

Chris,

Directional Drilling is on the CoS agenda tomorrow. Best we say we are finalising the factsheet, as it needs some massaging.

Shaun

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

Sent: Thursday, 17 June 2021 10:08 AM

To: FERRIS Shaun; SHAW Chris

Subject: Factsheet and draft letter from MECS item 12640/21

Attached is the draft factsheet for approval plus the cover letter which will be used to send to attendees of the meetings that the Minister attended last week.

Ross

Published on Resources Disclosure Log
RTI Act 2009

Date : 18/06/2021 8:00:05 AM

From : "EDDINGTON Ross"

To : "SHAW Chris"

Subject : RE: Factsheet and draft letter from MECS item 12640/21

Ill talk to you about this when you get a chance

Ross

From: SHAW Chris <Chris.Shaw@resources.qld.gov.au>
Sent: Friday, 18 June 2021 7:57 AM
To: FERRIS Shaun; EDDINGTON Ross
Cc: ODDG GEO
Subject: Re: Factsheet and draft letter from MECS item 12640/21

Thanks for the feedback Shaun. Happy with that approach for CoS today.

Cheers, Chris

From: FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>
Sent: Thursday, June 17, 2021 10:14 pm
To: EDDINGTON Ross; SHAW Chris
Cc: ODDG GEO
Subject: RE: Factsheet and draft letter from MECS item 12640/21

Chris and Ross

Comments and suggested amendments attached.

This is the first opportunity to review since APPEA provided comments.

I have sought to re-arrange the content to make it more logical to follow, however, there this fact sheet is still a little ambiguous so keen for us to turn our mind to that further (but also quickly).

We do need this fact sheet to hit our website soon.

Chris,

Directional Drilling is on the CoS agenda tomorrow. Best we say we are finalising the factsheet, as it needs some massaging.

Shaun

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Thursday, 17 June 2021 10:08 AM
To: FERRIS Shaun; SHAW Chris
Subject: Factsheet and draft letter from MECS item 12640/21

Attached is the draft factsheet for approval plus the cover letter which will be used to send to attendees of the meetings that the Minister attended last week.

Ross

Date : 18/06/2021 9:51:19 AM
From : "EDDINGTON Ross"
To : "MUSGRAVE Kerrie"
Subject : RE: Factsheet and draft letter from MECS item 12640/21
Attachment : image001.png;

I'll read over it quickly then give you a call

When do you have to leave

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>
Sent: Friday, 18 June 2021 9:51 AM
To: EDDINGTON Ross
Subject: RE: Factsheet and draft letter from MECS item 12640/21

Hi Ross,

I have reviewed Shaun's comments and made track changes – for your review.



Kerrie Musgrave
Principal Policy Officer
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, 18 June 2021 5:43 AM
To: MUSGRAVE Kerrie
Subject: Fwd: Factsheet and draft letter from MECS item 12640/21

Will call you when I get to work will need to work on this morning

Sent from my iPhone

Begin forwarded message:

From: FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>
Date: 17 June 2021 at 10:14:24 pm AEST
To: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>, SHAW Chris <Chris.Shaw@resources.qld.gov.au>
Cc: ODDG GEO <ODDG.GEO@resources.qld.gov.au>
Subject: RE: Factsheet and draft letter from MECS item 12640/21

Chris and Ross

Comments and suggested amendments attached.

This is the first opportunity to review since APPEA provided comments.

I have sought to re-arrange the content to make it more logical to follow, however, there this fact sheet is still a little ambiguous so keen for us to turn our mind to that further (but also quickly).

We do need this fact sheet to hit our website soon.

Chris,

Directional Drilling is on the CoS agenda tomorrow. Best we say we are finalising the factsheet, as it needs some massaging.

Shaun

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
21-461 File C

Sent: Thursday, 17 June 2021 10:08 AM
To: FERRIS Shaun; SHAW Chris
Subject: Factsheet and draft letter from MECS item 12640/21

Attached is the draft factsheet for approval plus the cover letter which will be used to send to attendees of the meetings that the Minister attended last week.

Ross

Published on Resources Disclosure Log
RTI Act 2009

Date : 18/06/2021 10:32:50 AM
From : "EDDINGTON Ross"
To : "FERRIS Shaun" , "SHAW Chris"
Cc : "MUSGRAVE Kerrie"
Subject : revised factsheet
Attachment : factsheet 2.1.docx;
Shaun

Please find attached a revised fact sheet as requested. We have accepted all your changes and removed minor track changes so the version you see just shows responses to your questions and how we have addressed them.

Have walked Chris through these changes in the chance it might still be able to go to COS today.

Ross

Published on Resources Disclosure Log
RTI Act 2009

Considerations when 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 in that scenario.

'Land' in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ Sub-surface resources are therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still "land" and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property will be considered a preliminary activity for the land access framework if there is no impact, or only a 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 would be required.
- Each circumstance should be assessed individually and considered on a case-by-case basis.
- Landholders who believe a directional well that has been drilled is impacting on their land use or business should contact the proponent who drilled the well and/or the department to discuss the issue.

Entry Notice Requirements

- An entry notice for directional drilling 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.
- Entry notice must comply with the prescribed requirements as outlined in section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016.

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

Commented [ER1]: While factsheet is designed for landholders it will also be used by industry. We have sought to strike a balance with the language used and have attempted to soften it where it would not have a legal impact.

Commented [FS2]: The Land Allocation: Granting Land Volumetrically states:

The idea that ownership of land goes from "heaven to hell" is not interpreted literally but is generally interpreted to mean that land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space. However, generally land ownership is three-dimensional with actual height and depth specifications not stated.

So maybe lets not use language like the 'General rule', and instead lets use the exact language from the Policy (ie. Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space).

Commented [MK3R2]: Understood and changed

Commented [FS4]: Do we actually need this, as we talk to "if there is no, or only minor, impact on....."

Commented [MK5R4]: The wording is from section 15B of the MERC Act - What is a preliminary activity – we have reworded slightly to clarify

Commented [FS6]: The wording "where there is no infrastructure or activity occurring" immediately draws me to matters such as:

- What about where there is infrastructure such as a ring tank, farm dam, farm road etc? This is infrastructure, so does that flick us into being Advanced and requiring a CCA?
- What about "activity"? It could be argued that farming is an activity and therefore again this dot point becomes more ambiguous and less definitive given the issues we are currently dealing with.

Commented [MK7R6]: Reworded – the infrastructure and activity referred to previously was in relation to the petroleum well infrastructure and associated activity.

Commented [FS8]: Should we give examples of the kinds of impacts, or is that too difficult for us to do?

Commented [MK9R8]: The actual impacts would vary case by case and could relate to water bores, subsidence, land values, insurance etc. – so would be difficult. RE additional comments – I think inhouse legal would be opposed.

Commented [FS10]: We need to think about how we would determine whether an activity is prelim or advanced. Once this factsheet goes out, we will get complaints, and we will need to ensure how we consider these complaints

Commented [MK11R10]: Heading below encourages proponents to engage with landholder. Other solutions need further consideration.

- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but serves as a readily available resource for companies to

Commented [FS12]: Just a thought – wondering if we should include this in here?

Also, worth detailing the notification requirements in the Attachment below.

Commented [MK13R12]: Understood and added to Attachment

Locating Directional Drilling Wells and Activities

- 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.
- Early engagement 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 important that the design and locating of directional wells takes account of landholder activities and input.

Compensation Liability

- 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.
- Landholders are not liable to compensate for damages associated with carrying out resource activities occurring on their land, unless they, or someone authorised by them, caused or contributed to the harm.

Commented [FS14]: Remember, we are speaking to landholders here. Is there a more simplistic way we can say this?

Commented [MK15R14]: Re-worded

Further information

For further information, please contact the Resource Community Infoline on

13 71 07 or email resources.info@resources.qld.gov.au.

Further information on the legislative framework is also provided in the Attachment.

² https://www.resources.qld.gov.au/__data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

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)³ and the meaning of “land” in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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’.

³ Refer to section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

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*

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

- *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*

Entry to land

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.

Entry notice requirements

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 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;

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

- 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

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:

⁴ *Penalties and Sentences Act 1992*, s 181B.

- 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.

Limitation of owner's or occupier's tortious liability for authorised activities

Section 563A of the P&G Act limits the tortious liability of an owner or occupier of land in the area of a petroleum authority if someone else carries out an authorised activity for a petroleum authority on the land. The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity unless the owner or occupier or someone authorised by the owner or occupier caused or contributed to the harm.

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 bore⁵
- Notice about completion, alteration, or abandonment of petroleum well or bore⁶
- Notice about intention to carry out seismic survey or scientific or technical survey⁷
- Notice about completion of survey or scientific or technical survey⁸
- Notice about intention to carry out hydraulic fracturing activities⁹

⁵ *Petroleum and Gas (General Provisions) Regulation 2017*, s29.

⁶ *Petroleum and Gas (General Provisions) Regulation 2017*, s30.

⁷ *Petroleum and Gas (General Provisions) Regulation 2017*, s31.

⁸ *Petroleum and Gas (General Provisions) Regulation 2017*, s32.

⁹ *Petroleum and Gas (General Provisions) Regulation 2017*, s33.

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

- Notice about completion of hydraulic activities.¹⁰

DRAFT
Published on Resources Disclosure Log
RTI Act 2009

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017, s34.*

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

Date : 21/06/2021 9:52:59 AM

From : "EDDINGTON Ross"

To : "SHAW Chris" , "MUSGRAVE Kerrie"

Subject : Clean version for approval considerations

Attachment : factsheet 2.1.docx;DMView_1623888377005_12640-21_1878399_Min_reply.docx;
Chris

Please find attached both

- Clean version of factsheet for approval consideration
- Draft of form letter which will be populated with recipients and is also in MECS

Ross

Published on Resources Disclosure Log
RTI Act 2009

Considerations when 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 in that scenario.

‘Land’ in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ Sub-surface resources are therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still “land” and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property will be considered a preliminary activity for the land access framework if there is no impact, or only a 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 would be required.
- Each circumstance should be assessed individually and considered on a case-by-case basis.
- Landholders who believe a directional well that has been drilled is impacting on their land use or business should contact the proponent who drilled the well and/or the department to discuss the issue.

Entry Notice Requirements

- An entry notice for directional drilling 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.
- Entry notice must comply with the prescribed requirements as outlined in section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016.

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but does serve as a readily available resource for companies to utilise.

Locating Directional Drilling Wells and Activities

- 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.
- Early engagement 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 important that the design and location of directional wells takes account of landholder input, and the landholder's business or land use activities.

Compensation Liability

- 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.
- Landholders are not liable to compensate for damages associated with carrying out resource activities occurring on their land, unless they, or someone authorised by them, caused or contributed to the harm.

Further information

For further information, please contact the Resource Community Infoline on

13 71 07 or email resources.info@resources.qld.gov.au.

Further information on the legislative framework is also provided in the Attachment.

² https://www.resources.qld.gov.au/__data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

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)³ and the meaning of “land” in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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’.

³ 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 MERCPC 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 MERCPC 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 MERCPC 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 MERCPC 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 MERCPC 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*

Entry to land

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.

Entry notice requirements

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 MERCPC 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

Liability to compensate

Under section 81 of the MERCPC 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:

⁴ *Penalties and Sentences Act 1992*, s 181B.

- 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.

Limitation of owner's or occupier's tortious liability for authorised activities

Section 563A of the P&G Act limits the tortious liability of an owner or occupier of land in the area of a petroleum authority if someone else carries out an authorised activity for a petroleum authority on the land. The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity unless the owner or occupier or someone authorised by the owner or occupied caused or contributed to the harm.

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 bore⁵
- Notice about completion, alteration, or abandonment of petroleum well or bore⁶
- Notice about intention to carry out seismic survey or scientific or technical survey⁷
- Notice about completion of survey or scientific or technical survey⁸
- Notice about intention to carry out hydraulic fracturing activities⁹

⁵ *Petroleum and Gas (General Provisions) Regulation 2017*, s29.

⁶ *Petroleum and Gas (General Provisions) Regulation 2017*, s30.

⁷ *Petroleum and Gas (General Provisions) Regulation 2017*, s31.

⁸ *Petroleum and Gas (General Provisions) Regulation 2017*, s32.

⁹ *Petroleum and Gas (General Provisions) Regulation 2017*, s33.

- Notice about completion of hydraulic activities.¹⁰

DRAFT
Published on Resources Disclosure Log
RTI Act 2009

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017*, s34.



The Hon Scott Stewart MP
Minister for Resources

Ref [Min Office No]
CTS 12640/21

1 William Street Brisbane
PO Box 15216 City East
Queensland 4002 Australia
Telephone +61 7 3008 3500
Email Resources@ministerial.qld.gov.au
www.resources.qld.gov.au

Mail Merge Landholder List for Addresses

[Email]

Dear

I write today to thank you for meeting with me, my team and the GasFields Commission (the Commission) on our recent field trip to the Dalby/Chinchilla farming regions.

I acknowledge you are very busy, so I appreciate you taking the time out to meet with me to share the issues that are affecting you in regard to the development of Queensland's onshore gas industry.

Maintaining the gas industry's social licence and achieving sustainable coexistence with rural landholders and communities is essential for the industry's continued growth and for the prosperity of regional communities.

As I said to you when I visited, we must all continue to learn from our experiences in the growth of the sector – as gas exploration and development inevitably expands into other areas, we need to embrace the lessons learnt and apply them to all future endeavours.

Our discussions highlighted a number key issues that required action from both the Department of Resources (the department) and the Commission. The first of these was the need for clarification around resource companies' requirements when accessing private land to carry out directional drilling on adjacent land. Clear advice on this matter is critical. The department has developed a fact sheet, which I have enclosed, and which I believe clarifies the key requirements relating to this issue. This factsheet will also be published on the department's website and circulated to the peak industry bodies.

Commented [GA1]: Fact sheet to be approved by Minister week of 14 June 2021

A number of the other key issues are being investigated by the Commission. They are continuing to work on a number of projects that are designed to provide stakeholders clarity, relevant information and guidance relating to issues from current development activities in your region.

These include ongoing engagement with landholders via the Surat Stakeholder Advisory Group (SSAG). I believe the SSAG is an important way for the Commission continuing to deliver information about your rights as they relate to gas development, along with playing a critical role in advising myself and other key stakeholders on issues of concern and opportunities.

The Commission's current examinations of the *Regional Planning Interests Act 2014* assessment processes, remedies for neighbouring landholders and long-term liability and insurance are key bodies of work that relate to concerns and issues I heard raised at the field trip. I have emphasised to the Commission the importance of this work and the criticality of delivering these in a timely and transparent way.

Listening to the people on the ground is what I'm about and open dialogue is what we all strive for as coexistence is key for everyone in this industry. Our government, much like the GasFields Commission, is committed to continuing to promote coexistence.

I would also encourage you to make any further submissions on this or other resource related issues through the consultation process for the Resources Industry Development Plan, which is currently underway and is designed to shape the future of the resources industry in Queensland. Submissions can be made at <https://haveyoursay.resources.qld.gov.au/qridp> and are open until 30 June 2021.

If you have any questions, Dr Steve Ward, Director, Engagement and Compliance, Department of Resources, will be pleased to assist you and can be contacted on 4529 1566.

Yours sincerely

Scott Stewart MP
Minister for Resources

Enc

Commented [GA2]: Factsheet

Published on Resources Disclosure Log
RTI Act 2009

COMPLETE ENDORSEMENT BLOCK

Print only if required by next signatory

CTS 12640/21

Prepared by: Title: Division/Region: Telephone: Date Prepared:	Endorsed by: Title: Division/Region: Telephone: Date Endorsed:	Endorsed by: Title: Division/Region: Telephone: Date Endorsed:	Endorsed by: Title: Division/Region: Telephone: Date Endorsed:
--	--	--	--

Published on Resources Disclosure Log
RTI Act 2009

Date : 21/06/2021 12:12:20 PM

From : "EDDINGTON Ross"

To : "SHAW Chris", "FERRIS Shaun"

Cc : "MUSGRAVE Kerrie"

Subject : FW: Clean version for approval considerations

Attachment : factsheet 2.1.docx;DMView_1623888377005_12640-21_1878399_Min_reply.docx;

Chris/Shawn

I have reviewed Sanjeev's comments and it would appear he has done three things

- Introduced a key points section – we previously removed this during previous comments and is not part of our factsheet structure – I propose not adding it back in as I do not believe it adds to clarity of the overall message and infact raises more doubt (as discussed in the third point)
- He asks for a dotpoint on where people can find the locations of the wells. Until the spatial system is developed this rests with the proponent and there is already a dot point to this effect in the factsheet
- He asks who determines if an activity is preliminary or advanced. There is no determination as such – under the current framework it is the proponent who interprets the legislation and makes a decision as to if an activity is preliminary or advanced. The way the current draft is worded is very careful not to list it as a determination and talks about each one being a case by case basis based on the impact to the landholder. If we try to go further than this we risk highlighting the weaknesses of the current framework (from the landholders view) and the factsheet would have the impact of raising more questions than it answered. The version proposed urges landholders to discuss disagreements with either the proponent or department if they disagree which is about all the current framework allows.

I therefore propose the attached version is the one that should be taken forward

Ross

I

From: EDDINGTON Ross

Sent: Monday, 21 June 2021 9:53 AM

To: SHAW Chris; MUSGRAVE Kerrie

Subject: Clean version for approval considerations

Chris

Please find attached both

- Clean version of factsheet for approval consideration
- Draft of form letter which will be populated with recipients and is also in MECS

Ross

Date : 21/06/2021 10:49:35 AM
From : "FERRIS Shaun"
To : "SHAW Chris", "EDDINGTON Ross"
Subject : FW: factsheet 2.1
Attachment : factsheet 2.1_SP.docx;
Gents

I asked Sanjeev to look over the factsheet, given he has excellent knowledge of the stakeholders we are interfacing with – please see his suggestions.

Could you please look over these and consider?

Cheers

Shaun

From: PANDEY Sanjeev <Sanjeev.Pandey@rdmw.qld.gov.au>
Sent: Monday, 21 June 2021 10:13 AM
To: FERRIS Shaun
Subject: RE: factsheet 2.1

Hi Shaun

Sorry for not getting back earlier.

The fact sheet may be 'too legislative' in style for general readers. Therefore, it may be worthwhile to add couple of higher level key points (attached) to convey positive and simple message as to what it means for landholders in the context of issues raised. I have attempted to add a little box upfront and drafted some points as I understood it (highlighted yellow). I have also put comments in green that I thought may be worth providing clarity on.

Hope this helps.

Regards
Sanjeev

From: FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>
Sent: Friday, 18 June 2021 11:00 AM
To: PANDEY Sanjeev
Subject: factsheet 2.1

Sanjeev

As discussed, keen to get your eye over this if you wouldn't mind.

Not for sharing at the moment please.

Cheers
Shaun

Considerations when 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 in that scenario.

Key points

- An entry notice for directional drilling must be given by tenure holders to land holders ahead of the directional drilling beneath the surface of those landholder's land.
- If impact on a landholder's business or land use is greater and determined to be advanced activity, who determines this – then agreements such as a conduct and compensation agreement would be required.
- Tenure holders are liable for compensation to landholders for impacts caused by directional drilling under their land.

'Land' in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ Sub-surface resources are therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still "land" and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property will be considered a preliminary activity for the land access framework if there is no impact, or only a 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 would be required.
- Each circumstance should be assessed individually and considered on a case-by-case basis.

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

Style Definition: Fact sheet title

Commented [ER1]: While factsheet is designed for landholders it will also be used by industry. We have sought to strike a balance with the language used and have attempted to soften it where it would not have a legal impact.

Formatted: Font: Bold, Italic, Highlight

Formatted: Border: Box: (Single solid line, Auto, 0.5 pt Line width)

Formatted: Font: Italic, Highlight

Formatted: Font: Italic, Highlight

Formatted: Font: Italic, Highlight

Formatted: Font: Italic, Highlight

Formatted: Font: Italic, Highlight

Formatted: Font: Italic, Highlight

Formatted: Font: Italic, Highlight

Formatted: Font: Italic, Highlight

Commented [FS2]: The Land Allocation: Granting Land Volumetrically states:

The idea that ownership of land goes from "heaven to hell" is not interpreted literally but is generally interpreted to mean that land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space. However, generally land ownership is three-dimensional with actual height and depth specifications not stated.

So maybe lets not use language like the 'General rule', and instead lets use the exact language from the Policy (ie. Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space).

Commented [MK3R2]: Understood and changed

Commented [FS4]: Do we actually need this, as we talk to "if there is no, or only minor, impact on....."

Commented [MK5R4]: The wording is from section 15B of the MERCP Act - What is a preliminary activity – we have reworded slightly to clarify

Commented [FS6]: The wording "where there is no infrastructure or activity occurring" immediately draws me to matters such as:

- What about where there is infrastructure such as a ring tank, farm dam, farm road etc? This is infrastructure, so does that flick us into being Advanced and requiring a CCA?
- What about "activity"? It could be argued that farming is an activity and therefore again this dot point becomes more ambiguous and less definitive given the issues we are currently dealing with.

Commented [MK7R6]: Reworded – the infrastructure and activity referred to previously was in relation to the petroleum well infrastructure and associated activity.

Commented [FS8]: Should we give examples of the kinds of impacts, or is that too difficult for us to do?

Commented [MK9R8]: The actual impacts would vary case by case and could relate to water bores, subsidence, land values, insurance etc. – so would be difficult. RE additional comments – I think inhouse legal would be opposed.

- Landholders who believe a directional well that has been drilled is impacting on their land use or business should contact the proponent who drilled the well and/or the department to discuss the issue.

Commented [FS10]: We need to think about how we would determine whether an activity is prelim or advanced. Once this factsheet goes out, we will get complaints, and we will need to ensure how we consider these complaints

Entry Notice Requirements

- An entry notice for directional drilling 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.
- Entry notice must comply with the prescribed requirements as outlined in section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016.
- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but serves as a readily available resource for companies to [utilise](#).

Commented [MK11R10]: Heading below encourages proponents to engage with landholder. Other solutions need further consideration.

Commented [FS12]: Just a thought – wondering if we should include this in here?

Also, worth detailing the notification requirements in the Attachment below.

Locating Directional Drilling Wells and Activities

- 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.
- Early engagement 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 important that the design and [location](#) of directional wells takes account of landholder [input, and the landholder's business or land use activities](#).

Commented [MK13R12]: Understood and added to Attachment

Compensation Liability

- 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.
- Landholders are not liable to compensate for damages associated with carrying out resource activities occurring on their land, unless they, or someone authorised by them, caused or contributed to the harm.

Commented [FS14]: Remember, we are speaking to landholders here. Is there a more simplistic way we can say this?

Commented [MK15R14]: Re-worded

Further information

For further information, please contact the Resource Community Infoline on

13 71 07 or email resources.info@resources.qld.gov.au.

Further information on the legislative framework is also provided in the Attachment.

² https://www.resources.qld.gov.au/__data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

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)³ and the meaning of “land” in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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’.

³ Refer to section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

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*

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

- *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*

Entry to land

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.

Entry notice requirements

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 MERC 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;

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

- 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 MERCPC 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

Liability to compensate

Under section 81 of the MERCPC 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:

⁴ *Penalties and Sentences Act 1992*, s 181B.

- 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.

Limitation of owner's or occupier's tortious liability for authorised activities

Section 563A of the P&G Act limits the tortious liability of an owner or occupier of land in the area of a petroleum authority if someone else carries out an authorised activity for a petroleum authority on the land. The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity unless the owner or occupier or someone authorised by the owner or occupier caused or contributed to the harm.

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 bore⁵
- Notice about completion, alteration, or abandonment of petroleum well or bore⁶
- Notice about intention to carry out seismic survey or scientific or technical survey⁷
- Notice about completion of survey or scientific or technical survey⁸
- Notice about intention to carry out hydraulic fracturing activities⁹

⁵ *Petroleum and Gas (General Provisions) Regulation 2017*, s29.

⁶ *Petroleum and Gas (General Provisions) Regulation 2017*, s30.

⁷ *Petroleum and Gas (General Provisions) Regulation 2017*, s31.

⁸ *Petroleum and Gas (General Provisions) Regulation 2017*, s32.

⁹ *Petroleum and Gas (General Provisions) Regulation 2017*, s33.

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

- Notice about completion of hydraulic activities.¹⁰

DRAFT
Published on Resources Disclosure Log
RTI Act 2009

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017, s34.*

NOT GOVERNMENT POLICY – CONSULTATION DRAFT ONLY

Date : 22/06/2021 9:26:18 AM

From : "MUSGRAVE Kerrie"

To : "EDDINGTON Ross"

Subject : FW: Landholder Issues summary - directional drilling

Attachment : 20210621_Key Messaging_Directional Drilling_DRAFT.docx;Landholders concerns summary_Update.docx;20210621_Key Messaging_Directional Drilling_DRAFT_kmus.docx;image001.png;

Hi Ross,

I have made some comments and track changes but have not commented on the public liability question (second last question) and Land Access Review (last question) – for your review and response to Steve.



