

Date : 10/08/2021 1:26:46 PM
From : "SHAW Chris"
To : "Ross Eddington" , "Lindsey Ahern"
Cc : "Lilly Patellis"
Subject : RE: Directional Drilling - Min letter
Attachment : image001.png;

And just to confirm we shouldn't get the fact sheet online until 4:45.

Cheers

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 1:22 PM
To: AHERN Lindsey; SHAW Chris
Cc: PATELLIS Lilly
Subject: RE: Directional Drilling - Min letter

The mins corro unit are preparing letters just waiting on gasfields commission to fill in some blanks on the list

From: AHERN Lindsey <Lindsey.Ahern@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 12:48 PM
To: SHAW Chris; EDDINGTON Ross
Cc: PATELLIS Lilly
Subject: Directional Drilling - Min letter

Hi Chris, Ross

I know that we are publishing the fact sheet online, but checking if the Min's letter to landholders with the fact sheet is also being/has been distributed today?

I see in MECS that the brief is signed off, just not sure if the letters are actually going out.

Thanks
Lindsey



Lindsey Ahern
Communications Manager
Strategic Communication and Engagement | Business and Corporate Partnership
Department of Resources

P: [sch4p4\(6\) Pe](tel:0755234444)
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 : 10/08/2021 1:24:24 PM
From : "PATELLIS Lilly"
To : "BELISLE Jacqueline"
Cc : "Lindsey Ahern" , "Ray Latchmanan"
Subject : RE: Directional drilling fact sheet
Attachment : image001.png;
Hi Jacquie

Your text revisions are approved and it's good to go live.

Thanks for your help!

Cheers
Lilly

From: BELISLE Jacqueline <Jacqueline.Belisle@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 1:05 PM
To: PATELLIS Lilly; LATCHMANAN Ray
Cc: AHERN Lindsey
Subject: RE: Directional drilling fact sheet

Thanks Lilly. And once approved, can we publish the page? Or send a preview for approval?



Jacqueline Belisle
Senior content specialist (part-time, Mon and Wed)
Digital and Online | Communications
Department of Resources

T 3087 8983
E jacqueline.belisle@resources.qld.gov.au
Level 6, 1 William Street | Brisbane, QLD 4000

From: PATELLIS Lilly <Lilly.Patellis@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 1:02 PM
To: BELISLE Jacqueline; LATCHMANAN Ray
Cc: AHERN Lindsey
Subject: RE: Directional drilling fact sheet

Hey Jacquie

Just getting approval from the client on your suggested words.

Back to you soon!

L

From: BELISLE Jacqueline <Jacqueline.Belisle@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 12:58 PM
To: PATELLIS Lilly; LATCHMANAN Ray
Cc: AHERN Lindsey
Subject: RE: Directional drilling fact sheet

The suggested text was:

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.

Can we reword as:

Please read the directional drilling information sheet for an explanation of the regulations and landholder rights that apply when directional drilling activities are carried out on adjacent private land.



Department of Resources

T 3087 8983

E jacqueline.belisle@resources.qld.gov.au

Level 6, 1 William Street | Brisbane, QLD 4000

From: PATELLIS Lilly <Lilly.Patellis@resources.qld.gov.au>

Sent: Tuesday, 10 August 2021 12:53 PM

To: LATCHMANAN Ray; BELISLE Jacqueline

Cc: AHERN Lindsey

Subject: Directional drilling fact sheet

Hi Jacque and Ray

Following on from our earlier conversation...This is basically an interim measure to get something up by 5pm today.

The plan is to review the content and re-write if for a HTML page ...very soon.

The information will live on <https://www.business.qld.gov.au/industries/mining-energy-water/resources/landholders/accessing-private-land/preliminary>

Can we please go ahead with inserting a sentence in the 'Communicating with landholders – advice for resource operators' box and linking to the directional drilling PDF?

