 pt

Commented [RM1]: Probably needs a little more information in here around the types of depths to which these things are drilled and the risks associated with the drilling – usually low etc

Also a section non what happens if there is something that causes a compensatable effect

Commented [MK2R1]: Changes made. Have decided not to include detail of the particular scenario that gave rise to these changes – just keeping it general with facts only

Formatted: Font: 11 pt, Not Bold

Commented [RM3]: Probably needs a little more structure – MERC and P&G Read together – then land definition - then what are preliminary and advanced activities and the requirements for each - then why is a deviated well likely to be preliminary activity?

Commented [MK4R3]: Changes made

Commented [RM5]: Administers?

Commented [RM6]: Do we need to talk about public land and the requirements for it in here as well?

Commented [MK7R6]: My understanding is that we were dealing only with private land.

Commented [RM8]: This might be better up front as it really is key to the conversation.

Commented [MK9R8]: Moved



Requirements for preliminary and advanced activities

Chapter 3 of the MERC Act provides the circumstances and obligations for resource
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circumstances and obligations for resource authority holders to give any owner or occupier
of private land to enter that land to carry out authorised activities, cross access land, or to
gain entry to access land to the resource authority. The extent to which the authorised
activities impact the business or land use activities of any owner and occupier of the land will
determine whether the activities are either 'preliminary' or 'advanced activities'.

Directional drilling is generally considered a preliminary activity, however there are some
circumstances where it may be an advanced activity.

Circumstances for categorising directional drilling as a preliminary or advanced activity

Section 38 of the MERC Act applies to an entry to private land for the purposes of carrying
out an authorised activity for a resource authority, which includes a petroleum lease and an
authority to prospect (see section 10(b) of the MERC Act). Section 22 of the P&G Act
provides the meaning of authorised activities as those which the holder of a petroleum
authority is entitled to carry out under the authority.

Under section 15B of the MERC Act, a 'preliminary activity' for a resource authority is an
authorised activity that will have no impact, or only a minor impact, on the business or land
use activities for any owner or occupier of the land on which the activity is to be carried out.

Examples –

- conducting a geochemical
- geological or geophysical survey
- drilling a well
- carrying out testing in relation to a well
- taking a sample for chemical or other analysis.'

Note that, under section 15B(2) of the MERC Act, an authorised activity carried out on land
that is less than 100 hectares and is being used for intensive farming or broadacre
agriculture (for example, land used for dryland or irrigated cropping, plantation forestry or
horticulture or a dairy, cattle or sheep feedlot, piggery or poultry farm), is an advanced
activity.

Directional drilling would be a preliminary activity where the well location is not on the
surface of a person's property, and the directional drilling proposed to be carried out will take
place to a depth of at least 300 metres below the surface of the land. In this instance, the
activity would likely have no impact or minor impact on the business or land use activities for
any owner and occupier of the land.

Where the directional drilling will occur closer to the
surface of the land or where there is likely to be a greater impact on the business or land use

Commented [RM10]: Why? Because it has no, or low impact on the business and land use activities of the land owner. Also should note it is generally considered a preliminary activity – because there are some circumstances where it may not be preliminary.

Might need a bit in here about what is an advanced activity and the trigger for a CCA. Note that a preliminary activity becomes an advanced activity where the property is less than 100 hectares and used for farming or on any block that is used for organic farming. There is a penalty of 500 penalty units for failure to have a CCA as well.

Commented [MK11R10]: Included

activities of any owner or occupier of the land, directional drilling would likely be an advanced activity.

Under section 39 of the MERCP Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, before giving an entry notice at least 10 business days prior to the activity being undertaken, subject to an exemption which may apply under section 40 of the MERCP Act.

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

- the resource authority holds the land; or
- the resource authority has an independent legal right to enter the land for the purpose; or
- the entry is to preserve life or property or because of an emergency that exists or may exist; or
- the entry is authorised under the Resource Act for the resource authority; or
- the entry is prescribed by Regulation.

The obligation to give an Entry Notice also does not apply under section 40(2) of the MERCP Act, if the resource authority holder has one of the following with each owner and occupier of the land:

- a waiver of entry notice for the entry that is in effect, or
- a conduct and compensation agreement which provides for alternative obligations for the entry and the holder complies with the alternative obligations; or
- an opt-out agreement.

Under section 43 of the MERCP Act, a resource authority holder must not enter private land to carry out 'advanced activities' for the resource authority unless, amongst other things, a conduct and compensation agreement about the advanced activity, a deferral agreement, or an opt out agreement has been entered into with any owner and occupier of the land.

A maximum penalty of 500 penalty units applies to the section 39 and section 43 offence provisions. If a body corporate is found guilty of the relevant offence, the court may impose a maximum fine of an amount equal to five times the maximum fine for an individual.¹

~~Under section 39 of the MERCP Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, before giving an entry notice at least 10 business days prior to the activity being undertaken, subject to an exemption which may apply under section 40 of the MERCP Act. A maximum penalty of 500 penalty units applies to the section 39 offence provision. Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:~~

- ~~the resource authority holds the land; or~~
- ~~the resource authority has an independent legal right to enter the land for the purpose; or~~

¹ Penalties and Sentences Act 1992, s 181B.

Commented [RM12]: To give an entry notice?

Commented [MK13R12]: Included

Commented [RM14]: What is the multiplier if the offence is committed by a corporation?

Commented [MK15R14]: Included

Liability to compensate

Under section 81 of the MERC Act, a resource authority holder is liable to compensate an owner or occupier of land that is in the authorised area or access land for the authority for each 'compensatable effect' suffered by the claimant as a result of the holder's directional drilling activities.

The types of compensatable effects listed under section 81(4) include:

- deprivation of possession of the land's surface
- diminution of the land's value
- diminution of the use made, or that may be made, of the land or any improvement on it
- severance of any part of the land from other parts of the land or from other land that the eligible claimant owns
- any cost, damage or loss arising from the carrying out of activities under the resource authority on the land
- consequential loss incurred by an eligible claimant arising out of a matter listed directly above.

The specific factual circumstances associated with the directional drilling would need to be considered to assess compensatable effects associated with the directional drilling.

Further information

For further information, please contact the Resource Community Infoline on 13 71 07 or email resources.info@resources.qld.gov.au.

Published on Resource Disclosure Log
RTI Act 2009

Date : 21/04/2021 3:35:27 PM

From : "WARD Steven (Resources)"

To : "MUSGRAVE Kerrie"

Cc : "EDDINGTON Ross" , "SHAW Chris" , "CROSSLAND Rachel" , "REES Marcus"

Subject : RE: draft factsheet on directional drilling

Attachment : Fact Sheet - Notice of entry to private land for directional drilling on adjacent land_MR_SW.docx;image001.png;
Hi Kerrie

Thanks for the opportunity to have a look at the draft factsheet. I've made a few comments within the doc, for consideration.

Happy to discuss.

Cheers

Steve



Dr Steve Ward
Director, Engagement and Compliance
Divisional Support | Georesources
Department of Resources

P: 4529 1566 M [sch4p4\(6\) Per](#)
E: steven.ward@resources.qld.gov.au
A: 203 Tor Street, Toowoomba QLD 4350 | PO BOX 318
W: www.dnrme.qld.gov.au

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>

Sent: Wednesday, 21 April 2021 9:40 AM

To: REES Marcus; WARD Steven (Resources)

Cc: EDDINGTON Ross; SHAW Chris

Subject: RE: draft factsheet on directional drilling

Hi Marcus and Steve,

I have considered feedback received to date and attach the updated version of the Fact Sheet for your review.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105
E: kerrie.musgrave@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002
W: www.resources.qld.gov.au

From: REES Marcus <Marcus.Rees@resources.qld.gov.au>

Sent: Monday, 19 April 2021 4:00 PM

To: MUSGRAVE Kerrie; WARD Steven (Resources)

Cc: EDDINGTON Ross; SHAW Chris

Subject: FW: draft factsheet on directional drilling

Kerrie/Steve

My 2 cents worth in the attached. Happy to discuss.

Cheers

Marcus

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>
Sent: Monday, 19 April 2021 10:51 AM
To: WARD Steven (Resources); REES Marcus
Cc: EDDINGTON Ross; SHAW Chris
Subject: FW: draft factsheet on directional drilling

Hi Marcus and Steve,

I have added a further information section – please review the **attachment**.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

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W: www.resources.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Friday, 16 April 2021 1:26 PM
To: WARD Steven (Resources); REES Marcus
Cc: MUSGRAVE Kerrie; SHAW Chris
Subject: draft factsheet on directional drilling

Marcus\Steve

Kerrie has kindly drafted an explanatory factsheet on directional drilling – attached. Grateful any comments you might have.

Please note we intentionally did not go into the issues of differing depths of directional drilling or what the departments views are on retrospective circumstances where a notice has not been given as these issues would necessitate it becoming an operational policy rather than a fact sheet and would require further legal advice .

Happy to discuss further once you have had a chance to digest

Ross

Published on Resources Disclosure Log
RTI Act 2009

Entry notices Accessing private land to carry out for directional drilling on adjacent land

This fact sheet sets out the regulatory framework ~~for regarding the requirement for a~~ resource authority holders ~~to give an Entry Notice to Private Land~~ access private land for to carry out directional drilling activities ~~(i.e. the practice of drilling non-vertical bores) to occur on~~ adjacent land.

Resource authority holders should note that the subterranean entry to private land for the purpose of directional drilling triggers the requirements of section 39 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) except where exemptions apply.

Regulatory framework

The department administers ~~regulates~~ the land access framework under Chapter 3 of the MERC Act and subordinate legislation. The framework applies to activities on private land, which can include activities such as directional drilling.

Authorised activities apply to subterranean land

Authorised activities apply to activities that occur below the surface of the land, which include directional drilling.

Section 6 of the MERC Act requires the MERC Act to be read as if it formed part of the Petroleum and Gas (Production and Safety) Act 2004 (P&G Act) Authorised activities apply to activities that occur below the surface of the land, which includes directional drilling. This is confirmed under section 6 of the MERC Act (which requires the MERC Act to be read as if it formed part of the Petroleum and Gas (Production and Safety) Act 2004 (P&G Act) and the meaning of "land" in Schedule 2 Dictionary of the P&G Act which includes subterranean land.

Definition of 'petroleum wells' includes directional drilling

Directional drilling refers to the practice of drilling non-vertical bores. Schedule 2 of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) defines 'petroleum well' as a 'hole in the ground made or being made by drilling, boring or other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced' and applies to both conventional and unconventional resources, such as coal seam gas.

On this basis, the definition of 'petroleum wells' in the P&G Act includes directional drilling as it is not limited to vertical drilling.

Commented [WS(1)]: General comment – assuming that target audience is resource authority holders? If there is a part-landholder/community focus, it may benefit from less formal wording.

Style Definition: Fact sheet title: Font: 16 pt

Commented [RM2]: Probably needs a little more information in here around the types of depths to which these things are drilled and the risks associated with the drilling – usually low etc

Also a section non what happens if there is something that causes a compensatable effect

Commented [MK3R2]: Changes made. Have decided not to include detail of the particular scenario that gave rise to these changes – just keeping it general with facts only

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Commented [RM4]: Probably needs a little more structure – MERC and P&G Read together – then land definition - then what are preliminary and advanced activities and the requirements for each - then why is a deviated well likely to be preliminary activity?

Commented [MK5R4]: Changes made

Commented [RM6]: Administers?

Commented [RM7]: Do we need to talk about public land and the requirements for it in here as well?

Commented [MK8R7]: My understanding is that we were dealing only with private land.

Commented [RM9]: This might be better up front as it really is key to the conversation.

Commented [MK10R9]: Moved

Commented [WS(11)]: May need to be careful with terminology re wells and bores – could get confused with water bores. Something like 'boreholes' may be an appropriate compromise term?



Requirements for preliminary and advanced activities

Chapter 3 of the MERC Act provides the circumstances and obligations for resource authority holders to give any owner or occupier of private land to enter that land to carry out authorised activities, cross access land, or to gain entry to access land to the resource authority. The extent to which the authorised activities impact the business or land use activities of any owner and occupier of the land will determine whether the activities are either 'preliminary' or 'advanced activities'.

Directional drilling is generally considered a preliminary activity, however there are some circumstances where it may be an advanced activity.

Circumstances for categorising directional drilling as a preliminary or advanced activity

Section 38 of the MERC Act applies to an entry to private land for the purposes of carrying out an authorised activity for a resource authority, which includes a petroleum lease and an authority to prospect (see section 10(b) of the MERC Act). Section 22 of the P&G Act provides the meaning of authorised activities as those which the holder of a petroleum authority is entitled to carry out under the authority.

Under section 15B of the MERC Act, a 'preliminary activity' for a resource authority is an authorised activity that will have no impact, or only a minor impact, on the business or land use activities for any owner or occupier of the land on which the activity is to be carried out.

Examples –

- conducting a geochemical
- geological or geophysical survey
- drilling a well
- carrying out testing in relation to a well
- taking a sample for chemical or other analysis.'

Note that, under section 15B(2) of the MERC Act, an authorised activity carried out on land that is less than 100 hectares and is being used for intensive farming or broadacre agriculture (for example, land used for dryland or irrigated cropping, plantation forestry or horticulture or a dairy, cattle or sheep feedlot, piggery or poultry farm), is an advanced activity.

Directional drilling would be a preliminary activity where the well location is not on the surface of a person's property, and the directional drilling proposed to be carried out will take place to a depth of at least 300 metres below the surface of the land. In this instance, the activity would likely have no impact or minor impact on the business or land use activities for any owner and occupier of the land.

Where the directional drilling will occur closer to the surface of the land or where there is likely to be a greater impact on the business or land use

Commented [WS(12): Missing word? "...private land notification to enter" ?? Otherwise sentence indicates the RAH will give the owner/occupier something but doesn't state what.

Commented [WS(13): And/or organic properties

Commented [WS(14): Why 300m depth? Given site-specific circumstances I'm uncertain how a DD well at 299m would likely be advanced while >300m would likely be preliminary. I think we should be cautious in applying a specific depth unless it can be supported with evidence.

Commented [RM15]: Why? Because it has no, or low impact on the business and land use activities of the land owner. Also should note it is generally considered a preliminary activity – because there are some circumstances where it may not be preliminary.

Might need a bit in here about what is an advanced activity and the trigger for a CCA. Note that a preliminary activity becomes an advanced activity where the property is less than 100 hectares and used for farming or on any block that is used for organic farming. There is a penalty of 500 penalty units for failure to have a CCA as well.

Commented [MK16R15]: Included

activities of any owner or occupier of the land, directional drilling would likely be an advanced activity.

Commented [WS(17)]: Doesn't this come down to the RAH determining the likelihood of more than minimal surface impacts?

Under section 39 of the MERCP Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, before giving an entry notice at least 10 business days prior to the activity being undertaken, subject to an exemption which may apply under section 40 of the MERCP Act.

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

- the resource authority holds the land; or
- the resource authority has an independent legal right to enter the land for the purpose; or
- the entry is to preserve life or property or because of an emergency that exists or may exist; or
- the entry is authorised under the Resource Act for the resource authority; or
- the entry is prescribed by Regulation.

The obligation to give an Entry Notice also does not apply under section 40(2) of the MERCP Act, if the resource authority holder has one of the following with each owner and occupier of the land:

Commented [RM18]: To give an entry notice?

Commented [MK19R18]: Included

- a waiver of entry notice for the entry that is in effect, or
- a conduct and compensation agreement which provides for alternative obligations for the entry and the holder complies with the alternative obligations; or
- an opt-out agreement.

Under section 43 of the MERCP Act, a resource authority holder must not enter private land to carry out 'advanced activities' for the resource authority unless, amongst other things, a conduct and compensation agreement about the advanced activity, a deferral agreement, or an opt out agreement has been entered into with any owner and occupier of the land.