Kerrie Musgrave
Principal Policy Officer
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: WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>

Sent: Monday, 21 June 2021 6:08 PM

To: LLOYD Kahil; REES Marcus; EDDINGTON Ross; MUSGRAVE Kerrie

Cc: SHAW Chris; BARTLETT Tanya; PRINCE Alice

Subject: Landholder Issues summary - directional drilling

Afternoon

In follow up to the meeting on this late last week, attached is an updated summary of key landholder issues re directional drilling. I've also attached a draft internal Q&A doc compiled by Alice on various directional drilling aspects (yellow highlighted text signifies aspects for further consideration/refinement).

As discussed, it would be very much appreciated if Georesources Policy/Reform Team could consider and advise on the appropriateness of responses for these issues. In particular, considered messaging in response to concerns that are ultimately seeking a review of the land access framework, other legislative changes and/or a pause in resource authority holder activity, would be much appreciated.

Cheers

Steve



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

P: 4529 1566 M [sch4p4(6) Perso

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

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

W: www.dnrme.qld.gov.au

Key Messaging: Directional Drilling Enquiries and Complaints

Q. How is a resource company held accountable and who monitors their directional drilling activities (re. notice of entry, preliminary/advanced activity requirements)

A. The *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) outlines the obligations for resource authority holders to give each owner and occupier of private land an entry notice to private land about the entry for the purpose of:

- carrying out an authorised activity for a resource authority; or
- crossing access land for the resource authority; or
- gaining entry to access land for the resource authority.

Engagement and Compliance Unit compliance role

Should you have any concerns or questions regarding the notice of entry for authorised activities, planned or currently occurring, please contact the Department of Resources' Resource Community InfoLine on 137107 or email resources.info@resources.qld.gov.au.

Additional information

Under 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; or
- an exemption applies under the MERC Act.

Q. Why are we not negotiating a Conduct and Compensation Agreement for direction drilling?

A. 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'.

Under 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 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.

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.

Q. Where are my landholder rights to negotiate where directional drilling occurs under my property?

A. When a resource company issues a Notice of Entry to a landholder this should prompt a discussion between the landholder and resource company. During preliminary conversations, landholders are encouraged to identify to the resource company current and planned farming practices. During these conversations, if both parties agree that there will be more than a minor impact associated with the directional drilling, than this may be considered an advanced activity and require the negotiation of a Conduct and Compensation Agreement (CCA).

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 circumstances associated with the directional drilling would need to be considered by both parties to understand potential compensatable effects.

Q. The community believes that the resource company should proactively engage and be open about their activities. Where is the farmers support for disputes relating to a lack of engagement and consultation?

A. The Department of Resources will continue to work with resource companies regarding their social licence to operate and to ensure community concerns are addressed and regulatory obligations are met. We encourage all parties to have respectful and regular conversations. If you have any concerns regarding engagement with a resource company please contact the Resource Community InfoLine on 137107 or email resources.info@resources.qld.gov.au.

(see below for conference assistance)

Q. I can not handle the amount of government and industry conversations that I need to deal with regarding directional drilling along with the day-to-day stresses of running a property. What do I do?

A. We are here to help. We understand your concerns and are here to answer your questions. It is important that you take the time to share with the resource company your concerns either in email or face-to-face and any immediate and future plans for your property (development, relocation of house or other infrastructure, additional water bore etc).

The Department of Resources can also help with hosting a conference by an authorised officer at the request of the landholder or the resources company to table concerns around, access/entry to land, activities affecting the land or conduct of a resources company. The authorised officer's role is to encourage both parties to discuss the issues, openly and in a respectful manner and assist both parties in reaching an agreement about the concern. The authorised officer does not have an adjudicator role and is unable to make and decisions or give direction.

Working on the land can affect your health both physically and mentally. If you need support, it is always important to talk to your GP or healthcare professional. A list of available services and support for the Surat Basin area can be accessed [here](#).

*(VIA PHONE ONLY) No set words here as each person is different. **Recognise** the feelings, state of mind, **Respond** with empathy, active listening, **Refer** to friends, family, doctor, organisations ([GFCQ link](#))*

- **Recognise** the stress, call for help, helplessness
- **Respond** - Start with acknowledging their feelings – It sounds like all of this has left you feeling confused, exhausted, unsure what to do next. Sometimes light humour can help
- **Refer** – do you think it would help if you talked to someone? who can you ask? Offer suggestions, who have they gone to in the past

Q. What if I want to drill a bore in the area that directional drilling has already occurred?

A. The matter of water bore offset distances is an issue that has had to be discussed at length across a number of agencies. The Engagement and Compliance Unit has engaged with Resources Safety and Health Queensland, and the Department of Regional Development, Manufacturing and Water with regard to any offset distances from a directionally drilled well for a replacement water bore. The advice we have received is that there are no separation distances prescribed within legislation. If the replacement of a water bore was an agreed make good measure as part of a make good agreement under Chapter 3 of the Water Act 2000, the relevant resource tenure holder would be a party to those negotiations and would be in a position to advise on placement options for the replacement water bore. We have been further advised that in the event that a landholder sought to drill a water bore that was not part of a make good agreement, the relevant water bore driller would need to assess the relevant risks.

In both scenarios multiple factors need to be considered and these variables may vary from case to case (e.g. the depths of the wells, the potential for deviation in the planned water bore, and the accuracy of the tool used to acquire the directional drilling data in the petroleum well). The water bore driller in each case should assess relevant risks as per their safety management system, incorporating any directional drilling data that would be available from the resource tenure holder. Based off this an appropriate separation distance would be determined.

Additionally the Department of Resources is currently working on a spatial option to be able to provide directional drilling data received from tenure holders on a central system that is public facing and possibly linked to the Dial Before Dig register.

Q. Directional drilling has gone near my bore, infrastructure that I consider restricted land under resource legislation. Are resource companies allowed to do this?

A. Under section 228F of the MERC Act, the new restricted land entry provisions do not apply to a resource authority that was applied for before 27 September 2016 (being the time that the land access provisions commenced under the MERC Act) regardless of whether it was granted before or after this date.

(SPECIFIC TO ARROW) Arrow applied for PL 252 on 19 February 2007 so that chapter 3 of the MERC Act does not apply however Arrow must comply with the land access framework for post-grant entry and for compensation to owners and occupiers of land within the area of PL 252. This includes a requirement to negotiate a conduct and compensation agreement with each owner and occupier of land, where any resource activity is proposed to be undertaken within 600 metres of an occupied residence or another identified building or infrastructure. This requirement applies even for no impact of low impact activities, such as walking or driving on a track.

However, there is no requirement for a resource authority holder to enter into a conduct and compensation agreement with owners and occupiers on neighbouring land, including off tenure land. Therefore, where a residence is located immediately adjacent to the boundary of a resource authority area and an activity is proposed to be conducted within 600 metres of that residence, there is no obligation to consult with those neighbours, regardless of the nature of the activities or the potential impacts.

Q. I received a letter in the main from a resource company that said that directional drilling has already occurred under property. Why was I not informed? Should I have been informed?

A. 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 advanced activities beyond the boundary of the land where the drill site is located.

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.

The resource company is required to give you an entry notice at least 10 business day before entering the subsurface of your property boundary line to carry out the directional drilling where there is no infrastructure to be constructed or activity to occur on the surface of your land. This is generally categorised as a preliminary activity.

There is an expectation from the Queensland Government that resource holders adhere to the required entry timeframes. Officers of the Engagement and Compliance Unit of the Department of Resources undertake proactive and reactive site visits and audits of resource authorities to ensure holders are meeting their obligations under the land access framework.

Should you believe you have had directional drilling under your property and were not issued with NOE prior to this occurring you can lodge a complaint with the Department of Resources' Resource Community InfoLine on 137107 or email resources.info@resources.qld.gov.au.

Further Key issues- specific to landholders.

Q- Threshold to trigger a CCA

100ha- Property owner will enter into CCA for one directional drilled well under their property.

They have another property 128ha that will have three directional drilled well under their property (which you would assume, to have a bigger impact) but not entitled to a CCA.

We have 3 deviated wells traversing under a portion of land 128ha in size. Effectively the whole portion of land will be compromised as it will also incur the impact of subsidence and the inability to safely drill a water bore where it is of most suitable to do so. However, we are not entitled to a CCA for any of these wells; no negotiation and no compensation.

There is no equitability in this at all! We will incur the same adverse impacts across our property, even on the portions that don't have deviated wells but only on 1 well are we entitled to a CCA. This lack of equitability needs to be addressed and done so quickly as landholders are so immensely disadvantaged having deviated wells traverse under their property.

The 100ha threshold was determined based on feedback from stakeholders (including landholders) many years ago, the Department of Resources will be undertaking a review of the Land Access Framework to be able to provide further clarification around authorised activities categorised as

preliminary versus advanced and what may trigger a Conduct and Compensation Agreement requirement.

Q- Preliminary (what is the criteria used to govern that there is no activity occurring on the surface of the land) you state it should be addressed on a case-by-case basis, who undertakes this assessment, Arrow? This does not occur.

There is an enormous expense to the landholder to gather data and information to prove claim of subsidence/impact will incur a massive amount of our time and at a considerable cost. Again, the onus is on the landholder to prove adverse impacts caused by CSG activity.

Q- We have received a deed poll from Arrow in relation to public liability. This has been referred to insurance broker and legal advice has been sought. This is another cost the landholder has to wear and clearly demonstrates that there is a cost impact and time impact that.

The Land Access Guide and Framework does not really reference deviated wells on neighbouring properties and leaves many issues open for interruption. Landholders are the ones clearly disadvantaged in every aspect of deliberations (with Arrow). There is no way this framework supports co-existence it clearly favours the resource company.

The area of deviated wells needs to be tightened up from a government perspective. Genuine definitive regulations need to be adopted to try to create some equitability for the landholder that has deviated wells. The cost of dealing with government and Arrow Energy is certainly taking its toll on us.

Deviated drilled wells – landholder issues

Landholder Issue Summary	Solution being sought by landholders	Potential links/dependencies
<ul style="list-style-type: none"> - Prelim v's advanced activities – resource tenure holder determines which & not a level playing field for landholders. - No avenues for dispute resolution like other aspects of land access framework (e.g. disputes over restricted land can be determined by Land Court) and no coverage for reasonably incurred legal costs. - Impact(s) have to occur before landholder can seek Land Court determination (via s.81 MERCPC). 	<ul style="list-style-type: none"> - More say in determination of prelim V's advanced - Review/update of land access framework - Clear avenue(s) for escalation and dispute resolution 	<ul style="list-style-type: none"> - DoR factsheet on DD.
<ul style="list-style-type: none"> - To manage safety risk (e.g. collision) when drilling a water bore on land with directionally drilled well, separation distance at surface from DD well trajectory is required – limits landholder ability to drill on property that can be significant e.g. If, on a 130ha block, each DD well has a trajectory that incurs 500 metres into property and a 50m separation distance (each side of DD) is considered necessary, approx. 5ha that landholder feels cannot be utilised at surface per DD, in this example. Potential for multiple DD on 128ha blocks. - Suggestion that this would translate to a greater than minimal impact on the business and should trigger a CCA. - Anecdotal evidence from landholders that water bore drillers are avoiding taking on drilling jobs in CSG areas due to risk of impacting directionally drilled wells. 	<ul style="list-style-type: none"> - Introduction of separation distances defined in QG regulatory framework and/or guidance materials. - DD is considered advanced activity. - Centralised system that is public facing where directional drilling information will be available (will also be linked to dial before you dig) 	<ul style="list-style-type: none"> - Advice from RSHQ is that no separation distances are prescribed. Should be considered on a case-by-case basis and via risk-assessment of water bore driller. - Advice from DRDMW is that there may not be requirements for water bore driller to (a) check for resource tenure-related aspects and (b) need a risk assessment (under Water Act) - Replacement water bores as a make good measure under Ch3 of Water Act would typically involved the responsible tenure holder in the negotiations, providing an avenue to risk-manage DD in drilling a water bore.

<ul style="list-style-type: none"> - Understood that Arrow are intending to link directionally drilled well information to Dial Before You Dig (DBYD) (uncertain what broader industry is doing). Anecdotal landholder suggestions that historical directional drilling have yet to be recorded on DBYD. 		
<ul style="list-style-type: none"> - Subsidence – Arrow have acknowledged there will be subsidence (100ml) with 10 years for PAA. Land is floodplain, sometimes laser levelled – the slightest subsidence (e.g. on an existing depressed zone) can have significant impacts for landholders business regarding water flow etc. - Suggestion that this would translate to a greater than minimal impact on the business and should trigger a CCA. - Lack of baseline for subsidence in the region means that impacts cannot be quantified/determined. - Technology being used to assess subsidence is of insufficient accuracy and applicability (on verticals and cropping land for example) to provide adequate coverage to landholders for subsidence risk. 	<ul style="list-style-type: none"> - Determination that all PAA land require CCA for authorised activities to give greater negotiating ability to landholders on this and other risks. - Pause on Arrow’s activities until subsidence baseline is achieved, monitoring technologies are adequate and monitoring framework is finalised. 	<ul style="list-style-type: none"> - OGIA working with landholders in Dalby district to develop subsidence monitoring framework and technologies, including ground-based methods. OGIA also undertaking review of Arrow’s subsidence monitoring framework.
<ul style="list-style-type: none"> - Criteria for s15B(2) MERCP is outdated and unsuitable for high intensity, floodplain broadacre farming on PAA. <ul style="list-style-type: none"> o No evidence of why cut-off is 100ha (numerous blocks in Dalby district are 2pprox.. 128ha) o Criteria does not account for PAA - Also issue of cumulative impact i.e. 128ha blocks (meeting rest of criteria) could have multiple 	<ul style="list-style-type: none"> - Change 100ha criteria to accommodate old soldier plots (2pprox.. 128ha) and/or justify. - Amend criteria to include PAA as automatic escalation to advanced activity with CCA required. - Review/update of land access framework. 	<ul style="list-style-type: none"> - GFCQ review of RPI Act as it relates to CSG assessment processes.

<p>directionally drilled wells with no requirement for CCA but single directionally drilled well on 100ha block would require CCA.</p>		
<ul style="list-style-type: none"> - Aerial surveying: <ul style="list-style-type: none"> o Arrow Energy not notifying landholders with Notices of Entry for aerial surveying (LiDAR for subsidence monitoring). 	<ul style="list-style-type: none"> - Clarity on DoR's position of what requires Notice of Entry as a preliminary activity. 	<ul style="list-style-type: none"> - Historical IHL advice that references case law that determined landholder right to airspace limited to altitude wherein the aerial activity would impact on day-t-day activities. - Uncertainty on whether LiDAR monitoring would be an authorised activity under resources legislation.
<ul style="list-style-type: none"> - The quality of Arrow's information on existing and proposed DD does not allow landholder's to have clarity on positioning etc. - Arrow have recently informed the Department that they are providing improved information to landholders – however, industry position on this is unknown. 	<ul style="list-style-type: none"> - Better quality information be provided to landholders by Arrow regarding DD. 	<ul style="list-style-type: none"> - 3D DD information on GeoResGlobe being scoped by Spatial Team in Business Systems. - Understood that Arrow are intending to link directionally drilled well information to Dial Before You Dig (uncertain what broader industry is doing). -
<ul style="list-style-type: none"> - Where restricted land framework applies, does restricted land apply: <ul style="list-style-type: none"> o apply only laterally, vertically or in 3 dimensions. o From surface expression of restricted land or subterranean e.g. base of a ring tank/dam if vertical separation distance applies. 	<ul style="list-style-type: none"> - Clarity on how restricted land applies. 	<ul style="list-style-type: none"> - Now received clarification of IHL advice on this issue. Have confirmed it is laterally in all dimensions (circular). - DoR factsheet on directional drilling?
<ul style="list-style-type: none"> - Public liability insurance: <ul style="list-style-type: none"> o No coverage of preliminary activities o No coverage for post-tenure/residual risks. - Landholders being asked to make significant, long-term decisions on highly-leveraged businesses without coverage that may have additional financial ramifications (lending, mortgaging etc.). - Arrow understood to be developing an agreement to cover directionally drilled wells (where a preliminary 	<ul style="list-style-type: none"> - Moratorium/pause on Arrow operations until public liability insurance uncertainties are resolved. - Extension of reasonable/necessary costs covered for preliminary activities/directional drilling. - Escalation of a preliminary activity to requiring a CCA where impacting on public liability insurance (and/or other financial impacts such as mortgaging). 	<ul style="list-style-type: none"> - Arrow have stated publicly they will cover any gaps in public liability insurance. Still working through the form and delivery of this. - GFCQ looking to address post-tenure/residual public liability issue.

activity) but as not CCA, costs associated with finalising the agreement (legal etc.) not covered under legislation.		
--	--	--

Published on Resources Disclosure Log
RTI Act 2009

Key Messaging: Directional Drilling Enquiries and Complaints

Q. How is a resource company held accountable and who monitors their directional drilling activities (re. notice of entry, preliminary/advanced activity requirements)

A. The *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) outlines the obligations for resource authority holders to give each owner and occupier of private land an entry notice to private land about the entry for the purpose of:

- carrying out an authorised activity for a resource authority; or
- crossing access land for the resource authority; or
- gaining entry to access land for the resource authority.

Engagement and Compliance Unit compliance role

Should you have any concerns or questions regarding the notice of entry for authorised activities, planned or currently occurring, please contact the Department of Resources' Resource Community InfoLine on 137107 or email resources.info@resources.qld.gov.au.

Additional information

Under 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; or
- an exemption applies under the MERC Act.

Q. Why are we not negotiating a Conduct and Compensation Agreement for direction drilling?

A. 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'.

Under 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 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.

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

below the surface of the land on a neighbouring property will be considered a preliminary activity for the land access framework if there is no impact, 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.

Q. Where are my landholder rights to negotiate where directional drilling occurs under my property?

A. When a resource company issues a Notice of Entry to a landholder this should prompt a discussion between the landholder and resource company. During preliminary conversations, landholders are encouraged to identify to the resource company current and planned farming practices. During these conversations, if both parties agree that there will be more than a minor impact associated with the directional drilling, than this may be considered an advanced activity and require the negotiation of a Conduct and Compensation Agreement (CCA).

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;

Commented [MK1]: Discussions would ideally happen earlier than 10 business days before entry – early engagement would afford landholders sufficient time to understand the likely impact of the directional drilling activities on their business and land use activities.

- 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 circumstances associated with the directional drilling would need to be considered by both parties to understand potential compensatable effects.

Note that landholders are not liable to compensate for damages associated with carrying out resource activities occurring on their land unless, they, or someone authorised by them, caused or contributed to the harm.

Q. The community believes that the resource company should proactively engage and be open about their activities. Where is the farmers support for disputes relating to a lack of engagement and consultation?

A. The Department of Resources will continue to work with resource companies regarding their social licence to operate and to ensure community concerns are addressed and regulatory obligations are met. We encourage all parties to have respectful and regular conversations. If you have any concerns regarding engagement with a resource company, please contact the Resource Community InfoLine on 137107 or email resources.info@resources.qld.gov.au.

(see below for conference assistance)

Q. I can not handle the amount of government and industry conversations that I need to deal with regarding directional drilling along with the day-to-day stresses of running a property. What do I do?

A. We are here to help. We understand your concerns and are here to answer your questions. It is important that you take the time to share with the resource company your concerns either in email or face-to-face and any immediate and future plans for your property (development, relocation of house or other infrastructure, additional water bore etc).

The Department of Resources can also help with hosting a conference by an authorised officer at the request of the landholder or the resources company to table concerns around, access/entry to land, activities affecting the land or conduct of a resources company. The authorised officer's role is to encourage both parties to discuss the issues, openly and in a respectful manner and assist both parties in reaching an agreement about the concern. The authorised officer does not have an adjudicator role and is unable to make and decisions or give direction.

Working on the land can affect your health both physically and mentally. If you need support, it is always important to talk to your GP or healthcare professional. A list of available services and support for the Surat Basin area can be accessed [here](#).

*(VIA PHONE ONLY) No set words here as each person is different. **Recognise** the feelings, state of mind, **Respond** with empathy, active listening, **Refer** to friends, family, doctor, organisations ([GFCQ link](#))*

- **Recognise** the stress, call for help, helplessness
- **Respond** - Start with acknowledging their feelings – It sounds like all of this has left you feeling confused, exhausted, unsure what to do next. Sometimes light humour can help

- **Refer** – do you think it would help if you talked to someone? who can you ask? Offer suggestions, who have they gone to in the past

Q. What if I want to drill a bore in the area that directional drilling has already occurred?

A. The matter of water bore offset distances is an issue that has had to be discussed at length across a number of agencies. The Engagement and Compliance Unit has engaged with Resources Safety and Health Queensland, and the Department of Regional Development, Manufacturing and Water, regarding any offset distances from a directionally drilled well for a replacement water bore. The advice we have received is that there are no separation distances prescribed within legislation. If the replacement of a water bore was an agreed make good measure as part of a make good agreement under Chapter 3 of the *Water Act 2000*, the relevant resource tenure holder would be a party to those negotiations and would be in a position to advise on placement options for the replacement water bore. We have also been advised that in the event that a landholder sought to drill a water bore that was not part of a make good agreement, the relevant water bore driller would need to assess the relevant risks.

In both scenarios multiple factors need to be considered and these variables may vary from case to case (e.g. the depths of the wells, the potential for deviation in the planned water bore, and the accuracy of the tool used to acquire the directional drilling data in the petroleum well). The water bore driller in each case should assess relevant risks as per their safety management system, incorporating any directional drilling data that would be available from the resource tenure holder. Based off this an appropriate separation distance would be determined.

Additionally the Department of Resources is currently working on a spatial option to be able to provide directional drilling data received from tenure holders on a central system that is public facing and possibly linked to the Dial Before Dig register.

Q. Directional drilling has gone near my bore, infrastructure that I consider restricted land under resource legislation. Are resource companies allowed to do this?

A. Under section 228F of the MERC Act, the new restricted land entry provisions do not apply to a resource authority that was applied for before 27 September 2016 (being the time that the land access provisions commenced under the MERC Act) regardless of whether it was granted before or after this date.

(SPECIFIC TO ARROW) Arrow applied for PL 252 on 19 February 2007 so that chapter 3 of the MERC Act does not apply however Arrow must comply with the land access framework for post-grant entry and for compensation to owners and occupiers of land within the area of PL 252. This includes a requirement to negotiate a conduct and compensation agreement with each owner and occupier of land, where any resource activity is proposed to be undertaken within 600 metres of an occupied residence or another identified building or infrastructure. This requirement applies even for no impact of low impact activities, such as walking or driving on a track.

However, there is no requirement for a resource authority holder to enter into a conduct and compensation agreement with owners and occupiers on neighbouring land, including off tenure land. Therefore, where a residence is located immediately adjacent to the boundary of a resource authority area and an activity is proposed to be conducted within 600 metres of that residence,

there is no obligation to consult with those neighbours, regardless of the nature of the activities or the potential impacts.

Q. I received a letter in the main from a resource company that said that directional drilling has already occurred under property. Why was I not informed? Should I have been informed?

A. 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 advanced activities beyond the boundary of the land where the drill site is located.

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.

The resource company is required to give you an entry notice at least 10 business day before entering the subsurface of your property boundary line to carry out the directional drilling where there is no [petroleum well](#) infrastructure to be constructed or [related activities](#) to occur on the surface of your land. This [would be considered a preliminary activity for the land access framework if there is no impact, or only a minor impact on your business or land use activities.](#)

There is an expectation from the Queensland Government that resource holders adhere to the required entry timeframes. Officers of the Engagement and Compliance Unit of the Department of Resources undertake proactive and reactive site visits and audits of resource authorities to ensure holders are meeting their obligations under the land access framework.

Should you believe you have had directional drilling under your property and were not issued with NOE prior to this occurring you can lodge a complaint with the Department of Resources' Resource Community InfoLine on 137107 or email resources.info@resources.qld.gov.au.

Further Key issues- specific to landholders.

Q- Threshold to trigger a CCA

100ha- Property owner will enter into CCA for one directional drilled well under their property.

They have another property 128ha that will have three directional drilled well under their property (which you would assume, to have a bigger impact) but not entitled to a CCA.

We have 3 deviated wells traversing under a portion of land 128ha in size. Effectively the whole portion of land will be compromised as it will also incur the impact of subsidence and the inability to safely drill a water bore where it is of most suitable to do so. However, we are not entitled to a CCA for any of these wells; no negotiation and no compensation.

There is no equitability in this at all! We will incur the same adverse impacts across our property, even on the portions that don't have deviated wells but only on 1 well are we entitled to a CCA. This lack of equitability needs to be addressed and done so quickly as landholders are so immensely disadvantaged having deviated wells traverse under their property.