Cheers

Lilly



Lilly Patellis

Principal Communication Officer

Strategic Communication | Business and Corporate Partnership

Department of Resources

P: 07 3199 8257

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Date : 10/08/2021 10:57:35 AM
From : "EDDINGTON Ross"
To : "Lilly Patellis"
Subject : FW: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval
Attachment : CTS 12640-21 - Min signed brief.pdf;image003.png;image002.png;image001.png;
Has now been approved on MECS

From: GeoPoLOED <GeoPoLOED@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 10:54 AM
To: SHAW Chris; EDDINGTON Ross
Subject: FW: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

FYI – Directional drilling brief has been approved



Alexis Green
Executive Officer - Georesources Policy
Divisional Support | Georesources Division
Department of Resources
P: 3199 7387

From: ODDG GEO <ODDG.GEO@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 8:37 AM
To: GeoPoLOED
Cc: ODDG GEO
Subject: FW: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

FYI Alexis ...



Kristina O'Connor
Senior Project Officer | Strategy & Business Support | Georesources
Department of Resources



Chat with me on Teams!
P: (07) 3199 7352
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E: kristina.oconnor@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000
PO BOX 15216, CITY EAST, QLD 4002

From: Resources DLO <Resources.DLO@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 8:35 AM
To: Corro Resources Minister and DG
Cc: Resources DLO; ODDG GEO
Subject: RE: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

Hi Nga

As discussed, please see attached Min signed brief.

To be actioned:

- Mail merge
- Fact sheet must accompany the letter
- Please send using e-signature obo of Minister Stewart.

Thanks
Nadia

Kind Regards

Nadia Dyer
Department Liaison Officer
Department of Resources
P: [sch4p4\(6\)](#)
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: Wednesday, 28 July 2021 3:24 PM
To: Resources DLO
Cc: Corro Resources Minister and DG
Subject: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

Hi Nadia,

21-461

File D

Page 4 of 71

Updated to Attachment 1 at the request of the business area – ready for Minister approval for use of electronic signature for letters to Landholders

Attachments include:

- Ministerial Briefing note
- **Attachment 1 – Letter to Landholders – returned for rework 27/7 at the request of the business area**
- Attachment 2 – Factsheet
- Attachment 3 – Recipient list for mail merge
- Redraft request – 27/7 (FW: Directional drilling email)

King regards,



Nancy Edwards
Senior Correspondence Officer
Business and Corporate Partnership | Executive Correspondence Team
Department of Resources

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- [Chat with me in Teams](#)

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RTI Act 2009

**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 information	
Minister
Dated

9/5/21

Author:	Recommended – ED:	Endorsed – DDG:
Name: Ross Eddington Title/Business Group: Director, Georesources Telephone: sch4p4(6) Per 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

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Date : 10/08/2021 10:43:13 AM

From : "EDDINGTON Ross"

To : "Lilly Patellis"

Subject : FW: Webpage update - Directional drilling fact sheet

Attachment : Directional Drilling Fact Sheet update.docx;image001.png;

Attached is our concept of where the factsheet would live, but totally in your hands about where and how published

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

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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.

[Preliminary activity requirements | Business Queensland](#)

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

[Preliminary activity requirements | Business Queensland](#)

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 : 10/08/2021 1:22:58 PM
From : "Lilly Patellis"
To : "Ross Eddington"
Cc : "Kerrie Musgrave"
Subject : RE: Directional drilling fact sheet
Attachment : image001.png;
Great.

Will let you know when it goes live.

L

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 1:22 PM
To: PATELLIS Lilly
Cc: MUSGRAVE Kerrie
Subject: RE: Directional drilling fact sheet

Yes I think that works well

From: PATELLIS Lilly <Lilly.Patellis@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 1:00 PM
To: EDDINGTON Ross
Cc: MUSGRAVE Kerrie
Subject: FW: Directional drilling fact sheet
Importance: High

Hi Ross, Kerrie

Are you happy for the below reword of the text on the web page, linking to the directional drilling fact sheet?