A maximum penalty of 500 penalty units applies to the section 39 and section 43 offence provisions. If a body corporate is found guilty of the relevant offence, the court may impose a maximum fine of an amount equal to five times the maximum fine for an individual.¹

Commented [WS(20)]: Should we state which court?

~~Under section 39 of the MERCP Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, before giving an entry notice at least 10 business days prior to the activity being undertaken, subject to an exemption which may apply under section 40 of the MERCP Act. A maximum penalty of 500 penalty units applies to the section 39 offence provision. Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:~~

Commented [RM21]: What is the multiplier if the offence is committed by a corporation?

Commented [MK22R21]: Included

- ~~the resource authority holds the land; or~~
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¹ Penalties and Sentences Act 1992, s 181B.

Liability to compensate

Under section 81 of the MERC Act, a resource authority holder is liable to compensate an owner or occupier of land that is in the authorised area or access land for the authority for each 'compensatable effect' suffered by the claimant as a result of the holder's directional drilling activities.

The types of compensatable effects listed under section 81(4) include:

- deprivation of possession of the land's surface
- diminution of the land's value
- diminution of the use made, or that may be made, of the land or any improvement on it
- severance of any part of the land from other parts of the land or from other land that the eligible claimant owns
- any cost, damage or loss arising from the carrying out of activities under the resource authority on the land
- consequential loss incurred by an eligible claimant arising out of a matter listed directly above.

The specific factual circumstances associated with the directional drilling would need to be considered to assess compensatable effects associated with the directional drilling.

Further information

For further information, please contact the Resource Community Infoline on 13 71 07 or email resources.info@resources.qld.gov.au.

Published on Resource Disclosure Log
RTI Act 2009

Date : 15/04/2021 3:55:12 PM
From : "CROSSLAND Rachel"
To : "EDDINGTON Ross", "MUSGRAVE Kerrie"
Subject : RE: Notice of entry - implementation of Recommendation 6 of the QAO CSG Regulation Recommendations
Attachment : image001.png;

Thanks Ross – so sort of approved and then published in a very similar period?

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Thursday, 15 April 2021 3:50 PM
To: CROSSLAND Rachel; MUSGRAVE Kerrie
Subject: RE: Notice of entry - implementation of Recommendation 6 of the QAO CSG Regulation Recommendations

On or around 28/9/2020 (date Paris sent them off to be uploaded)

Ross

From: CROSSLAND Rachel <Rachel.Crossland@resources.qld.gov.au>
Sent: Thursday, 15 April 2021 3:48 PM
To: MUSGRAVE Kerrie
Cc: EDDINGTON Ross
Subject: RE: Notice of entry - implementation of Recommendation 6 of the QAO CSG Regulation Recommendations
Importance: High

Thanks so much Kerrie. Do you have a date on when the form was formally approved and when it was published on the website?

Rachel

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>
Sent: Thursday, 15 April 2021 9:55 AM
To: CROSSLAND Rachel
Cc: EDDINGTON Ross
Subject: Notice of entry - implementation of Recommendation 6 of the QAO CSG Regulation Recommendations

Hi Rachel,

RSP worked with ECU to update the [Entry Notice for Private Land](#) to include examples of activities to implement Recommendation 6 – updating guidance material with best practice entry notice examples (project 16). These best practice changes also came out of the December 2019 priority setting from ECU. The updated notice was approved and became publicly available in September 2020.

From the Implementation Project Plan –

- **Recommendation 6:** facilitate ways to further enhance the exchange of information between industry, government and landholders in situations where landholders have not been given the information to make an informed decision. This should consider potential legislative changes and commercial-in-confidence constraints.
- **Project 16:** update guidance material with best practice entry notice examples (across not just petroleum, but coal and mineral related to most common exploration / mining activities – aerial surveying / directional drilling).
- **Agreed action:** To improve the standard of information being provided to landholders, DNRME will develop guidance material showcasing best practice entry notices to make sure landholders are given fulsome information in order to determine impacts on their operations.

s.73 Irrelevant information



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

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W: www.resources.qld.gov.au

Date : 21/04/2021 9:39:42 AM

From : "MUSGRAVE Kerrie"

To : "Marcus Rees" , "Steven Ward (Resources)"

Cc : "Ross Eddington" , "SHAW Chris"

Subject : RE: draft factsheet on directional drilling

Attachment : Fact Sheet - Notice of entry to private land for directional drilling on adjacent land_MR.docx;image001.png;

Hi Marcus and Steve,

I have considered feedback received to date and attach the updated version of the Fact Sheet for your review.



Kerrie Musgrave
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Georesources Policy | Georesources Division
Department of Resources

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From: REES Marcus <Marcus.Rees@resources.qld.gov.au>

Sent: Monday, 19 April 2021 4:00 PM

To: MUSGRAVE Kerrie; WARD Steven (Resources)

Cc: EDDINGTON Ross; SHAW Chris

Subject: FW: draft factsheet on directional drilling

Kerrie/Steve

My 2 cents worth in the attached. Happy to discuss.

Cheers

Marcus

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>

Sent: Monday, 19 April 2021 10:51 AM

To: WARD Steven (Resources); REES Marcus

Cc: EDDINGTON Ross; SHAW Chris

Subject: FW: draft factsheet on directional drilling

Hi Marcus and Steve,

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Kerrie Musgrave
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Sent: Friday, 16 April 2021 1:26 PM

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Cc: MUSGRAVE Kerrie; SHAW Chris

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Please note we intentionally did not go into the issues of differing depths of directional drilling or what the departments views are on retrospective circumstances where a notice has not been given as these issues would necessitate it becoming an operational policy rather than a fact sheet and would require further legal advice .

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Entry notices Accessing private land to carry out for directional drilling on adjacent land

This fact sheet sets out the regulatory framework for regarding the requirement for a resource authority holders to give an Entry Notice to Private Land access private land for to carry out directional drilling activities (i.e. the practice of drilling non-vertical bores) to occur on adjacent land.

Resource authority holders should note that the subterranean entry to private land for the purpose of directional drilling triggers the requirements of section 39 of the Mineral and Energy Resources (Common Provisions) Act 2014 (MERC Act) except where exemptions apply.

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The department administers regulates the land access framework under Chapter 3 of the MERC Act and subordinate legislation. The framework applies to activities on private land, which can include activities such as directional drilling.

Authorised activities apply to subterranean land

Authorised activities apply to activities that occur below the surface of the land, which include directional drilling.

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Definition of 'petroleum wells' includes directional drilling

Directional drilling refers to the practice of drilling non-vertical bores. Schedule 2 of the Petroleum and Gas (Production and Safety) Act 2004 (P&G Act) defines 'petroleum well' as a 'hole in the ground made or being made by drilling, boring or other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced' and applies to both conventional and unconventional resources, such as coal seam gas.

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Style Definition: Fact sheet title: Font: 16 pt

Commented [RM1]: Probably needs a little more information in here around the types of depths to which these things are drilled and the risks associated with the drilling – usually low etc

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Commented [MK2R1]: Changes made. Have decided not to include detail of the particular scenario that gave rise to these changes – just keeping it general with facts only

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Commented [RM3]: Probably needs a little more structure – MERC and P&G Read together – then land definition - then what are preliminary and advanced activities and the requirements for each - then why is a deviated well likely to be preliminary activity?

Commented [MK4R3]: Changes made

Commented [RM5]: Administers?

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Commented [MK7R6]: My understanding is that we were dealing only with private land.

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Commented [MK9R8]: Moved



Requirements for preliminary and advanced activities

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Where the directional drilling will occur closer to the
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activities of any owner or occupier of the land, directional drilling would likely be an advanced activity.

Under section 39 of the MERCP Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, before giving an entry notice at least 10 business days prior to the activity being undertaken, subject to an exemption which may apply under section 40 of the MERCP Act.

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

- the resource authority holds the land; or
- the resource authority has an independent legal right to enter the land for the purpose; or
- the entry is to preserve life or property or because of an emergency that exists or may exist; or
- the entry is authorised under the Resource Act for the resource authority; or
- the entry is prescribed by Regulation.

The obligation to give an Entry Notice also does not apply under section 40(2) of the MERCP Act, if the resource authority holder has one of the following with each owner and occupier of the land:

- a waiver of entry notice for the entry that is in effect, or
- a conduct and compensation agreement which provides for alternative obligations for the entry and the holder complies with the alternative obligations; or
- an opt-out agreement.

Under section 43 of the MERCP Act, a resource authority holder must not enter private land to carry out 'advanced activities' for the resource authority unless, amongst other things, a conduct and compensation agreement about the advanced activity, a deferral agreement, or an opt out agreement has been entered into with any owner and occupier of the land.

A maximum penalty of 500 penalty units applies to the section 39 and section 43 offence provisions. If a body corporate is found guilty of the relevant offence, the court may impose a maximum fine of an amount equal to five times the maximum fine for an individual.¹

~~Under section 39 of the MERCP Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, before giving an entry notice at least 10 business days prior to the activity being undertaken, subject to an exemption which may apply under section 40 of the MERCP Act. A maximum penalty of 500 penalty units applies to the section 39 offence provision. Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:~~

- ~~• the resource authority holds the land; or~~
- ~~• the resource authority has an independent legal right to enter the land for the purpose; or~~

¹ Penalties and Sentences Act 1992, s 181B.

Commented [RM12]: To give an entry notice?

Commented [MK13R12]: Included

Commented [RM14]: What is the multiplier if the offence is committed by a corporation?

Commented [MK15R14]: Included

Liability to compensate

Under section 81 of the MERC Act, a resource authority holder is liable to compensate an owner or occupier of land that is in the authorised area or access land for the authority for each 'compensatable effect' suffered by the claimant as a result of the holder's directional drilling activities.

The types of compensatable effects listed under section 81(4) include:

- deprivation of possession of the land's surface
- diminution of the land's value
- diminution of the use made, or that may be made, of the land or any improvement on it
- severance of any part of the land from other parts of the land or from other land that the eligible claimant owns
- any cost, damage or loss arising from the carrying out of activities under the resource authority on the land
- consequential loss incurred by an eligible claimant arising out of a matter listed directly above.

The specific factual circumstances associated with the directional drilling would need to be considered to assess compensatable effects associated with the directional drilling.

Further information

For further information, please contact the Resource Community Infoline on 13 71 07 or email resources.info@resources.qld.gov.au.

Published on Resources Disclosure Log
RTI Act 2009

Date : 22/04/2021 8:58:09 AM

From : "REES Marcus"

To : "MUSGRAVE Kerrie" , "WARD Steven (Resources)"

Cc : "EDDINGTON Ross" , "CROSSLAND Rachel" , "SHAW Chris"

Subject : FW: draft factsheet on directional drilling

Attachment : Fact Sheet - Notice of entry to private land for directional drilling on adjacent land_MR_SW.docx;image001.png;
HI All

A few more suggestions for consideration. Would be good to run this past IHL before it gets finalised.

Cheers

Marcus

From: WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>

Sent: Wednesday, 21 April 2021 3:35 PM

To: MUSGRAVE Kerrie

Cc: EDDINGTON Ross; SHAW Chris; CROSSLAND Rachel; REES Marcus

Subject: RE: draft factsheet on directional drilling

Hi Kerrie

Thanks for the opportunity to have a look at the draft factsheet. I've made a few comments within the doc, for consideration.

Happy to discuss.

Cheers

Steve



Dr Steve Ward

Director, Engagement and Compliance

Divisional Support | Georesources

Department of Resources

P: 4529 1566 M: sch4p4(6) Pe

E: steven.ward@resources.qld.gov.au

A: 203 Tor Street, Toowoomba QLD 4350 | PO BOX 318

W: www.dnrme.qld.gov.au

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>

Sent: Wednesday, 21 April 2021 9:40 AM

To: REES Marcus; WARD Steven (Resources)

Cc: EDDINGTON Ross; SHAW Chris

Subject: RE: draft factsheet on directional drilling

Hi Marcus and Steve,

I have considered feedback received to date and attach the updated version of the Fact Sheet for your review.



Kerrie Musgrave

Acting Policy Manager

Georesources Policy | Georesources Division

Department of Resources

P: 3199 8105

E: kerrie.musgrave@resources.qld.gov.au

A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002

W: www.resources.qld.gov.au

From: REES Marcus <Marcus.Rees@resources.qld.gov.au>
Sent: Monday, 19 April 2021 4:00 PM
To: MUSGRAVE Kerrie; WARD Steven (Resources)
Cc: EDDINGTON Ross; SHAW Chris
Subject: FW: draft factsheet on directional drilling

Kerrie/Steve

My 2 cents worth in the attached. Happy to discuss.

Cheers

Marcus

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>
Sent: Monday, 19 April 2021 10:51 AM
To: WARD Steven (Resources); REES Marcus
Cc: EDDINGTON Ross; SHAW Chris
Subject: FW: draft factsheet on directional drilling

Hi Marcus and Steve,

I have added a further information section – please review the **attachment**.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105
E: kerrie.musgrave@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002
W: www.resources.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Friday, 16 April 2021 1:26 PM
To: WARD Steven (Resources); REES Marcus
Cc: MUSGRAVE Kerrie; SHAW Chris
Subject: draft factsheet on directional drilling

Marcus\Steve

Kerrie has kindly drafted an explanatory factsheet on directional drilling – attached. Grateful any comments you might have.

Please note we intentionally did not go into the issues of differing depths of directional drilling or what the departments views are on retrospective circumstances where a notice has not been given as these issues would necessitate it becoming an operational policy rather than a fact sheet and would require further legal advice .

Happy to discuss further once you have had a chance to digest

Ross

Entry notices Accessing private land to carry out for directional drilling on adjacent land

This fact sheet sets out the regulatory framework for regarding the requirement for a resource authority holders to give an Entry Notice to Private Land access private land for to carry out directional drilling activities (i.e. the practice of drilling non-vertical bores) to occur on adjacent land.

Resource authority holders should note that the subterranean entry to private land for the purpose of directional drilling triggers the requirements of section 39 of the Mineral and Energy Resources (Common Provisions) Act 2014 (MERC Act) except where exemptions apply.

Regulatory framework

The department administers regulates the land access framework under Chapter 3 of the Mineral and Energy Resources (Common Provisions) Act 2014 (MERC Act) MERC Act and subordinate legislation.

The MERC Act must be read as if it formed part of the Petroleum and Gas (Production and Safety) Act 2004 (P&G Act)¹ and the meaning of "land" in Schedule 2 Dictionary of the P&G Act includes subterranean land.

Resource authority holders should note that the subterranean entry to private land for the purpose of directional drilling triggers the requirements of section 39 of the Mineral and Energy Resources (Common Provisions) Act 2014 (MERC Act) except where exemptions apply.

The framework applies to activities on private land, which can include activities such as directional drilling.

Authorised activities apply to subterranean land

Authorised activities apply to activities that occur below the surface of the land, which include directional drilling.

As such, resource authority holders should note that authorised activities that occur below the surface of the land, which include directional drilling, will trigger the land access requirements in the MERC Act Mineral and Energy Resources (Common Provisions) Act 2014 (MERC Act) except where exemptions apply.

Authorised activities apply to activities that occur below the surface of the land, which include directional drilling.

¹ Refer to section 6 of the Mineral and Energy Resources (Common Provisions) Act 2014.

Commented [WS(1)]: General comment – assuming that target audience is resource authority holders? If there is a part-landholder/community focus, it may benefit from less formal wording.

Style Definition: Heading 2

Style Definition: Fact sheet title

Commented [RM2]: Probably needs a little more information in here around the types of depths to which these things are drilled and the risks associated with the drilling – usually low etc

Also a section non what happens if there is something that causes a compensatable effect

Commented [MK3R2]: Changes made. Have decided not to include detail of the particular scenario that gave rise to these changes – just keeping it general with facts only

Commented [RM4]: Are we running this past In House Legal?? Also is it worth noting that make good arrangements under Chapter 3 of the Water Act applies to impacts on any water bores?