The 100ha threshold was determined based on feedback from stakeholders (including landholders) many years ago, the Department of Resources will be undertaking a review of the Land Access Framework to be able to provide further clarification around authorised activities categorised as preliminary versus advanced and what may trigger a Conduct and Compensation Agreement requirement.

Q- Preliminary (what is the criteria used to govern that there is no activity occurring on the surface of the land) you state it should be addressed on a case-by-case basis, who undertakes this assessment, Arrow? This does not occur.

There is an enormous expense to the landholder to gather data and information to prove claim of subsidence/impact will incur a massive amount of our time and at a considerable cost. Again, the onus is on the landholder to prove adverse impacts caused by CSG activity.

Q- We have received a deed poll from Arrow in relation to public liability. This has been referred to insurance broker and legal advice has been sought. This is another cost the landholder has to wear and clearly demonstrates that there is a cost impact and time impact that.

The Land Access Guide and Framework does not really reference deviated wells on neighbouring properties and leaves many issues open for interruption. Landholders are the ones clearly disadvantage in every aspect of deliberations (with Arrow). There is no way this framework supports co-existence it clearly favours the resource company.

The area of deviated wells needs to be tightened up from a government perspective. Genuine definitive regulations need to be adopted to try to create some equitability for the landholder that has deviated wells. The cost of dealing with government and Arrow Energy is certainly taking its toll on us.

Commented [MK2]: This question is answered above - no petroleum well infrastructure to be constructed or related activities to occur on the surface of your land. This would be considered a preliminary activity for the land access framework if there is no impact, or only a minor impact on your business or land use activities.

Perhaps the question here should be - Who is responsible for providing data and information about subsidence, due to directional drilling under the surface of the land?

Answer - The responsibility for payment of costs associated with proving the likely impact of directional drilling activities, which may include the cost to engage an independent assessor, is one of the issues to be discussed between the resource company and landholder before entry.

Date : 22/06/2021 12:06:10 PM

From : "EDDINGTON Ross"

To : "BARTLETT Tanya"

Subject : Fwd: Clean version for approval considerations

Attachment : factsheet 2.1.docx;DMView_1623888377005_12640-21_1878399_Min_reply.docx;

Sent from my iPhone

Begin forwarded message:

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

Date: 21 June 2021 at 12:12:00 pm AEST

To: SHAW Chris <Chris.Shaw@resources.qld.gov.au>, FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>

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

Subject: FW: Clean version for approval considerations

Chris/Shawn

I have reviewed Sanjeev's comments and it would appear he has done three things

- Introduced a key points section – we previously removed this during previous comments and is not part of our factsheet structure – I propose not adding it back in as I do not believe it adds to clarity of the overall message and in fact raises more doubt (as discussed in the third point)
- He asks for a dotpoint on where people can find the locations of the wells. Until the spatial system is developed this rests with the proponent and there is already a dot point to this effect in the factsheet
- He asks who determines if an activity is preliminary or advanced. There is no determination as such – under the current framework it is the proponent who interprets the legislation and makes a decision as to if an activity is preliminary or advanced. The way the current draft is worded is very careful not to list it as a determination and talks about each one being a case by case basis based on the impact to the landholder. If we try to go further than this we risk highlighting the weaknesses of the current framework (from the landholders view) and the factsheet would have the impact of raising more questions than it answered. The version proposed urges landholders to discuss disagreements with either the proponent or department if they disagree which is about all the current framework allows.

I therefore propose the attached version is the one that should be taken forward

Ross

I

From: EDDINGTON Ross

Sent: Monday, 21 June 2021 9:53 AM

To: SHAW Chris; MUSGRAVE Kerrie

Subject: Clean version for approval considerations

Chris

Please find attached both

- Clean version of factsheet for approval consideration
- Draft of form letter which will be populated with recipients and is also in MECS

Ross

Date : 23/06/2021 5:29:57 PM

From sch4p4(6) Personal

To : "EDDINGTON Ross"

Cc : "Chris.Shaw@resources.qld.gov.au"

Subject : FW: Directional drilling fact sheet

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

Hi Ross,

Any updates on the ETA for releasing the fact sheet?

Best regards,

sch4

sch4p4(6) Personal

A/g Queensland Director

m sch4p4(6) Personal information

e



From: sch4p4(6) Personal

Sent: Wednesday, 26 May 2021 11:47 AM

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

Cc: SHAW Chris <Chris.Shaw@resources.qld.gov.au>; FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>; MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>

Subject: RE: Consultation draft - Fact Sheet - Notice of entry to private land for directional drilling on adjacent land

Hi Ross

Thank you for sending this through, attached are suggested changes to the fact sheet. I've tried to minimise the changes to the text but have shifted around the content quite a bit.

The changes proposed are based on the following points:

- It is essential that the Department be as definitive as possible in stating that directional drilling will normally be a preliminary activity. A key point of reference is the experience to date – there are dozens of directional wells that have been in place for several years and to our knowledge landholders have not claimed any impact from those wells. This point should be stated in the fact sheet. The fact sheet should also say that on the basis of experience to date the Department expects that directional drilling activities on adjacent land that are at significant depth below the surface of the land will ordinarily be preliminary activities.
- Our understanding is that the new notice of entry requirement results from a changed interpretation of the law by the Department rather than government making a deliberate policy decision that landholders now have a legal interest in subsurface resources. It is therefore important to include in the fact sheet a statement on the overall government position on land ownership and in particular that the state retains ownership of the subsurface resources. A relevant guideline can be found here: https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05. Amongst other things the guideline states:

"The State has decided that for some projects of State significance e.g. development of railway stations, tunnel tollway, specific legislation will provide for the required tenure arrangements, without certain provisions of the Land Act applying.

The idea that ownership of land goes from "heaven to hell" is not interpreted literally but is generally interpreted to mean that land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space. However, generally land ownership is three-dimensional with actual height and depth specifications not stated.

...

Land volume above and below the surface is still "land", and the principles and provisions of the Land Act and other Acts (e.g. the Native Title Acts, Coastal Protection and Management Act 1995) still apply.

However, as the volumetric area is likely to be used for some other purpose than the surface land, the basic requirement is that the use of the surface land must not be unduly interfered with."

- There is a role for government in assisting landholders in determining whether there has been an impact from directional wells. Making that

role explicit in the fact sheet would be a significant positive addition that would assist in addressing any landholder concerns.

- The fact sheet is quite long and complicated and much of the content is a restatement of the legal requirements. We suggest as much of this content as possible be moved to an attachment.

With regard to the combined entry notice form:

- On page 3 in the example on directional drilling, we would suggest changing "The **proposed** activity will be Directional Drilling with entry onto land..." to "The **preliminary** activity will be Directional Drilling with entry onto land..."
- We note the form is not mandatory and we expect proponents will therefore on use the relevant 'notice of intention' when notifying of directional drilling.

As always, happy to discuss this feedback.

Best regards,

[Redacted]

[Redacted] sch4p4(6) Perso

A/g Queensland Director
m [Redacted] sch4p4(6) Personal info
e [Redacted]



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

Sent: Monday, 24 May 2021 2:31 PM

To: [Redacted] sch4p4(6) Personal information

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

Subject: Consultation draft - Fact Sheet - Notice of entry for private land for directional drilling on adjacent land

[Redacted] sch4p4(6) Personal information

Please find attached a draft version of a new factsheet (and accompanying combined form) which the department has prepared in relation to notices of entry and directional drilling.

We are seeking any comment you may have on this by mid-week if possible. I am aware that this is not as long as the usual cycle of consultation however the department is eager to publish the factsheet to address some recent land-holder concerns.

Please provide any feedback you may have by COB Wednesday 26th May to Kerrie Musgrave at Kerrie.Musgrave@resources.qld.gov.au or phone 3199 8105 if you would like to talk through any aspects of the factsheet

Kind regards

Ross Eddington

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.

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.~~

~~This~~ fact sheet provides guidance that the sub-surface portions of directional drilling activities on adjacent land that are at significant depth below the surface of the land are ordinarily preliminary activities ~~as they are expected to have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land.~~

Regulatory framework Key points

~~- As a general rule private land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space¹. Sub-surface resources are therefore normally owned by the State. Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.~~

~~However, land volume above and below the surface is still "land" and for that reason the~~ 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)² 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 generally applies to authorised activities that occur below the surface of the land, including 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~~

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

² Refer to section 6 of the Mineral and Energy Resources (Common Provisions) Act 2014.



Style Definition: Heading 2: Font: 11 pt

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font color: Text 1

Formatted: Font: 11 pt

Formatted: Font: 11 pt, Not Bold

Formatted: Heading 2

Formatted: List Paragraph, Space Before: 12 pt, After: 12 pt, Bulleted + Level: 1 + Aligned at: 0.63 cm + Indent at: 1.27 cm

Formatted: Font: 11 pt, Font color: Text 1

Formatted: Font: 11 pt, Font color: Text 1

Formatted: Font: 11 pt, Font color: Text 1

Formatted: Space Before: 12 pt, After: 12 pt, Add space between paragraphs of the same style, Line spacing: single, Bulleted + Level: 1 + Aligned at: 0.63 cm + Indent at: 1.27 cm

Formatted: Font color: Text 1

Formatted: List Paragraph, Space Before: 12 pt, After: 12 pt, Bulleted + Level: 1 + Aligned at: 0.63 cm + Indent at: 1.27 cm

Formatted: Font color: Text 1

- 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.

- The Department is not aware of any impacts on any landholder's business or land use activities from directional wells drilled to date, many of which have been in place for several years.

Formatted: Font: 11 pt, Font color: Text 1

- While each circumstance should be assessed individually and considered on a case-by-case basis, given that existing directional wells have had no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land, the Department's view is that directional drilling activities on adjacent land that are at significant depth below the surface of the land will ordinarily be classed as preliminary 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 would be required.

Formatted: Font: 11 pt, Font color: Text 1

- Landholders who believe a directional well that has been drilled is impacting on their land use or business should contact the proponent who drilled the well and/or the Department to discuss the issue. The Department is able to assist landholders in assessing whether there have been impacts from directional wells.

Formatted: Font color: Text 1

- An entry notice for directional drilling 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.

Further information

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

[Further information on the legislative framework is also provided in the Attachment.](#)

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

Applicable legislation

Formatted: Font: 11 pt, Bold

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)¹⁰ and the meaning of "land" in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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'.

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).

¹⁰ Refer to section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

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
- 'subterranean entry at significant depth to access private land to carry out directional drilling activities on adjacent land

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

Compensation agreements

Resource companies must record conduct and compensation agreements and opt-out agreements on 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.

Entry to land

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.

Entry notice requirements

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 MERC 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 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.¹¹

¹¹ 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 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 bore¹²
- Notice about completion, alteration, or abandonment of petroleum well or bore¹³
- Notice about intention to carry out seismic survey or scientific or technical survey¹⁴
- Notice about completion of survey or scientific or technical survey¹⁵
- Notice about intention to carry out hydraulic fracturing activities¹⁶
- Notice about completion of hydraulic activities.¹⁷

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.

¹² *Petroleum and Gas (General Provisions) Regulation 2017, s29.*

¹³ *Petroleum and Gas (General Provisions) Regulation 2017, s30.*

¹⁴ *Petroleum and Gas (General Provisions) Regulation 2017, s31.*

¹⁵ *Petroleum and Gas (General Provisions) Regulation 2017, s32.*

¹⁶ *Petroleum and Gas (General Provisions) Regulation 2017, s33.*

¹⁷ *Petroleum and Gas (General Provisions) Regulation 2017, s34.*

Date : 23/06/2021 11:14:19 AM

From : "FERRIS Shaun"

To : "EDDINGTON Ross" , "SHAW Chris"

Subject : factsheet 2.1

Attachment : factsheet 2.1.docx;

Hey there..... I have had another look at the factsheet – and have some questions about the liability section. Wondering if we can have another think about this – happy to chat to verbally express what I have attempted to quickly capture in the notes.

Published on Resources Disclosure Log
RTI Act 2009

Considerations when 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 in that scenario.

‘Land’ in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ Sub-surface resources are therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still “land” and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property will be considered a preliminary activity for the land access framework if there is no impact, or only a 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 would be required.
- Each circumstance should be assessed individually and considered on a case-by-case basis.
- Landholders who believe a directional well that has been drilled is impacting on their land use or business should contact the proponent who drilled the well and/or the department to discuss the issue.

Entry Notice Requirements

- An entry notice for directional drilling 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.
- Entry notice must comply with the prescribed requirements as outlined in section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016.

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but does serve as a readily available resource for companies to utilise.

Locating Directional Drilling Wells and Activities

- 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.
- Early engagement 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 important that the design and location of directional wells takes account of landholder input, and the landholder's business or land use activities.

Compensation Liability [Let's test again whether this is needed]

- 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. [? Doesn't this link back to it possibly being an Advanced Activity? Is this needed?]
- Landholders are not liable to compensate for damages associated with carrying out resource activities occurring on their land, unless they, or someone authorised by them, caused or contributed to the harm.

Further information

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

Further information on the legislative framework is also provided in the Attachment.

² https://www.resources.qld.gov.au/__data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

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)³ and the meaning of “land” in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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’.

³ 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 MERCPC 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 MERCPC 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 MERCPC 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 MERCPC 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 MERCPC 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*

Entry to land

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.

Entry notice requirements

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 MERCPC 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

Liability to compensate

Under section 81 of the MERCPC 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:

⁴ *Penalties and Sentences Act 1992*, s 181B.

- 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.

Limitation of owner's or occupier's tortious liability for authorised activities

Section 563A of the P&G Act limits the tortious liability of an owner or occupier of land in the area of a petroleum authority if someone else carries out an authorised activity for a petroleum authority on the land. The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity unless the owner or occupier or someone authorised by the owner or occupied caused or contributed to the harm.

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 bore⁵
- Notice about completion, alteration, or abandonment of petroleum well or bore⁶
- Notice about intention to carry out seismic survey or scientific or technical survey⁷
- Notice about completion of survey or scientific or technical survey⁸
- Notice about intention to carry out hydraulic fracturing activities⁹

⁵ *Petroleum and Gas (General Provisions) Regulation 2017*, s29.

⁶ *Petroleum and Gas (General Provisions) Regulation 2017*, s30.

⁷ *Petroleum and Gas (General Provisions) Regulation 2017*, s31.

⁸ *Petroleum and Gas (General Provisions) Regulation 2017*, s32.

⁹ *Petroleum and Gas (General Provisions) Regulation 2017*, s33.

- Notice about completion of hydraulic activities.¹⁰

DRAFT
Published on Resources Disclosure Log
RTI Act 2009

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017*, s34.

Date : 23/06/2021 11:38:19 AM
From : "EDDINGTON Ross"
To : "MUSGRAVE Kerrie"
Subject : FW: factsheet 2.1
Attachment : factsheet 2.1.docx;

For information – From what I can see on the comment I think the answer would be yes we need it – views only if you have time

Ross

From: FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>
Sent: Wednesday, 23 June 2021 11:14 AM
To: EDDINGTON Ross; SHAW Chris
Subject: factsheet 2.1

Hey there..... I have had another look at the factsheet – and have some questions about the liability section. Wondering if we can have another think about this – happy to chat to verbally express what I have attempted to quickly capture in the notes.

Published on Resources Disclosure Log
RTI Act 2009

Date : 23/06/2021 1:17:57 PM

From : "EDDINGTON Ross"

To : "MUSGRAVE Kerrie"

Subject : RE: factsheet 2.1

Cheers that's my view too – ill see if Chris has any intel on what he meant

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

Sent: Wednesday, 23 June 2021 1:17 PM

To: EDDINGTON Ross

Subject: RE: factsheet 2.1

Yes – I think so.

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

Sent: Wednesday, 23 June 2021 1:16 PM

To: MUSGRAVE Kerrie

Subject: RE: factsheet 2.1

Just so I understand your point le: that is a reason to leave it in/as is?

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

Sent: Wednesday, 23 June 2021 12:58 PM

To: EDDINGTON Ross

Subject: RE: factsheet 2.1

Would maybe provide comfort to landholders where a CCA has not been negotiated and authorised activities (claimed to be preliminary) cause damage.

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

Sent: Wednesday, 23 June 2021 11:38 AM

To: MUSGRAVE Kerrie

Subject: FW: factsheet 2.1

For information – From what I can see on the comment I think the answer would be yes we need it – views only if you have time

Ross

From: FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>

Sent: Wednesday, 23 June 2021 11:14 AM

To: EDDINGTON Ross; SHAW Chris

Subject: factsheet 2.1

Hey there..... I have had another look at the factsheet – and have some questions about the liability section. Wondering if we can have another think about this – happy to chat to verbally express what I have attempted to quickly capture in the notes.

Date : 23/06/2021 1:16:19 PM

From : "EDDINGTON Ross"

To : "MUSGRAVE Kerrie"

Subject : RE: factsheet 2.1

Just so I understand your point le: that is a reason to leave it in/as is?

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

Sent: Wednesday, 23 June 2021 12:58 PM

To: EDDINGTON Ross

Subject: RE: factsheet 2.1

Would maybe provide comfort to landholders where a CCA has not been negotiated and authorised activities (claimed to be preliminary) cause damage.

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

Sent: Wednesday, 23 June 2021 11:38 AM

To: MUSGRAVE Kerrie

Subject: FW: factsheet 2.1

For information – From what I can see on the comment I think the answer would be yes we need it – views only if you have time

Ross

From: FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>

Sent: Wednesday, 23 June 2021 11:14 AM

To: EDDINGTON Ross; SHAW Chris

Subject: factsheet 2.1

Hey there..... I have had another look at the factsheet – and have some questions about the liability section. Wondering if we can have another think about this – happy to chat to verbally express what I have attempted to quickly capture in the notes.

Published on Resources Disclosure Log
RTI Act 2009

Date : 24/06/2021 8:56:48 AM
From : "EDDINGTON Ross"
To : "FERRIS Shaun" , "SHAW Chris"
Subject : RE: factsheet 2.1
Attachment : factsheet 2.2.docx;
Shaun

I have reworded the paragraph on compensation to make clear that it is referring to the general compensation provisions which are independent of whether an activity is preliminary or advanced and then the attachment defines that in further detail. In a way it is a safeguard in the system – ie: even if an activity is misclassified, the fact remains that if something causes harm there is a compensation provision in place.

Grateful for clarification if there have been any comments from the Minister's Office and if/when we are able to publish. For information, the peak bodies and QGFC are asking for it semi-regularly.

Ross

From: FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>
Sent: Wednesday, 23 June 2021 11:14 AM
To: EDDINGTON Ross; SHAW Chris
Subject: factsheet 2.1

Hey there..... I have had another look at the factsheet – and have some questions about the liability section. Wondering if we can have another think about this – happy to chat to verbally express what I have attempted to quickly capture in the notes.

Published on Resources Disclosure Log
RTI Act 2009

Date : 24/06/2021 8:56:48 AM
From : "EDDINGTON Ross"
To : "FERRIS Shaun" , "SHAW Chris"
Subject : RE: factsheet 2.1
Attachment : factsheet 2.2.docx;
Shaun

I have reworded the paragraph on compensation to make clear that it is referring to the general compensation provisions which are independent of whether an activity is preliminary or advanced and then the attachment defines that in further detail. In a way it is a safeguard in the system – ie: even if an activity is misclassified, the fact remains that if something causes harm there is a compensation provision in place.

Grateful for clarification if there have been any comments from the Minister's Office and if/when we are able to publish. For information, the peak bodies and QGFC are asking for it semi-regularly.

Ross

From: FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>
Sent: Wednesday, 23 June 2021 11:14 AM
To: EDDINGTON Ross; SHAW Chris
Subject: factsheet 2.1

Hey there..... I have had another look at the factsheet – and have some questions about the liability section. Wondering if we can have another think about this – happy to chat to verbally express what I have attempted to quickly capture in the notes.

Published on Resources Disclosure Log
RTI Act 2009

Date : 8/07/2021 9:01:57 AM
From : "EDDINGTON Ross"
To : "WARD Steven (Resources)" , "BARTLETT Tanya" , "Warwick Squire"
Subject : Approved Fact Sheet
Attachment : Approved Factsheet for Publication.docx;
Folks

Finally we have the approved factsheet which is attached. We have submitted a web request to have it added to the departmental website.

I will circulate a separate email to peaks and ag groups.

Ross

Published on Resources Disclosure Log
RTI Act 2009

Considerations when 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 in that scenario.

‘Land’ in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ Sub-surface resources are therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still “land” and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property will be considered a preliminary activity for the land access framework if there is no impact, or only a 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 would be required.
- Each circumstance should be assessed individually and considered on a case-by-case basis.
- Landholders who believe a directional well that has been drilled is impacting on their land use or business should contact the proponent who drilled the well and/or the department to discuss the issue.

Entry Notice Requirements

- An entry notice for directional drilling 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.
- Entry notice must comply with the prescribed requirements as outlined in section 17 of the *Mineral and Energy Resources (Common Provisions) Regulation 2016*.

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but does serve as a readily available resource for companies to utilise.

Locating Directional Drilling Wells and Activities

- 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.
- Early engagement 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 important that the design and location of directional wells takes account of landholder input, and the landholder's business or land use activities.

Compensation Liability

- Regardless of whether an activity is a preliminary or advanced activity, 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 for each 'compensatable effect' suffered by the claimant because of the holder's directional drilling activities.
- A 'compensatable effect' is defined in section 81 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act). Further details are provided in the attachment to this factsheet.
- Landholders are not liable to compensate for damages associated with carrying out resource activities occurring on their land, unless they, or someone authorised by them, caused or contributed to the harm.

Further information

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

Further information on the legislative framework is also provided in the Attachment.

² https://www.resources.qld.gov.au/__data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

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)³ and the meaning of “land” in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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’.

³ 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 MERCPC 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 MERCPC 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 MERCPC 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 MERCPC 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 MERCPC 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*

Entry to land

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.

Entry notice requirements

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 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

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:

⁴ *Penalties and Sentences Act 1992*, s 181B.

- 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.

Limitation of owner's or occupier's tortious liability for authorised activities

Section 563A of the P&G Act limits the tortious liability of an owner or occupier of land in the area of a petroleum authority if someone else carries out an authorised activity for a petroleum authority on the land. The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity unless the owner or occupier or someone authorised by the owner or occupier caused or contributed to the harm.

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 bore⁵
- Notice about completion, alteration, or abandonment of petroleum well or bore⁶
- Notice about intention to carry out seismic survey or scientific or technical survey⁷
- Notice about completion of survey or scientific or technical survey⁸
- Notice about intention to carry out hydraulic fracturing activities⁹

⁵ *Petroleum and Gas (General Provisions) Regulation 2017*, s29.

⁶ *Petroleum and Gas (General Provisions) Regulation 2017*, s30.

⁷ *Petroleum and Gas (General Provisions) Regulation 2017*, s31.

⁸ *Petroleum and Gas (General Provisions) Regulation 2017*, s32.

⁹ *Petroleum and Gas (General Provisions) Regulation 2017*, s33.

- Notice about completion of hydraulic activities.¹⁰

Published on Resources Disclosure Log
RTI Act 2009

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017, s34.*

Date : 8/07/2021 10:58:33 AM

From : "EDDINGTON Ross"

To : sch4p4(6) Personal information

Subject : FW: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Attachment : Approved Factsheet for Publication.docx;

Please find attached the final approved version of a new departmental factsheet on Considerations when accessing private land to carry out directional drilling on adjacent land which has been produced to clarify requirements under the relevant legislation. It will also be published on the departments website over the next few days. You are receiving this email as you finally were circulated a draft of the factsheet for comment.

If you have any questions please do not hesitate to reach out and ask

Kind regards

Ross Eddington

Director

Regulatory Support and Performance

Published on Resources Disclosure Log
RTI Act 2009

Date : 8/07/2021 2:05:10 PM
From : "BYRNE Paris"
To : "EDDINGTON Ross"
Subject : FW: WEB-5042 Directional Drilling Fact Sheet
Attachment : image001.png;

FYI



Paris Byrne
Policy Officer
Regulatory Support and Performance | Georesources Policy
Department of Resources

P: 07 3199 8129
E: paris.byrne@resources.qld.gov.au
A: 1 William Street, Brisbane, QLD 4000 | PO BOX 15216, CITY EAST, QLD 4002

From: Sarah Crespin <jira@resources-web.atlassian.net>
Sent: Thursday, 8 July 2021 2:04 PM
To: BYRNE Paris
Subject: WEB-5042 Directional Drilling Fact Sheet

Reply above this line.

Sarah Crespin commented:

Hi Paris

No problem, I can put this job on hold. Just so you're aware, we don't usually publish fact sheets - instead we recommend that the information is presented as HTML and either included as a new page on the website or incorporated onto an existing webpage. If you receive approval to publish this information from the Minister's office I can provide advice about how best to include this online.

sch4 Contrary to public interest

Many thanks

Sarah

Sarah Crespin changed the status to On hold.