From: BELISLE Jacqueline <Jacqueline.Belisle@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 12:58 PM
To: PATELLIS Lilly; LATCHMANAN Ray
Cc: AHERN Lindsey
Subject: RE: Directional drilling fact sheet

The suggested text was:

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.

Can we reword as:

Please read the directional drilling information sheet for an explanation of the regulations and landholder rights that apply when directional drilling activities are carried out on adjacent private land.



Jacqueline Belisle
Senior content specialist (part-time, Mon and Wed)
Digital and Online | Communications
Department of Resources

T 3087 8983
E jacqueline.belisle@resources.qld.gov.au
Level 6, 1 William Street | Brisbane, QLD 4000

Date : 10/08/2021 11:39:30 AM
From : "Lilly Patellis"
To : "Amy Curningham"
Subject : test please
Attachment : Directional Drilling Fact Sheet 100821.pdf;

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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.

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 company as to when the directional drilling activities will occur beneath the surface of that adjacent land.

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

- 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).

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.

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

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

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

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 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.

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
- 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 : 10/08/2021 10:41:11 AM
From : "EDDINGTON Ross"
To : "SHAW Chris" , "Lilly Patellis"
Subject : Factsheet publication
Attachment : DMView_1628555937059_12640-21_1894686_Attachment_2_-_Factsheet.docx;
Lilly

As discussed please find attached the version of the factsheet on MECS which will be our point of truth

Chris – please note the MECS item is still not showing signed of I suspect as they are awaiting corrections to the mail out list from QGFC. Are you happy for comms to prepare to publish the attached prior to us getting that signed off back through 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 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 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 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;
- 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 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 : 10/08/2021 12:47:54 PM
From : "AHERN Lindsey"
To : "SHAW Chris", "EDDINGTON Ross"
Cc : "PATELLIS Lilly"
Subject : Directional Drilling - Min letter
Attachment : image001.png;
Hi Chris, Ross

I know that we are publishing the fact sheet online, but checking if the Min's letter to landholders with the fact sheet is also being/has been distributed today?

I see in MECS that the brief is signed off, just not sure if the letters are actually going out.

Thanks
Lindsey



Lindsey Ahern
Communications Manager
Strategic Communication and Engagement | Business and Corporate Partnership
Department of Resources

p: sch4p4(6) Per

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 : 10/08/2021 6:06:15 PM

From : "EDDINGTON Ross"

To : sch4p4(6) Personal information

Subject : Factsheet

Please find attached the information sheet on directional drilling

Kind regards

Ross Eddington

[Preliminary activity requirements | Business Queensland](#)

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Date : 10/08/2021 1:00:24 PM
From : "PATELLIS Lilly"
To : "EDDINGTON Ross"
Cc : "MUSGRAVE Kerrie"
Subject : FW: Directional drilling fact sheet
Attachment : image001.png;

Hi Ross, Kerrie

Are you happy for the below reword of the text on the web page, linking to the directional drilling fact sheet?

From: BELISLE Jacqueline <Jacqueline.Belisle@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 12:58 PM
To: PATELLIS Lilly; LATCHMANAN Ray
Cc: AHERN Lindsey
Subject: RE: Directional drilling fact sheet

The suggested text was:

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.

Can we reword as:

Please read the directional drilling information sheet for an explanation of the regulations and landholder rights that apply when directional drilling activities are carried out on adjacent private land.