Commented [RM5]: Probably needs a little more structure – MERC and P&G Read together – then land definition - then what are preliminary and advanced activities and the requirements for each - then why is a deviated well likely to be preliminary activity?

Commented [MK6R5]: Changes made

Commented [RM7]: Administers?

Commented [RM8]: This might be better up front as it really is key to the conversation.

Commented [MK9R8]: Moved

Commented [RM10]: Do we need to talk about public land and the requirements for it in here as well?

Commented [MK11R10]: My understanding is that we were dealing only with private land.

Formatted: Font: 11 pt

Commented [RM12]: The Land Access Framework rather than authorised activities?

Commented [RM13]: Authorised activities? Should this be the "The Land Access Framework applies to authorised activities that occur below the surface of the land, including directional drilling."

Commented [RM14]: Authorised activities? Should this be the "The Land Access Framework applies to authorised activities that occur below the surface of the land, including directional drilling."

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Formatted: Normal

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Commented [RM15]: Authorised activities? Should this be the "The Land Access Framework applies to authorised activities that occur below the surface of the land, including directional drilling."

Formatted: Font: 11 pt

Formatted: Font: Italic



Definition of 'petroleum wells' includes directional drilling

Directional drilling refers to the practice of drilling non-vertical bores. Schedule 2 of the P&G Act defines 'petroleum well' as a 'hole in the ground made or being made by drilling, boring or other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced' and applies to both conventional and unconventional resources, such as coal seam gas.

On this basis, the definition of 'petroleum wells' in the P&G Act includes directional drilling as it is not limited to vertical drilling.

Requirements for preliminary and advanced activities

Chapter 3 of the MERC Act provides the circumstances and obligations for resource
Chapter 3 of the MERC Act provides the circumstances and obligations for resource
Chapter 3 of the MERC Act provides the circumstances and obligations for resource
Chapter 3 of the MERC Act provides the circumstances and obligations for resource
Chapter 3 of the MERC Act provides the
circumstances and obligations for resource authority holders to give any owner or occupier of private land to enter that land to carry out authorised activities, cross access land, or to gain entry to access land to the resource authority. The extent to which the authorised activities impact the business or land use activities of any owner and occupier of the land will determine whether the activities are either 'preliminary' or 'advanced activities'.

Circumstances for categorising directional drilling as a preliminary or advanced activity

Section 38 of the MERC Act applies to an entry to private land for the purposes of carrying out an authorised activity for a resource authority, which includes a petroleum lease and an authority to prospect (see section 10(b) of the MERC Act). Section 22 of the P&G Act provides the meaning of authorised activities as those which the holder of a petroleum authority is entitled to carry out under the authority.

Under section 15B of the MERC Act, a 'preliminary activity' for a resource authority is an authorised activity that will have no impact, or only a minor impact, on the business or land use activities for any owner or occupier of the land on which the activity is to be carried out.

Examples –

- conducting a geochemical
- geological or geophysical survey
- drilling a well
- carrying out testing in relation to a well
- taking a sample for chemical or other analysis.'

Note that, under section 15B(2) of the MERC Act, an authorised activity carried out on land that is less than 100 hectares and is being used for intensive farming or broadacre agriculture (for example, land used for dryland or irrigated cropping, plantation forestry or

Commented [WS18]: May need to be careful with terminology re wells and bores – could get confused with water bores. Something like 'boreholes' may be an appropriate compromise term?

Commented [RM19]: Do we need this? Not sure this is really in dispute? Maybe a brief description of the nature of the activity – ie drill down from a well pad, then the drill deviates on a horizontal. Depth can vary but usually around x hundred metres. Aside from the well pad site, surface impact limited?

Commented [WS20]: Missing word? "...private land **notification** to enter" ?? Otherwise sentence indicates the RAH will give the owner/occupier something but doesn't state what.

Formatted: Font: 11 pt

Commented [RM21]: Heading right? This is really about entry requirements for directional drilling?

horticulture or a dairy, cattle or sheep feedlot, piggery or poultry farm), is an advanced activity.

Commented [WS(22): And/or organic properties

Generally, directional drilling under a person's property where there is no infrastructure or activity occurring on the surface will be a preliminary activity for the land access framework. This is because it will usually have no, or only minor, impact on a landholder's business or land use activities.

Under section 39 of the MERC Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, before giving an entry notice at least 10 business days prior to the activity being undertaken, subject to an exemption which may apply under section 40 of the MERC Act.

In the instance of directional drilling would be a preliminary activity where the well location is not on the surface of a person's property, and the directional drilling proposed to be carried out will take place to a depth of at least 300 metres below the surface of the land. In this instance, the activity would likely have no impact or minor impact on the business or land use activities for any owner and occupier of the land.

Commented [WS(23): Why 300m depth? Given site-specific circumstances I'm uncertain how a DD well at 299m would likely be advanced while >300m would likely be preliminary. I think we should be cautious in applying a specific depth unless it can be supported with evidence.

be considered a preliminary activity. Where the directional drilling will occur closer to the surface of the land or where there is likely to be a greater impact on the business or land use activities of any owner or occupier of the land, directional drilling would likely be an advanced activity.

Commented [RM24]: Why? Because it has no, or low impact on the business and land use activities of the land owner. Also should note it is generally considered a preliminary activity – because there are some circumstances where it may not be preliminary.

Under section 39 of the MERC Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, before giving an entry notice at least 10 business days prior to the activity being undertaken, subject to an exemption which may apply under section 40 of the MERC Act.

Might need a bit in here about what is an advanced activity and the trigger for a CCA. Note that a preliminary activity becomes an advanced activity where the property is less than 100hectares and used for farming or on any block that is used for organic farming. There is a penalty of 500 penalty units for failure to have a CCA as well.

Commented [MK25R24]: Included

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

Commented [WS(26): Doesn't this come down to the RAH determining the likelihood of more than minimal surface impacts?

- the resource authority holds the land; or
- the resource authority has an independent legal right to enter the land for the purpose; or
- the entry is to preserve life or property or because of an emergency that exists or may exist; or
- the entry is authorised under the Resource Act for the resource authority; or
- the entry is prescribed by Regulation.

Commented [RM27]: Suggest we would not want to be saying when a deviated well might be a preliminary or advanced activity at all. A statement like – "Generally, directional drilling under a person's property where there is no infrastructure or activity occurring on the surface will be a preliminary activity for the land access framework. This is because it will usually have no, or only minor, impact on a landholder's business or land use activities."

Something about the depths and the limited risk from the activity might be useful in the section on page 1 – "Definition of Petroleum wells includes directional drilling"?

The obligation to give an Entry Notice also does not apply under section 40(2) of the MERC Act, if the resource authority holder has one of the following with each owner and occupier of the land:

Commented [RM28]: To give an entry notice?

Commented [MK29R28]: Included

- a waiver of entry notice for the entry that is in effect, or
- a conduct and compensation agreement which provides for alternative obligations for the entry and the holder complies with the alternative obligations; or
- an opt-out agreement.

Under section 43 of the MERC Act, a resource authority holder must not enter private land to carry out 'advanced activities' for the resource authority unless, amongst other things, a

conduct and compensation agreement about the advanced activity, a deferral agreement, or an opt out agreement has been entered into with any owner and occupier of the land.

A maximum penalty of 500 penalty units applies to the section 39 and section 43 offence provisions. If a body corporate is found guilty of the relevant offence, the court may impose a maximum fine of an amount equal to five times the maximum fine for an individual.²

Commented [WS(30)]: Should we state which court?

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² [Penalties and Sentences Act 1992, s 181B.](#)

Liability to compensate

Under section 81 of the MERCP Act, a resource authority holder is liable to compensate an owner or occupier of land that is in the authorised area or access land for the authority for each 'compensatable effect' suffered by the claimant as a result of the holder's directional drilling activities.

The types of compensatable effects listed under section 81(4) include:

- deprivation of possession of the land's surface
- diminution of the land's value
- diminution of the use made, or that may be made, of the land or any improvement on it
- severance of any part of the land from other parts of the land or from other land that the eligible claimant owns
- any cost, damage or loss arising from the carrying out of activities under the resource authority on the land
- consequential loss incurred by an eligible claimant arising out of a matter listed directly above.

The specific factual circumstances associated with the directional drilling would need to be considered to assess compensatable effects associated with the directional drilling.

Further information

For further information, please contact the Resource [Community](#) Infoline on 13 71 07 or email resources.info@resources.qld.gov.au.

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RTI Act 2009
Disclosure Log

Date : 15/06/2021 12:39:10 PM

From : "Boss Agricultural Pty Ltd - Admin"

To : "shaun.ferris@dnrme.qld.gov.au"

Cc : "Jane Walker Gasfields" , "WARD Steven (Resources)" , "Resources Info" , "Warwick Squire"

Subject : Regulation on Directional Wells being preliminary activity.

Shawn I can't find this regulation, which I presume must be new, that landholders with directional wells are not eligible for a CCA.

This ABC news article [Coal seam gas company drills wells under private property without notifying farmers - ABC News](#) was revised yesterday from the original to include the statement below, I presume at the request of your Department:

"However, even with gas infrastructure under their land, under current regulations, farmers are not eligible for a Conduct and Compensation Agreement (CCA), a legal agreement with a gas company.

This is because 'directional drilling' is classified as a '[preliminary activity](#)', not an '[advanced activity](#)', and had a 'minor impact'.

"Directional drilling under a person's property where there is no infrastructure or activity occurring on the surface will be considered a preliminary activity for the land access framework if there is no, or only minor, impact on a landholder's business or land use activities," a spokesperson said."

I would appreciate it if you would let me know where I can find this new legislation, and let me know when it was introduced and passed by Parliament.

Thank you,

Zena

Zena Ronnfeldt

0416 172 199

Boss Agricultural Pty Ltd

PO Box 714, Dalby Qld 4405 - 546 Pirinuan-Apunyal Road, Pirinuan Qld 4405

Garry Ronnfeldt 0427 132 778

admin@bossag.com.au

Published on Resources Disclosure
RTI Act 2009

Date : 17/05/2021 1:16:24 PM

From [redacted] Personal info

To : "EDDINGTON Ross"

Cc : "SHAW Chris", "WARD Steven (Resources)", "PRINCE Alice", "MUSGRAVE Kerrie", [redacted] Contrary to

Subject : RE: Fact Sheet regarding NOE requirements for directional drilling.

Thanks Ross, we will get you comments back by COB on Wednesday.

Cheers

[redacted]

[redacted] Person

GFCQ A/CEO

[redacted] Personal information www.gfcq.org.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Friday, 14 May 2021 2:12 PM

To: [redacted] Personal information

Cc: SHAW Chris <Chris.Shaw@resources.qld.gov.au>; WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>; PRINCE Alice <Alice.Prince@resources.qld.gov.au>; MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>

Subject: Fact Sheet regarding NOE requirements for directional drilling.

[redacted]

Kerrie has written up the attached fact sheet to provide general information on Notice of Entry Requirements in relation to Directional Drilling in light the recent issues. The fact sheet has been through our internal review process and inhouse legal and we would now appreciate the GFCQ input so we can proceed to publish it on our website. Grateful any input or comments you may have. Please note we are doing a final search of other notices we might want to mention but this will result in minimal change to the text so I thought it expedient to get a draft to you for comment.

Kind regards

Ross Eddington

Steve: any final comments from your group post legal scrub also appreciated.

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2009

Date : 17/05/2021 1:21:15 PM
From : "EDDINGTON Ross"
To : "MUSGRAVE Kerrie"
Subject : Fwd: Fact Sheet regarding NOE requirements for directional drilling.
For info

Sent from my iPhone

Begin forwarded message:

From: [redacted] sch4p4(6) Personal information
Date: 17 May 2021 at 1:16:34 pm AEST
To: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Cc: SHAW Chris <Chris.Shaw@resources.qld.gov.au>, "WARD Steven (Resources)" <Steven.Ward@resources.qld.gov.au>, PRINCE Alice <Alice.Prince@resources.qld.gov.au>, MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>, [redacted] sch4p4(6) Personal information
Subject: RE: Fact Sheet regarding NOE requirements for directional drilling.

Thanks Ross, we will get you comments back by COB on Wednesday.

Cheers

[redacted] sch4p4(6) Personal information
[redacted] sch4p4(6) Personal information

GFCQ/CEO
[redacted] sch4p4(6) Personal information www.gfcq.org.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Friday, 14 May 2021 2:12 PM
To: [redacted] sch4p4(6) Personal information
Cc: SHAW Chris <Chris.Shaw@resources.qld.gov.au>; WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>; PRINCE Alice <Alice.Prince@resources.qld.gov.au>; MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>
Subject: Fact Sheet regarding NOE requirements for directional drilling.

[redacted] sch4p4(6) P

Kerrie has written up the attached fact sheet to provide general information on Notice of Entry Requirements in relation to Directional Drilling in light the recent issues. The fact sheet has been through our internal review process and inhouse legal and we would now appreciate the GFCQ input so we can proceed to publish it on our website. Grateful any input or comments you may have. Please note we are doing a final search of other notices we might want to mention but this will result in minimal change to the text so I thought it expedient to get a draft to you for comment.

Kind regards

Ross Eddington

Steve: any final comments from your group post legal scrub also appreciated.

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material.

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If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

Date : 18/05/2021 10:31:42 AM
From : sch4p4(6) Person
To : "PRINCE Alice"
Cc : "WARD Steven (Resources)"
Subject : RE: Directional drilling and Subsidence Briefing
Attachment : image001.png;

Hi Alice (and Steve),

Thanks for your help and patience so far.

Unfortunately we had to move from the 24th due to internal and external unavailability.

Please let me know if either the Thursday or Tuesday dates/times don't work and I can arrange another session which suits.

Invited have been set to yourself, Steve and John Hughes. Please forward to others in DoR you would like to attend.

Noting you have requested a RIDA update we may have to hold separate RIDA session for DoR only.

Kind regards,

sch4p4(6)

sch4p4(6) Person

Principal Sustainable Development and Government
External Relations and Tenure Management

Arrow Energy Pty Ltd

Level 39, 111 Eagle St, Brisbane QLD 4000
GPO Box 5262, Brisbane QLD 4001, Australia
T: +61 7 3012 4822

M: sch4p4(6) Per
E: sch4p4(6) Personal informat
www.arrowenergy.com.au

ARROW ENERGY IS PROUD TO SUPPORT OUR PARTNERS



From: PRINCE Alice <Alice.Prince@resources.qld.gov.au>
Sent: Monday, 17 May 2021 8:36 AM
To: sch4p4(6) Personal information
Cc: WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>
Subject: RE: Directional drilling and Subsidence Briefing

[External Email]

This email was sent from outside the organisation – be cautious, particularly with links and attachments.

24th after 1.30 is fine

Just checking we will cover, RIDA, Directional Drilling and Subsidence.

Please send appointment through when ready and we will send it on to relevant team members.

Alice Prince

Manager

Engagement Team | Engagement and Compliance Unit | Georesources

Department of Resources

P: 07 4529 1330 **M:** sch4p4(6) Pe
www.resources.qld.gov.au

From: sch4p4(6) Personal information

Sent: Friday, 14 May 2021 4:29 PM
To: PRINCE Alice
Cc: WARD Steven (Resources)
Subject: Directional drilling and Subsidence Briefing

Hi Alice,

You are correct 24 May is what we are thinking if it suits everyone.

Does that work for the DoR attendees ?

The current plan is for meeting to be held via teams.

We thought we would set aside 1 hour (possibly 1.5 hours) to give plenty of time for presentations and questions.