[View request](#) · [Turn off this request's notifications](#)

This is shared with paris.byrne@resources.qld.gov.au.

Published on Resources Disclosure Log
RTI Act 2009

Date : 8/07/2021 8:55:06 AM

From : "EDDINGTON Ross"

To : "BYRNE Paris"

Subject : FW: Webpage update - Directional drilling fact sheet

Attachment : Directional Drilling Fact Sheet update.docx;Approved Factsheet for Publication.docx;image001.png;
Paris

Could you please progress this website update and new factsheet please. This is the one that has taken forever to get approved and is being looked for by peaks and industry so its great to have completed.

Kind regards

Ross

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

Sent: Wednesday, 16 June 2021 10:14 AM

To: EDDINGTON Ross

Subject: Webpage update - Directional drilling fact sheet

Hi Ross,

Please review the draft webpage update (**attached**) for the Directional Drilling Fact Sheet.



Kerrie Musgrave

Principal Policy Officer

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

Preliminary activity requirements

The information on this page applies from Friday 19 April 2019.

Preliminary activities are activities that have no impact or only a minor impact on the land use activities or business activities of a landholder. They can include:

- walking the area of the permit
- 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.

However, these activities are not considered preliminary activities if they:

- are carried out on land that is being used for intensive farming or broadacre agriculture that is less than 100ha in size
- affect organic or bioorganic farming.

Who this applies to

The following requirements apply when resource companies enter private land within the area of their resource authority. It applies to all resource authority holders except holders of prospecting permits, mining claims or mining leases. This is because alternative requirements apply to prospecting permits, and to [mining claims and mining leases](#).

A special process applies to gain entry to [private land outside the area of the resource authority](#) and to [restricted land](#) around certain buildings, structures and areas.

Communicating with landholders – advice for resource operators

Good relationships between resource operators and landholders are built on early, transparent and respectful communication.

Before issuing an entry notice, you should contact or visit all impacted landholders to discuss the proposed activities. This will give you a clearer idea of the impacts and allow you to modify your plans, if required, to reduce these. The landholder might also be able to modify their own activities to minimise disruptions.

If you're planning an aerial survey, consider advertising it or holding a community hall meeting to engage with affected landholders.

[A fact sheet is available which 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 in that scenario.](#)

Commented [MK1]: Hyperlink to the Directional Drilling Fact Sheet.

Important: If your operations will have more than a minor impact on the landholder's land use or business activities, you should treat them as [advanced activities](#). You will then need to [negotiate an agreement with the landholder](#).

Entry notice requirements

Before entering private land to carry out preliminary activities, the resource company must give a written notice to each landholder at least 10 business days prior to entry.

The entry notice must include the following details:

- the land proposed to be entered
- the period during which the land is to be entered
- the activities proposed to be carried out on the land
- when and where the activities will be carried out
- the resource authority holder's contact details or those of their representative.

The initial entry notice should also include a copy of:

- the resource authority
- the relevant environmental authority
- the Land Access Code
- any relevant code or code of practice made under a resource Act that applies to the authorised activities for the resource authority
- [a guide to land access in Queensland \(PDF, 1.8MB\)](#).

Note: Resource companies are no longer required to provide copies of entry notices to the Department of Resources. In addition, the Mines Online system can no longer be used to generate entry notices.

Entry notice template

Resource companies can use the [entry notice template](#) to help meet the entry and access requirements. This template includes best-practice examples that will help ensure that landholders have enough information to assess the impact on their operations.

Waiver of entry notice

A landholder can choose to waive the requirements for entry notices by providing a written waiver. The waiver notice must include a statement that the landholder has been advised that they are not required to give a waiver.

Other land access requirements

Resource companies must comply with the mandatory conditions of the [Land Access Code](#) when carrying out authorised activities on a landholder's land. These conditions cannot be altered or waived by agreement. All parties are encouraged to comply with the code's best practice recommendations.

Entry to [restricted land](#) around certain buildings, structures or areas requires the written consent of the landholder.

Also consider...

- Find out about lodging [land access notifications for coal and mineral activities](#) and [land access notifications for petroleum and gas activities](#).
- [Make an enquiry or complaint](#) about land access.
- Read details about land access requirements in [a guide to land access in Queensland \(PDF, 1.8MB\)](#).
- **Previous** Accessing private land for resource activities
 - **Next** Advanced activity requirements

Date : 8/07/2021 9:09:12 AM

From : "EDDINGTON Ross"

To sch4p4(6) Personal information

Subject : New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Attachment : Approved Factsheet for Publication.docx;

Please find attached a new departmental factsheet on Considerations when accessing private land to carry out directional drilling on adjacent land which has been produced to clarify requirements under the relevant legislation.

If you have any questions please do not hesitate to reach out and ask

Kind regards

Ross Eddington

Published on Resources Disclosure Log
RTI Act 2009

Considerations when 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 in that scenario.

‘Land’ in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ Sub-surface resources are therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still “land” and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property will be considered a preliminary activity for the land access framework if there is no impact, or only a 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 would be required.
- Each circumstance should be assessed individually and considered on a case-by-case basis.
- Landholders who believe a directional well that has been drilled is impacting on their land use or business should contact the proponent who drilled the well and/or the department to discuss the issue.

Entry Notice Requirements

- An entry notice for directional drilling 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.
- Entry notice must comply with the prescribed requirements as outlined in section 17 of the *Mineral and Energy Resources (Common Provisions) Regulation 2016*.

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but does serve as a readily available resource for companies to utilise.

Locating Directional Drilling Wells and Activities

- 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.
- Early engagement 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 important that the design and location of directional wells takes account of landholder input, and the landholder's business or land use activities.

Compensation Liability

- Regardless of whether an activity is a preliminary or advanced activity, 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 for each 'compensatable effect' suffered by the claimant because of the holder's directional drilling activities.
- A 'compensatable effect' is defined in section 81 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act). Further details are provided in the attachment to this factsheet.
- Landholders are not liable to compensate for damages associated with carrying out resource activities occurring on their land, unless they, or someone authorised by them, caused or contributed to the harm.

Further information

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

Further information on the legislative framework is also provided in the Attachment.

² https://www.resources.qld.gov.au/__data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

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)³ and the meaning of “land” in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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’.

³ 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 MERCPC 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 MERCPC 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 MERCPC 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 MERCPC 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 MERCPC 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*

Entry to land

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.

Entry notice requirements

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 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

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:

⁴ *Penalties and Sentences Act 1992*, s 181B.

- 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.

Limitation of owner's or occupier's tortious liability for authorised activities

Section 563A of the P&G Act limits the tortious liability of an owner or occupier of land in the area of a petroleum authority if someone else carries out an authorised activity for a petroleum authority on the land. The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity unless the owner or occupier or someone authorised by the owner or occupier caused or contributed to the harm.

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 bore⁵
- Notice about completion, alteration, or abandonment of petroleum well or bore⁶
- Notice about intention to carry out seismic survey or scientific or technical survey⁷
- Notice about completion of survey or scientific or technical survey⁸
- Notice about intention to carry out hydraulic fracturing activities⁹

⁵ *Petroleum and Gas (General Provisions) Regulation 2017*, s29.

⁶ *Petroleum and Gas (General Provisions) Regulation 2017*, s30.

⁷ *Petroleum and Gas (General Provisions) Regulation 2017*, s31.

⁸ *Petroleum and Gas (General Provisions) Regulation 2017*, s32.

⁹ *Petroleum and Gas (General Provisions) Regulation 2017*, s33.

- Notice about completion of hydraulic activities.¹⁰

Published on Resources Disclosure Log
RTI Act 2009

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017, s34.*

Date : 8/07/2021 10:02:46 AM

From : sch4p4(6) Personal inform

To : "EDDINGTON Ross", sch4p4(6) Personal information

Subject : RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Attachment : image001.jpg;

Thanks for this Ross.

When will the factsheet be available online?

sch4p4(6) Personal info

Director, Resources Policy
Queensland Resources Council

sch4p4(6) Person

sch4p4(6) sch4p4(6)



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

Sent: Thursday, 8 July 2021 9:09 AM

To: sch4p4(6) Personal information

Subject: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Caution: External sender

Please find attached a new departmental factsheet on Considerations when accessing private land to carry out directional drilling on adjacent land which has been produced to clarify requirements under the relevant legislation.

If you have any questions please do not hesitate to reach out and ask

Kind regards

Ross Eddington

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.

E-mail Disclaimer: The information contained in this e-mail, and in any accompanying documents, may constitute confidential and/or legally privileged information. The information is intended only for use by the intended recipient. If you are not the intended recipient (or responsible for the delivery of the message to the intended recipient), you are hereby notified that any dissemination, distribution, copying, or other use of, or taking of any action in reliance on this e-mail is strictly prohibited. If you have received this email communication in error, please notify the sender immediately and delete the message from your system.

Date : 8/07/2021 8:56:14 AM
From : "BYRNE Paris"
To : "EDDINGTON Ross"
Subject : RE: Webpage update - Directional drilling fact sheet
Attachment : image001.png;
Yep sure



Paris Byrne
Policy Officer
Regulatory Support and Performance | Georesources Policy
Department of Resources

P: 07 3199 8129
E: paris.byrne@resources.qld.gov.au
A: 1 William Street, Brisbane, QLD 4000 | PO BOX 15216, CITY EAST, QLD 4002

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Thursday, 8 July 2021 8:55 AM
To: BYRNE Paris
Subject: FW: Webpage update - Directional drilling fact sheet

Paris

Could you please progress this website update and new factsheet please. This is the one that has taken forever to get approved and is being looked for by peaks and industry so its great to have completed.

Kind regards

Ross

From: MUSGRAVE Kerrie <Kerrie.Musgrave@resources.qld.gov.au>
Sent: Wednesday, 16 June 2021 10:14 AM
To: EDDINGTON Ross
Subject: Webpage update - Directional drilling fact sheet

Hi Ross,

Please review the draft webpage update (**attached**) for the Directional Drilling Fact Sheet.



Kerrie Musgrave
Principal Policy Officer
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 : 8/07/2021 10:33:01 AM

From : "EDDINGTON Ross"

To : sch4p4(6) Personal info

Subject : Re: Approved Fact Sheet

Yes sent to peaks (not yet ag bodies). It's difficult to get visibility of exactly when letter will be sent but will try. It's been approved in MECS and is now up to min office to action I think

Sent from my iPhone

On 8 Jul 2021, at 10:11 am, sch4p4(6) Personal information wrote:

Thanks Ross,

So can I confirm the document has been sent to peak bodies already? And also, the Min letter hasn't gone yet? Will be keen to know when it has as we will no doubt be getting enquiries pretty soon after it lands.

Cheers

sch4p

sch4p4(6) Perso

GFCQ A/CEO

sch4p4(6) Personal information

www.gfcq.org.au

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

Sent: Thursday, 8 July 2021 9:53 AM

To: sch4p4(6) Personal information

Subject: RE: Approved Fact Sheet

Hi sch4p4(6)

The Minister will send a letter (based on your draft) to the attendees of the meetings he went to a few weeks back. They have also been sent to peaks for further distribution.

Ross

From: sch4p4(6) Personal information

Sent: Thursday, 8 July 2021 9:39 AM

To: EDDINGTON Ross; WARD Steven (Resources); BARTLETT Tanya

Subject: RE: Approved Fact Sheet

Thanks Ross,

Is there likely to be any pro-active media or comms on the fact sheet?

Cheers

sch4p4(6)

sch4p4(6) Perso

GFCQ A/CEO

sch4p4(6) Personal information

www.gfcq.org.au

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

Sent: Thursday, 8 July 2021 9:02 AM

To: WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>; BARTLETT Tanya <Tanya.Bartlett@resources.qld.gov.au>;

sch4p4(6) Personal information

Subject: Approved Fact Sheet

Folks

Finally we have the approved factsheet which is attached. We have submitted a web request to have it added to the departmental website.

I will circulate a separate email to peaks and ag groups.

Ross
21-461

File C

Page 102 of 214

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 on Resources Disclosure Log
RTI Act 2009

Date : 8/07/2021 9:01:57 AM

From : "EDDINGTON Ross"

To : "WARD Steven (Resources)" , "BARTLETT Tanya" , sch4p4(6) Personal ir

Subject : Approved Fact Sheet

Attachment : Approved Factsheet for Publication.docx;

Folks

Finally we have the approved factsheet which is attached. We have submitted a web request to have it added to the departmental website.

I will circulate a separate email to peaks and ag groups.

Ross

Published on Resources Disclosure Log
RTI Act 2009

Date : 8/07/2021 9:52:49 AM
From : "EDDINGTON Ross"
To : sch4p4(6) Personal i
Subject : RE: Approved Fact Sheet
Hi sch4p4(6)

The Minister will send a letter (based on your draft) to the attendees of the meetings he went to a few weeks back. They have also been sent to peaks for further distribution.

Ross

From: sch4p4(6) Personal information
Sent: Thursday, 8 July 2021 9:39 AM
To: EDDINGTON Ross; WARD Steven (Resources); BARTLETT Tanya
Subject: RE: Approved Fact Sheet

Thanks Ross,

Is there likely to be any pro-active media or comms on the fact sheet?

Cheers

sch4p4(6)

sch4p4(6) Persc

GFCQ A/CEO

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

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Thursday, 8 July 2021 9:02 AM
To: WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>; BARTLETT Tanya <Tanya.Bartlett@resources.qld.gov.au>; sch4p4(6) Persc
sch4p4(6) Personal information
Subject: Approved Fact Sheet

Folks

Finally we have the approved factsheet which is attached. We have submitted a web request to have it added to the departmental website.

I will circulate a separate email to peaks and ag groups.

Ross

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.

Date : 8/07/2021 2:37:58 PM

From : "EDDINGTON Ross"

To : "SHAW Chris"

Subject : draft of proposed email

Dear (to be sent to QRC/AMEC/APPEA)

I wrote to you earlier today asking for you to hold off on further distributing the factsheet I had previously sent. The purpose of that email was to offer you some space should you require it, as peak bodies, another chance to review and make any final comments on the document since you had last seen it during the review phase. If you have any comments that might be incorporated in a future draft, please let me know by return email as soon as possible.

Regards

Etc etc.

Published on Resources Disclosure Log
RTI Act 2009

Date : 8/07/2021 3:42:24 PM

From : "EDDINGTON Ross"

To : sch4p4(6) Personal information

sch4p4(6) Personal information

Cc : "Warwick Squire"

Subject : Factsheet from earlier today.

Dear All

I wrote to you earlier today asking for you to hold off on further distributing the factsheet I had previously sent. The intent of this email was to provide the opportunity to review and make any final comments on the document given the revisions it has undergone since you last saw it. If you have any comments that might be incorporated in the final version, please let me know by return email by close of business 15 July 2021.

Regards

Ross Eddington
Director
Regulatory Support and Performance
Department of Resources

Published on Resources Disclosure Log
RTI Act 2009

Date : 8/07/2021 1:14:49 PM

From : "EDDINGTON Ross"

To : sch4p4(6) Personal information

Cc sch4p4(6) Personal information

Subject : factsheet

Folks

Further to the email this morning it is requested that you do not distribute it further until further notice and is for your own use at the moment. We have just been asked to await one further piece of information.

Many thanks

Ross Eddington

Director

Service Training and Regulatory Support

Published on Resources Disclosure Log
RTI Act 2009

Date : 8/07/2021 9:09:12 AM

From : "EDDINGTON Ross"

To : sch4p4(6) Personal information

Subject : New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Attachment : Approved Factsheet for Publication.docx;

Please find attached a new departmental factsheet on Considerations when accessing private land to carry out directional drilling on adjacent land which has been produced to clarify requirements under the relevant legislation.

If you have any questions please do not hesitate to reach out and ask

Kind regards

Ross Eddington

Published on Resources Disclosure Log
RTI Act 2009

Date : 8/07/2021 3:44:30 PM

From : sch4p4(6) Personal

To : "EDDINGTON Ross"

Subject : RE: Factsheet from earlier today.

Thanks Ross

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

Sent: Thursday, 8 July 2021 3:42 PM

To sch4p4(6) Personal information

sch4p4(6) Personal information

Cc: sch4p4(6) Personal information

Subject: Factsheet from earlier today.

Dear All

I wrote to you earlier today asking for you to hold off on further distributing the factsheet I had previously sent. The intent of this email was to provide the opportunity to review and make any final comments on the document given the revisions it has undergone since you last saw it. If you have any comments that might be incorporated in the final version, please let me know by return email by close of business 15 July 2021.

Regards

Ross Eddington
Director
Regulatory Support and Performance
Department of Resources

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.

Date : 8/07/2021 1:16:28 PM
From : sch4p4(6) Personal inform
To : "EDDINGTON Ross"
Cc : sch4p4(6) Person
Subject : RE: factsheet
Attachment : image001.jpg;

Hi Ross, I am afraid we have already distributed to our members.

Happy to provide an updated version once its available.

sch4p4(6) Personal info
Director, Resources Policy
Queensland Resources Council
sch4p4(6) Person



From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Thursday, 8 July 2021 1:15 PM
To: sch4p4(6) Personal information
sch4p4(6) Personal informat
Cc: sch4p4(6) Personal information
Subject: factsheet

Caution: External sender

Folks

Further to the email this morning it is requested that you do not distribute it further until further notice and is for your own use at the moment. We have just been asked to await one further piece of information.

Many thanks

Ross Eddington
Director
Service Training and Regulatory Support

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.

E-mail Disclaimer: The information contained in this e-mail, and in any accompanying documents, may constitute confidential and/or legally privileged information. The information is intended only for use by the intended recipient. If you are not the intended recipient (or responsible for the delivery of the message to the intended recipient), you are hereby notified that any dissemination, distribution, copying, or other use of, or taking of any action in reliance on this e-mail is strictly prohibited. If you have received this email communication in error, please notify the sender immediately and delete the message from your system

Date : 8/07/2021 3:05:26 PM

From : "SHAW Chris"

To : "EDDINGTON Ross" , "FERRIS Shaun"

Subject : RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Hi Shaun, below is the draft to go to the peaks from Ross this afternoon. Please let us know if you have any changes.

Dear (to be sent to QRC/AMEC/APPEA/AgForce/QFF)

I wrote to you earlier today asking for you to hold off on further distributing the factsheet I had previously sent. I wanted to clarify the purpose of that email was to offer you some space should you require it, as peak bodies, another chance to review and make any final comments on the document since you had last seen it during the review phase. If you have any comments that might be incorporated in the final version, please let me know by return email by close of business 15 July 2021.

Regards

Ross Eddington

From: EDDINGTON Ross

Sent: Thursday, 8 July 2021 9:09 AM

To: sch4p4(6) Personal information

Subject: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Please find attached a new departmental factsheet on Considerations when accessing private land to carry out directional drilling on adjacent land which has been produced to clarify requirements under the relevant legislation.

If you have any questions please do not hesitate to reach out and ask

Kind regards

Ross Eddington

Published on Resources Disclosure Log
RTI Act 2009

Date : 8/07/2021 9:39:20 AM

From : "Warwick Squire"

To : "EDDINGTON Ross" , "WARD Steven (Resources)" , "BARTLETT Tanya"

Subject : RE: Approved Fact Sheet

Thanks Ross,

Is there likely to be any pro-active media or comms on the fact sheet?

Cheers

[Redacted]

[Redacted] Perso

GFCQA/CEO

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

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

Sent: Thursday, 8 July 2021 9:02 AM

To: WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>; BARTLETT Tanya <Tanya.Bartlett@resources.qld.gov.au>; [Redacted] Perso

[Redacted] Personal information

Subject: Approved Fact Sheet

Folks

Finally we have the approved factsheet which is attached. We have submitted a web request to have it added to the departmental website.

I will circulate a separate email to peaks and ag groups.

Ross

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.

Date : 14/07/2021 1:21:21 PM

From : "EDDINGTON Ross"

To : "MUSGRAVE Kerrie"

Subject : FW: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Attachment : Approved Factsheet for Publication.docx;image001.png;

Kerrie

Have you got any thoughts on the below request and how (if we chose) we could reword the sentence

I was thinking

- Regardless of whether an activity is a preliminary or advanced activity, 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 **if and when** a 'compensatable effect' suffered by the claimant **occurs** because of the holder's directional drilling activities.

From [sch4p4(6) Personal information]

Sent: Thursday, 8 July 2021 2:35 PM

To: EDDINGTON Ross

Cc: SHAW Chris; FERRIS Shaun

Subject: RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Hi Ross

Could you consider rewording this dot point on the second page under the "Compensation Liability" heading:

- Regardless of whether an activity is a preliminary or advanced activity, 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 for each 'compensatable effect' suffered by the claimant because of the holder's directional drilling activities.

The wording gives the sense that land holders can claim 'compensatable effect' simply because there is directional drilling – see the word 'suffered'. There is no sense here of the difference between actual and proven effects at the time of drilling, vs those that MAY potentially occur in the future. A land holder could read this and think that the potential future impacts can be claimed now.

Whilst proponents will be liable for any future potential compensatable impacts, the fact sheet would be clearer if it distinguished between actual impacts known at the time of drilling and those that may eventuate in the future, and are therefore potential impacts and not subject to compensation at the time of the drilling.

Best regards,

[sch4p]

[sch4p4(6) Perso

A/g Queensland Director

m [sch4p4(6) Personal infor

e [redacted]

[sch4p4(6) Personal inform



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

Sent: Thursday, 8 July 2021 9:09 AM

To: [sch4p4(6) Personal information]

Subject: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Please find attached a new departmental factsheet on Considerations when accessing private land to carry out directional drilling on adjacent land which has been produced to clarify requirements under the relevant legislation.

If you have any questions please do not hesitate to reach out and ask

Kind regards

Ross Eddington

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 on Resources Disclosure Log
RTI Act 2009

Date : 15/07/2021 8:45:52 AM

From : sch4p4(6) Personal

To : "EDDINGTON Ross"

Cc : "Chris.Shaw@resources.qld.gov.au" , "FERRIS Shaun"

Subject : RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Attachment : Approved Factsheet for Publication - APPEA comments.docx;image001.png;

Hi Ross

APPEA comments on the directional drilling fact sheet are attached.

Best regards,

sch4p4

sch4p4(6) Perso

A/g Queensland Director

m sch4p4(6) Personal infor

e

sch4p4(6) Personal inform

ENERGY FOR A
BETTER AUSTRALIA



From: sch4p4(6) Perso

Sent: Thursday, 8 July 2021 2:35 PM

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

Cc: Chris.Shaw@resources.qld.gov.au; FERRIS Shaun <shaun.ferris@resources.qld.gov.au>

Subject: RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Hi Ross

Could you consider rewording this dot point on the second page under the "Compensation Liability" heading:

- Regardless of whether an activity is a preliminary or advanced activity, 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 for each 'compensatable effect' suffered by the claimant because of the holder's directional drilling activities.

The wording gives the sense that land holders can claim 'compensatable effect' simply because there is directional drilling – see the word 'suffered'. There is no sense here of the difference between actual and proven effects at the time of drilling, vs those that MAY potentially occur in the future. A land holder could read this and think that the potential future impacts can be claimed now.

Whilst proponents will be liable for any future potential compensatable impacts, the fact sheet would be clearer if it distinguished between actual impacts known at the time of drilling and those that may eventuate in the future, and are therefore potential impacts and not subject to compensation at the time of the drilling.

Best regards,

sch4p4

sch4p4(6) Perso

A/g Queensland Director

m sch4p4(6) Personal infor

e

sch4p4(6) Personal inform

ENERGY FOR A
BETTER AUSTRALIA



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

Sent: Thursday, 8 July 2021 9:09 AM

To: sch4p4(6) Personal information

Subject: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Please find attached a new departmental factsheet on Considerations when accessing private land to carry out directional drilling on adjacent land which has been produced to clarify requirements under the relevant legislation.

If you have any questions please do not hesitate to reach out and ask

Kind regards

Ross Eddington

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 on Resources Disclosure
RTI Act 2009

Considerations when 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 in that scenario.

'Land' in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ ~~Sub-surface resources land is~~are therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still "land" ~~under the petroleum legislation and~~and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Commented [MP1]: More correct to say "land" rather than "resources" and it's an important point in this context

Commented [MP2]: These points don't quite make sense without reference to the legislation. At common law point 2 applies. Statutorily in Queensland for the purpose of petroleum activity, point 4 applies.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property will be ~~considered~~a preliminary activity for the land access framework if there is no impact, or only a minor, impact on a landholder's business or land use activities.
- ~~An entry notice is required for a preliminary activity.~~
- ~~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 would be required.~~
- ~~Each circumstance should be assessed individually and considered on a case-by-case basis.~~
- ~~Directional drilling below the surface of land on a neighbouring property will be an advanced activity where:~~
 - ~~(a) the neighbouring property is less than 100 hectares and is being used for intensive farming or broadacre agriculture; or~~
 - ~~(b) the directional drilling has a major impact on a landholder's business or land use, or where it affects the lawful carrying out of an organic or bio-organic farming system.~~
- ~~Conduct and compensation agreements, deferral agreements, or an opt-out agreements are required for advanced activities.~~
- Landholders who believe ~~that part of~~ a directional well that has been drilled ~~beneath the surface of their property is having a major impact~~is impacting on their land use or

Commented [MP3]: This is vague and creates significant uncertainty for both landowners and industry. Who determines the impact if not the State? Where does the burden of proof lie for an impact being "greater"? The simple delineation for preliminary or advanced activity for sub-surface directional drilling should focus on s.15B(2) and/or a "major impact" being the corollary of "no impact" or "only a minor impact" for preliminary activities. That is, directional drilling under the surface of a neighbouring property **is a preliminary activity** unless the drilling occurs under land to which s.15B(2) applies or where there is a major impact to a landholder's business or land use.