Jacqueline Belisle
Senior content specialist (part-time, Mon and Wed)
Digital and Online | Communications
Department of Resources

T 3087 8983
E jacqueline.belisle@resources.qld.gov.au
Level 6, 1 William Street | Brisbane, QLD 4000

Date : 10/08/2021 10:57:35 AM
From : "EDDINGTON Ross"
To : "PATELLIS Lilly"
Subject : FW: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval
Attachment : CTS 12640-21 - Min signed brief.pdf;image003.png;image002.png;image001.png;
Has now been approved on MECS

From: GeoPoLOED <GeoPoLOED@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 10:54 AM
To: SHAW Chris; EDDINGTON Ross
Subject: FW: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

FYI – Directional drilling brief has been approved



Alexis Green
Executive Officer - Georesources Policy
Divisional Support | Georesources Division
Department of Resources
P: 3199 7387

From: ODDG GEO <ODDG.GEO@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 8:37 AM
To: GeoPoLOED
Cc: ODDG GEO
Subject: FW: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

FYI Alexis ...



Kristina O'Connor
Senior Project Officer | Strategy & Business Support | Georesources
Department of Resources



P: (07) 3199 7352
M: [sch4n4/6](tel:0731997352)
E: kristina.oconnor@resources.qld.gov.au
A: Level 4, 1 William Street, Brisbane QLD 4000
PO BOX 15216, CITY EAST, QLD 4002

From: Resources DLO <Resources.DLO@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 8:35 AM
To: Corro Resources Minister and DG
Cc: Resources DLO; ODDG GEO
Subject: RE: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

Hi Nga

As discussed, please see attached Min signed brief.

To be actioned:

- Mail merge
- Fact sheet must accompany the letter
- Please send using e-signature obo of Minister Stewart.

Thanks
Nadia

Kind Regards

Nadia Dyer
Department Liaison Officer
Department of Resources
P: [sch4n4\(6\)P](tel:0731997352)
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: Wednesday, 28 July 2021 3:24 PM
To: Resources DLO
Cc: Corro Resources Minister and DG
Subject: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

Hi Nadia,

21-461

File D

Page 32 of 71

Updated to Attachment 1 at the request of the business area – ready for Minister approval for use of electronic signature for letters to Landholders

Attachments include:

- Ministerial Briefing note
- **Attachment 1 – Letter to Landholders – returned for rework 27/7 at the request of the business area**
- Attachment 2 – Factsheet
- Attachment 3 – Recipient list for mail merge
- Redraft request – 27/7 (FW: Directional drilling email)

King regards,



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](#)

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**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 informa	
Minister
Dated

Author:	Recommended – ED:	Endorsed – DDG:
Name: Ross Eddington Title/Business Group: Director, Georesources Telephone: sch4p4(6) Pers 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

Published on Resources Disclosure Portal
RTI Act 2009

Date : 10/08/2021 9:55:48 PM

From : "FERRIS Shaun"

To : "SHAW Chris", "EDDINGTON Ross"

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

Attachment : image001.png;

Leave this one to you both - see you Thursday.

Sent from my iPhone

Begin forwarded message:

From: sch4p4(6) Personal information

Date: 10 August 2021 at 6:39:35 pm AEST

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>

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

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,

sch4p4

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) 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 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

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Date : 10/08/2021 1:28:03 PM
From : "EDDINGTON Ross"
To : "PATELLIS Lilly" , "AHERN Lindsey" , "SHAW Chris"
Subject : RE: Directional Drilling - Min letter
Attachment : image001.png;

Once it is all done, perhaps at 5pm, how about I email peaks and QFCQ

From: PATELLIS Lilly <Lilly.Patellis@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 1:27 PM
To: EDDINGTON Ross; AHERN Lindsey; SHAW Chris
Subject: RE: Directional Drilling - Min letter

Hey Ross

Are we also sending something to the Peaks?

Lilly

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 1:22 PM
To: AHERN Lindsey; SHAW Chris
Cc: PATELLIS Lilly
Subject: RE: Directional Drilling - Min letter

The mins corro unit are preparing letters just waiting on gasfields commission to fill in some blanks on the list

From: AHERN Lindsey <Lindsey.Ahern@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 12:48 PM
To: SHAW Chris; EDDINGTON Ross
Cc: PATELLIS Lilly
Subject: Directional Drilling - Min letter

Hi Chris, Ross

I know that we are publishing the fact sheet online, but checking if the Min's letter to landholders with the fact sheet is also being/has been distributed today?