Thanks,

[Redacted]

[Redacted] Per:

Principal Sustainable Development and Government
External Relations and Tenure Management

Arrow Energy Pty Ltd

Level 39, 111 Eagle St, Brisbane QLD 4000
GPO Box 5262, Brisbane QLD 4001, Australia
T: +61 7 3012 4822

M: [Redacted] Personal informa

E: [Redacted]
www.arrowenergy.com.au

ARROW ENERGY IS PROUD TO SUPPORT OUR PARTNERS



From: PRINCE Alice <Alice.Prince@resources.qld.gov.au>
Sent: Friday, 14 May 2021 3:56 PM
To: [Redacted] Personal information
Cc: WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>
Subject: RE: Arrow Energy Surat Low Pressure Header Pipeline Application

[External Email]

This email was sent from outside the organisation – be cautious, particularly with links and attachments.

What day??? I had 24th ear marked for the Directional drilling and subsidence but wasn't sure if you had a day for this event??

Alice Prince

Manager

Engagement Team | Engagement and Compliance Unit | Georesources

Department of Resources

P: 07 4529 1330 **M:** [Redacted] Pe
www.resources.qld.gov.au

From: [Redacted] Personal information
Sent: Friday, 14 May 2021 3:01 PM
To: PRINCE Alice
Cc: WARD Steven (Resources)
Subject: RE: Arrow Energy Surat Low Pressure Header Pipeline Application

Hi Alice,

Thanks, I have now been in touch with DES and GFCQ who are also keen to attend the briefing.

Currently looking at sometime between 1:30 and 4 pm if that suits all parties.

Kind regards,

[Redacted]

From: PRINCE Alice <Alice.Prince@resources.qld.gov.au>
Sent: Thursday, 13 May 2021 1:55 PM
To: [Redacted] Personal information
Cc: WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>
Subject: RE: Arrow Energy Surat Low Pressure Header Pipeline Application

[External Email]

This email was sent from outside the organisation – be cautious, particularly with links and attachments.

Hi [Redacted]

DOR would be keen for a briefing. To save time it might be worth coordinating with GFCQ and DES who may also be interested in attending at the same time.

Alice Prince
Manager
Engagement Team | Engagement and Compliance Unit | Georesources
Department of Resources

P: 07 4529 1330 **M:** [Redacted] Pe
www.resources.qld.gov.au

From: [Redacted] Personal information
Sent: Tuesday, 11 May 2021 2:42 PM
To: PRINCE Alice
Subject: FW: Arrow Energy Surat Low Pressure Header Pipeline Application

Hi Alice,

Here is the original email.

My apologies.

Kind regards

[Redacted]

[Redacted] Pe
Principal Sustainable Development and Government
External Relations and Tenure Management

Arrow Energy Pty Ltd
Level 39, 111 Eagle St, Brisbane QLD 4000
GPO Box 5262, Brisbane QLD 4001, Australia
T: +61 7 3012 4822
M: [Redacted] Personal informat
E: [Redacted]
www.arrowenergy.com.au

ARROW ENERGY IS PROUD TO SUPPORT OUR PARTNERS



From: sch4p4(6) Pe
Sent: Tuesday, 11 May 2021 9:55 AM
To: steven.ward@dnrme.qld.gov.au; sch4p4(6) Personal information
Cc: sch4p4(6) Personal information
Subject: Arrow Energy Surat Low Pressure Header Pipeline Application

Hi Steve and sch4p4(6) Pe

Per my phone message left for you Steve and brief discussion with sch4p4(6) Pe today, I am writing to update you on progress with a key component of the Surat Gas Project – the low-pressure header pipeline. This pipeline (location shown in the attached map) will deliver low-pressure gas to the Shell-QGC operated David gas processing facility (west of Kubarilla lane) and on to market.

I'd like to advise you that we recently applied for a Regional Interests Development Approval (RIDA) to progress the decision-making process with landholders on the low-pressure header pipeline route. The RIDA application nominates those properties over which Arrow has not yet reached a voluntary conduct and compensation agreement (CCA). This is an alternative, administrative pathway under the *Regional Planning Interests Act 2014*.

This is provided to you for your information. A copy of the RIDA, submitted by Arrow, is available online:

- The Department of State Development Infrastructure Local Government and Planning has published the application on its website at: <https://planning.dsdmip.qld.gov.au/planning/regional-planning-interests-act/rpi-act-applications-submissions-and-decision-notice>
- Further information can be found on Arrow's website at: <https://www.arrowenergy.com.au/media/public-notice>

We firmly believe in coexistence, and our preference remains to reach voluntary CCAs with landholders. In parallel with the RIDA, we will continue to engage and negotiate with landholders, where CCAs have not yet been agreed, for the development of the low-pressure header pipeline

If it is of interest, I'd also like to offer you a briefing on the RIDA and the Low Pressure Header.

Kind regards,

sch4p4(6) Pe
Principal Sustainable Development and Government
External Relations and Tenure Management

Arrow Energy Pty Ltd
Level 39, 111 Eagle St, Brisbane QLD 4000
GPO Box 5262, Brisbane QLD 4001, Australia
T: +61 7 3012 4822
M: sch4p4(6) Personal information
E: [sch4p4\(6\) Personal information](mailto:sch4p4(6) Personal information)
www.arrowenergy.com.au



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Date : 19/05/2021 3:23:02 PM

From : sch4p4(6) Personal

To : "EDDINGTON Ross"

Cc : "SHAW Chris", "MUSGRAVE Kerrie", "WARD Steven (Resources)"

Subject : RE: Draft Fact Sheet - Not for further distribution

Thanks Ross, appreciated.

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Wednesday, 19 May 2021 3:13 PM

To sch4p4(6) Personal information

Cc: SHAW Chris <Chris.Shaw@resources.qld.gov.au>; MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>; WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>

Subject: Draft Fact Sheet - Not for further distribution

sch4p4

As you discussed with Chris Shaw please find attached a draft factsheet we have prepared on Directional Drilling. It is still undergoing some revision in terms of thinking about what additional information we might add so may continue to evolve.

This is a draft version and is not government policy. I ask that you do not distribute it further at this this stage. We are looking to finalise it shortly which will involve sending a consultation copy to the peaks for formal input.

Regards

Ross Eddington
Director
Regulatory Support and Performance
Department of Resources.

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Published on Resource Disclosure Log
RTI Act 2009

Date : 19/05/2021 11:06:02 AM
From : "MUSGRAVE Kerrie"
To : "PRINCE Alice" , "EDDINGTON Ross"
Subject : RE: Requested feedback on Directional Drilling responses.
Attachment : image001.png;

Hi Alice,

I have been working on this and because it is the first response to be drafted that will likely be used for subsequent responses Chris Shaw would also like to review. I anticipate that this could happen by the end of the week.

Please let me know if you have any time constraints and need the reviewed copy back to you earlier.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105
E: kerrie.musgrave@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002
W: www.resources.qld.gov.au

From: PRINCE Alice <Alice.Prince@resources.qld.gov.au>
Sent: Wednesday, 19 May 2021 11:02 AM
To: EDDINGTON Ross; MUSGRAVE Kerrie
Subject: RE: Requested feedback on Directional Drilling responses.

Hi Kerrie and Ross

Just touching base to see if you were ok with our suggested responses.

Alice Prince
Manager
Engagement Team | Engagement and Compliance Unit | Georesources
Department of Resources

P: 07 4529 1330 M: sch4p4(6) Pers
www.resources.qld.gov.au

From: PRINCE Alice
Sent: Monday, 17 May 2021 1:43 PM
To: EDDINGTON Ross; MUSGRAVE Kerrie
Subject: Requested feedback on Directional Drilling responses.

Hi Ross and Kerrie

Thank you for catching up with myself and Tim on Friday. Please find attached incoming email in relation to directional drilling from a property owner on an Arrow PL.

Tim and I have drafted a response based on the information we had available and our discussions. I have also attached legal feedback on a similar issue in the same area around directional drilling. We would like to ensure our responses align with RS&P as we would be using the response as a basis to respond to other Directional Drilling enquiries.



Alice Prince
Manager
Engagement Team | Engagement and Compliance Unit | Georesources
Department of Resources

P: 07 4529 1330 M: sch4p4(6) P
E: Alice.Prince@resources.qld.gov.au
A: PO Box 318, TOOWOOMBA, QLD, 4350
W: www.resources.qld.gov.au

Date : 19/05/2021 3:12:45 PM

From : "EDDINGTON Ross"

To : sch4p4(6) Personal

Cc : "SHAW Chris" , "MUSGRAVE Kerrie" , "WARD Steven (Resources)"

Subject : Draft Fact Sheet - Not for further distribution

Attachment : Fact Sheet - Notice of entry to private land for directional drilling on adjacent land - Draft Only.docx;

sch4p4

As you discussed with Chris Shaw please find attached a draft factsheet we have prepared on Directional Drilling. It is still undergoing some revision in terms of thinking about what additional information we might add so may continue to evolve.

This is a draft version and is not government policy. I ask that you do not distribute it further at this this stage. We are looking to finalise it shortly which will involve sending a consultation copy to the peaks for formal input.

Regards

Ross Eddington
Director
Regulatory Support and Performance
Department of Resources.

Published on Resources Disclosure Log
RTI Act 2009

Accessing private land to carry out directional drilling on adjacent land

This fact sheet sets out the regulatory framework for resource authority holders to access private land to carry out directional drilling activities on adjacent land. Other legislation may be applicable, for example, Chapter 3 of the *Water Act 2000*, and if that is the case, it is a matter for the resource authority holder to contact the relevant agency.

Regulatory framework

The Department of Resources administers the land access framework under Chapter 3 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) and subordinate legislation.

The MERC Act must be read as if it formed part of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act)¹ and the meaning of “land” in Schedule 2 Dictionary of the P&G Act includes subterranean land.

As such, resource authority holders should note that the land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.

Definition of ‘petroleum wells’ includes directional drilling

Directional drilling refers to the practice of drilling non-vertical boreholes. Schedule 2 of the P&G Act defines ‘petroleum well’ as a ‘hole in the ground made or being made by drilling, boring or any other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced’ and applies to both conventional and unconventional resources, such as coal seam gas.

On this basis, the definition of ‘petroleum wells’ in the P&G Act includes directional drilling and is not limited to vertical drilling.

Requirements for preliminary and advanced activities

Chapter 3 of the MERC Act outlines the circumstances and obligations for resource authority holders to give each owner and occupier of private land an entry notice to enter that land to:

- a) carry out an authorised activity for a resource authority; or
- b) cross access land for the resource authority; or
- c) gain entry to access land for the resource authority.

The extent to which the authorised activity impacts the business or land use activities of any owner and occupier of the land will determine whether the activity is either a ‘preliminary activity’ or an ‘advanced activity’.

¹ Refer to section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

Circumstances for categorising directional drilling as a preliminary or advanced activity

Chapter 3, part 2, division 2 of the MERCP Act applies to an entry to private land for the purposes of carrying out an authorised activity for a resource authority, which includes a petroleum lease and an authority to prospect (see section 10(b) of the MERCP Act).

Section 22 of the P&G Act states an authorised activity is an activity that its holder is, under the P&G Act or the authority, entitled to carry out in relation to the authority.

Under section 15B of the MERCP Act, a 'preliminary activity' for a resource authority, is an authorised activity for the authority that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Examples –

- *walking the area of the authority*
- *driving along an existing road or track in the area*
- *taking soil or water samples*
- *geophysical surveying not involving site preparation*
- *aerial, electrical or environmental surveying*
- *survey pegging'*

Note that under section 15B(2) of the MERCP Act, the following are *not* preliminary activities:

- a) an authorised activity carried out on land that –
 - i. is less than 100 hectares; and
 - ii. is being used for intensive farming or broadacre agriculture (for example, land used for dryland or irrigated cropping, plantation forestry or horticulture or a dairy, cattle or sheep feedlot, piggery or poultry farm);
- b) an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.

Under section 15A of the MERCP Act, an 'advanced activity' for a resource authority, is an authorised activity for the resource authority other than a preliminary activity for the resource authority.

Examples—

- *levelling of drilling pads and digging sumps*
- *earthworks associated with pipeline installation*
- *bulk sampling*
- *open trenching or costeaning with an excavator*
- *vegetation clear-felling*
- *constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump*
- *geophysical surveying with physical clearing*
- *carrying out a seismic survey using explosives*
- *constructing a track or access road*

- *changing a fence line*

Directional drilling under a person's property where there is no infrastructure or activity occurring on the surface will be considered a preliminary activity for the land access framework if there is no, or only minor, impact on a landholder's business or land use activities. Where the impact on a landholder's business or land use activities is greater and falls under the category of advanced activity either a conduct and compensation agreement, a deferral agreement, or an opt-out agreement is required. Each circumstance should be assessed individually and considered on a case-by-case basis.

Resource companies must record conduct and compensation agreements and opt-out agreements in the landholder's property title as an administrative advice with the Queensland Land Titles Registry to ensure future buyers can be made aware of the existence of such an agreement prior to purchase. Further information concerning recording land access agreements with the Titles Registry can be found on the [department's website](#).

Under section 39 of the MERCP Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, unless the resource authority holder has given each owner and occupier of the land an entry notice about the entry at least 10 business days before the entry, unless:

- the owner or occupier has agreed in writing to the shorter period, under section 39(3) of the MERCP Act; or
- an exemption applies under section 40 of the MERCP Act.

For directional drilling, the entry notice must be given to each owner and occupier of adjacent land at least 10 business days before the day calculated by the resource company as to when the directional drilling activities will occur beneath the surface of that adjacent land. However, resource companies are encouraged to engage early with the relevant landholders to provide sufficient information about the proposed location of wells and directional drilling activities. This will provide landholders the opportunity to negotiate the location of activities and assess the impact that the activities will likely have on their business and land use activities.

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

- a) the resource authority holder owns the land; or
- b) the resource authority holder has an independent legal right to enter the land for the purpose; or
- c) the entry is to preserve life or property or because of an emergency that exists or may exist; or
- d) the entry is authorised under the Resource Act for the resource authority; or
- e) the entry is of a type prescribed by regulation.

The obligation to give an entry notice also does not apply under section 40(2) of the MERCP Act, if the resource authority holder has one of the following with each owner and occupier of the land:

- a) a waiver of entry notice for the entry that is in effect;

- b) a conduct and compensation agreement which provides for alternative obligations for the entry and the holder complies with the alternative obligations;
- c) an opt-out agreement.

Under section 43 of the MERCP Act, a resource authority holder must not enter private land to carry out an 'advanced activity' for the resource authority unless, amongst other things, a conduct and compensation agreement about the advanced activity, a deferral agreement, or an opt out agreement has been entered into with each owner and occupier of the land.

A maximum penalty of 500 penalty units applies to the section 39 and section 43 offence provisions. If a body corporate is found guilty of the relevant offence, the court may impose a maximum fine of an amount equal to five times the maximum fine for an individual.²

Liability to compensate

Under section 81 of the MERCP Act, a resource authority holder is liable to compensate an owner or occupier of private land that is in the authorised area of the resource authority or that is access land for the resource authority for each 'compensatable effect' suffered by the claimant because of the holder's directional drilling activities.

The types of compensatable effects listed under section 81(4) include:

- deprivation of possession of the land's surface;
- diminution of the land's value;
- diminution of the use made, or that may be made, of the land or any improvement on it;
- severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
- any cost, damage or loss arising from the carrying out of activities under the resource authority on the land;
- consequential loss incurred by an eligible claimant arising out of a matter listed directly above.

The specific factual circumstances associated with the directional drilling would need to be considered to assess compensatable effects associated with the directional drilling.

Other notification requirements for resource companies

Under section 28 of the Petroleum and Gas (General Provisions) Regulation 2017 (P&G Reg), resource companies must give a copy of the following notices to each owner and occupier of the land on which the authorised activities to which the notice relates have been or are to be carried out and by the time the notice is required to be carried out:

- Notice about intention to drill a petroleum well or bore³
- Notice about completion, alteration, or abandonment of petroleum well or bore⁴

² *Penalties and Sentences Act 1992*, s 181B.