Commented [MP4]: If "no impact" or "only a minor impact" is the threshold for a preliminary activity, then "major" must be the threshold for a landholder contacting the proponent or the department to discuss?

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

business should contact the proponent who drilled the well and/or the department to discuss the issue.

Entry Notice Requirements

- An entry notice for directional drilling 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.
- Entry notice must comply with the prescribed requirements as outlined in section 17 of the *Mineral and Energy Resources (Common Provisions) Regulation 2016*.
- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but does serve as a readily available resource for companies to utilise.

Locating Directional Drilling Wells and Activities

- 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.
- Early engagement will provide landholders the opportunity to assess any impact that the activities may have on their business and land use activities.
- It is important that the design and location of directional wells takes account of landholder input, and the landholder's business or land use activities.

Compensation Liability

- Regardless of whether an activity is a preliminary or advanced activity, 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 for each 'compensatable effect' that occur because of the holder's directional drilling activities undertaken within the boundaries of the adjacent owner's or occupier's land. Potential impacts that may or may not occur in the future are not compensatable at the time of drilling, and would only be compensatable if realised.
- A 'compensatable effect' is defined in section 81 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act). Further details are provided in the attachment to this factsheet.
- Landholders are not liable to any person for damages associated with the resource authority holder carrying out its activities occurring on a landholder's land, unless the landholder, or someone authorised by them, caused or contributed to the harm.

Further information

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

² https://www.resources.qld.gov.au/__data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

Commented [MP5]: There is no negotiation if it's a preliminary activity the subject of an entry notice. This muddies the waters between preliminary and advanced.

Commented [MP6]: Must link to activities within the cadastral boundaries of the adjacent land.

Commented [MP7]: This part isn't clear, is it meant to cover s.563A of the P&G Act?

Further information on the legislative framework is also provided in the Attachment.

Published on Resources Disclosure Log
RTI Act 2009

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

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)³ and the meaning of "land" in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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'.

³ 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*

Entry to land

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.

Entry notice requirements

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 MERC 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 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

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:

⁴ *Penalties and Sentences Act 1992*, s 181B.

- 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.

Limitation of owner's or occupier's tortious liability for authorised activities

Section 563A of the P&G Act limits the tortious liability of an owner or occupier of land in the area of a petroleum authority if someone else carries out an authorised activity for a petroleum authority on the land. The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity unless the owner or occupier or someone authorised by the owner or occupier caused or contributed to the harm.

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 bore⁵
- Notice about completion, alteration, or abandonment of petroleum well or bore⁶
- Notice about intention to carry out seismic survey or scientific or technical survey⁷
- Notice about completion of survey or scientific or technical survey⁸
- Notice about intention to carry out hydraulic fracturing activities⁹

⁵ *Petroleum and Gas (General Provisions) Regulation 2017*, s29.

⁶ *Petroleum and Gas (General Provisions) Regulation 2017*, s30.

⁷ *Petroleum and Gas (General Provisions) Regulation 2017*, s31.

⁸ *Petroleum and Gas (General Provisions) Regulation 2017*, s32.

⁹ *Petroleum and Gas (General Provisions) Regulation 2017*, s33.

- Notice about completion of hydraulic activities.¹⁰

Published on Resources Disclosure Log
RTI Act 2009

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017, s34.*

Date : 15/07/2021 10:22:26 AM

From : "LLOYD Kahil"

To : "EDDINGTON Ross" , "SHAW Chris"

Cc : "MUSGRAVE Kerrie"

Subject : RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Attachment : image001.png;

No issues from me.

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

Sent: Thursday, 15 July 2021 9:42 AM

To: LLOYD Kahil; SHAW Chris

Cc: MUSGRAVE Kerrie

Subject: FW: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Chris/Kahil (And Kerrie)

We have received further detailed feedback on the fact sheet from [sch4p4(6)] (he had previously submitted only one comment). Could Kerrie please have some time made available from her current duties to review and provide feedback on the comments APPEA has made given her legal background and familiarity with the factsheet (as the author)

As you are aware there is some urgency to get this out given the issues in the Downs

Ross

From: [sch4p4(6) Personal information]

Sent: Thursday, 15 July 2021 8:46 AM

To: EDDINGTON Ross

Cc: SHAW Chris; FERRIS Shaun

Subject: RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Hi Ross

APPEA comments on the directional drilling fact sheet are attached.

Best regards,

[sch4p

[sch4p4(6) Perso

A/g Queensland Director

m [sch4p4(6) Personal infor

e [redacted]



From: [sch4p4(6) Pers

Sent: Thursday, 8 July 2021 2:35 PM

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

Cc: Chris.Shaw@resources.qld.gov.au; FERRIS Shaun <shaun.ferris@resources.qld.gov.au>

Subject: RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Hi Ross

Could you consider rewording this dot point on the second page under the "Compensation Liability" heading:

- Regardless of whether an activity is a preliminary or advanced activity, 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 for each 'compensatable effect' suffered by the claimant because of the holder's directional drilling activities.

The wording gives the sense that land holders can claim 'compensatable effect' simply because there is directional drilling – see the word 'suffered'. There is no sense here of the difference between actual and proven effects at the time of drilling, vs those that MAY potentially occur in the future. A land holder could read this and think that the potential future impacts can be claimed now.

Whilst proponents will be liable for any future potential compensatable impacts, the fact sheet would be clearer if it distinguished between actual impacts known at the time of drilling and those that may eventuate in the future, and are therefore potential impacts and not subject to compensation at the time of the drilling.

Best regards,

[redacted]

[redacted]

A/g Queensland Director

m [redacted]

e [redacted]

[redacted]

**ENERGY FOR A
BETTER AUSTRALIA**



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

Sent: Thursday, 8 July 2021 9:09 AM

To: [redacted]

Subject: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Please find attached a new departmental factsheet on Considerations when accessing private land to carry out directional drilling on adjacent land which has been produced to clarify requirements under the relevant legislation.

If you have any questions please do not hesitate to reach out and ask

Kind regards

Ross Eddington

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.

Date : 15/07/2021 11:41:56 AM

From : "MUSGRAVE Kerrie"

To : "EDDINGTON Ross" , "LLOYD Kahil" , "SHAW Chris"

Subject : RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Attachment : Approved Factsheet for Publication - APPEA comments_kmus.docx;image002.png;image003.png;

Hi Ross, Kahil and Chris,

I have reviewed APPEA's feedback and have replied to the comments in the document.

Happy to discuss.



Kerrie Musgrave
Principal Policy Officer
Reform
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, 15 July 2021 9:42 AM

To: LLOYD Kahil; SHAW Chris

Cc: MUSGRAVE Kerrie

Subject: FW: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Chris/Kahil (And Kerrie)

We have received further detailed feedback on the fact sheet from [sch4p4(6)] (he had previously submitted only one comment). Could Kerrie please have some time made available from her current duties to review and provide feedback on the comments APPEA has made given her legal background and familiarity with the factsheet (as the author)

As you are aware there is some urgency to get this out given the issues in the Downs

Ross

From: [sch4p4(6)] Personal information

Sent: Thursday, 15 July 2021 8:46 AM

To: EDDINGTON Ross

Cc: SHAW Chris; FERRIS Shaun

Subject: RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Hi Ross

APPEA comments on the directional drilling fact sheet are attached.

Best regards,

[sch4p]

[sch4p4(6)] Perso

A/g Queensland Director

m [sch4p4(6)] Personal inform

e

[sch4p4(6)] Personal inform

**ENERGY FOR A
BETTER AUSTRALIA**



From: sch4p4(6) Pers
Sent: Thursday, 8 July 2021 2:35 PM
To: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Cc: Chris.Shaw@resources.qld.gov.au; FERRIS Shaun <shaun.ferris@resources.qld.gov.au>
Subject: RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Hi Ross

Could you consider rewording this dot point on the second page under the "Compensation Liability" heading:

- Regardless of whether an activity is a preliminary or advanced activity, 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 for each 'compensatable effect' suffered by the claimant because of the holder's directional drilling activities.

The wording gives the sense that land holders can claim 'compensatable effect' simply because there is directional drilling – see the word 'suffered'. There is no sense here of the difference between actual and proven effects at the time of drilling, vs those that MAY potentially occur in the future. A land holder could read this and think that the potential future impacts can be claimed now.

Whilst proponents will be liable for any future potential compensatable impacts, the fact sheet would be clearer if it distinguished between actual impacts known at the time of drilling and those that may eventuate in the future, and are therefore potential impacts and not subject to compensation at the time of the drilling.

Best regards,

sch4p

sch4p4(6) Perso
A/g Queensland Director
m sch4p4(6) Personal inform
e

sch4p4(6) Personal inform

**ENERGY FOR A
BETTER AUSTRALIA**



From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Thursday, 8 July 2021 9:09 AM
To: sch4p4(6) Personal information
Subject: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Please find attached a new departmental factsheet on Considerations when accessing private land to carry out directional drilling on adjacent land which has been produced to clarify requirements under the relevant legislation.

If you have any questions please do not hesitate to reach out and ask

Kind regards

Ross Eddington

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.

Considerations when 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 in that scenario.

'Land' in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ Sub-surface land is therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still "land" under the petroleum legislation and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Commented [MP1]: More correct to say "land" rather than "resources" and it's an important point in this context

Commented [MK2R1]: Change accepted.

Commented [MP3]: These points don't quite make sense without reference to the legislation. At common law point 2 applies. Statutorily in Queensland for the purpose of petroleum activity, point 4 applies.

Commented [MK4R3]: Change accepted.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property will be considered a preliminary activity for the land access framework if there is no impact, or only a minor, impact on a landholder's business or land use activities.
An entry notice is required for a preliminary activity.
- 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 would be required.
- Each circumstance should be assessed individually and considered on a case-by-case basis.
- Directional drilling below the surface of land on a neighbouring property will be an advanced activity where:
 - (a) the neighbouring property is less than 100 hectares and is being used for intensive farming or broadacre agriculture; or
 - (b) the directional drilling has a major impact on a landholder's business or land use, or where it affects the lawful carrying out of an organic or bio-organic farming system.
- Conduct and compensation agreements, deferral agreements, or an opt-out agreements are required for advanced activities.
- Landholders who believe that part of a directional well that has been drilled beneath the surface of their property having a major impact is impacting on their land use or

Commented [MK5]: Entry notice requirements are dealt with under the following heading and apply to both preliminary and advanced activities.

Commented [MP6]: This is vague and creates significant uncertainty for both landowners and industry. Who determines the impact if not the State? Where does the burden of proof lie for an impact being "greater"? The simple delineation for preliminary or advanced activity for sub-surface directional drilling should focus on s.15B(2) and/or a "major impact" being the corollary of "no impact" or "only a minor impact" for preliminary activities. That is, direction drilling under the surface of a neighbouring property *is a preliminary activity* unless the drilling occurs under land to which s.15B(2) applies or where there is a major impact to a landholder's business or land use.

Commented [MK7R6]: All proposed changes rejected. The determination of whether an activity is preliminary or advanced is that agreed to by the landholder and the resource company after considering the extent of the impact of the resource activity on the landholder's business or land use activities. This must be case by case and is supported by the best practice guidelines in the Land Access Code for communication between resource companies and owners and occupiers of private land.

Commented [MP8]: If "no impact" or "only a minor impact" is the threshold for a preliminary activity, then "major" must be the threshold for a landholder contacting the proponent or the department to discuss?

Commented [MK9R8]: The introduction of the term "major impact" is not necessary – preliminary and advanced activities are defined. This proposed change is rejected. It is not appropriate for the department to decide the level of impact – see the comment above.

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

business should contact the proponent who drilled the well and/or the department to discuss the issue.

Entry Notice Requirements

- An entry notice for directional drilling 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.
- Entry notice must comply with the prescribed requirements as outlined in section 17 of the *Mineral and Energy Resources (Common Provisions) Regulation 2016*.
- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but does serve as a readily available resource for companies to utilise.

Locating Directional Drilling Wells and Activities

- 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.
- Early engagement will provide landholders the opportunity to negotiate the location of activities and assess any impact that the activities may have on their business and land use activities.
- It is important that the design and location of directional wells takes account of landholder input, and the landholder's business or land use activities.

Commented [MP10]: There is no negotiation if it's a preliminary activity the subject of an entry notice. This muddies the waters between preliminary and advanced.

Commented [MK11R10]: Proposed change rejected. Directional drilling may be preliminary or advanced – cannot state it is categorically 'preliminary' – see the comment above

Compensation Liability

- Regardless of whether an activity is a preliminary or advanced activity, 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 for each 'compensatable effect' that occur because of the holder's directional drilling activities undertaken within the cadastral boundaries of the adjacent owner's or occupier's land. Potential impacts that may or may not occur in the future are not compensatable at the time of drilling, and would only be compensatable if realised.
- A 'compensatable effect' is defined in section 81 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act). Further details are provided in the attachment to this factsheet.
- Landholders are not liable to any person for damages associated with the resource authority holder carrying out its activities occurring on a landholder's land, unless the landholder, or someone authorised by them, caused or contributed to the harm.

Commented [MP12]: Must link to activities within the cadastral boundaries of the adjacent land.

Commented [MK13R12]: Added 'cadastral' and accepted the highlighted sentence.

Formatted: Highlight

Commented [MP14]: This part isn't clear, is it meant to cover s.563A of the P&G Act?

Commented [MK15R14]: Yes – refers to section 563A of the P&G Act – proposed changes accepted.

Further information

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

² https://www.resources.qld.gov.au/__data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

Further information on the legislative framework is also provided in the Attachment.

Published on Resources Disclosure Log
RTI Act 2009

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

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)³ and the meaning of "land" in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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'.

³ 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*

Entry to land

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.

Entry notice requirements

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 MERC 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 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

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:

⁴ *Penalties and Sentences Act 1992*, s 181B.

- 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.

Limitation of owner's or occupier's tortious liability for authorised activities

Section 563A of the P&G Act limits the tortious liability of an owner or occupier of land in the area of a petroleum authority if someone else carries out an authorised activity for a petroleum authority on the land. The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity unless the owner or occupier or someone authorised by the owner or occupier caused or contributed to the harm.

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 bore⁵
- Notice about completion, alteration, or abandonment of petroleum well or bore⁶
- Notice about intention to carry out seismic survey or scientific or technical survey⁷
- Notice about completion of survey or scientific or technical survey⁸
- Notice about intention to carry out hydraulic fracturing activities⁹

⁵ *Petroleum and Gas (General Provisions) Regulation 2017*, s29.

⁶ *Petroleum and Gas (General Provisions) Regulation 2017*, s30.

⁷ *Petroleum and Gas (General Provisions) Regulation 2017*, s31.

⁸ *Petroleum and Gas (General Provisions) Regulation 2017*, s32.

⁹ *Petroleum and Gas (General Provisions) Regulation 2017*, s33.

- Notice about completion of hydraulic activities.¹⁰

Published on Resources Disclosure Log
RTI Act 2009

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017, s34.*

Date : 16/07/2021 6:34:01 AM

From : sch4p4(6) Personal in

To : "SHAW Chris" , "WARD Steven (Resources)" , "FERRIS Shaun"

Subject : Re: Arrow Energy / Directional Wells

Attachment : image001.png;

On the same page guys. Some public acknowledgement of further investigation would provide at least some circuit breaker to the barrage of complaints about lack of action on these complex Issues.

Chris will touch base this later this morning.

Cheers

sch4p4

Get [Outlook for iOS](#)

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

Sent: Friday, July 16, 2021 12:30:56 AM

To: WARD Steven (Resources) <Steven.Ward@resources.qld.gov.au>; FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>; sch4p4(6) Perso

sch4p4(6) Personal information

Subject: Re: Arrow Energy / Directional Wells

Agree re fact sheet. Additional industry consult closed today (Thursday). We've s already marked up a couple of changes and it will be good to go up the chain tomorrow.

Also agree that it will not go particularly far towards resolving landowner concerns and communicating the policy and review processes underway on preliminary v advanced, subsidence, indemnity etc would be useful. I will talk to Kahil about the QRIDP elements tomorrow.

Cheers

Get [Outlook for iOS](#)

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

Sent: Thursday, July 15, 2021 11:49 pm

To: FERRIS Shaun; SHAW Chris sch4p4(6) Person

Subject: RE: Arrow Energy / Directional Wells

Evening

Thought best to respond tonight as I may have limited connectivity whilst on leave tomorrow.

I agree that making the factsheet publicly available asap is critical. While for some time now we have been consistently very clear in our messaging to stakeholders on directional drilling which absolutely aligns with the factsheet there has been instances where this has been misinterpreted or blended with other issues. I believe this this be the case with Zena's assertion below re preliminary v advanced activities, which likely stems from an energized and wide-ranging phone conversation this afternoon where I acknowledged that Zena and other landholders have raised some complex issues that have been raised for further consideration for example, the lack of dispute resolution pathway for disputes on prelim/advanced activities.

While the factsheet will certainly help, there is increasing frustration amongst some landholders in the Dalby region on what is being done on the more complex landholder issues we have been elevating. I think it is vital that we are soon able to clearly communicate to stakeholders on what we are/are not going to commit to for those issues raised that are complex and in some cases have the potential to require a prolonged legislation/policy change appraisal process. As was discussed at the GFCQ-coordinated meeting yesterday, a package that tells the story of what is being done behind the scenes would also be useful.

Wrt DBYD, I understood it is a referral service so that asset owners, in this case Arrow Energy, then provide more detailed information about their asset(s) to the enquirer prior to excavation occurring. I'd expect the information from Arrow to confirm the depth of the directionally drilled wells as being >200m and so the majority of excavations shouldn't be impacted. Wrt drilling of a water bore, the information supplied by Arrow should be provided to the water bore driller to consider as part of their risk assessment process. I would expect any resource authority holder to be open to engaging with a water bore driller to ensure any risks toward their own assets are minimised.

Cheers

Steve

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



From: FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>
Sent: Thursday, 15 July 2021 9:03 PM
To: SHAW Chris; [sch4p4\(6\) Person](mailto:sch4p4(6) Person); WARD Steven (Resources)
Subject: FW: Arrow Energy / Directional Wells

A view on the below/attached would be greatly appreciated.

The Factsheet is now becoming more critical to get out there.

From: Zena Ronnfeldt <zena@bossag.com.au>
Sent: Thursday, 15 July 2021 8:51 PM
To: resources@ministerial.qld.gov.au
Cc: FERRIS Shaun; Boss Agricultural Pty Ltd
Subject: Arrow Energy / Directional Wells

Dear Minister Stewart,

Arrow Energy has told us multiple times that the directional wells they have drilled on our property are a preliminary activity. Arrow Energy has not provided any evidence to us as to their consultation with us or risk assessment of the impact of their wells on our business land use and property. Arrow Energy to date have not provided us a valid notice of entry, and have responded to our demand that they suspend production from the directional wells due to not providing a valid notice of entry and not negotiating a conduct and compensation agreement. We understand that the current activity of Arrow Energy on our land is illegal.

We have advised Arrow Energy that we have assessed the impact of the wells on our property, and determined are an advanced activity.

We have provided substantial detailed information to your Department as to the significant and permanent impacts of the directional wells on property and business, a copy of which has been received by Mr Shaun Ferris. This information is equally applicable to all other landholders in Kupunn whose properties have been entered illegally by Arrow Energy.

Steven Ward has told me that the question of if an activity is an advanced activity or a preliminary activity is under consideration within the Department of Resources.

It is our understanding that the Gasfields Commission Queensland as a result of their consultation activities, discussions with Arrow Energy, and own work, have determined that Arrow Energy is successfully coexisting with us as Landholders. We do not believe that Gasfields Commission Queensland is currently properly fulfilling their purpose and function and we request a review of their engagement actions with regard to Arrow Energy, Surat Stakeholder Advisory Group, and Kupunn Landholders in respect of their coexistence determination.

We advise you that Arrow Energy has formally restricted us from undertaking any of the following activities on our property, as we understand that we have no farm legal liability insurance coverage for any activities we undertake that contravene any requirement of Dial Before You Dig, and in any case we are liable to Arrow Energy for any damage our ordinary business operations cause the directional wells that they have trespassed upon our property:

- Cultivation and surface tillage crop production activities on our property
- Maintenance of irrigation dams and infrastructure that is, all digging activities on our property
- Drilling a domestic water bore or replacement stock & domestic bore on our property

This indicates we are unable to undertake any field preparation activities, that is we are unable to continue our farming business.

The Dial Before You Dig reports are attached as evidence, please take the time to review the details restrictions in the Duty of Care Statement of Arrow Energy in the reports.

We request an urgent response from you as to when a decision will be made by your Department that directional wells are an advanced activity and therefore require a conduct and compensation agreement to be negotiated.

Sincerely,

Zena Ronnfeldt
Boss Agricultural Pty Ltd
PO Box 714
Dalby Qld 4405
Zena Ronnfeldt 0416172199
Garry Ronnfeldt 0427132778

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 on Resources Disclosure Log
RTI Act 2009

Date : 16/07/2021 2:50:52 PM

From : "SHAW Chris"

To : "EDDINGTON Ross" , "GeoPolOED"

Subject : Approved Factsheet for Publication - APPEA comments_kmus

Attachment : Approved Factsheet for Publication - APPEA comments_kmus.docx;

Hi Ross, just a couple of very minor changes from me – other than that good to go back up the tree through MECS.

Alexis – can you progress and drop copy to DDG please?

Thanks!!

Published on Resources Disclosure Log
RTI Act 2009

Considerations when 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 in that scenario.

'Land' in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ Sub-surface land is therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still "land" under the petroleum legislation and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Commented [MP1]: More correct to say "land" rather than "resources" and it's an important point in this context

Commented [MK2R1]: Change accepted.

Commented [MP3]: These points don't quite make sense without reference to the legislation. At common law point 2 applies. Statutorily in Queensland for the purpose of petroleum activity, point 4 applies.

Commented [MK4R3]: Change accepted.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property will be considered a preliminary activity for the land access framework if there is no impact, or only a minor, impact on a landholder's business or land use activities.
An entry notice is required for a preliminary activity.
- 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 would be required.
- Each circumstance should be assessed individually and considered on a case-by-case basis.
- Directional drilling below the surface of land on a neighbouring property will be an advanced activity where:
 - (a) the neighbouring property is less than 100 hectares and is being used for intensive farming or broadacre agriculture; or
 - (b) the directional drilling has a major impact on a landholder's business or land use, or where it affects the lawful carrying out of an organic or bio-organic farming system.
- Conduct and compensation agreements, deferral agreements, or an opt-out agreements are required for advanced activities.
- Landholders who believe that part of a directional well that has been drilled beneath the surface of their property having a major impact is impacting on their land use or

Commented [MK5]: Entry notice requirements are dealt with under the following heading and apply to both preliminary and advanced activities.

Commented [MP6]: This is vague and creates significant uncertainty for both landowners and industry. Who determines the impact if not the State? Where does the burden of proof lie for an impact being "greater"? The simple delineation for preliminary or advanced activity for sub-surface directional drilling should focus on s.15B(2) and/or a "major impact" being the corollary of "no impact" or "only a minor impact" for preliminary activities. That is, direction drilling under the surface of a neighbouring property *is a preliminary activity* unless the drilling occurs under land to which s.15B(2) applies or where there is a major impact to a landholder's business or land use.

Commented [MK7R6]: All proposed changes rejected. The determination of whether an activity is preliminary or advanced is that agreed to by the landholder and the resource company after considering the extent of the impact of the resource activity on the landholder's business or land use activities. This must be case by case and is supported by the best practice guidelines in the Land Access Code for communication between resource companies and owners and occupiers of private land.

Commented [MP8]: If "no impact" or "only a minor impact" is the threshold for a preliminary activity, then "major" must be the threshold for a landholder contacting the proponent or the department to discuss?

Commented [MK9R8]: The introduction of the term "major impact" is not necessary – preliminary and advanced activities are defined. This proposed change is rejected. It is not appropriate for the department to decide the level of impact – see the comment above.

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

business should contact the proponent who drilled the well and/or the department to discuss the issue.