I see in MECS that the brief is signed off, just not sure if the letters are actually going out.

Thanks
Lindsey



Lindsey Ahern
Communications Manager
Strategic Communication and Engagement | Business and Corporate Partnership
Department of Resources

P: sch4p4(6) Pers
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](#)

<https://www.business.qld.gov.au/industries/mining-energy-water/resources/landholders/accessing-private-land/preliminary>

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.

<https://www.business.qld.gov.au/industries/mining-energy-water/resources/landholders/accessing-private-land/preliminary>

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 [PL1]: Insert link to Directional Drilling web page.
New web page needs to be created (html) - Word doc attached to this job.

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

<https://www.business.qld.gov.au/industries/mining-energy-water/resources/landholders/accessing-private-land/preliminary>

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 \(PDF, 1.8MB\)](#).

Published on Resources Disclosure Log
RTI Act 2009

Date : 11/08/2021 10:05:13 AM

From [redacted] sch4p4(6) Personal i

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

Attachment : image001.png;

Understood, and thanks for all the changes made.

Best regards,

[redacted] sch4p

[redacted] sch4p4(6) Person

A/g Queensland Director

[redacted] m sch4p4(6) Personal inform

e

[redacted] sch4p4(6) Personal informa

ENERGY FOR A BETTER AUSTRALIA



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

Sent: Wednesday, 11 August 2021 10:03 AM

To: [redacted] sch4p4(6) Personal information

Cc: SHAW Chris <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

[redacted] sch4p4(

Yes, the appendix is a factual summary of the legislative requirements and that is the word used in that section of the legislation. We have taken your feedback into account in reviewing the document.

Kind regards

Ross Eddington

From: [redacted] sch4p4(6) Personal information

Sent: Tuesday, 10 August 2021 6:39 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

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,

[redacted] sch4p

[redacted] sch4p4(6) Perso

A/g Queensland Director

[redacted] m sch4p4(6) Personal inform

e

[redacted] sch4p4(6) Personal informa

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

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e

sch4p4(6) Personal informa



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

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Date : 11/08/2021 12:54:42 PM

From [redacted] Personal information

To : "SHAW Chris", [redacted] Personal

Cc : "EDDINGTON Ross"

Subject : RE: Directional drilling fact sheet

Attachment : image002.png;image003.png;image004.png;

Hi Chris

Thanks for that. Yes we got a copy for APPEA and do think it is a better version. We appreciate your efforts in considering feedback.

Regards

[redacted] Personal information

Arrow Energy Pty Ltd

Level 39, 111 Eagle St, Brisbane QLD 4000

GPO Box 5262, Brisbane QLD 4001, Australia

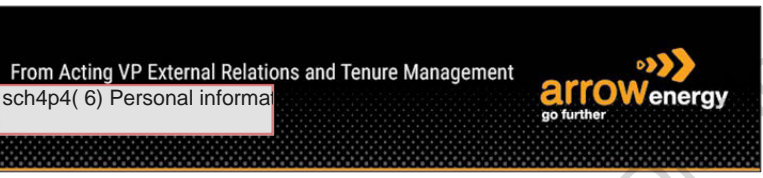
T: +61 7 3012 4523 (direct)

M: [redacted] Personal information

[redacted] Personal information

www.arrowenergy.com.au

[redacted] Personal information



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

Sent: Wednesday, 11 August 2021 12:13 PM

To: [redacted] Personal information

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

Subject: Directional drilling fact sheet

[External Email]

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

Hi [redacted] Personal information

I just wanted to make sure you were aware that the Department has now released its fact sheet on directional drilling, which is available on our website: [Preliminary activity requirements](#) | [Business Queensland](#)

Please feel free to get in contact if you would like to discuss.