³ Petroleum and Gas (General Provisions) Regulation 2017, s29.

⁴ Petroleum and Gas (General Provisions) Regulation 2017, s30.

- Notice about intention to carry out seismic survey or scientific or technical survey⁵
- Notice about completion of survey or scientific or technical survey⁶
- Notice about intention to carry out hydraulic fracturing activities⁷
- Notice about completion of hydraulic activities.⁸

A streamlined Notice of Entry to Private Land template has been developed to facilitate multiple notifications to each owner and occupier of the relevant land for situations where resource companies intend to drill a petroleum well or bore or intend to carry out hydraulic fracturing activities during the entry notice period.

Further information

For further information, please contact the Resource Community Infoline on 13 71 07 or email resources.info@resources.qld.gov.au.

⁵ Petroleum and Gas (General Provisions) Regulation 2017, s31.

⁶ Petroleum and Gas (General Provisions) Regulation 2017, s32.

⁷ Petroleum and Gas (General Provisions) Regulation 2017, s33.

⁸ Petroleum and Gas (General Provisions) Regulation 2017, s34.

Date : 19/05/2021 3:23:02 PM

From sch4p4(6) Personal

To : "EDDINGTON Ross"

Cc : "SHAW Chris", "MUSGRAVE Kerrie", "WARD Steven (Resources)"

Subject : RE: Draft Fact Sheet - Not for further distribution

Thanks Ross, appreciated.

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Wednesday, 19 May 2021 3:13 PM

To: sch4p4(6) Personal information

Cc: SHAW Chris <Chris.Shaw@resources.qld.gov.au>; MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>; WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>

Subject: Draft Fact Sheet - Not for further distribution

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Regards

Ross Eddington
Director
Regulatory Support and Performance
Department of Resources.

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Date : 19/05/2021 3:06:12 PM
From : "EDDINGTON Ross"
To : "WARD Steven (Resources)"
Subject : RE: For awareness: Arrow meeting
Attachment : image001.png
Yep just doing it now

From: WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>
Sent: Wednesday, 19 May 2021 3:05 PM
To: EDDINGTON Ross
Cc: BARTLETT Tanya; SHAW Chris
Subject: RE: For awareness: Arrow meeting

Hi Ross

Happy for you to provide mate.

Cheers

Steve



Dr Steve Ward
Director, Engagement and Compliance
Divisional Support | Georesources
Department of Resources

P: 4529 1566 **M:** sch4p4(6) Pe
E: steven.ward@resources.qld.gov.au
A: 203 Tor Street, Toowoomba QLD 4350 | PO BOX 318
W: www.dnrme.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Wednesday, 19 May 2021 2:51 PM
To: SHAW Chris; WARD Steven (Resources); FERRIS Shaun; BARTHOLOMEW Lana
Cc: BARTLETT Tanya
Subject: RE: For awareness: Arrow meeting

Steve

Do you want me to provide a copy to sch4 or will you forward the last draft I sent you (in which case we probably need to add a watermark draft etc.

We are expecting GFCQ feedback COB today

Ross

From: SHAW Chris <Chris.Shaw@resources.qld.gov.au>
Sent: Wednesday, 19 May 2021 2:46 PM
To: WARD Steven (Resources); FERRIS Shaun; BARTHOLOMEW Lana
Cc: BARTLETT Tanya; EDDINGTON Ross
Subject: RE: For awareness: Arrow meeting

Thanks Steve. Also by way of update I had an inquiry from sch4p4(6) yesterday regarding the fact sheet for directional drilling. He was hoping to see an embargoed copy of the fact sheet prior to a meeting he is having with Arrow on Thursday morning. I think that is probably okay with a caveat that it is draft and not government policy. Once we have feedback from GFCQ we will put it to Shaun for approval to distribute to industry and landholder groups for feedback.

I also got a call from Chris Aston from the Planning Group at DSDILGP this morning – their DG has a meeting about this issue today as well in the context of the RPI Act. He was after info about our approach to directional drilling and notifications which I sent on this morning.

Cheers

Chris Shaw
Executive Director - Policy
Georesources Division



Department of Resources

P: (07) 3199 7391 M: [sch4p4\(6\) Pe](#)
E: chris.shaw@dnrme.qld.gov.au
A: 1 William Street, Brisbane QLD 4000
W: www.dnrme.qld.gov.au

From: WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>
Sent: Wednesday, 19 May 2021 2:40 PM
To: FERRIS Shaun; BARTHOLOMEW Lana; SHAW Chris
Cc: BARTLETT Tanya
Subject: RE: For awareness: Arrow meeting

By way of update, I've since had a call from [sch4p4\(](#) and this was meant to be a GFCQ-Arrow meeting so asked if I wouldn't mind being removed. Given that Shaun and [sch4](#) are meeting with Arrow later today, I'm fine with that.

Cheers

Steve



Dr Steve Ward
Director, Engagement and Compliance
Divisional Support | Georesources
Department of Resources

P: 4529 1566 M: [sch4p4\(6\) Pe](#)
E: steven.ward@resources.qld.gov.au
A: 203 Tor Street, Toowoomba QLD 4350 | PO BOX 318
W: www.dnrme.qld.gov.au

From: WARD Steven (Resources)
Sent: Wednesday, 19 May 2021 1:32 PM
To: FERRIS Shaun; BARTHOLOMEW Lana; SHAW Chris
Cc: BARTLETT Tanya
Subject: For awareness: Arrow meeting

Shaun, Lana and Chris

FYI – I've received a meeting invite from [sch4p4\(6\) Pe](#) at Arrow for an 'Area Wide Planning' update, tomorrow (20/5) 3.30pm-4pm. [sch4p4\(](#) at GFCQ is also invited. I understand it will be focussed on Friday's landholder meeting in Dalby.

Flagging this as [sch4 Contran](#) and [sch4 Contr](#) are the other invitees.

Cheers

Steve



Dr Steve Ward
Director, Engagement and Compliance
Divisional Support | Georesources
Department of Resources

P: 4529 1566 M: [sch4p4\(6\) Pe](#)
E: steven.ward@resources.qld.gov.au
A: 203 Tor Street, Toowoomba QLD 4350 | PO BOX 318
W: www.dnrme.qld.gov.au

Date : 19/05/2021 3:12:45 PM

From : "EDDINGTON Ross"

To : sch4p4(6) Personal

Cc : "SHAW Chris" , "MUSGRAVE Kerrie" , "WARD Steven (Resources)"

Subject : Draft Fact Sheet - Not for further distribution

Attachment : Fact Sheet - Notice of entry to private land for directional drilling on adjacent land - Draft Only.docx;

sch4p4

As you discussed with Chris Shaw please find attached a draft factsheet we have prepared on Directional Drilling. It is still undergoing some revision in terms of thinking about what additional information we might add so may continue to evolve.

This is a draft version and is not government policy. I ask that you do not distribute it further at this this stage. We are looking to finalise it shortly which will involve sending a consultation copy to the peaks for formal input.

Regards

Ross Eddington
Director
Regulatory Support and Performance
Department of Resources.

Published on Resources Disclosure Log
RTI Act 2009

Date : 20/05/2021 9:31:18 AM

From : "MUSGRAVE Kerrie"

To : "EDDINGTON Ross"

Subject : FW: Requested feedback on Directional Drilling responses.

Attachment : EDOCS - 14887948 - Fact Sheet - Notice of entry to private land for directional drilling on adjacent land (IHL comments) - 1_RSP.docx;image001.png;

Hi Ross,

I have reviewed the letter provided track changed edits in the document provided by Alice – for your review.

I have been careful to be consistent with the fact sheet and as a result is also bit legalistic. However, the landholders are keen to understand the obligations of the resource authority holder as well as their rights and these come from the legislation.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105

E: kerrie.musgrave@resources.qld.gov.au

A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002

W: www.resources.qld.gov.au

From: PRINCE Alice <Alice.Prince@resources.qld.gov.au>

Sent: Wednesday, 19 May 2021 11:11 AM

To: MUSGRAVE Kerrie; EDDINGTON Ross

Subject: RE: Requested feedback on Directional Drilling responses.

Thanks Kerrie

The time constraints we have is that arrow have issued NOE's without engaging with landholders first, so they are really upset, surprised and would like answers to their questions around rights, CCA and why prelim and not advanced etc.

Another big issue is the subsidence that they all believe they will be left to deal with.

Alice Prince

Manager

Engagement Team | Engagement and Compliance Unit | Georesources

Department of Resources

P: 07 4529 1330 M: sch4p4(6) Pers

www.resources.qld.gov.au

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>

Sent: Wednesday, 19 May 2021 11:06 AM

To: PRINCE Alice; EDDINGTON Ross

Subject: RE: Requested feedback on Directional Drilling responses.

Hi Alice,

I have been working on this and because it is the first response to be drafted that will likely be used for subsequent responses Chris Shaw would also like to review. I anticipate that this could happen by the end of the week.

Please let me know if you have any time constraints and need the reviewed copy back to you earlier.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105
E: kerrie.musgrave@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002
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To: EDDINGTON Ross; MUSGRAVE Kerrie
Subject: RE: Requested feedback on Directional Drilling responses.

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Alice Prince
Manager
Engagement Team | Engagement and Compliance Unit | Georesources
Department of Resources

P: 07 4529 1330 M sch4p4(6) Pe
www.resources.qld.gov.au

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Subject: Requested feedback on Directional Drilling responses.

Hi Ross and Kerrie

Thank you for catching up with myself and Tim on Friday. Please find attached incoming email in relation to directional drilling from a property owner on an Arrow PL.

Tim and I have drafted a response based on the information we had available and our discussions. I have also attached legal feedback on a similar issue in the same area around directional drilling. We would like to ensure our responses align with RS&P as we would be using the response as a basis to respond to other Directional Drilling enquiries.



Alice Prince
Manager
Engagement Team | Engagement and Compliance Unit | Georesources
Department of Resources

P: 07 4529 1330 M sch4p4(6) Pers
E: Alice.Prince@resources.qld.gov.au
A: PO Box 318, TOOWOOMBA, QLD, 4350
W: www.resources.qld.gov.au

Accessing private land to carry out directional drilling on adjacent land

This fact sheet sets out the regulatory framework for resource authority holders to access private land to carry out directional drilling activities on adjacent land. Other legislation may be applicable, for example, Chapter 3 of the *Water Act 2000*, and if that is the case, it is a matter for the resource authority holder to contact the relevant agency.

Regulatory framework

The Department of Resources administers the land access framework under Chapter 3 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) and subordinate legislation.

The MERC Act must be read as if it formed part of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act)¹ and the meaning of "land" in Schedule 2 Dictionary of the P&G Act includes subterranean land.

As such, resource authority holders should note that the land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.

Definition of 'petroleum wells' includes directional drilling

Directional drilling refers to the practice of drilling non-vertical boreholes. Schedule 2 of the P&G Act defines 'petroleum well' as a 'hole in the ground made or being made by drilling, boring or any other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced' and applies to both conventional and unconventional resources, such as coal seam gas.

On this basis, the definition of 'petroleum wells' in the P&G Act includes directional drilling and is not limited to vertical drilling.

Requirements for preliminary and advanced activities

Chapter 3 of the MERC Act outlines the circumstances and obligations for resource authority holders to give each owner and occupier of private land an entry notice to enter that land to:

- a) carry out an authorised activity for a resource authority; or
- b) cross access land for the resource authority; or
- c) gain entry to access land for the resource authority.

The extent to which the authorised activity impacts the business or land use activities of any owner and occupier of the land will determine whether the activity is either a 'preliminary activity' or an 'advanced activity'.

¹ Refer to section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014*.



Circumstances for categorising directional drilling as a preliminary or advanced activity

Chapter 3, part 2, division 2 of the MERCP Act applies to an entry to private land for the purposes of carrying out an authorised activity for a resource authority, which includes a petroleum lease and an authority to prospect (see section 10(b) of the MERCP Act).

Section 22 of the P&G Act states an authorised activity is an activity that its holder is, under the P&G Act or the authority, entitled to carry out in relation to the authority.

Under section 15B of the MERCP Act, a 'preliminary activity' for a resource authority, is an authorised activity for the authority that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Examples –

- *walking the area of the authority*
- *driving along an existing road or track in the area*
- *taking soil or water samples*
- *geophysical surveying not involving site preparation*
- *aerial, electrical or environmental surveying*
- *survey pegging*

Note that under section 15B(2) of the MERCP Act, the following are *not* preliminary activities:

- a) an authorised activity carried out on land that –
 - i. is less than 100 hectares; and
 - ii. is being used for intensive farming or broadacre agriculture (for example, land used for dryland or irrigated cropping, plantation forestry or horticulture or a dairy, cattle or sheep feedlot, piggery or poultry farm);
- b) an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.

Under section 15A of the MERCP Act, an 'advanced activity' for a resource authority, is an authorised activity for the resource authority other than a preliminary activity for the resource authority.

Examples –

- *levelling of drilling pads and digging sumps*
- *earthworks associated with pipeline installation*
- *bulk sampling*
- *open trenching or costeaning with an excavator*
- *vegetation clear-felling*
- *constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump*
- *geophysical surveying with physical clearing*
- *carrying out a seismic survey using explosives*
- *constructing a track or access road*

- changing a fence line

Directional drilling under a person's property where there is no infrastructure or activity occurring on the surface will be considered a preliminary activity for the land access framework if there is no, or only minor, impact on a landholder's business or land use activities.

Where the impact on a landholder's business or land use activities is greater and falls under the category of advanced activity either a conduct and compensation agreement, a deferral agreement, or an opt-out agreement is required. Each circumstance should be assessed individually and considered on a case-by-case basis.

Resource companies must record conduct and compensation agreements and opt-out agreements in the landholder's property title as an administrative advice with the Queensland Land Titles Registry to ensure future buyers can be made aware of the existence of such an agreement prior to purchase. Further information concerning recording land access agreements with the Titles Registry can be found on the department's website.

Under section 39 of the MERCP Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, unless the resource authority holder has given each owner and occupier of the land an entry notice about the entry at least 10 business days before the entry, unless:

- the owner or occupier has agreed in writing to the shorter period, under section 39(3) of the MERCP Act; or
- an exemption applies under section 40 of the MERCP Act.

For directional drilling, the entry notice must be given to each owner and occupier of adjacent land at least 10 business days before the day calculated by the resource company as to when the directional drilling activities will occur beneath the surface of that adjacent land. However, resource companies are encouraged to engage early with the relevant landholders to provide sufficient information about the proposed location of wells and directional drilling activities. This will provide landholders the opportunity to negotiate the location of activities and assess the impact that the activities will likely have on their business and land use activities.

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

- a) the resource authority holder owns the land; or
- b) the resource authority holder has an independent legal right to enter the land for the purpose; or
- c) the entry is to preserve life or property or because of an emergency that exists or may exist; or
- d) the entry is authorised under the Resource Act for the resource authority; or
- e) the entry is of a type prescribed by regulation.

The obligation to give an entry notice also does not apply under section 40(2) of the MERCP Act, if the resource authority holder has one of the following with each owner and occupier of the land:

Commented [MK1]: Added requirement for CCA with adjacent landholder to be recorded on Land Title Register.

Commented [MK2]: 10 business days before the day calculated by the resource company as to when the directional drilling will occur beneath the surface of the adjacent land? There cannot be any impact on the adjacent land before then so could not be reasonably required at least 10 business days from the commencement of drilling from the well.

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- a) a waiver of entry notice for the entry that is in effect;
- b) a conduct and compensation agreement which provides for alternative obligations for the entry and the holder complies with the alternative obligations;
- c) an opt-out agreement.