Entry Notice Requirements

- An entry notice for directional drilling 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.
- Entry notice must comply with the prescribed requirements as outlined in [regulation 17](#) of the *Mineral and Energy Resources (Common Provisions) Regulation 2016*.
- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but does serve as a readily available resource for companies to utilise.
- [It is also noted that a first entry notice relating to directional drilling activities are also required to include a copy of the Code of Practice for the construction and abandonment of petroleum wells and associated bores.](#)

Formatted: Font: 11 pt

Locating Directional Drilling Wells and Activities

- 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.
- Early engagement will provide landholders the opportunity to [work with proponents regarding](#) the [proposed](#) location of activities and assess any impact that the activities may have on their business and land use activities.
- It is important that the design and location of directional wells takes account of landholder input, and the landholder's business or land use activities.

Commented [MP10]: There is no negotiation if it's a preliminary activity the subject of an entry notice. This muddies the waters between preliminary and advanced.

Commented [MK11R10]: Proposed change rejected. Directional drilling may be preliminary or advanced – cannot state it is categorically 'preliminary' – see the comment above

Compensation Liability

- Regardless of whether an activity is a preliminary or advanced activity, 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 for each 'compensatable effect' that occur because of the holder's directional drilling activities undertaken [within the cadastral boundaries of the adjacent owner's or occupier's land.](#) [Potential impacts that may or may not occur in the future are not compensatable at the time of drilling, and would only be compensatable if realised.](#)
- A 'compensatable effect' is defined in section 81 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act). Further details are provided in the attachment to this factsheet.
- [Landholders are not liable to any person for damages associated with the resource authority holder carrying out its activities occurring on a landholder's land, unless the landholder, or someone authorised by them, caused or contributed to the harm.](#)

Commented [MP12]: Must link to activities within the cadastral boundaries of the adjacent land.

Commented [MK13R12]: Added 'cadastral' and accepted the highlighted sentence.

Formatted: Highlight

Commented [MP14]: This part isn't clear, is it meant to cover s.563A of the P&G Act?

Commented [MK15R14]: Yes – refers to section 563A of the P&G Act – proposed changes accepted.

² https://www.resources.qld.gov.au/__data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

Further information

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

Further information on the legislative framework is also provided in the Attachment.

Published on Resources Disclosure Log
RTI Act 2009

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

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)³ and the meaning of "land" in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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'.

³ 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*

Entry to land

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.

Entry notice requirements

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 MERC 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 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

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:

⁴ *Penalties and Sentences Act 1992*, s 181B.

- 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.

Limitation of owner's or occupier's tortious liability for authorised activities

Section 563A of the P&G Act limits the tortious liability of an owner or occupier of land in the area of a petroleum authority if someone else carries out an authorised activity for a petroleum authority on the land. The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity unless the owner or occupier or someone authorised by the owner or occupier caused or contributed to the harm.

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 bore⁵
- Notice about completion, alteration, or abandonment of petroleum well or bore⁶
- Notice about intention to carry out seismic survey or scientific or technical survey⁷
- Notice about completion of survey or scientific or technical survey⁸
- Notice about intention to carry out hydraulic fracturing activities⁹

⁵ *Petroleum and Gas (General Provisions) Regulation 2017*, s29.

⁶ *Petroleum and Gas (General Provisions) Regulation 2017*, s30.

⁷ *Petroleum and Gas (General Provisions) Regulation 2017*, s31.

⁸ *Petroleum and Gas (General Provisions) Regulation 2017*, s32.

⁹ *Petroleum and Gas (General Provisions) Regulation 2017*, s33.

- Notice about completion of hydraulic activities.¹⁰

Published on Resources Disclosure Log
RTI Act 2009

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017, s34.*

Date : 20/07/2021 9:13:22 AM

From : "Central Downs Irrigators"

To : "WARD Steven (Resources)"

Cc : sch4p4(6) Personal information

Subject : RE: Central Downs Irrigators Members Meeting - Weds 28th July in Cecil Plains - invitation to present

Attachment : image004.png;image005.png;image001.png;

Hi Steve,

Thank you very much for confirming your attendance at our CDIL members meeting.

Your time is much appreciated.

Will you be happy to give a talk on deviated wells and the regulation/legislation around this?

Kind regards

sch4p4(6) Per

Secretary

Central Downs Irrigators Ltd.

PO Box 8 CECIL PLAINS QLD 4407

PH: sch4p4(6) Perso

Email: sch4p4(6) Personal information



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

Sent: Monday, 19 July 2021 3:50 PM

To: sch4p4(6) Personal information

Subject: RE: Central Downs Irrigators Members Meeting - Weds 28th July in Cecil Plains - invitation to present

Good afternoon sch4

My sincere apologies for my delayed response. I'd be happy to attend the CDIL meeting on 28 July and appreciate the invitation.

Kind regards

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: sch4p4(6) Personal information

Sent: Thursday, 8 July 2021 11:11 AM

To: WARD Steven (Resources)

Cc: sch4p4(6) Personal inform

Subject: Central Downs Irrigators Members Meeting - Weds 28th July in Cecil Plains - invitation to present

Dear Dr Ward,

We are organising a CDIL Members Meeting for Weds 28th July in Cecil Plains, to update our members on a number of issues, including CSG related topics.

I have been talking with sch4p4(6) P and we decided on this date to tie in with the next SSAG meeting, scheduled for Thurs 29th July in Dalby. For our CDIL meeting GFCQ will give an update on various CSG issues affecting the community e.g. Public Liability Insurance, the RPI Act Review and the RIDA process.

Sanjeev Pandey from OGIA is also going to present on their work around subsidence.

Would you be available on 28th July to do a presentation on deviated wells – possibly the entry requirements and rights of landholders whose land the resource companies might drill under.

Jane mentioned that DoR are compiling a factsheet on deviated wells. If this is ready in time, it would be an opportune time to present this to our members.

We were thinking a midday start, to allow for those coming from Brisbane to travel up that morning. The plan is to have light refreshments available at 12pm for a 12.30pm meeting start.

Please let me know how this fits in with your availability and schedule.

Kind regards

sch4p4(6) Persc

Secretary

Central Downs Irrigators Ltd.

PO Box 8 CECIL PLAINS QLD 4407

PH: sch4p4(6) Persc

Email: sch4p4(6) Personal information

<http://www.cdil.com.au>



CENTRAL DOWNS IRRIGATORS
LIMITED

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 on Resources Disclosure Log
RTI Act 2009

Date : 26/07/2021 10:39:20 AM

From : sch4p4(6) Personal in

To : sch4p4(6) Personal informa

Cc : sch4p4(6) Personal "FERRIS Shaun" , "SHAW Chris"

Subject : Comments on Commitments to Surat Basin landholder 'Fact Sheet'

Attachment : image001.png;image002.png;image003.png;image004.png;image005.png;image006.png;

Hi sch4p4(6)

Thanks for the further discussion around this document on Friday afternoon. Please see below specific comments from the Commission. As I stated Friday, we will come to you with a more formal position in the near future.

Specific Comments

General Comment	<p>Overall the Commission is supportive of the concept of a document that clearly articulates both Arrow Energy's statutory obligations in respect of its activities and the actions and commitments it has undertaken that go above and beyond current statutory requirements.</p> <p>However, the Commission believes that it is important to recognise that some of the content is likely to further enflame existing tensions due to the fact that the document includes statements that may not ring true with some landholders experiences, particularly those with existing deviated wells.</p> <p>It would add value to make a clear statement recognising the shortcoming of past processes and noting the fact this has impacted on trust in the area for some people. This could be augmented with a statement that outlines that this document has been developed in response to lessons learned from this experience and to address landholder concerns.</p>
Deviated drilling	<p>Whilst the document makes specific reference to landholder concerns it does not specifically address deviated wells. The Commission believes that it is important to recognise this is a concern to landholders and the principles and commitments apply to all activities, including deviated wells</p>
Commitments, page 1	<p>The commitments section on page 1 references a range of things that are a mix of statutory obligations and above compliance measures. It may add value to point separate those aspects that minimum requirements and those that go above and beyond to make these clear.</p>
Commitments, page 1	<p>Suggest some additions to commitments:</p> <ul style="list-style-type: none">• In all instances, prior to sending a notice of entry or other formal notice, we will contact you and have a genuine conversation to discuss what is being proposed. You will never get formal notification from us without a conversation in person first;• We will work through all processes in a genuine manner, we will not pre judge whether activities are preliminary or advanced, we will sit down and have a genuine discussion about your property specific factors.• Where any doubt exists, we will proactively engage with the regulator to understand what the rules are. Where possible we will seek to exceed these.• Where there is any indication we have not met the commitments for any of any approvals or authorities, we will undertake a thorough investigation as well as notify the regulator. If we have fallen short will be open and honest about that. Importantly we will be clear on how we will do better.• Whilst mutual respect is the goal, a recognition that the relationship is unequal. We will be humble and respectful in our behaviour at all times.
Commitments, Page 1	<p>Reference is made to provision of details on the location of infrastructure. There would be benefit including reference to the 'dial before your dig' listing. Also an additional commitment should be made that "if you require further, more detailed information for a specific purpose, we will use best endeavours to provide that information in a timely manner.</p>
Compensation liability	<p>Whilst the "Concerns about potential CSG-induced subsidence" section and the Commitments both address compensation liability to an extent, it may be worth having a separate section which articulates that under the land access framework, even if an activity is a preliminary impact, if a compensatable effect is experienced, that the company is liable to compensate.</p>
Gas infrastructure and farm insurance	<p>A commitment to engage around the indemnity (particularly the cap) would be valuable, as this would ensure less concern around the context of the agreement of original indemnity (via CCA)</p>
Summary of regulatory framework, page 2	<p>Not sure how much value this section adds in the context of the document</p>
Summary of regulatory framework, page 3, table of contacts	<p>Recommend best approach is for matters to be referred through to Resources Community Info line and all can be triaged and referred from there.</p>

Happy to discuss further.

Kind regards

sch4p4(6) 21-461

sch4p4(6) Persor

Acting Chief Executive Officer



sch4p4(6) Personal information

www.gfcq.org.au



Managing and improving the sustainable coexistence of landholders, regional communities and the onshore gas industry in Queensland

Only the intended recipient of this e-mail may access or use the information contained in this e-mail or any of its enclosures. Opinions contained in this e-mail or any of its attachments do not necessarily reflect the opinions of GasFields Commission Queensland (the Commission). The contents of this e-mail and its enclosures are confidential and may be legally privileged and the subject of copyright. If you have received this e-mail in error, please notify the Commission immediately and erase all copies of the e-mail and its enclosures. The Commission uses virus scanning software but, to the extent permitted by law, will not be liable for any loss and damage resulting (directly or indirectly) from the receipt of this e-mail (including any enclosures) or for viruses present in this e-mail or its enclosures.

Published on Resources Disclosure Log
RTI Act 2009

Date : 26/07/2021 11:09:34 AM

From : sch4p4(6) Personal informat

To : sch4p4(6) Personal ir

Cc : "Michael Todd" , "FERRIS Shaun" , "SHAW Chris"

Subject : RE: Comments on Commitments to Surat Basin landholder 'Fact Sheet'

Attachment : image007.png;image009.png;image010.png;image011.png;image012.png;image013.png;image014.png;image001.png;

Hi sch4p4(6)

Thanks, we really appreciate it.

Regards

sch4p4(6) P

sch4p4(6) Personal information

Arrow Energy Pty Ltd

Level 39, 111 Eagle St, Brisbane QLD 4000

GPO Box 5262, Brisbane QLD 4001, Australia

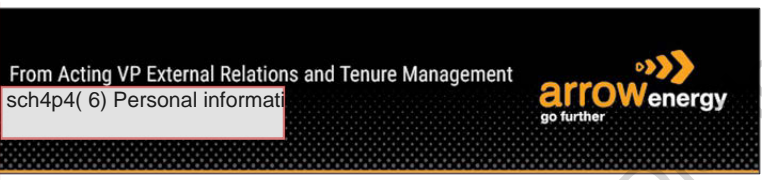
T: +61 7 3012 4523 (direct)

M: sch4p4(6) Pers

sch4p4(6) Personal information

www.arrowenergy.com.au

sch4p4(6) Pers



From: sch4p4(6) Person
sch4p4(6) Personal information

Sent: Monday, 26 July 2021 10:39 AM

To: sch4p4(6) Personal information

Cc: sch4p4(6) Personal information FERRIS Shaun <Shaun.Ferris@resources.qld.gov.au>; SHAW Chris <Chris.Shaw@resources.qld.gov.au>

Subject: Comments on Commitments to Surat Basin landholder 'Fact Sheet'

[External Email]

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

Hi sch4p4(6)

Thanks for the further discussion around this document on Friday afternoon. Please see below specific comments from the Commission. As I stated Friday, we will come to you with a more formal position in the near future.

Specific Comments

General Comment	<p>Overall the Commission is supportive of the concept of a document that clearly articulates both Arrow Energy's statutory obligations in respect of its activities and the actions and commitments it has undertaken that go above and beyond current statutory requirements.</p> <p>However, the Commission believes that it is important to recognise that some of the content is likely to further enflame existing tensions due to the fact that the document includes statements that may not ring true with some landholders experiences, particularly those with existing deviated wells.</p> <p>It would add value to make a clear statement recognising the shortcoming of past processes and noting the fact this has impacted on trust in the area for some people. This could be augmented with a statement that outlines that this document has been developed in response to lessons learned from this experience and to address landholder concerns.</p>
Deviated drilling	<p>Whilst the document makes specific reference to landholder concerns it does not specifically address deviated wells. The Commission believes that it is important to recognise this is a concern to landholders and the principles and commitments apply to all activities, including deviated wells</p>
Commitments, page 1	<p>The commitments section on page 1 references a range of things that are a mix of statutory obligations and above compliance measures. It may add value to point separate those aspects that minimum requirements and those that go above and beyond to make these clear.</p>
Commitments, page 1	<p>Suggest some additions to commitments:</p> <ul style="list-style-type: none"> In all instances, prior to sending a notice of entry or other formal notice, we will contact you and have a genuine conversation to discuss what is being proposed. You will never get formal notification from us without a

	<p>conversation in person first;</p> <ul style="list-style-type: none"> • We will work through all processes in a genuine manner, we will not pre judge whether activities are preliminary or advanced, we will sit down and have a genuine discussion about your property specific factors. • Where any doubt exists, we will proactively engage with the regulator to understand what the rules are. Where possible we will seek to exceed these. • Where there is any indication we have not met the commitments for any of any approvals or authorities, we will undertake a thorough investigation as well as notify the regulator. If we have fallen short will be open and honest about that. Importantly we will be clear on how we will do better. • Whilst mutual respect is the goal, a recognition that the relationship is unequal. We will be humble and respectful in our behaviour at all times.
Commitments, Page 1	Reference is made to provision of details on the location of infrastructure. There would be benefit including reference to the 'dial before your dig' listing. Also an additional commitment should be made that "if you require further, more detailed information for a specific purpose, we will use best endeavours to provide that information in a timely manner.
Compensation liability	Whilst the "Concerns about potential CSG-induced subsidence" section and the Commitments both address compensation liability to an extent, it may be worth having a separate section which articulates that under the land access framework, even if an activity is a preliminary impact, if a compensatable effect is experienced, that the company is liable to compensate.
Gas infrastructure and farm insurance	A commitment to engage around the indemnity (particularly the cap) would be valuable, as this would ensure less concern around the context of the agreement of original indemnity (via CCA)
Summary of regulatory framework, page 2	Not sure how much value this section adds in the context of the document
Summary of regulatory framework, page 3, table of contacts	Recommend best approach is for matters to be referred through to Resources Community Info line and all can be triaged and referred from there.

Happy to discuss further.

Kind regards

sch4p4(6)

sch4p4(6) Perso

Acting Chief Executive Officer



sch4p4(6) Personal information

www.gfcq.org.au



Managing and improving the sustainable coexistence of landholders, regional communities and the onshore gas industry in Queensland

Only the intended recipient of this e-mail may access or use the information contained in this e-mail or any of its enclosures. Opinions contained in this e-mail or any of its attachments do not necessarily reflect the opinions of GasFields Commission Queensland (the Commission). The contents of this e-mail and its enclosures are confidential and may be legally privileged and the subject of copyright. If you have received this e-mail in error, please notify the Commission immediately and erase all copies of the e-mail and its enclosures. The Commission uses virus scanning software but, to the extent permitted by law, will not be liable for any loss and damage resulting (directly or indirectly) from the receipt of this e-mail (including any enclosures) or for viruses present in this e-mail or its enclosures.

Important: This message may contain confidential information. If you are not the intended recipient or you received the message in error, you must immediately delete the message and notify the sender.

Date : 27/07/2021 12:42:39 PM

From : "EDDINGTON Ross"

To : "Lindsey Ahern"

Subject : fact sheet

Just for info (WEB-5042 Directional Drilling Fact Sheet) was a job lodged to publish the fact sheet on the website and is now on hold. We can cancel if it needed. The last communication with them was responded: *"No problem, I can put this job on hold. Just so you're aware, we don't usually publish fact sheets - instead we recommend that the information is presented as HTML and either included as a new page on the website or incorporated onto an existing webpage. If you receive approval to publish this information from the Minister's office I can provide advice about how best to include this online*

I am agnostic as to how it is presented – happy to be guided when the time comes

Ross

Published on Resources Disclosure Log
RTI Act 2009

Date : 27/07/2021 2:31:23 PM

From : "EDDINGTON Ross"

To : "Lindsey Ahern"

Subject : RE: fact sheet

Hi I have not been able to alter the letter as I cannot access te item on MECS, but am working on it

Op Policies are stand alone docs, and not part of guides. Having said that this is a fact sheet, so can pretty much go anywhere you want it too

It was created a a fact sheet only because that is what we were asked to produce, but its not a policy, just an descriptpon of the system as is, no interpretation therefore nota policy.

Ross

From: AHERN Lindsey <Lindsey.Ahern@resources.qld.gov.au>

Sent: Tuesday, 27 July 2021 2:15 PM

To: EDDINGTON Ross

Subject: RE: fact sheet

Thanks Ross, for editing the letter and pausing the web job (I didn't realise it had been logged, in fact didn't even know about the fact sheet on Friday afternoon after a chat with Steve then Chris added me to the MECS item).

Our concern is less the format (fact sheet vs. HTML) but whether the content should be part of the Land Access Guide, particularly as a lot of the content is taken from there. Happy to have a further conversation with GeoPol and anyone else who needs to be involved (Steve Ward) on this.

It would also be good to iron out whether this is seen as operational policy – in which case I would have thought it should certainly sit within the LAG – or whether a fact sheet (comms).

We're also working on holding lines, so if you have any direction on the info Steve Ward was after (i.e. 'what's next' ... Or what action can a landholder take if they disagree...etc) – if you can keep us across those updates, please, that would be great.

Cheers, Lindsey

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

Sent: Tuesday, 27 July 2021 12:43 PM

To: AHERN Lindsey

Subject: fact sheet

Just for info (WEB-5042 Directional Drilling Fact Sheet) was a job lodged to publish the fact sheet on the website and is now on hold. We can cancel if it needed. The last communication with them was responded: *"No problem, I can put this job on hold. Just so you're aware, we don't usually publish fact sheets - instead we recommend that the information is presented as HTML and either included as a new page on the website or incorporated onto an existing webpage. If you receive approval to publish this information from the Minister's office I can provide advice about how best to include this online*

I am agnostic as to how it is presented – happy to be guided when the time comes

Ross

Date : 27/07/2021 12:22:03 PM
From : "AHERN Lindsey"
To : "EDDINGTON Ross" , "SHAW Chris"
Cc : "PATELLIS Lilly"
Subject : Directional drilling fact sheet and holding lines
Attachment : image001.png;
Hi Ross and Chris,

I know there have been some conversations around the DD factsheet over the last couple of days, and understand this is expected to be sent out by Mins office later this week.

In the letter from the Minister to accompany the factsheet, **can you remove the part which says it will be "published on the department's website"**. We'll need to consider the appropriate format for the website, and can publish the information after that.

We're also working with media on some holding lines, and with Steve on his presentation with GFCQ at SSAG meeting on Thursday. I believe Steve sent through some proposed messaging to Chris on Friday. Can you please include us in your advice on this.

Thanks
Lindsey



Lindsey Ahern
Communications Manager
Strategic Communication and Engagement | Business and Corporate Partnership
Department of Resources

p: [sch4 Contrary](#)
E: lindsey.ahern@resources.qld.gov.au
A: Level 6, 1 William Street, Brisbane Qld 4000
Connect with us on [Facebook](#), [Twitter](#), [YouTube](#) and [LinkedIn](#)

Published on Resources Disclosure Log
RTI Act 2009

Date : 27/07/2021 12:42:39 PM

From : "EDDINGTON Ross"

To : "AHERN Lindsey"

Subject : fact sheet

Just for info (WEB-5042 Directional Drilling Fact Sheet) was a job lodged to publish the fact sheet on the website and is now on hold. We can cancel if it needed. The last communication with them was responded: *"No problem, I can put this job on hold. Just so you're aware, we don't usually publish fact sheets - instead we recommend that the information is presented as HTML and either included as a new page on the website or incorporated onto an existing webpage. If you receive approval to publish this information from the Minister's office I can provide advice about how best to include this online*

I am agnostic as to how it is presented – happy to be guided when the time comes

Ross

Published on Resources Disclosure Log
RTI Act 2009

Date : 27/07/2021 7:51:53 PM
From : "FERRIS Shaun"
To : "SHAW Chris" , "EDDINGTON Ross"
Subject : FW: Directional drilling fact sheet and holding lines CTS 12640/21
Attachment : image001.png;image002.png;

Chris and Ross

Firstly, Chris, Welcome back on Wednesday!

In regards to the Factsheet – this needs to get out the door asap. Min Office are chasing this, needs to go on the website – can you please work through with Comms?

Cheers

Shaun

From: Talbot Speechley <talbot.speechley@ministerial.qld.gov.au>
Sent: Tuesday, 27 July 2021 7:36 PM
To: FERRIS Shaun
Subject: Fwd: Directional drilling fact sheet and holding lines CTS 12640/21

Do you know why this has been withdrawn? I thought we were trying to get this out pre-estimates.

T

Sent from my iPhone

Begin forwarded message:

From: Resources DLO <Resources.DLO@resources.qld.gov.au>
Date: 27 July 2021 at 4:31:28 pm AEST
To: Talbot Speechley <Talbot.Speechley@ministerial.qld.gov.au>
Cc: Resources DLO <Resources.DLO@resources.qld.gov.au>, Brett Murphy <Brett.Murphy@ministerial.qld.gov.au>
Subject: FW: Directional drilling fact sheet and holding lines CTS 12640/21

Hi Talbot

This one will be withdrawn and resubmitted.

Kind Regards

Nadia Dyer
Department Liaison Officer
Department of Resources
P: [07 3087 8970](tel:0730878970)
E: resources.dlo@resources.qld.gov.au
W: www.resources.qld.gov.au

I respectfully acknowledge the Aboriginal and Torres Strait Islander peoples as Traditional Owners and Custodians of this country and recognise their connection to the land, wind, water and community. I pay my respect to them, their cultures and to Elders past and present and future. Please consider the environment before printing this email.

From: Corro Resources Minister and DG <ResourcesMinisterandDG.Corro@resources.qld.gov.au>
Sent: Tuesday, 27 July 2021 2:08 PM
To: Resources DLO
Cc: Corro Resources Minister and DG
Subject: FW: Directional drilling fact sheet and holding lines CTS 12640/21

Hi Nadia,

Please pull CTS 12640/21 from the MO.

Update is required – ECT will reject to GEO in MECS.

Thanks,



Nancy Edwards
Senior Correspondence Officer
Business and Corporate Partnership | Executive Correspondence Team
Department of Resources

P: 07 3087 8970 Ext: 78970
E: nancy.edwards@resources.qld.gov.au
A: Level 6, 1 William Street, Brisbane QLD 4000 | PO BOX 15216, CITY EAST, QLD 4002
W: www.resources.qld.gov.au
• [Chat with me in Teams](#)

From: ODDG GEO <ODDG.GEO@resources.qld.gov.au>
Sent: Tuesday, 27 July 2021 2:02 PM
To: Corro Resources Minister and DG
Cc: ODDG GEO
21-461

Subject: FW: Directional drilling fact sheet and holding lines CTS 12640/21

Hi ECT,
Further updates are required for CTS 12640/21 which is currently with the Minister.
Can we get this MECS item sent back to Georesources. See comments below.
Thanks,
Tina



Kristina O'Connor
Senior Project Officer | Strategy & Business Support | Georesources
Department of Resources

 [Chat with me on Teams!](#)

P: (07) 3199 7352
M: [sch4p4\(6\)](#)
E: kristina.oconnor@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000
PO BOX 15216, CITY EAST, QLD 4002

From: GeoPoLOED <GeoPoLOED@resources.qld.gov.au>
Sent: Tuesday, 27 July 2021 1:47 PM
To: ODDG GEO
Cc: PATELLIS Lilly; EDDINGTON Ross; AHERN Lindsey; SHAW Chris; GeoPoLOED
Subject: RE: Directional drilling fact sheet and holding lines CTS 12640/21

Hi ODDG,

Further updates are required to CTS 12640/21 as per the email below. Could you please reject the MECS item back to us for updating?