Best regards,

Chris



Chris Shaw
Executive Director - Policy
Georesources Division
Department of Resources

P: (07) 3199 7391 M: [redacted] Personal information
E: chris.shaw@dnrme.qld.gov.au
A: 1 William Street, Brisbane QLD 4000
W: www.dnrme.qld.gov.au

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Date : 11/08/2021 12:13:21 PM

From : "SHAW Chris"

To : sch4p4(6) Personal information

Cc : "EDDINGTON Ross"

Subject : Directional drilling fact sheet

Attachment : image001.png;

Hi Michelle and Michael,

I just wanted to make sure you were aware that the Department has now released its fact sheet on directional drilling, which is available on our website: [Preliminary activity requirements | Business Queensland](#)

Please feel free to get in contact if you would like to discuss.

Best regards,

Chris



Chris Shaw
Executive Director - Policy
Georesources Division
Department of Resources

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

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Date : 11/08/2021 11:54:33 AM

From : "EDDINGTON Ross"

To : "MAKRAS Myria"

Subject : FW: Factsheet publication

Attachment : DMView_1628555937059_12640-21_1894686_Attachment_2_-_Factsheet.docx;

Myria

Grateful you could add this to the documents we control, allocate it a version number (1.0) and create an electronic file on our drive for it, I am sure we will be revising it soon

Ross

From: EDDINGTON Ross

Sent: Tuesday, 10 August 2021 10:41 AM

To: SHAW Chris; PATELLIS Lilly

Subject: Factsheet publication

Lilly

As discussed please find attached the version of the factsheet on MECS which will be our point of truth

Chris – please note the MECS item is still not showing signed of I suspect as they are awaiting corrections to the mail out list from QGFC. Are you happy for comms to prepare to publish the attached prior to us getting that signed off back through MECS?

Ross

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

A maximum penalty of 500 penalty units applies to the section 39 and section 43 offence provisions. If a body corporate is found guilty of the relevant offence, the court may impose a maximum fine of an amount equal to five times the maximum fine for an individual.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 : 11/08/2021 11:17:47 AM

From : "PATELLIS Lilly"

To : "EDDINGTON Ross"

Subject : FW: GasFields Commission Queensland – Department of Resources 'Directional Drilling' Fact Sheet

Hey Ross

FYI...QGFC sent this out!

Lil

From: CARNINGHAM Amy <Amy.Carningham@resources.qld.gov.au>

Sent: Wednesday, 11 August 2021 11:15 AM

To: PATELLIS Lilly; AHERN Lindsey

Subject: FW: GasFields Commission Queensland – Department of Resources 'Directional Drilling' Fact Sheet

FYI

From: sch4p4(6) Personal information

Sent: Wednesday, 11 August 2021 10:27 AM

To: CARNINGHAM Amy

Subject: GasFields Commission Queensland – Department of Resources 'Directional Drilling' Fact Sheet

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Department of Resources releases a 'Directional Drilling' fact sheet

Recently a number of Dalby district landholders raised concerns to the GasFields Commission (the Commission) and the State Government about the processes and potential impacts of directional drilling activities under landholders' properties.

The Commission proactively raised these concerns with agricultural and resource sector peak bodies and the Department of Resources.

In response to these concerns and to clarify the existing regulatory framework, the Department of Resources has released a ['Directional Drilling' fact sheet](#) that sets out the regulatory requirements for resource authority holders to access private land to carry out directional drilling activities on adjacent land, and the landholder rights that would apply in that scenario.

Importantly, the fact sheet outlines clear expectations of authority holders to engage early and openly with landholders around resource activities, whilst seeking to understand the impacts these directional drilling activities may have on landholders' businesses.