Under section 43 of the MERCP Act, a resource authority holder must not enter private land to carry out an 'advanced activity' for the resource authority unless, amongst other things, a conduct and compensation agreement about the advanced activity, a deferral agreement, or an opt out agreement has been entered into with each owner and occupier of the land.

A maximum penalty of 500 penalty units applies to the section 39 and section 43 offence provisions. If a body corporate is found guilty of the relevant offence, the court may impose a maximum fine of an amount equal to five times the maximum fine for an individual.²

Liability to compensate

Under section 81 of the MERCP Act, a resource authority holder is liable to compensate an owner or occupier of private land that is in the authorised area of the resource authority or that is access land for the resource authority for each 'compensatable effect' suffered by the claimant because of the holder's directional drilling activities.

The types of compensatable effects listed under section 81(4) include:

- deprivation of possession of the land's surface;
- diminution of the land's value;
- diminution of the use made, or that may be made, of the land or any improvement on it;
- severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
- any cost, damage or loss arising from the carrying out of activities under the resource authority on the land;
- consequential loss incurred by an eligible claimant arising out of a matter listed directly above.

The specific factual circumstances associated with the directional drilling would need to be considered to assess compensatable effects associated with the directional drilling.

Other notification requirements for resource companies

Under section 28 of the Petroleum and Gas (General Provisions) Regulation 2017 (P&G Reg), resource companies must give a copy of the following notices to each owner and occupier of the land on which the authorised activities to which the notice relates have been or are to be carried out and by the time the notice is required to be carried out:

² *Penalties and Sentences Act 1992*, s 181B.

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- [Notice about intention to drill a petroleum well or bore³](#)
- [Notice about completion, alteration, or abandonment of petroleum well or bore⁴](#)
- [Notice about intention to carry out seismic survey or scientific or technical survey⁵](#)
- [Notice about completion of survey or scientific or technical survey⁶](#)
- [Notice about intention to carry out hydraulic fracturing activities⁷](#)
- [Notice about completion of hydraulic activities.⁸](#)

[A streamlined Entry Notice to Private Land template](#) has been developed to facilitate multiple notifications to each owner and occupier of the relevant land for situations where resource companies intend to drill a petroleum well or bore or intend to carry out hydraulic fracturing activities during the entry notice period.

Further information

For further information, please contact the Resource Community Infoline on 13 71 07 or email resources.info@resources.qld.gov.au.

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Commented [MK3]: Hyperlink to be added once the NOE template has been amended and approved.

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Published on Resources Disclosure
RTI Act 2009

³ [Petroleum and Gas \(General Provisions\) Regulation 2017, s29.](#)

⁴ [Petroleum and Gas \(General Provisions\) Regulation 2017, s30.](#)

⁵ [Petroleum and Gas \(General Provisions\) Regulation 2017, s31.](#)

⁶ [Petroleum and Gas \(General Provisions\) Regulation 2017, s32.](#)

⁷ [Petroleum and Gas \(General Provisions\) Regulation 2017, s33.](#)

⁸ [Petroleum and Gas \(General Provisions\) Regulation 2017, s34.](#)

Date : 20/05/2021 2:16:53 PM

From : "MUSGRAVE Kerrie"

To : "EDDINGTON Ross"

Subject : RE: Fact Sheet regarding NOE requirements for directional drilling.

Attachment : EDOCS - 14887948 - Fact Sheet - Notice of entry to private land for directional drilling on adjacent land (IHL comments) - 1_RSP (002)GFCQ RESPONSE_RSP.docx;image001.png;

Hi Ross,

I have attached the updated version of the fact sheet which includes replies to sch4 comments.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105

E: kerrie.musgrave@resources.qld.gov.au

A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002

W: www.resources.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Thursday, 20 May 2021 8:50 AM

To: MUSGRAVE Kerrie

Subject: FW: Fact Sheet regarding NOE requirements for directional drilling.

Kerrie

Are you right to update the draft addressing sch4 comments where possible but not redoing the language as I think it is OK. We can then send out to peaks for a quick turn around comments

Ross

From: sch4p4(6) Personal information

Sent: Wednesday, 19 May 2021 5:30 PM

To: EDDINGTON Ross; MUSGRAVE Kerrie

Cc: sch4 Contrary to sch4 Contrary

Subject: FW: Fact Sheet regarding NOE requirements for directional drilling.

Good afternoon Ross and Kerri,

Thank you for the opportunity to provide feedback and comment on the general information on Notice of Entry Requirements in relation to Directional Drilling that the Department of Resources has prepared. I acknowledged that the fact sheet has been through IHL and is in the final stages of review. The Commission has made the assumption the intended target audience of the factsheet are industry participants and authority holders.

With this assumption in mind, the Commissions overarching comment relates to the context of the document – it is very legalistically worded (as you would expect for a statutory guidelines) so not sure how easily it would be understood by landholders and may give rise to more questions about the rights and obligations tenure holders from a landholder perspective; and the ability for landholders to access compensation. Notwithstanding, that we have added several comments in the attached document.

However, given the prominence of the issue the Commission is currently considering developing some guidance material to complement the departments fact sheet which would be more 'landholder focused', written in plain English.

If I can be of further assistance please do not hesitate to contact me.

Regards,

sch4p4(6) Pe

GFCQ Director of Policy and Projects

sch4p4(6) Personal information | www.gfcq.org.au

From: sch4p4(6) Personal information

Sent: Monday, 17 May 2021 9:05 AM

To: sch4p4(6) Personal information

Cc:

sch4p4(6) Personal information

Subject: FW: Fact Sheet regarding NOE requirements for directional drilling.

sch4p4

Can you please arrange for review of the attached draft fact sheet – need to turn around pretty quickly but would be good to get a few of the team to provide feedback from various perspectives.

Cheers

sch4p

sch4p4(6) Personal information

GFCQ A/CEO

sch4p4(6) Personal information

www.gfcq.org.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Friday, 14 May 2021 2:12 PM

To: sch4 Contrary to public interest

sch4p4(6) Personal information

Cc: SHAW Chris <Chris.Shaw@resources.qld.gov.au>

sch4p4(6) Personal information

Subject: Fact Sheet regarding NOE requirements for directional drilling.

sch4p4(6)

Kerrie has written up the attached fact sheet to provide general information on Notice of Entry Requirements in relation to Directional Drilling in light the recent issues. The fact sheet has been through our internal review process and inhouse legal and we would now appreciate the GFCQ input so we can proceed to publish it on our website. Grateful any input or comments you may have. Please note we are doing a final search of other notices we might want to mention but this will result in minimal change to the text so I thought it expedient to get a draft to you for comment.

Kind regards

Ross Eddington

Steve: any final comments from your group post legal scrub also appreciated.

The information in this email together with any attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. There is no waiver of any confidentiality/privilege by your inadvertent receipt of this material. Any form of review, disclosure, modification, distribution and/or publication of this email message is prohibited, unless as a necessary part of Departmental business.

If you have received this message in error, you are asked to inform the sender as quickly as possible and delete this message and any copies of this message from your computer and/or your computer system network.

Published in Resources Disclosure Log
RTI Act 2009

Accessing private land to carry out directional drilling on adjacent land

This fact sheet sets out the regulatory framework for resource authority holders to access private land to carry out directional drilling activities on adjacent land [and landholder rights that apply to that scenario](#).

Other legislation may be applicable, for example, [Chapter 3 of the *Water Act 2000*, which provides a framework to ensure that a bore owner is not disadvantaged by resource operations](#), and if that is the case, it is a matter for the resource authority holder to contact the relevant agency.

Commented [JT1]: Will hyperlinks be used for reference materials?

Commented [MK2R1]: Linked to the Quick Guide – Make good obligations on the GFCQ website.

Regulatory framework

The Department of Resources administers the land access framework under Chapter 3 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) and subordinate legislation.

The MERC Act must be read as if it formed part of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act)¹ and the meaning of “land” in Schedule 2 Dictionary of the P&G Act includes subterranean land.

As such, resource authority holders should note that the land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.

Definition of ‘petroleum wells’ includes directional drilling

Directional drilling refers to the practice of drilling non-vertical boreholes. Schedule 2 of the P&G Act defines ‘petroleum well’ as a ‘hole in the ground made or being made by drilling, boring or any other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced’ and applies to both conventional and unconventional resources, such as coal seam gas.

On this basis, the definition of ‘petroleum wells’ in the P&G Act includes directional drilling and is not limited to vertical drilling.

Requirements for preliminary and advanced activities

Chapter 3 of the MERC Act outlines the circumstances and obligations for resource authority holders to give each owner and occupier of private land an entry notice to enter that land to:

- a) carry out an authorised activity for a resource authority; or
- b) cross access land for the resource authority; or
- c) gain entry to access land for the resource authority.

¹ Refer to section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014*.



The extent to which the authorised activity impacts the business or land use activities of any owner and occupier of the land will determine whether the activity is either a 'preliminary activity' or an 'advanced activity'.

Circumstances for categorising directional drilling as a preliminary or advanced activity

Chapter 3, part 2, division 2 of the MERC Act applies to an entry to private land for the purposes of carrying out an authorised activity for a resource authority, which includes a petroleum lease and an authority to prospect (see section 10(b) of the MERC Act).

Section 22 of the P&G Act states an authorised activity is an activity that its holder is, under the P&G Act or the authority, entitled to carry out in relation to the authority.

Under section 15B of the MERC Act, a 'preliminary activity' for a resource authority, is an authorised activity for the authority that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Examples –

- *walking the area of the authority*
- *driving along an existing road or track in the area*
- *taking soil or water samples*
- *geophysical surveying not involving site preparation*
- *aerial, electrical or environmental surveying*
- *survey pegging*

Note that under section 15B(2) of the MERC Act, the following are *not* preliminary activities:

- a) an authorised activity carried out on land that –
 - i. is less than 100 hectares; and
 - ii. is being used for intensive farming or broadacre agriculture (for example, land used for dryland or irrigated cropping, plantation forestry or horticulture or a dairy, cattle or sheep feedlot, piggery or poultry farm);
- b) an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.

Under section 15A of the MERC Act, an 'advanced activity' for a resource authority, is an authorised activity for the resource authority other than a preliminary activity for the resource authority.

Examples—

- *levelling of drilling pads and digging sumps*
- *earthworks associated with pipeline installation*
- *bulk sampling*
- *open trenching or costeaning with an excavator*
- *vegetation clear-felling*

- *constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump*
- *geophysical surveying with physical clearing*
- *carrying out a seismic survey using explosives*
- *constructing a track or access road*
- *changing a fence line*

Directional drilling under a person's property where there is no infrastructure or activity occurring on the surface will be considered a preliminary activity for the land access framework if there is no, or only minor, impact on a landholder's business or land use activities. Where the impact on a landholder's business or land use activities is greater and falls under the category of advanced activity either a conduct and compensation agreement, a deferral agreement, or an opt-out agreement is required. Each circumstance should be assessed individually and considered on a case-by-case basis.

Under section 39 of the MERC Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, unless the resource authority holder has given each owner and occupier of the land an entry notice about the entry at least 10 business days before the entry, unless:

- the owner or occupier has agreed in writing to the shorter period, under section 39(3) of the MERC Act; or
- an exemption applies under section 40 of the MERC Act.

For directional drilling, the entry notice must be given to each owner and occupier of adjacent land at least 10 business days before the day calculated by the resource company as to when the directional drilling activities will occur beneath the surface of that adjacent land. However, resource companies are encouraged to engage early with the relevant landholders to provide sufficient information about the proposed location of wells and directional drilling activities. This will provide landholders the opportunity to negotiate the location of activities and assess the impact that the activities will likely have on their business and land use activities. **It is best practice for the same level of detail to be included in the notice of entry to private land. Guidance is provided in the Notice of entry to private land template.**

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

- a) the resource authority holder owns the land; or
- b) the resource authority holder has an independent legal right to enter the land for the purpose **(e.g. where an easement or other written permission has been given in relation to a pipeline licence under the P&G Act or a contractual arrangement allowing a party to a contract to enter particular land);** or
- c) the entry is to preserve life or property or because of an emergency that exists or may exist; or
- d) the entry is authorised under the Resource Act for the resource authority; or
- e) the entry is of a type prescribed by regulation.

Commented [JT7]: Could it be highlighted that this same level of detail should be included in the entry notice and it would be good practice to provide the landholder with final 'as built' details of the well for future reference.

Commented [MK8R7]: Refer to the best practice notice of entry to private land template which gives guidance on the level of info required.

Commented [JT9]: Does this include the rights resource authority holders have to access resources or is this something else? I think this needs to be clarified to avoid misinterpretation.

Commented [MK10R9]: An entry notice does not need to be given in the listed circumstances. A notice is not required where an alternative arrangement has been made under the relevant Resource Act for the resource authority holder to access the land. This includes, for example, where an easement or other written permission has been given in relation to a pipeline licence under the *Petroleum and Gas (Production and Safety) Act 2004*. An independent legal right is a right enforceable under any law, including a common law right, but does not include a right to enter the land under this Act or a Resource Act. An example of an independent legal right is a contractual arrangement allowing a party to the contract to enter particular land.

Commented [JT11]: Included for clarity to address the point above and for consistency with 'A guide to land access in Queensland'

Commented [MK12R11]: Agreed

The obligation to give an entry notice also does not apply under section 40(2) of the MERCP Act, if the resource authority holder has one of the following with each owner and occupier of the land:

- a) a waiver of entry notice for the entry that is in effect;
- b) a conduct and compensation agreement which provides for alternative obligations for the entry and the holder complies with the alternative obligations;
- c) an opt-out agreement.

Under section 43 of the MERCP Act, a resource authority holder must not enter private land to carry out an 'advanced activity' for the resource authority unless, amongst other things, a conduct and compensation agreement about the advanced activity, a deferral agreement, or an opt out agreement has been entered into with each owner and occupier of the land. [A conduct and compensation agreement would be required with the owners and occupiers of the adjacent land where directional drilling activities are considered to be advanced activities beyond the boundary of the land where the drill site is located.](#)

A maximum penalty of 500 penalty units applies to the section 39 and section 43 offence provisions. If a body corporate is found guilty of the relevant offence, the court may impose a maximum fine of an amount equal to five times the maximum fine for an individual.²

Liability to compensate

Under section 81 of the MERCP Act, a resource authority holder is liable to compensate an owner or occupier of private land that is in the authorised area of the resource authority or that is access land for the resource authority for each 'compensatable effect' suffered by the claimant because of the holder's directional drilling activities.

The types of compensatable effects listed under section 81(4) include:

- deprivation of possession of the land's surface;
- diminution of the land's value;
- diminution of the use made, or that may be made, of the land or any improvement on it;
- severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
- any cost, damage or loss arising from the carrying out of activities under the resource authority on the land;
- consequential loss incurred by an eligible claimant arising out of a matter listed directly above.

The specific factual circumstances associated with the directional drilling would need to be considered to assess compensatable effects associated with the directional drilling.

Other notification requirements for resource companies

Under section 28 of the Petroleum and Gas (General Provisions) Regulation 2017 (P&G Reg), resource companies must give a copy of the following notices to each owner and

² *Penalties and Sentences Act 1992*, s 181B.

Commented [JT13]: Can the pathway to claim compensation for preliminary activity be included here – that is that Chapter 3 Land access Part 7 Compensation and negotiated access, Subdivision 2, s98

Commented [MK14R13]: Section 81 covers liability to compensate for activities more generally and would include preliminary. Not sure how preliminary activities would give rise to a situation where compensation would apply?

occupier of the land on which the authorised activities to which the notice relates have been or are to be carried out and by the time the notice is required to be carried out:

- Notice about intention to drill a petroleum well or bore³
- Notice about completion, alteration, or abandonment of petroleum well or bore⁴
- Notice about intention to carry out seismic survey or scientific or technical survey⁵
- Notice about completion of survey or scientific or technical survey⁶
- Notice about intention to carry out hydraulic fracturing activities⁷
- Notice about completion of hydraulic activities.⁸

A streamlined Notice of [entry to private land](#) template has been developed to facilitate multiple notifications to each owner and occupier of the relevant land for situations where resource companies intend to drill a petroleum well or bore or intend to carry out hydraulic fracturing activities during the entry notice period.