Thank you.



Alexis Green
Executive Officer - Georesources Policy
Divisional Support | Georesources Division
Department of Resources

P: 3199 7387

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Tuesday, 27 July 2021 12:37 PM
To: AHERN Lindsey; SHAW Chris; GREEN Alexis
Cc: PATELLIS Lilly
Subject: RE: Directional drilling fact sheet and holding lines

Alexis

I have been asked to remove a sentence from the ministerial letter regarding the factsheet but when I access the MECS item I can only view not edit?

Are we able to modify anything so I can edit it?

Ross

From: AHERN Lindsey <Lindsey.Ahern@resources.qld.gov.au>
Sent: Tuesday, 27 July 2021 12:22 PM
To: EDDINGTON Ross; SHAW Chris
Cc: PATELLIS Lilly
Subject: Directional drilling fact sheet and holding lines

Hi Ross and Chris,

I know there have been some conversations around the DD factsheet over the last couple of days, and understand this is expected to be sent out by Mins office later this week.

In the letter from the Minister to accompany the factsheet, **can you remove the part which says it will be "published on the department's website"**. We'll need to consider the appropriate format for the website, and can publish the information after that.

We're also working with media on some holding lines, and with Steve on his presentation with GFCQ at SSAG meeting on Thursday. I believe Steve sent through some proposed messaging to Chris on Friday. Can you please include us in your advice on this.

Thanks
Lindsey



Lindsey Ahern
Communications Manager
Strategic Communication and Engagement | Business and Corporate Partnership
Department of Resources

P: [sch4p4\(6\)](#)
E: lindsey.ahern@resources.qld.gov.au
A: Level 6, 1 William Street, Brisbane Qld 4000
Connect with us on [Facebook](#), [Twitter](#), [YouTube](#) and [LinkedIn](#)

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.

This email, together with any attachments, is intended for the named recipient(s) only; and may contain privileged and confidential information. If received in error, you are asked to inform the sender as quickly as possible and delete this email and any copies of this from your computer system network.

If not an intended recipient of this email, you must not copy, distribute or take any action(s) that relies on it; any form of disclosure, modification, distribution and /or publication of this email is also prohibited.

Unless stated otherwise, this email represents only the views of the sender and not the views of the Queensland Government.

Please consider the environment before printing this email.

Published on Resources Disclosure Log
RTI Act 2009

Date : 27/07/2021 2:15:17 PM

From : "AHERN Lindsey"

To : "EDDINGTON Ross"

Subject : RE: fact sheet

Thanks Ross, for editing the letter and pausing the web job (I didn't realise it had been logged, in fact didn't even know about the fact sheet on Friday afternoon after a chat with Steve then Chris added me to the MECS item).

Our concern is less the format (fact sheet vs. HTML) but whether the content should be part of the Land Access Guide, particularly as a lot of the content is taken from there. Happy to have a further conversation with GeoPol and anyone else who needs to be involved (Steve Ward) on this.

It would also be good to iron out whether this is seen as operational policy – in which case I would have thought it should certainly sit within the LAG – or whether a fact sheet (comms).

We're also working on holding lines, so if you have any direction on the info Steve Ward was after (i.e. 'what's next' ... Or what action can a landholder take if they disagree...etc) – if you can keep us across those updates, please, that would be great.

Cheers, Lindsey

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

Sent: Tuesday, 27 July 2021 12:43 PM

To: AHERN Lindsey

Subject: fact sheet

Just for info (WEB-5042 Directional Drilling Fact Sheet) was a job lodged to publish the fact sheet on the website and is now on hold. We can cancel if it needed. The last communication with them was responded: *"No problem, I can put this job on hold. Just so you're aware, we don't usually publish fact sheets - instead we recommend that the information is presented as HTML and either included as a new page on the website or incorporated onto an existing webpage. If you receive approval to publish this information from the Minister's office I can provide advice about how best to include this online"*

I am agnostic as to how it is presented – happy to be guided when the time comes

Ross

Date : 27/07/2021 1:47:12 PM
From : "GeoPoLOED"
To : "ODDG GEO"
Cc : "Lilly Patellis" , "Ross Eddington" , "Lindsey Ahern" , "SHAW Chris" , "GeoPoLOED"
Subject : RE: Directional drilling fact sheet and holding lines CTS 12640/21
Attachment : image001.png;

Hi ODDG,

Further updates are required to CTS 12640/21 as per the email below. Could you please reject the MECS item back to us for updating?

Thank you.



Alexis Green
Executive Officer - Georesources Policy
Divisional Support | Georesources Division
Department of Resources

P: 3199 7387

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

Sent: Tuesday, 27 July 2021 12:37 PM

To: AHERN Lindsey; SHAW Chris; GREEN Alexis

Cc: PATELLIS Lilly

Subject: RE: Directional drilling fact sheet and holding lines

Alexis

I have been asked to remove a sentence from the ministerial letter regarding the factsheet but when I access the MECS item I can only view not edit?

Are we able to modify anything so I can edit it?

Ross

From: AHERN Lindsey <Lindsey.Ahern@resources.qld.gov.au>

Sent: Tuesday, 27 July 2021 12:22 PM

To: EDDINGTON Ross; SHAW Chris

Cc: PATELLIS Lilly

Subject: Directional drilling fact sheet and holding lines

Hi Ross and Chris,

I know there have been some conversations around the DD factsheet over the last couple of days, and understand this is expected to be sent out by Mins office later this week.

In the letter from the Minister to accompany the factsheet, **can you remove the part which says it will be "published on the department's website"**. We'll need to consider the appropriate format for the website, and can publish the information after that.

We're also working with media on some holding lines, and with Steve on his presentation with GFCQ at SSAG meeting on Thursday. I believe Steve sent through some proposed messaging to Chris on Friday. Can you please include us in your advice on this.

Thanks

Lindsey



Lindsey Ahern
Communications Manager
Strategic Communication and Engagement | Business and Corporate Partnership
Department of Resources

P: sch4p4(6) P

E: lindsey.ahern@resources.qld.gov.au

A: Level 6, 1 William Street, Brisbane Qld 4000

Connect with us on [Facebook](#), [Twitter](#), [YouTube](#) and [LinkedIn](#)

Date : 27/07/2021 2:02:08 PM
From : "ODDG GEO"
To : "Corro Resources Minister and DG"
Cc : "ODDG GEO"
Subject : FW: Directional drilling fact sheet and holding lines CTS 12640/21
Attachment : image001.png;image002.png;

Hi ECT,
Further updates are required for CTS 12640/21 which is currently with the Minister.
Can we get this MECS item sent back to Georesources. See comments below.
Thanks,
Tina



Kristina O'Connor
Senior Project Officer | Strategy & Business Support | Georesources
Department of Resources



[Chat with me on Teams!](#)

P: (07) 3199 7352

M: [sch4p4\(6\)](#)

E: kristina.oconnor@resources.qld.gov.au

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

From: GeoPoLOED <GeoPoLOED@resources.qld.gov.au>
Sent: Tuesday, 27 July 2021 1:47 PM
To: ODDG GEO
Cc: PATELLIS Lilly; EDDINGTON Ross; AHERN Lindsey; SHAW Chris; GeoPoLOED
Subject: RE: Directional drilling fact sheet and holding lines CTS 12640/21

Hi ODDG,
Further updates are required to CTS 12640/21 as per the email below. Could you please reject the MECS item back to us for updating?
Thank you.



Alexis Green
Executive Officer - Georesources Policy
Divisional Support | Georesources Division
Department of Resources

P: 3199 7387

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Tuesday, 27 July 2021 12:37 PM
To: AHERN Lindsey; SHAW Chris; GREEN Alexis
Cc: PATELLIS Lilly
Subject: RE: Directional drilling fact sheet and holding lines

Alexis
I have been asked to remove a sentence from the ministerial letter regarding the factsheet but when I access the MECS item I can only view not edit?
Are we able to modify anything so I can edit it?
Ross

From: AHERN Lindsey <Lindsey.Ahern@resources.qld.gov.au>
Sent: Tuesday, 27 July 2021 12:22 PM
To: EDDINGTON Ross; SHAW Chris
Cc: PATELLIS Lilly
Subject: Directional drilling fact sheet and holding lines

Hi Ross and Chris,
I know there have been some conversations around the DD factsheet over the last couple of days, and understand this is expected to be sent out by Mins office later this week.
In the letter from the Minister to accompany the factsheet, **can you remove the part which says it will be "published on the department's website"**. We'll need to consider the appropriate format for the website, and can publish the information after that.
We're also working with media on some holding lines, and with Steve on his presentation with GFCQ at SSAG meeting on Thursday. I believe Steve sent through some proposed messaging to Chris on Friday. Can you please include us in your advice on this.
Thanks
Lindsey



Lindsey Ahern
Communications Manager
Strategic Communication and Engagement | Business and Corporate Partnership
Department of Resources

P: [sch4p4\(6\)](#)

E: lindsey.ahern@resources.qld.gov.au

A: Level 6, 1 William Street, Brisbane Qld 4000

Connect with us on [Facebook](#), [Twitter](#), [YouTube](#) and [LinkedIn](#)

Date : 28/07/2021 9:28:59 AM
From : "EDDINGTON Ross"
To : "Lindsey Ahern"
Subject : Publication of factsheet at factsheet
Lindsey

I got instructions from Shaun via Chris (my ED) this morning just as I was about to action your request to change the Min letter to just get the "factsheet published as a factsheet before estimates".

I got the strong feeling given it has been described as a fact sheet to industry that they would like a PDF that is downloadable from the website, not incorporated into land access guide. I suppose this could be a webpage as long as that webpage can be downloaded as a factsheet.

I have the final final version to publish which is the one attached to the MECS item.

How would you like to proceed? Shall I reactivate the web job or would you like to take a look at the final version?

Give us a call when your free

Ross

Published on Resources Disclosure Log
RTI Act 2009

Date : 28/07/2021 1:02:30 PM
From : "GREEN Alexis"
To : "EDDINGTON Ross"
Subject : RE: Directional drilling fact sheet and holding lines
Attachment : image001.png;

Hi Ross, what sentence did you update in the letter? Was the factsheet also required to be updated?



Alexis Green
Executive Officer - Georesources Policy
Divisional Support | Georesources Division
Department of Resources
P: 3199 7387

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Tuesday, 27 July 2021 12:37 PM
To: AHERN Lindsey; SHAW Chris; GREEN Alexis
Cc: PATELLIS Lilly
Subject: RE: Directional drilling fact sheet and holding lines

Alexis

I have been asked to remove a sentence from the ministerial letter regarding the factsheet but when I access the MECS item I can only view not edit?

Are we able to modify anything so I can edit it?

Ross

From: AHERN Lindsey <Lindsey.Ahern@resources.qld.gov.au>
Sent: Tuesday, 27 July 2021 12:22 PM
To: EDDINGTON Ross; SHAW Chris
Cc: PATELLIS Lilly
Subject: Directional drilling fact sheet and holding lines

Hi Ross and Chris,

I know there have been some conversations around the DD factsheet over the last couple of days, and understand this is expected to be sent out by Mins office later this week.

In the letter from the Minister to accompany the factsheet, **can you remove the part which says it will be "published on the department's website"**. We'll need to consider the appropriate format for the website, and can publish the information after that.

We're also working with media on some holding lines, and with Steve on his presentation with GFCQ at SSAG meeting on Thursday. I believe Steve sent through some proposed messaging to Chris on Friday. Can you please include us in your advice on this.

Thanks
Lindsey



Lindsey Ahern
Communications Manager
Strategic Communication and Engagement | Business and Corporate Partnership
Department of Resources
P: [sch4p4\(6\) F](tel:31997387)
E: lindsey.ahern@resources.qld.gov.au
A: Level 6, 1 William Street, Brisbane Qld 4000
Connect with us on [Facebook](#), [Twitter](#), [YouTube](#) and [LinkedIn](#)

Date : 28/07/2021 10:36:47 AM
From : "EDDINGTON Ross"
To : "BYRNE Paris"
Subject : RE: WEB-5042 Directional Drilling Fact Sheet
Attachment : image001.png;

Hold off I will call just in a meeting about it now

From: BYRNE Paris <Paris.Byrne@resources.qld.gov.au>
Sent: Wednesday, 28 July 2021 10:11 AM
To: EDDINGTON Ross
Subject: FW: WEB-5042 Directional Drilling Fact Sheet

Do you know what's happening with this one? Did we ever get approval to publish?



Paris Byrne
A/Senior Project Officer
Regulatory Support and Performance | Georesources Policy
Department of Resources

P: 07 3199 8129
E: paris.byrne@resources.qld.gov.au
A: 1 William Street, Brisbane, QLD 4000 | PO BOX 15216, CITY EAST, QLD 4002

From: sch4p4(6) Personal information
Sent: Wednesday, 28 July 2021 10:09 AM
To: BYRNE Paris
Subject: WEB-5042 Directional Drilling Fact Sheet

Reply above this line.

sch4p4(6) Personal information resolved this as Declined.

Your updates are now live, although it may take up to an hour for the page to reflect the changes. Please check that the results are as you expected; you will need to refresh your browser (Ctrl + F5). If you have any further queries, please feel free to contact me.

Sarah Crespin changed the status to Cancelled.

Hi paris.byrne@resources.qld.gov.au

your job has been cancelled.
If you believe this has been in error please contact the web team at web@resources.qld.gov.au

regards

[View request](#) · [Turn off this request's notifications](#)

This is shared with paris.byrne@resources.qld.gov.au.

Date : 28/07/2021 3:37:35 PM
From : "FERRIS Shaun"
To : "SHAW Chris"
Cc : "ODDG GEO" , "Sulu Purcell"
Subject : FW: Directional drilling fact sheet
Attachment : Approved Factsheet for Publication_Arrow Comments 20210714 track changes.docx;image002.png;image001.png;image004.png;

Hi Chris
This has just come through to Shaun. Is this something you need to review?



Kind regards
Sulu Purcell
Executive Assistant
Office of the Deputy Director-General | Georesources
Department of Resources

P: 07 3087 8796
E: sulu.purcell@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 |
PO BOX 15216, CITY EAST, QLD 4002

From: sch4p4(6) Personal information
Sent: Wednesday, 28 July 2021 2:39 PM
To: FERRIS Shaun
Cc: sch4p4(6) Personal information
Subject: FW: Directional drilling fact sheet

Hi Shaun

These are the comments that Arrow made on the Fact Sheet as discussed.

You will see that in the 2nd paragraph we have suggested some changes to make clearer the definition of Preliminary vs Advanced. Under the last paragraph (Compensation Liability), the first dot point could be read that the drilling of a directional well could be compensable – this speaks to the point about impact at the time of the drilling versus future potential compensable impacts (e.g. subsidence). That first dot point could be interpreted to read that simply the drilling of the deviated well (even if Preliminary) could in itself be compensable. The other interpretation is that the drilling of a deviated well can be considered Preliminary or Advanced and compensable – whilst it could be considered Preliminary or Advanced, that is true, my understanding is that it is only for a narrow number of triggers that it would be Advanced. The first dot point under Compensation Liability also uses the word ‘suffered’, which is somewhat emotive and suggests a human impact. We appreciate that the Department is bound by the scope of the current legislation. Hence, we appreciate what clarifications may be possible, in particular to clarify between Preliminary and Advanced activities, and that in most cases, a deviated well will be considered a Preliminary activity as the impact that occurs at the time of drilling is minimal, if any.

Regards

sch4p4(6) Personal information

Arrow Energy Pty Ltd
Level 39, 111 Eagle St, Brisbane QLD 4000
GPO Box 5262, Brisbane QLD 4001, Australia
T: +61 7 3012 4523 (direct)

M sch4p4(6) Person

sch4p4(6) Personal information

www.arrowenergy.com.au

sch4p4(6) Pers

From Acting VP External Relations and Tenure Management
sch4p4(6) Personal informa



Important: This message may contain confidential information. If you are not the intended recipient or you received the message in error, you must immediately delete the message and notify the sender.

Considerations when accessing private land to carry out directional drilling on adjacent land

Style Definition: Heading 1

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 in that scenario.

'Land' in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ Sub-surface resources ~~land are~~ is therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still "land" under the Petroleum and Gas Act and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property ~~will be~~ is considered a preliminary activity for the land access framework ~~if there is no impact, or only a minor, impact on a landholder's business or land use activities.~~
- Deviated drilling is considered an advanced activity if these criteria are met:
 - A landholder's property size is less than 100 ha and is used for intensive farming or broadacre agriculture, or
 - Directional drilling is demonstrated to have a major impact on a landholder's business of land use, or where it affects the lawful carrying out of an organic or bio-organic system
- Where ~~the impact on~~ a landholder's business or land use activities ~~is greater and~~ falls under the category of advanced activity or the impact can be demonstrated to be major either a conduct and compensation agreement, a deferral agreement, or an opt-out agreement ~~would~~ may be required.
- Each circumstance should be assessed individually and considered on a case-by-case basis.
- Landholders who believe a directional well that has been drilled is impacting on their land use or business should contact the proponent who drilled the well and/or the department to discuss the issue.

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

Entry Notice Requirements

- An entry notice for directional drilling 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.
- Entry notice must comply with the prescribed requirements as outlined in section 17 of the *Mineral and Energy Resources (Common Provisions) Regulation 2016*.
- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but does serve as a readily available resource for companies to utilise.

Locating Directional Drilling Wells and Activities

- Where not already doing so, 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.
- Early engagement will provide landholders with the opportunity to discuss any concerns regarding actual or potential impact that the activities could have on their business and land use activities and discuss the location of activities.
- It is encouraged that the design and location of directional wells takes account of relevant landholder input, and the landholder's business or land use activities.

Compensation Liability

- Regardless of whether an activity is a preliminary or advanced activity, 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 for any demonstrated 'compensatable effect' because of the holder's resource activities.
- A 'compensatable effect' is defined in section 81 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act). Further details are provided in the attachment to this factsheet.
- Landholders are not liable to compensate for damages associated with carrying out resource activities occurring on their land, unless they, or someone authorised by them, caused or contributed to the harm.

Further information

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

Further information on the legislative framework is also provided in the Attachment.

² https://www.resources.qld.gov.au/__data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

Commented [JR1]: •This section would be an opportunity for the Department to note how difficult it would be to quantify a compensable effect prior to drilling the wells and perhaps point to a process for future claims.

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)³ and the meaning of "land" in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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'.

³ 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*

Entry to land

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.

Entry notice requirements

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 MERC 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 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

Liability to compensate

Directional drilling below the surface of the land on a neighbouring property is ordinarily considered a preliminary activity for the land access framework as it is expected to have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land.

However, where a landholder's business or land use activities falls under the advanced activity criteria or the impact can be demonstrated by the landholder to be major either a conduct and compensation agreement, a deferral agreement, or an opt-out agreement would be required.

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

⁴ Penalties and Sentences Act 1992, s 181B.

- Notice about completion of hydraulic activities.¹⁰

Published on Resources Disclosure Log
RTI Act 2009

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017, s34.*

Date : 28/07/2021 7:53:10 AM
From : "SHAW Chris"
To : "Shaun Ferris"
Subject : FW: Directional drilling fact sheet and holding lines
Attachment : image001.png;

FYI – update as at yesterday.

From: AHERN Lindsey <Lindsey.Ahern@resources.qld.gov.au>
Sent: Tuesday, 27 July 2021 12:22 PM
To: EDDINGTON Ross; SHAW Chris
Cc: PATELLIS Lilly
Subject: Directional drilling fact sheet and holding lines

Hi Ross and Chris,

I know there have been some conversations around the DD factsheet over the last couple of days, and understand this is expected to be sent out by Mins office later this week.

In the letter from the Minister to accompany the factsheet, **can you remove the part which says it will be “published on the department’s website”**. We’ll need to consider the appropriate format for the website, and can publish the information after that.

We’re also working with media on some holding lines, and with Steve on his presentation with GFCQ at SSAG meeting on Thursday. I believe Steve sent through some proposed messaging to Chris on Friday. Can you please include us in your advice on this.

Thanks

Lindsey



Lindsey Ahern
Communications Manager
Strategic Communication and Engagement | Business and Corporate Partnership
Department of Resources

P: sch4p4(6) Pej
E: lindsey.ahern@resources.qld.gov.au
A: Level 6, 1 William Street, Brisbane Qld 4000
Connect with us on [Facebook](#), [Twitter](#), [YouTube](#) and [LinkedIn](#)

Published on Resources Disclosure Log
RTI Act 2009

Date : 28/07/2021 2:39:23 PM

From : sch4p4(6) Personal informat

To : "Shaun Ferris"

Cc : sch4p4(6) Personal information

Subject : FW: Directional drilling fact sheet

Attachment : Approved Factsheet for Publication_Arrow Comments 20210714 track changes.docx;image002.png;image003.png;

Hi Shaun

These are the comments that Arrow made on the Fact Sheet as discussed.

You will see that in the 2nd paragraph we have suggested some changes to make clearer the definition of Preliminary vs Advanced. Under the last paragraph (Compensation Liability), the first dot point could be read that the drilling of a directional well could be compensable – this speaks to the point about impact at the time of the drilling versus future potential compensable impacts (e.g. subsidence). That first dot point could be interpreted to read that simply the drilling of the deviated well (even if Preliminary) could in itself be compensable. The other interpretation is that the drilling of a deviated well can be considered Preliminary or Advanced and compensable – whilst it could be considered Preliminary or Advanced, that is true, my understanding is that it is only for a narrow number of triggers that it would be Advanced. The first dot point under Compensation Liability also uses the word ‘suffered’, which is somewhat emotive and suggests a human impact. We appreciate that the Department is bound by the scope of the current legislation. Hence, we appreciate what clarifications may be possible, in particular to clarify between Preliminary and Advanced activities, and that in most cases, a deviated well will be considered a Preliminary activity as the impact that occurs at the time of drilling is minimal, if any.

Regards

sch4p4(6) Personal informat

Arrow Energy Pty Ltd

Level 39, 111 Eagle St, Brisbane QLD 4000

GPO Box 5262, Brisbane QLD 4001, Australia

T: +61 7 3012 4523 (direct)

M: sch4p4(6) Perso

sch4p4(6) Personal information

www.arrowenergy.com.au

sch4p4(6) Pers

From Acting VP External Relations and Tenure Management

sch4p4(6) Personal informat



Important: This message may contain confidential information. If you are not the intended recipient or you received the message in error, you must immediately delete the message and notify the sender.

Considerations when accessing private land to carry out directional drilling on adjacent land

Style Definition: Heading 1

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 in that scenario.

'Land' in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ Sub-surface resources ~~land are~~ is therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still "land" under the Petroleum and Gas Act and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property ~~will be~~ is considered a preliminary activity for the land access framework ~~if there is no impact, or only a minor, impact on a landholder's business or land use activities.~~
- Deviated drilling is considered an advanced activity if these criteria are met:
 - A landholder's property size is less than 100 ha and is used for intensive farming or broadacre agriculture, or
 - Directional drilling is demonstrated to have a major impact on a landholder's business of land use, or where it affects the lawful carrying out of an organic or bio-organic system
- Where ~~the impact on~~ a landholder's business or land use activities ~~is greater and~~ falls under the category of advanced activity or the impact can be demonstrated to be major either a conduct and compensation agreement, a deferral agreement, or an opt-out agreement ~~would~~ may be required.
- Each circumstance should be assessed individually and considered on a case-by-case basis.
- Landholders who believe a directional well that has been drilled is impacting on their land use or business should contact the proponent who drilled the well and/or the department to discuss the issue.

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

Entry Notice Requirements

- An entry notice for directional drilling 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.
- Entry notice must comply with the prescribed requirements as outlined in section 17 of the *Mineral and Energy Resources (Common Provisions) Regulation 2016*.
- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but does serve as a readily available resource for companies to utilise.

Locating Directional Drilling Wells and Activities

- Where not already doing so, 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.
- Early engagement will provide landholders with the opportunity to discuss any concerns regarding actual or potential impact that the activities could have on their business and land use activities and discuss the location of activities.
- It is encouraged that the design and location of directional wells takes account of relevant landholder input, and the landholder's business or land use activities.

Compensation Liability

- Regardless of whether an activity is a preliminary or advanced activity, 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 for any demonstrated 'compensatable effect' because of the holder's resource activities.
- A 'compensatable effect' is defined in section 81 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act). Further details are provided in the attachment to this factsheet.
- Landholders are not liable to compensate for damages associated with carrying out resource activities occurring on their land, unless they, or someone authorised by them, caused or contributed to the harm.

Further information

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

Further information on the legislative framework is also provided in the Attachment.