- **Download the Department of Resources 'Directional Drilling' fact sheet:** <https://bit.ly/DOR-Drilling-Factsheet>.
- **For information on 'Preliminary Activity Requirements':**

<p>resources <small>QLD.GOV.AU</small></p> <p>Considerations when accessing private land to carry out directional drilling on adjacent land</p> <p>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.</p> <p>'Land' in the context of the Land Access Framework</p> <ul style="list-style-type: none">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. <p>Directional Drilling – Preliminary or Advanced Activity?</p> <ul style="list-style-type: none">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:<ul style="list-style-type: none">(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 agreement 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. <p>Entry Notice Requirements</p> <ul style="list-style-type: none">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. <p><small>¹ https://www.resources.qld.gov.au/7a7e109113/policy_regulatory/permitting-land-volume/entry-notice.pdf#v=2.05</small></p>	<ul style="list-style-type: none">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 website.² 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. <p>Locating Directional Drilling Wells and Activities</p> <ul style="list-style-type: none">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. <p>Compensation Liability</p> <ul style="list-style-type: none">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 occurs 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 <i>Mineral and Energy Resources (Common Provisions) Act 2014</i> (MERCPA). Further details are provided in the attachment to this fact sheet.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. <p>Further information</p> <p>For further information, please contact the Resource Community Infoline on 13 71 07 or email resources.info@resources.qld.gov.au.</p> <p>Further information on the legislative framework is also provided in the Attachment.</p> <p><small>² https://www.resources.qld.gov.au/_static/assets/pdf_file/001844/171/entry-notice-form-01.pdf</small></p> <p style="text-align: right;">2</p>
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GasFields Commission Queensland
53 Albert Street - Level 15
Brisbane City QLD 4000

Phone: +61 7 3067 9400
Email: enquiries@gfcq.org.au
Web: www.gfcq.org.au

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Date : 11/08/2021 10:27:59 AM

From : "GasFields Commission Queensland"

To : "Steven"

Subject : GasFields Commission Queensland – Department of Resources 'Directional Drilling' Fact Sheet

Attachment : GasFields Commission Queensland – Department of Resources 'Directional Dr... (140 KB);

Sender: [sch4p4\(6\) Personal informati](#)

Subject: GasFields Commission Queensland - Department of Resources 'Directional Drilling' Fact Sheet

Message-Id: <fbdbfb03085caf85ba0c77c.538346f2b4.20210811002718.1ae2c0974c.8d298892@mail28.atl51.rsgsv.net>

Recipient: Steven.Ward@resources.qld.gov.au

Published on Resources Disclosure Log
RTI Act 2009

Date : 11/08/2021 10:27:24 AM
From : "GasFields Commission Queensland"
To : "Steven"
Subject : GasFields Commission Queensland – Department of Resources 'Directional Drilling' Fact Sheet

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Department of Resources releases a 'Directional Drilling' fact sheet

Recently a number of Dalby district landholders raised concerns to the GasFields Commission (the Commission) and the State Government about the processes and potential impacts of directional drilling activities under landholders' properties.

The Commission proactively raised these concerns with agricultural and resource sector peak bodies and the Department of Resources.

In response to these concerns and to clarify the existing regulatory framework, the Department of Resources has released a ['Directional Drilling' fact sheet](#) that sets out the regulatory requirements for resource authority holders to access private land to carry out directional drilling activities on adjacent land, and the landholder rights that would apply in that scenario.

Importantly, the fact sheet outlines clear expectations of authority holders to engage early and openly with landholders around resource activities, whilst seeking to understand the impacts these directional drilling activities may have on landholders' businesses.

- Download the Department of Resources 'Directional Drilling' fact sheet: <https://bit.ly/DOR-Drilling-Factsheet>.
- For information on 'Preliminary Activity Requirements': www.business.qld.gov.au/landholders/accessing-private-land/preliminary.

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 company as to when the directional drilling activities will occur beneath the surface of that adjacent land.