Further information

For further information, please contact the Resource Community Infoline on 13 71 07 or email resources.info@resources.qld.gov.au.

Commented [MK15]: To be linked to the updated template

Commented [MK16R15]: GSQ Lodgement Portal - resource companies complete fields online - no PDF uploads

- It is up to the resource companies as to what and how they advise the landholder - there is no prescribed form for this - so that it is possible to accommodate all notices in the one template
- Department suggested that they provide the confirmation page that they get when they submit the online form to the landholder

May be confusing for landholders - [sch4 Con](#) is going to ask landholders if this would be beneficial - sometimes receiving combined notices and sometimes not.

³ Petroleum and Gas (General Provisions) Regulation 2017, s29.

⁴ Petroleum and Gas (General Provisions) Regulation 2017, s30.

⁵ Petroleum and Gas (General Provisions) Regulation 2017, s31.

⁶ Petroleum and Gas (General Provisions) Regulation 2017, s32.

⁷ Petroleum and Gas (General Provisions) Regulation 2017, s33.

⁸ Petroleum and Gas (General Provisions) Regulation 2017, s34.

Date : 20/05/2021 8:52:19 AM
From : "MUSGRAVE Kerrie"
To : "EDDINGTON Ross"
Subject : RE: Fact Sheet regarding NOE requirements for directional drilling.
Attachment : image001.png;

Hi Ross,

Yes. Will first finish the review of the document for Alice Prince and well send to you to review and send to Chris. Shouldn't take too long.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105
E: kerrie.musgrave@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002
W: www.resources.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Thursday, 20 May 2021 8:50 AM
To: MUSGRAVE Kerrie
Subject: FW: Fact Sheet regarding NOE requirements for directional drilling.

Kerrie

Are you right to update the draft addressing sch4 comments where possible but not redoing the language as I think it is OK. We can then send out to peaks for a quick turn around comments

Ross

From: sch4p4(6) Personal information
Sent: Wednesday, 19 May 2021 5:30 PM
To: EDDINGTON Ross; MUSGRAVE Kerrie
Cc: sch4 Contrary to
Subject: FW: Fact Sheet regarding NOE requirements for directional drilling.

Good afternoon Ross and Kerri,

Thank you for the opportunity to provide feedback and comment on the general information on Notice of Entry Requirements in relation to Directional Drilling that the Department of Resources has prepared. I acknowledged that the fact sheet has been through IHL and is in the final stages of review. The Commission has made the assumption the intended target audience of the factsheet are industry participants and authority holders.

With this assumption in mind, the Commissions overarching comment relates to the context of the document – it is very legalistically worded (as you would expect for a statutory guidelines) so not sure how easily it would be understood by landholders and may give rise to more questions about the rights and obligations tenure holders from a landholder perspective; and the ability for landholders to access compensation. Notwithstanding, that we have added several comments in the attached document.

However, given the prominence of the issue the Commission is currently considering developing some guidance material to complement the departments fact sheet which would be more 'landholder focused', written in plain English.

If I can be of further assistance please do not hesitate to contact me.

Regards,

sch4p4(6) P
GFCQ Director of Policy and Projects
sch4p4(6) Personal information www.gfcq.org.au

From: sch4p4(6) Personal information
Sent: Monday, 17 May 2021 9:05 AM
To: sch4p4(6) Personal information

Cc: sch4p4(6) Personal information

sch4p4(6) Personal information

Subject: FW: Fact Sheet regarding NOE requirements for directional drilling.

sch4p4

Can you please arrange for review of the attached draft fact sheet – need to turn around pretty quickly but would be good to get a few of the team to provide feedback from various perspectives.

Cheers

sch4p4

sch4p4(6) Personal information

GFCQ A/CEO

sch4p4(6) Personal information

www.gfcq.org.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Friday, 14 May 2021 2:12 PM

To: sch4p4(6) Personal information

Cc: SHAW Chris <Chris.Shaw@resources.qld.gov.au>; WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>; PRINCE Alice <Alice.Prince@resources.qld.gov.au>; MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>

Subject: Fact Sheet regarding NOE requirements for directional drilling.

sch4p4(6) Personal information

Kerrie has written up the attached fact sheet to provide general information on Notice of Entry Requirements in relation to Directional Drilling in light the recent issues. The fact sheet has been through our internal review process and inhouse legal and we would now appreciate the GFCQ input so we can proceed to publish it on our website. Grateful any input or comments you may have. Please note we are doing a final search of other notices we might want to mention but this will result in minimal change to the text so I thought it expedient to get a draft to you for comment.

Kind regards

Ross Eddington

Steve: any final comments from your group post legal scrub also appreciated.

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Published in Resources Disclosure Log
2009

Date : 20/05/2021 3:08:20 PM

From : "SHAW Chris"

To : "FERRIS Shaun"

Cc : "ODDG GEO" , "EDDINGTON Ross"

Subject : FW: Fact Sheet regarding NOE requirements for directional drilling.

Attachment : EDOCS - 14887948 - Fact Sheet - Notice of entry to private land for directional drilling on adjacent land (IHL comments) - 1_RSP (002)GFCQ RESPONSE_RSP.docx;image001.png;

Hi Shaun, did you want to review before we formally send to resources and ag peaks for comment? We did give sch4 an advanced draft to show direction for a meeting he had this morning but haven't circulated any broader than that.

Cheers, Chris



Chris Shaw
Executive Director - Policy
Georesources Division
Department of Resources

P: (07) 3199 7391 M: sch4p4(6) Pe
E: chris.shaw@dnrme.qld.gov.au
A: 1 William Street, Brisbane QLD 4000
W: www.dnrme.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Thursday, 20 May 2021 2:28 PM

To: SHAW Chris

Subject: FW: Fact Sheet regarding NOE requirements for directional drilling.

I propose to circulate a clean version of the attached for peak body comment (have temporarily left comments in to who how we responded to Gasfields comments.

I will circulate it tomorrow and request comments by say Wednesday so we can move to publish. Sound like a plan?

Ross

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>

Sent: Thursday, 20 May 2021 2:17 PM

To: EDDINGTON Ross

Subject: RE: Fact Sheet regarding NOE requirements for directional drilling.

Hi Ross,

I have attached the updated version of the fact sheet which includes replies to sch4 comments.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105
E: kerrie.musgrave@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002
W: www.resources.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Thursday, 20 May 2021 8:50 AM

To: MUSGRAVE Kerrie

Subject: FW: Fact Sheet regarding NOE requirements for directional drilling.

Kerrie

Are you right to update the draft addressing sch4 comments where possible but not redoing the language as I think it is OK. We can then send

out to peaks for a quick turn around comments

Ross

From: sch4p4(6) Personal information
Sent: Wednesday, 19 May 2021 5:30 PM
To: EDDINGTON Ross; MUSGRAVE Kerrie
Cc: sch4p4(6) Personal information
Subject: FW: Fact Sheet regarding NOE requirements for directional drilling.

Good afternoon Ross and Kerri,

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With this assumption in mind, the Commissions overarching comment relates to the context of the document – it is very legalistically worded (as you would expect for a statutory guidelines) so not sure how easily it would be understood by landholders and may give rise to more questions about the rights and obligations tenure holders from a landholder perspective; and the ability for landholders to access compensation. Notwithstanding, that we have added several comments in the attached document.

However, given the prominence of the issue the Commission is currently considering developing some guidance material to complement the departments fact sheet which would be more 'landholder focused', written in plain English.

If I can be of further assistance please do not hesitate to contact me.

Regards,

sch4p4(6) Pe

GFCQ Director of Policy and Projects

sch4p4(6) Personal information

www.gfcq.org.au

From: sch4p4(6) Personal information
Sent: Monday, 17 May 2021 9:05 AM
To: sch4p4(6) Personal information
Cc: sch4p4(6) Personal information
Subject: FW: Fact Sheet regarding NOE requirements for directional drilling.

sch4 C

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sch4r

sch4p4(6) Perso

GFCQ A/CEO

sch4p4(6) Personal information

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Ross Eddington

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Published on Resources Disclosure Log
RTI Act 2009

Accessing private land to carry out directional drilling on adjacent land

This fact sheet sets out the regulatory framework for resource authority holders to access private land to carry out directional drilling activities on adjacent land [and landholder rights that apply to that scenario](#).

Other legislation may be applicable, for example, [Chapter 3 of the *Water Act 2000*, which provides a framework to ensure that a bore owner is not disadvantaged by resource operations](#), and if that is the case, it is a matter for the resource authority holder to contact the relevant agency.

Commented [JT1]: Will hyperlinks be used for reference materials?

Commented [MK2R1]: Linked to the Quick Guide – Make good obligations on the GFCQ website.

Regulatory framework

The Department of Resources administers the land access framework under Chapter 3 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) and subordinate legislation.

The MERC Act must be read as if it formed part of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act)¹ and the meaning of “land” in Schedule 2 Dictionary of the P&G Act includes subterranean land.

As such, resource authority holders should note that the land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.

Definition of ‘petroleum wells’ includes directional drilling

Directional drilling refers to the practice of drilling non-vertical boreholes. Schedule 2 of the P&G Act defines ‘petroleum well’ as a ‘hole in the ground made or being made by drilling, boring or any other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced’ and applies to both conventional and unconventional resources, such as coal seam gas.

On this basis, the definition of ‘petroleum wells’ in the P&G Act includes directional drilling and is not limited to vertical drilling.

Requirements for preliminary and advanced activities

Chapter 3 of the MERC Act outlines the circumstances and obligations for resource authority holders to give each owner and occupier of private land an entry notice to enter that land to:

- a) carry out an authorised activity for a resource authority; or
- b) cross access land for the resource authority; or
- c) gain entry to access land for the resource authority.

¹ Refer to section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014*.



The extent to which the authorised activity impacts the business or land use activities of any owner and occupier of the land will determine whether the activity is either a 'preliminary activity' or an 'advanced activity'.

Circumstances for categorising directional drilling as a preliminary or advanced activity

Chapter 3, part 2, division 2 of the MERC Act applies to an entry to private land for the purposes of carrying out an authorised activity for a resource authority, which includes a petroleum lease and an authority to prospect (see section 10(b) of the MERC Act).

Section 22 of the P&G Act states an authorised activity is an activity that its holder is, under the P&G Act or the authority, entitled to carry out in relation to the authority.

Under section 15B of the MERC Act, a 'preliminary activity' for a resource authority, is an authorised activity for the authority that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Examples –

- *walking the area of the authority*
- *driving along an existing road or track in the area*
- *taking soil or water samples*
- *geophysical surveying not involving site preparation*
- *aerial, electrical or environmental surveying*
- *survey pegging*

Note that under section 15B(2) of the MERC Act, the following are *not* preliminary activities:

- a) an authorised activity carried out on land that –
 - i. is less than 100 hectares; and
 - ii. is being used for intensive farming or broadacre agriculture (for example, land used for dryland or irrigated cropping, plantation forestry or horticulture or a dairy, cattle or sheep feedlot, piggery or poultry farm);
- b) an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.

Under section 15A of the MERC Act, an 'advanced activity' for a resource authority, is an authorised activity for the resource authority other than a preliminary activity for the resource authority.

Examples—

- *levelling of drilling pads and digging sumps*
- *earthworks associated with pipeline installation*
- *bulk sampling*
- *open trenching or costeaning with an excavator*
- *vegetation clear-felling*

- *constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump*
- *geophysical surveying with physical clearing*
- *carrying out a seismic survey using explosives*
- *constructing a track or access road*
- *changing a fence line*

Directional drilling under a person's property where there is no infrastructure or activity occurring on the surface will be considered a preliminary activity for the land access framework if there is no, or only minor, impact on a landholder's business or land use activities. Where the impact on a landholder's business or land use activities is greater and falls under the category of advanced activity either a conduct and compensation agreement, a deferral agreement, or an opt-out agreement is required. Each circumstance should be assessed individually and considered on a case-by-case basis.

Under section 39 of the MERC Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, unless the resource authority holder has given each owner and occupier of the land an entry notice about the entry at least 10 business days before the entry, unless:

- the owner or occupier has agreed in writing to the shorter period, under section 39(3) of the MERC Act; or
- an exemption applies under section 40 of the MERC Act.

For directional drilling, the entry notice must be given to each owner and occupier of adjacent land at least 10 business days before the day calculated by the resource company as to when the directional drilling activities will occur beneath the surface of that adjacent land. However, resource companies are encouraged to engage early with the relevant landholders to provide sufficient information about the proposed location of wells and directional drilling activities. This will provide landholders the opportunity to negotiate the location of activities and assess the impact that the activities will likely have on their business and land use activities. **It is best practice for the same level of detail to be included in the notice of entry to private land. Guidance is provided in the Notice of entry to private land template.**

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

- a) the resource authority holder owns the land; or
- b) the resource authority holder has an independent legal right to enter the land for the purpose **(e.g. where an easement or other written permission has been given in relation to a pipeline licence under the P&G Act or a contractual arrangement allowing a party to a contract to enter particular land);** or
- c) the entry is to preserve life or property or because of an emergency that exists or may exist; or
- d) the entry is authorised under the Resource Act for the resource authority; or
- e) the entry is of a type prescribed by regulation.

Commented [JT7]: Could it be highlighted that this same level of detail should be included in the entry notice and it would be good practice to provide the landholder with final 'as built' details of the well for future reference.

Commented [MK8R7]: Refer to the best practice notice of entry to private land template which gives guidance on the level of info required.

Commented [JT9]: Does this include the rights resource authority holders have to access resources or is this something else? I think this needs to be clarified to avoid misinterpretation.

Commented [MK10R9]: An entry notice does not need to be given in the listed circumstances. A notice is not required where an alternative arrangement has been made under the relevant Resource Act for the resource authority holder to access the land. This includes, for example, where an easement or other written permission has been given in relation to a pipeline licence under the *Petroleum and Gas (Production and Safety) Act 2004*. An independent legal right is a right enforceable under any law, including a common law right, but does not include a right to enter the land under this Act or a Resource Act. An example of an independent legal right is a contractual arrangement allowing a party to the contract to enter particular land.

Commented [JT11]: Included for clarity to address the point above and for consistency with 'A guide to land access in Queensland'

Commented [MK12R11]: Agreed

The obligation to give an entry notice also does not apply under section 40(2) of the MERCP Act, if the resource authority holder has one of the following with each owner and occupier of the land:

- a) a waiver of entry notice for the entry that is in effect;
- b) a conduct and compensation agreement which provides for alternative obligations for the entry and the holder complies with the alternative obligations;
- c) an opt-out agreement.

Under section 43 of the MERCP Act, a resource authority holder must not enter private land to carry out an 'advanced activity' for the resource authority unless, amongst other things, a conduct and compensation agreement about the advanced activity, a deferral agreement, or an opt out agreement has been entered into with each owner and occupier of the land. [A conduct and compensation agreement would be required with the owners and occupiers of the adjacent land where directional drilling activities are considered to be advanced activities beyond the boundary of the land where the drill site is located.](#)

A maximum penalty of 500 penalty units applies to the section 39 and section 43 offence provisions. If a body corporate is found guilty of the relevant offence, the court may impose a maximum fine of an amount equal to five times the maximum fine for an individual.²

Liability to compensate

Under section 81 of the MERCP Act, a resource authority holder is liable to compensate an owner or occupier of private land that is in the authorised area of the resource authority or that is access land for the resource authority for each 'compensatable effect' suffered by the claimant because of the holder's directional drilling activities.