² https://www.resources.qld.gov.au/__data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

Commented [JR1]: •This section would be an opportunity for the Department to note how difficult it would be to quantify a compensable effect prior to drilling the wells and perhaps point to a process for future claims.

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)³ and the meaning of "land" in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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'.

³ 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*

Entry to land

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.

Entry notice requirements

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 MERC 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 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

Liability to compensate

Directional drilling below the surface of the land on a neighbouring property is ordinarily considered a preliminary activity for the land access framework as it is expected to have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land.

However, where a landholder's business or land use activities falls under the advanced activity criteria or the impact can be demonstrated by the landholder to be major either a conduct and compensation agreement, a deferral agreement, or an opt-out agreement would be required.

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

⁴ Penalties and Sentences Act 1992, s 181B.

- Notice about completion of hydraulic activities.¹⁰

Published on Resources Disclosure Log
RTI Act 2009

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017, s34.*

Date : 28/07/2021 3:44:44 PM
From : "SHAW Chris"
To : "Shaun Ferris"
Cc : "ODDG GEO"
Subject : RE: Directional drilling fact sheet
Attachment : image001.png;image002.png;image003.png;

Sorry – I thought you sent through the MECS item – have actually read now. I will ask Shaun as I have no idea why Arrow have suddenly come back with more feedback.

Cheers

From: PURCELL Sulu <Sulu.Purcell@resources.qld.gov.au> On Behalf Of FERRIS Shaun
Sent: Wednesday, 28 July 2021 3:40 PM
To: SHAW Chris; FERRIS Shaun
Cc: ODDG GEO
Subject: RE: Directional drilling fact sheet
Thanks Chris, I'll leave this with you.



Kind regards
Sulu Purcell
Executive Assistant
Office of the Deputy Director-General | Georesources
Department of Resources

P: 07 3087 8796
E: sulu.purcell@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 |
PO BOX 15216, CITY EAST, QLD 4002

From: SHAW Chris <Chris.Shaw@resources.qld.gov.au>
Sent: Wednesday, 28 July 2021 3:38 PM
To: FERRIS Shaun
Cc: ODDG GEO; PURCELL Sulu
Subject: RE: Directional drilling fact sheet
No need for Shaun to review – would be good to get it back into the MO ASAP.
Thanks!

From: PURCELL Sulu <Sulu.Purcell@resources.qld.gov.au> On Behalf Of FERRIS Shaun
Sent: Wednesday, 28 July 2021 3:38 PM
To: SHAW Chris
Cc: ODDG GEO; PURCELL Sulu
Subject: FW: Directional drilling fact sheet
Hi Chris
This has just come through to Shaun. Is this something you need to review?



Kind regards
Sulu Purcell
Executive Assistant
Office of the Deputy Director-General | Georesources
Department of Resources

P: 07 3087 8796
E: sulu.purcell@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 |
PO BOX 15216, CITY EAST, QLD 4002

From: sch4p4(6) Personal information
Sent: Wednesday, 28 July 2021 2:39 PM
To: FERRIS Shaun
C: sch4p4(6) Personal information
Subject: FW: Directional drilling fact sheet
Hi Shaun

These are the comments that Arrow made on the Fact Sheet as discussed.

You will see that in the 2nd paragraph we have suggested some changes to make clearer the definition of Preliminary vs Advanced. Under the last paragraph (Compensation Liability), the first dot point could be read that the drilling of a directional well could be compensable – this speaks to the point about impact at the time of the drilling versus future potential compensable impacts (e.g. subsidence). That first dot point could be interpreted to read that simply the drilling of the deviated well (even if Preliminary) could in itself be compensable. The other interpretation is that the drilling of a deviated well can be considered Preliminary or Advanced and compensable – whilst it could be considered Preliminary or Advanced, that is true, my understanding is that it is only for a narrow number of triggers that it would be Advanced. The first dot point under Compensation Liability also uses the word 'suffered', which is somewhat emotive and suggests a human impact. We appreciate that the Department is bound by the scope of the current legislation. Hence, we appreciate what clarifications may be possible, in particular to clarify between Preliminary and Advanced activities, and that in most cases, a deviated well will be considered a Preliminary activity as the impact that occurs at the time of drilling is minimal, if any.

Regards

sch4p4(6)

sch4p4(6) Personal information

Arrow Energy Pty Ltd

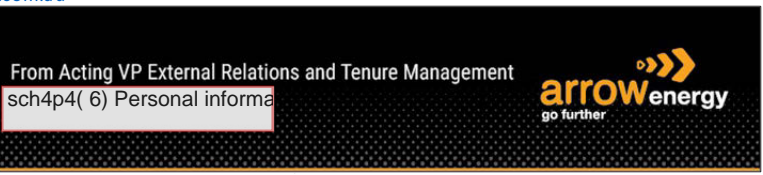
Level 39, 111 Eagle St, Brisbane QLD 4000
GPO Box 5262, Brisbane QLD 4001, Australia
T: +61 7 3012 4523 (direct)

M: sch4p4(6) Perso

sch4p4(6) Personal information

www.arrowenergy.com.au

sch4p4(6) Per



Important: This message may contain confidential information. If you are not the intended recipient or you received the message in error, you must immediately delete the message and notify the sender.

Published on Resources Disclosure Log
RTI Act 2009

Date : 29/07/2021 9:17:39 AM
From : "SHAW Chris"
To : "Ross Eddington" , "Marcus Rees"
Subject : FW: Directional drilling fact sheet
Attachment : Approved Factsheet for Publication_Arrow Comments 20210714 track changes.docx;image002.png;image001.png;image003.png;

From: PURCELL Sulu <Sulu.Purcell@resources.qld.gov.au> On Behalf Of FERRIS Shaun
Sent: Wednesday, 28 July 2021 3:38 PM
To: SHAW Chris
Cc: ODDG GEO; PURCELL Sulu
Subject: FW: Directional drilling fact sheet

Hi Chris

This has just come through to Shaun. Is this something you need to review?



Kind regards

Sulu Purcell
Executive Assistant
Office of the Deputy Director-General | Georesources
Department of Resources

P: 07 3087 8796
E: sulu.purcell@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000 |
PO BOX 15216, CITY EAST, QLD 4002

From: sch4p4(6) Personal information
Sent: Wednesday, 28 July 2021 2:39 PM
To: FERRIS Shaun
Cc: sch4p4(6) Personal information
Subject: FW: Directional drilling fact sheet

Hi Shaun

These are the comments that Arrow made on the Fact Sheet as discussed.

You will see that in the 2nd paragraph we have suggested some changes to make clearer the definition of Preliminary vs Advanced.

Under the last paragraph (Compensation Liability), the first dot point could be read that the drilling of a directional well could be compensable – this speaks to the point about impact at the time of the drilling versus future potential compensable impacts (e.g. subsidence). That first dot point could be interpreted to read that simply the drilling of the deviated well (even if Preliminary) could in itself be compensable. The other interpretation is that the drilling of a deviated well can be considered Preliminary or Advanced and compensable – whilst it could be considered Preliminary or Advanced, that is true, my understanding is that it is only for a narrow number of triggers that it would be Advanced.

The first dot point under Compensation Liability also uses the word 'suffered', which is somewhat emotive and suggests a human impact.

We appreciate that the Department is bound by the scope of the current legislation. Hence, we appreciate what clarifications may be possible, in particular to clarify between Preliminary and Advanced activities, and that in most cases, a deviated well will be considered a Preliminary activity as the impact that occurs at the time of drilling is minimal, if any.

Regards

sch4p4(6) F

sch4p4(6) Personal informati

Arrow Energy Pty Ltd
Level 39, 111 Eagle St, Brisbane QLD 4000
GPO Box 5262, Brisbane QLD 4001, Australia
T: +61 7 3012 4523 (direct)
M: sch4p4(6) Pers
sch4p4(6) Personal information
www.arrowenergy.com.au

sch4p4(6) Pers

From Acting VP External Relations and Tenure Management
sch4p4(6) Personal informatio



Important: This message may contain confidential information. If you are not the intended recipient or you received the message in error, you must immediately delete the message and notify the sender.

Published on Resources Disclosure Log
RTI Act 2009

Considerations when accessing private land to carry out directional drilling on adjacent land

Style Definition: Heading 1

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 in that scenario.

'Land' in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ Sub-surface resources ~~land are~~ is therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still "land" under the Petroleum and Gas Act and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property ~~will be~~ is considered a preliminary activity for the land access framework ~~if there is no impact, or only a minor, impact on a landholder's business or land use activities.~~
- Deviated drilling is considered an advanced activity if these criteria are met:
 - A landholder's property size is less than 100 ha and is used for intensive farming or broadacre agriculture, or
 - Directional drilling is demonstrated to have a major impact on a landholder's business of land use, or where it affects the lawful carrying out of an organic or bio-organic system
- Where ~~the impact on~~ a landholder's business or land use activities ~~is greater and~~ falls under the category of advanced activity or the impact can be demonstrated to be major either a conduct and compensation agreement, a deferral agreement, or an opt-out agreement ~~would~~ may be required.
- Each circumstance should be assessed individually and considered on a case-by-case basis.
- Landholders who believe a directional well that has been drilled is impacting on their land use or business should contact the proponent who drilled the well and/or the department to discuss the issue.

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

Entry Notice Requirements

- An entry notice for directional drilling 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.
- Entry notice must comply with the prescribed requirements as outlined in section 17 of the *Mineral and Energy Resources (Common Provisions) Regulation 2016*.
- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but does serve as a readily available resource for companies to utilise.

Locating Directional Drilling Wells and Activities

- Where not already doing so, 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.
- Early engagement will provide landholders with the opportunity to discuss any concerns regarding actual or potential impact that the activities could have on their business and land use activities and discuss the location of activities.
- It is encouraged that the design and location of directional wells takes account of relevant landholder input, and the landholder's business or land use activities.

Compensation Liability

- Regardless of whether an activity is a preliminary or advanced activity, 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 for any demonstrated 'compensatable effect' because of the holder's resource activities.
- A 'compensatable effect' is defined in section 81 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act). Further details are provided in the attachment to this factsheet.
- Landholders are not liable to compensate for damages associated with carrying out resource activities occurring on their land, unless they, or someone authorised by them, caused or contributed to the harm.

Further information

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

Further information on the legislative framework is also provided in the Attachment.

² https://www.resources.qld.gov.au/__data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

Commented [JR1]: •This section would be an opportunity for the Department to note how difficult it would be to quantify a compensable effect prior to drilling the wells and perhaps point to a process for future claims.

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)³ and the meaning of "land" in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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'.

³ 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*

Entry to land

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.

Entry notice requirements

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 MERC 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 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

Liability to compensate

Directional drilling below the surface of the land on a neighbouring property is ordinarily considered a preliminary activity for the land access framework as it is expected to have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land.

However, where a landholder's business or land use activities falls under the advanced activity criteria or the impact can be demonstrated by the landholder to be major either a conduct and compensation agreement, a deferral agreement, or an opt-out agreement would be required.

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

⁴ Penalties and Sentences Act 1992, s 181B.

- Notice about completion of hydraulic activities.¹⁰

Published on Resources Disclosure Log
RTI Act 2009

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017, s34.*

**Department of Resources
MINISTER'S BRIEFING NOTE – Scott Stewart MP**

SUBJECT: Letters to landholders regarding the GasFields Commission Queensland 'Dalby Field Trip' on 5 and 6 May 2021

TIMING: Routine

RECOMMENDATION:

It is recommended that you:

- a. **Approve** the letters (**Attachment 1**) to be sent to the landholders who attended the field trip to the Dalby/Chinchilla farming regions.
- b. **Approve** the use of the Minister's electronic signature on the letters.
- c. **Note** a factsheet (**Attachment 2**) has been developed in response to the directional drilling issues and will accompany the letters sent to the landholders. This will also be available on the Department of Resources' website.

KEY ISSUES:

1. On 5 and 6 May 2021, the Honourable Scott Stewart MP, Minister for Resources; the Director-General of the Department of Resources and the Deputy Director-General Georesources attended a field trip to the Dalby/Chinchilla farming regions.
2. Hosted by the GasFields Commission, the purpose of the field trip was to provide the Minister with a more detailed understanding of the issues and opportunities associated with gas development in the area.
3. In addition to undertaking tours of Arrow Energy (Arrow) and QGC/Shell tenure holdings with senior company executives, landholders from Kupunn and Cecil Plains were invited to discuss the issues that are affecting them in regard to the development of Queensland's onshore gas industry.
4. Key issues that were discussed with the Kapunn and Cecil Plains landholders included subsidence, deviated drilling, public liability insurance and long-term liability, the effectiveness of the *Regional Planning Interests Act 2014* and regulatory compliance.
5. The field trip also included discussions with Wieambilla landholders that have co-existed with gas development for over a decade, in addition to a breakfast meeting with Western Downs Regional Council.
6. Following the visit, the issues raised by landholders has received media interest, with articles by ABC News and the Dalby Herald focusing on directional drilling and subsidence.

RISK:

7. N/A

CONSISTENCY WITH ELECTION COMMITMENTS AND GOVERNMENT OBJECTIVES:

8. N/A.

RESOURCE IMPLICATIONS:

9. Finance / Budget – N/A.
10. HR – N/A.

COMMUNICATION:

11. The factsheet has been developed in consultation with the industry peak bodies (Queensland Resources Council, Australian Petroleum Production & Exploration Association) and agricultural peaks (AgForce and Queensland Farmers' Federation), as well as the GasFields Commission

Policy Advisor.....	OK
Chief of Staff	OK
Approved / Not approved / Noted	
sch4p4(6) Personal informat	
Minister
Dated	7/5/21

Author:	Recommended – ED:	Endorsed – DDG:
Name: Ross Eddington Title/Business Group: Director, Georesources Telephone: sch4p4(6) Pe Date: 02 July 2021	Name: Chris Shaw Title/Business Group: Executive Director, Georesources Telephone: 3199 7391 Date: 05 July 2021	Name: Shaun Ferris Title/Business Group: Deputy Director-General, Georesources Telephone: 3199 7393 Date: 05 July 2021

Queensland and the departments Engagement and Compliance Unit.

BACKGROUND:

12. With current operational activity around intensely farmed priority agricultural areas around Dalby, Arrow's Surat Gas Project is the biggest gas project since the approval and development of the world's first three Coal Seam Gas (CSG) to Liquefied Natural Gas export facilities on Curtis Island.
13. The Project will be developed over 10 tranches over 15 years, with the development expanding to the north and south of existing production assets. Phase one will utilise existing QGC infrastructure.
14. In April 2020, Arrow announced that it had received a final investment decision from its shareholders, Shell and PetroChina, to allow phase one of the Surat Gas Project to proceed.
15. There are approximately 200 individual landholders across the Kapunn, Nandi and Cecil Plains areas; however, it is considered that a minority of these landholders are objecting to gas development.

HUMAN RIGHTS IMPACT ASSESSMENT

16. There are no implications for human rights under the *Human Rights Act 2019*.

ATTACHMENTS:

17. **Attachment 1** – Letter to landholders
Attachment 2 – Factsheet
Attachment 3 – Recipient list for mail merge

Considerations when 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 in that scenario.

‘Land’ in the context of the Land Access Framework

- The land access framework applies to authorised activities that occur below the surface of the land, which include directional drilling, except where exemptions apply.
- Generally, land ownership ceases at the point the landowner may no longer make actual, beneficial use of the airspace and sub-surface space.¹ Sub-surface land is therefore normally owned by the State.
- Where subsurface resource production is authorised by government the basic requirement is that the use of the surface land must not be unduly interfered with or if there is impact at the surface it must be compensated for.
- However, land volume above and below the surface is still “land” under the petroleum legislation and for that reason the land access framework generally applies to authorised activities that occur below the surface of the land, including directional drilling.

Directional Drilling – Preliminary or Advanced Activity?

- Directional drilling below the surface of the land on a neighbouring property will be considered a preliminary activity for the land access framework if there is no impact, or only a 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 would be required.
- Each circumstance should be assessed individually and considered on a case-by-case basis. Directional drilling below the surface of land on a neighbouring property will be an advanced activity where:
 - (a) the neighbouring property is less than 100 hectares and is being used for intensive farming or broadacre agriculture; or
 - (b) the directional drilling has a major impact on a landholder’s business or land use, or where it affects the lawful carrying out of an organic or bio-organic farming system.
- Conduct and compensation agreements, deferral agreements, or an opt-out agreements are required for advanced activities.
- Landholders who believe that part of a directional well that has been drilled beneath the surface of their property is impacting on their land use or business should contact the proponent who drilled the well and/or the department to discuss the issue.

Entry Notice Requirements

- An entry notice for directional drilling must be given to each owner and occupier of adjacent land at least 10 business days before the day calculated by the resource

¹ https://www.resources.qld.gov.au/?a=109113:policy_registry/granting-land-volumetrically.pdf&ver=2.05

company as to when the directional drilling activities will occur beneath the surface of that adjacent land.

- An entry notice must comply with the prescribed requirements as outlined in regulation 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016.
- A template for an Entry Notice is provided on the Department of Resources website². This template is not compulsory, but does serve as a readily available resource for companies to utilise.
- It is also noted that a first entry notice relating to directional drilling activities is also required to include a copy of the Code of Practice for the construction and abandonment of petroleum wells and associated bores.

Locating Directional Drilling Wells and Activities

- 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.
- Early engagement will provide landholders the opportunity to work with proponents regarding the proposed location of activities and assess any impact that the activities may have on their business and land use activities.
- It is important that the design and location of directional wells takes account of landholder input, and the landholder's business or land use activities.

Compensation Liability

- Regardless of whether an activity is a preliminary or advanced activity, 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 for each 'compensatable effect' that occur because of the holder's directional drilling activities undertaken within the cadastral boundaries of the adjacent owner's or occupier's land. Potential impacts that may or may not occur in the future are not compensatable at the time of drilling, and would only be compensatable if realised.
- A 'compensatable effect' is defined in section 81 of the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act). Further details are provided in the attachment to this factsheet.
- Landholders are not liable to any person for damages associated with the resource authority holder carrying out its activities occurring on a landholder's land, unless the landholder, or someone authorised by them, caused or contributed to the harm.

Further information

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

Further information on the legislative framework is also provided in the Attachment.

² https://www.resources.qld.gov.au/data/assets/pdf_file/0018/441711/entry-notice-form-01.pdf

Attachment

FURTHER INFORMATION ABOUT LEGISLATIVE REQUIREMENTS

Regulatory framework

The Department of Resources administers the land access framework under Chapter 3 of the MERCP Act and subordinate legislation.

The MERCP Act must be read as if it formed part of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act)³ and the meaning of “land” in Schedule 2 Dictionary of the P&G Act includes subterranean 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.

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 MERCP 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’.

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).

³ Refer to section 6 of the *Mineral and Energy Resources (Common Provisions) Act 2014*.

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*

Entry to land

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.

Entry notice requirements

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 MERC 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 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.⁴

Prescribed criteria for an entry notice

Under section 17 of the Mineral and Energy Resources (Common Provisions) Regulation 2016, an entry notice must state each of the following –

- a description of the land to be entered
- the period during which the land is to be entered
- the authorised activities proposed to be carried out on the land
- when and where the activities are to be carried out
- the contact details of -
 - the resource authority holder or another person the resource authority holder has authorised to discuss the matters stated in the notice.

If the notice is the first entry notice given to a particular owner or occupier of the land, the notice must be accompanied by a copy of each of the following –

- the resource authority to which the entry relates
- any relevant environmental authority for the resource authority
- the land access code
- any code or code of practice made under a Resource Act applying to the authorised activities for the resource authority
- the document called 'A guide to land access in Queensland' published on the department's website or the Queensland Government business and industry portal.

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;

⁴ *Penalties and Sentences Act 1992*, s 181B.

- 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.

Limitation of owner's or occupier's tortious liability for authorised activities

Section 563A of the P&G Act limits the tortious liability of an owner or occupier of land in the area of a petroleum authority if someone else carries out an authorised activity for a petroleum authority on the land. The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity unless the owner or occupier or someone authorised by the owner or occupier caused or contributed to the harm.

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 bore⁵
- Notice about completion, alteration, or abandonment of petroleum well or bore⁶
- Notice about intention to carry out seismic survey or scientific or technical survey⁷
- Notice about completion of survey or scientific or technical survey⁸
- Notice about intention to carry out hydraulic fracturing activities⁹
- Notice about completion of hydraulic activities.¹⁰

⁵ *Petroleum and Gas (General Provisions) Regulation 2017*, s29.

⁶ *Petroleum and Gas (General Provisions) Regulation 2017*, s30.

⁷ *Petroleum and Gas (General Provisions) Regulation 2017*, s31.

⁸ *Petroleum and Gas (General Provisions) Regulation 2017*, s32.

⁹ *Petroleum and Gas (General Provisions) Regulation 2017*, s33.

¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017*, s34.

Date : 9/08/2021 9:28:47 AM

From : sch4p4(6) Personal

To : "SHAW Chris"

Subject : Extract

Attachment : image001.png;image002.png;image003.png;image004.png;image005.png;image006.png;

Here is the relevant reference:

The concepts of "advanced activities" and "preliminary activities" were first introduced to the *Petroleum and Gas (Production and Safety) Act 2004* (Qld) in 2010 pursuant to amendments made under the Geothermal Energy Bill. Pursuant to the Bill in its original form, the example of "drilling without constructing earthworks" (which, to us, seems to encompass directional drilling) was included in the definition of preliminary activities. This example was, however, removed before the Bill was passed. The relevant Explanatory Note (see <https://www.legislation.qld.gov.au/view/pdf/bill.third.exp/bill-2010-1532> @ page 50) explained that "...the example of 'drilling without constructing earthworks' has been deleted as further consultation revealed this could have a significant impact on landholders". We have not been able to identify the specific nature of the impacts identified.

Cheers

sch4p4(6) Pers

Acting Chief Executive Officer



sch4p4(6) Personal information

www.gfcq.org.au



Managing and improving the sustainable coexistence of landholders, regional communities and the onshore gas industry in Queensland

Only the intended recipient of this e-mail may access or use the information contained in this e-mail or any of its enclosures. Opinions contained in this e-mail or any of its attachments do not necessarily reflect the opinions of GasFields Commission Queensland (the Commission). The contents of this e-mail and its enclosures are confidential and may be legally privileged and the subject of copyright. If you have received this e-mail in error, please notify the Commission immediately and erase all copies of the e-mail and its enclosures. The Commission uses virus scanning software but, to the extent permitted by law, will not be liable for any loss and damage resulting (directly or indirectly) from the receipt of this e-mail (including any enclosures) or for viruses present in this e-mail or its enclosures.

Published on Resources Disposal
RTI Act 2009

Date : 10/08/2021 6:39:27 PM

From : sch4p4(6) Personal i

To : "EDDINGTON Ross"

Cc : "Chris.Shaw@resources.qld.gov.au" , "FERRIS Shaun"

Subject : RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Attachment : image001.png;

Hi Ross

In relation to the comment below, is there a reason the word "suffered" was removed from the in the main section but kept in the attachment of the updated fact sheet?

Best regards,

sch4p

sch4p4(6) Perso

A/g Queensland Director

m sch4p4(6) Personal inform

e

sch4p4(6) Personal inform

ENERGY FOR A
BETTER AUSTRALIA



From: sch4p4(6) Pers

Sent: Thursday, 8 July 2021 2:35 PM

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

Cc: Chris.Shaw@resources.qld.gov.au; FERRIS Shaun <shaun.ferris@resources.qld.gov.au>

Subject: RE: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Hi Ross

Could you consider rewording this dot point on the second page under the "Compensation Liability" heading:

- Regardless of whether an activity is a preliminary or advanced activity, 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 for each 'compensatable effect' suffered by the claimant because of the holder's directional drilling activities.

The wording gives the sense that land holders can claim 'compensatable effect' simply because there is directional drilling – see the word 'suffered'. There is no sense here of the difference between actual and proven effects at the time of drilling, vs those that MAY potentially occur in the future. A land holder could read this and think that the potential future impacts can be claimed now.

Whilst proponents will be liable for any future potential compensatable impacts, the fact sheet would be clearer if it distinguished between actual impacts known at the time of drilling and those that may eventuate in the future, and are therefore potential impacts and not subject to compensation at the time of the drilling.

Best regards,

sch4p4

sch4p4(6) Person

A/g Queensland Director

m sch4p4(6) Personal infor

e

sch4p4(6) Personal inform

ENERGY FOR A
BETTER AUSTRALIA



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

Sent: Thursday, 8 July 2021 9:09 AM

To: sch4p4(6) Personal information

Subject: New Factsheet - Considerations when accessing private land to carry out directional drilling on adjacent land

Please find attached a new departmental factsheet on Considerations when accessing private land to carry out directional drilling on adjacent land which has been produced to clarify requirements under the relevant legislation.

If you have any questions please do not hesitate to reach out and ask

Kind regards

Ross Eddington

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 on Resources Disclosure Log
RTI Act 2009