The types of compensatable effects listed under section 81(4) include:

- deprivation of possession of the land's surface;
- diminution of the land's value;
- diminution of the use made, or that may be made, of the land or any improvement on it;
- severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
- any cost, damage or loss arising from the carrying out of activities under the resource authority on the land;
- consequential loss incurred by an eligible claimant arising out of a matter listed directly above.

The specific factual circumstances associated with the directional drilling would need to be considered to assess compensatable effects associated with the directional drilling.

Other notification requirements for resource companies

Under section 28 of the Petroleum and Gas (General Provisions) Regulation 2017 (P&G Reg), resource companies must give a copy of the following notices to each owner and

² *Penalties and Sentences Act 1992*, s 181B.

Commented [JT13]: Can the pathway to claim compensation for preliminary activity be included here – that is that Chapter 3 Land access Part 7 Compensation and negotiated access, Subdivision 2, s98

Commented [MK14R13]: Section 81 covers liability to compensate for activities more generally and would include preliminary. Not sure how preliminary activities would give rise to a situation where compensation would apply?

occupier of the land on which the authorised activities to which the notice relates have been or are to be carried out and by the time the notice is required to be carried out:

- Notice about intention to drill a petroleum well or bore³
- Notice about completion, alteration, or abandonment of petroleum well or bore⁴
- Notice about intention to carry out seismic survey or scientific or technical survey⁵
- Notice about completion of survey or scientific or technical survey⁶
- Notice about intention to carry out hydraulic fracturing activities⁷
- Notice about completion of hydraulic activities.⁸

A streamlined Notice of [entry to private land](#) template has been developed to facilitate multiple notifications to each owner and occupier of the relevant land for situations where resource companies intend to drill a petroleum well or bore or intend to carry out hydraulic fracturing activities during the entry notice period.

Further information

For further information, please contact the Resource Community Infoline on 13 71 07 or email resources.info@resources.qld.gov.au.

Commented [MK15]: To be linked to the updated template

Commented [MK16R15]: GSQ Lodgement Portal - resource companies complete fields online - no PDF uploads

- It is up to the resource companies as to what and how they advise the landholder - there is no prescribed form for this - so that it is possible to accommodate all notices in the one template
- Department suggested that they provide the confirmation page that they get when they submit the online form to the landholder

May be confusing for landholders - [sch4 Cor](#) is going to ask landholders if this would be beneficial - sometimes receiving combined notices and sometimes not.

³ Petroleum and Gas (General Provisions) Regulation 2017, s29.

⁴ Petroleum and Gas (General Provisions) Regulation 2017, s30.

⁵ Petroleum and Gas (General Provisions) Regulation 2017, s31.

⁶ Petroleum and Gas (General Provisions) Regulation 2017, s32.

⁷ Petroleum and Gas (General Provisions) Regulation 2017, s33.

⁸ Petroleum and Gas (General Provisions) Regulation 2017, s34.

Date : 20/05/2021 8:35:32 AM

From : "EDDINGTON Ross"

To : "SHAW Chris"

Cc : "MUSGRAVE Kerrie"

Subject : FW: Fact Sheet regarding NOE requirements for directional drilling.

Attachment : EDOCS - 14887948 - Fact Sheet - Notice of entry to private land for directional drilling on adjacent land (IHL comments) - 1_RSP (002)GFCQ RESPONSE.docx;

Chris

For information – I think our factsheet was intended for both audiences, I don't think you can avoid legalistic wording in some cases and not then potentially mislead. Not sure if a proliferation of fact sheets matters. We will press on to finalise taking their comments on board and then circulate to AMEC/QRC/APPEA for comment with a short turn around time

Ross

From: sch4p4(6) Personal information
Sent: Wednesday, 19 May 2021 5:30 PM
To: EDDINGTON Ross; MUSGRAVE Kerrie
Cc: sch4p4(6) Personal information
Subject: FW: Fact Sheet regarding NOE requirements for directional drilling.

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Regards,

sch4p4(6) P

GFCQ Director of Policy and Projects

sch4p4(6) Personal information | www.gfcq.org.au

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Sent: Monday, 17 May 2021 9:05 AM
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sch4p4

sch4p4(6) Persc

GFCQ A/CEO

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RTI Act 2009

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Commented [JT1]: Will hyperlinks be used for reference materials?

Regulatory framework

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As such, resource authority holders should note that the land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.

Definition of 'petroleum wells' includes directional drilling

Directional drilling refers to the practice of drilling non-vertical boreholes. Schedule 2 of the P&G Act defines 'petroleum well' as a 'hole in the ground made or being made by drilling, boring or any other means to, amongst other things, explore for or produce petroleum; or through which petroleum or a prescribed storage gas may be produced' and applies to both conventional and unconventional resources, such as coal seam gas.

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- a) carry out an authorised activity for a resource authority; or
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The extent to which the authorised activity impacts the business or land use activities of any owner and occupier of the land will determine whether the activity is either a 'preliminary activity' or an 'advanced activity'.

¹ Refer to section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014*.



Circumstances for categorising directional drilling as a preliminary or advanced activity

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Under section 15B of the MERCP Act, a 'preliminary activity' for a resource authority, is an authorised activity for the authority that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Examples –

- *walking the area of the authority*
- *driving along an existing road or track in the area*
- *taking soil or water samples*
- *geophysical surveying not involving site preparation*
- *aerial, electrical or environmental surveying*
- *survey pegging*

Note that under section 15B(2) of the MERCP Act, the following are *not* preliminary activities:

- a) an authorised activity carried out on land that –
 - i. is less than 100 hectares; and
 - ii. is being used for intensive farming or broadacre agriculture (for example, land used for dryland or irrigated cropping, plantation forestry or horticulture or a dairy, cattle or sheep feedlot, piggery or poultry farm);
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Under section 15A of the MERCP Act, an 'advanced activity' for a resource authority, is an authorised activity for the resource authority other than a preliminary activity for the resource authority.

Examples—

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Directional drilling under a person's property where there is no infrastructure or activity occurring on the surface will be considered a preliminary activity for the land access framework if there is no, or only minor, impact on a landholder's business or land use activities. Where the impact on a landholder's business or land use activities is greater and falls under the category of advanced activity either a conduct and compensation agreement, a deferral agreement, or an opt-out agreement is required. Each circumstance should be assessed individually and considered on a case-by-case basis.

Resource companies must record conduct and compensation agreements and opt-out agreements in the landholder's property title as an administrative advice with the Queensland Land Titles Registry to ensure future buyers can be made aware of the existence of such an agreement prior to purchase. Further information concerning recording land access agreements with the Titles Registry can be found on the [department's website](#).

Under section 39 of the MERCPC Act, it is an offence for a person to enter private land for the purpose of carrying out an authorised activity for a resource authority, unless the resource authority holder has given each owner and occupier of the land an entry notice about the entry at least 10 business days before the entry, unless:

- the owner or occupier has agreed in writing to the shorter period, under section 39(3) of the MERCPC Act; or
- an exemption applies under section 40 of the MERCPC Act.

For directional drilling, the entry notice must be given to each owner and occupier of adjacent land at least 10 business days before the day calculated by the resource company as to when the directional drilling activities will occur beneath the surface of that adjacent land. However, resource companies are encouraged to engage early with the relevant landholders to provide sufficient information about the proposed location of wells and directional drilling activities. This will provide landholders the opportunity to negotiate the location of activities and assess the impact that the activities will likely have on their business and land use activities.

Under section 40(1), a person is exempt from the obligation to give an entry notice about entry to private land for an authorised activity such as directional drilling only if:

- a) the resource authority holder owns the land; or
- b) the resource authority holder has an independent legal right to enter the land for the purpose (such as a contractual right of entry); or
- c) the entry is to preserve life or property or because of an emergency that exists or may exist; or
- d) the entry is authorised under the Resource Act for the resource authority; or
- e) the entry is of a type prescribed by regulation.

The obligation to give an entry notice also does not apply under section 40(2) of the MERCPC Act, if the resource authority holder has one of the following with each owner and occupier of the land:

- a) a waiver of entry notice for the entry that is in effect;

Commented [JT2]: Resource companies do not need to record directional drilling under neighbouring properties on title. How would a prospective buyer know there were directionally drilled wells underneath the property during the due diligence stage, prior to purchase? This could be viewed as a gap in the framework from a future buyers perspective.

Commented [JT3]: Will entry notices be required to be included on title to inform a prospective buyer of directional drilled wells under a property?

Commented [JT4]: Could it be highlighted that this same level of detail should be included in the entry notice and it would be good practice to provide the landholder with final 'as built' details of the well for future reference.

Commented [JT5]: Does this include the rights resource authority holders have to access resources or is this something else? I think this needs to be clarified to avoid misinterpretation.

Commented [JT6]: Included for clarity to address the point above and for consistency with 'A guide to land access in Queensland'

- b) a conduct and compensation agreement which provides for alternative obligations for the entry and the holder complies with the alternative obligations;
- c) an opt-out agreement.

Under section 43 of the MERC Act, a resource authority holder must not enter private land to carry out an 'advanced activity' for the resource authority unless, amongst other things, a conduct and compensation agreement about the advanced activity, a deferral agreement, or an opt out agreement has been entered into with each owner and occupier of the land.

A maximum penalty of 500 penalty units applies to the section 39 and section 43 offence provisions. If a body corporate is found guilty of the relevant offence, the court may impose a maximum fine of an amount equal to five times the maximum fine for an individual.²

Liability to compensate

Under section 81 of the MERC Act, a resource authority holder is liable to compensate an owner or occupier of private land that is in the authorised area of the resource authority or that is access land for the resource authority for each 'compensatable effect' suffered by the claimant because of the holder's directional drilling activities.

The types of compensatable effects listed under section 81(4) include:

- deprivation of possession of the land's surface;
- diminution of the land's value;
- diminution of the use made, or that may be made, of the land or any improvement on it;
- severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
- any cost, damage or loss arising from the carrying out of activities under the resource authority on the land;
- consequential loss incurred by an eligible claimant arising out of a matter listed directly above.

The specific factual circumstances associated with the directional drilling would need to be considered to assess compensatable effects associated with the directional drilling.

Other notification requirements for resource companies

Under section 28 of the Petroleum and Gas (General Provisions) Regulation 2017 (P&G Reg), resource companies must give a copy of the following notices to each owner and occupier of the land on which the authorised activities to which the notice relates have been or are to be carried out and by the time the notice is required to be carried out:

- Notice about intention to drill a petroleum well or bore³
- Notice about completion, alteration, or abandonment of petroleum well or bore⁴

² *Penalties and Sentences Act 1992*, s 181B.

³ Petroleum and Gas (General Provisions) Regulation 2017, s29.

⁴ Petroleum and Gas (General Provisions) Regulation 2017, s30.

Commented [JT7]: Can the pathway to claim compensation for preliminary activity be included here – that is that Chapter 3 Land access Part 7 Compensation and negotiated access, Subdivision 2, s98

- Notice about intention to carry out seismic survey or scientific or technical survey⁵
- Notice about completion of survey or scientific or technical survey⁶
- Notice about intention to carry out hydraulic fracturing activities⁷
- Notice about completion of hydraulic activities.⁸

A streamlined Notice of Entry to Private Land template has been developed to facilitate multiple notifications to each owner and occupier of the relevant land for situations where resource companies intend to drill a petroleum well or bore or intend to carry out hydraulic fracturing activities during the entry notice period.

Further information

For further information, please contact the Resource Community Infoline on 13 71 07 or email resources.info@resources.qld.gov.au.

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RTI Act 2009

⁵ Petroleum and Gas (General Provisions) Regulation 2017, s31.

⁶ Petroleum and Gas (General Provisions) Regulation 2017, s32.

⁷ Petroleum and Gas (General Provisions) Regulation 2017, s33.

⁸ Petroleum and Gas (General Provisions) Regulation 2017, s34.

Date : 21/05/2021 1:30:25 PM

From : "MUSGRAVE Kerrie"

To : "EDDINGTON Ross"

Subject : RE: Requested feedback on Directional Drilling responses.

Attachment : Combined entry notice for private land and notices to landholders template v1_May2021.doc;image001.png;

Hi Ross,

I have attached the draft "Combined notice for entry for private and notices to landholders" that is referred to in the directional drilling fact sheet for your review.



Kerrie Musgrave
Acting Policy Manager
Georesources Policy | Georesources Division
Department of Resources

P: 3199 8105

E: kerrie.musgrave@resources.qld.gov.au

A: Level 4, 1 William Street, Brisbane QLD 4000 | PO Box 15216, CITY EAST, QLD 4002

W: www.resources.qld.gov.au

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>

Sent: Thursday, 20 May 2021 9:36 AM

To: MUSGRAVE Kerrie

Subject: RE: Requested feedback on Directional Drilling responses.

Thanks I will review and then pass to Chirs

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>

Sent: Thursday, 20 May 2021 9:31 AM

To: EDDINGTON Ross

Subject: FW: Requested feedback on Directional Drilling responses.

Hi Ross,

I have reviewed the letter provided track changed edits in the document provided by Alice – for your review.

I have been careful to be consistent with the fact sheet and as a result is also bit legalistic. However, the landholders are keen to understand the obligations of the resource authority holder as well as their rights and these come from the legislation.



Kerrie Musgrave
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From: PRINCE Alice <Alice.Prince@resources.qld.gov.au>

Sent: Wednesday, 19 May 2021 11:11 AM

To: MUSGRAVE Kerrie; EDDINGTON Ross

Subject: RE: Requested feedback on Directional Drilling responses.

Thanks Kerrie

The time constraints we have is that arrow have issued NOE's without engaging with landholders first, so they are really upset, surprised and would like answers to their questions around rights, CCA and why prelim and not advanced etc.

Another big issue is the subsidence that they all believe they will be left to deal with.

Alice Prince

Manager

Engagement Team | Engagement and Compliance Unit | Georesources
Department of Resources

P: 07 4529 1330 **M:** sch4p4(6) Pe
www.resources.qld.gov.au

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>
Sent: Wednesday, 19 May 2021 11:06 AM
To: PRINCE Alice; EDDINGTON Ross
Subject: RE: Requested feedback on Directional Drilling responses.

Hi Alice,

I have been working on this and because it is the first response to be drafted that will likely be used for subsequent responses Chris Shaw would also like to review. I anticipate that this could happen by the end of the week.

Please let me know if you have any time constraints and need the reviewed copy back to you earlier.



Kerrie Musgrave
Acting Policy Manager
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From: PRINCE Alice <Alice.Prince@resources.qld.gov.au>
Sent: Wednesday, 19 May 2021 11:02 AM
To: EDDINGTON Ross; MUSGRAVE Kerrie
Subject: RE: Requested feedback on Directional Drilling responses.

Hi Kerrie and Ross

Just touching base to see if you were ok with our suggested responses.

Alice Prince

Manager

Engagement Team | Engagement and Compliance Unit | Georesources
Department of Resources

P: 07 4529 1330 **M:** sch4p4(6) Pe
www.resources.qld.gov.au

From: PRINCE Alice
Sent: Monday, 17 May 2021 1:43 PM
To: EDDINGTON Ross; MUSGRAVE Kerrie
Subject: Requested feedback on Directional Drilling responses.

Hi Ross and Kerrie

Thank you for catching up with myself and Tim on Friday. Please find attached incoming email in relation to directional drilling from a property owner on an Arrow PL.

Tim and I have drafted a response based on the information we had available and our discussions. I have also attached legal feedback on a similar issue in the same area around directional drilling. We would like to ensure our responses align with RS&P as we would be using the response as a basis to respond to other Directional Drilling enquiries.



Alice Prince

Manager

Engagement Team | Engagement and Compliance Unit | Georesources

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