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

- 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 occurs 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* (MERCP 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

GasFields Commission Queensland

53 Albert Street - Level 15
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Phone: +61 7 3067 9400

Email: enquiries@gfcq.org.au

Web: www.gfcq.org.au



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Date : 12/08/2021 8:51:59 AM
From : "PATELLIS Lilly"
To : "Kris Campbell"
Cc : "Marcus Rees" , "WHICHELLO Caitlin" , "Lindsey Ahern"
Subject : RE: 10299_Land Access Guide- update_v1
Attachment : image001.png;

Hi Chris

Now that the directional drilling fact sheet is up on the website, I was wondering if we are good to progress the land access guide.

<https://www.business.qld.gov.au/industries/mining-energy-water/resources/landholders/accessing-private-land/preliminary>

Cheers
Lilly

From: PATELLIS Lilly
Sent: Thursday, 22 July 2021 12:42 PM
To: CAMPBELL Kris
Cc: REES Marcus; WHICHELLO Caitlin; AHERN Lindsey
Subject: RE: 10299_Land Access Guide- update_v1

Hey Kris

Just following up to see how things are travelling with the review of the guide.

Let me know if you have any questions.

Cheers
Lilly



Lilly Patellis
Principal Communication Officer
Strategic Communication | Business and Corporate Partnership
Department of Resources

P: 07 3199 8257
E: lilly.patellis@resources.qld.gov.au
A: Level 6, 1 William Street, Brisbane Qld 4000
Connect with us on [Facebook](#), [Twitter](#), [YouTube](#) and [LinkedIn](#)

From: PATELLIS Lilly
Sent: Friday, 16 July 2021 10:17 AM
To: CAMPBELL Kris
Cc: REES Marcus; JONES Caitlin; AHERN Lindsey
Subject: 10299_Land Access Guide- update_v1

Hi Kris

The revisions for this draft doc have now been updated, but because some 'unmarked' changes had been made to the doc, the design team had to go through it page by page against the online version.

While they think they've captured everything, we need someone to go through the doc with a fine tooth comb...from front to back cover?

If you do have any additional changes, please cut and paste the paragraph into a word doc and make revisions using tracked changes. Just reference the amended paragraph with a page number.

Give me a call if you have any questions.

PS. I'll follow up with you later re the reference to directional drilling.

Cheers
Lilly

Lilly Patellis
Principal Communication Officer



P: 07 3199 8257

E: lilly.patellis@resources.qld.gov.au

A: Level 6, 1 William Street, Brisbane Qld 4000

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Published on Resources Disclosure Log
RTI Act 2009

Date : 10/08/2021 10:58:33 AM
From : "PATELLIS Lilly"
To : "EDDINGTON Ross"
Subject : RE: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval
Attachment : image003.png;image004.png;image001.png;
Great...I'll get moving now that we have approved version.

From: EDDINGTON Ross <Ross.Eddington@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 10:58 AM
To: PATELLIS Lilly
Subject: FW: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

Has now been approved on MECS

From: GeoPolOED <GeoPolOED@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 10:54 AM
To: SHAW Chris; EDDINGTON Ross
Subject: FW: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

FYI – Directional drilling brief has been approved



Alexis Green
Executive Officer - Georesources Policy
Divisional Support | Georesources Division
Department of Resources
P: 3199 7387

From: ODDG GEO <ODDG.GEO@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 8:37 AM
To: GeoPolOED
Cc: ODDG GEO
Subject: FW: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

FYI Alexis ...



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: Resources DLO <Resources.DLO@resources.qld.gov.au>
Sent: Tuesday, 10 August 2021 8:35 AM
To: Corro Resources Minister and DG
Cc: Resources DLO; ODDG GEO
Subject: RE: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

Hi Nga

As discussed, please see attached Min signed brief.

To be actioned:

- Mail merge
- Fact sheet must accompany the letter
- Please send using e-signature obo of Minister Stewart.

Thanks
Nadia

Kind Regards

Nadia Dyer
Department Liaison Officer
Department of Resources
P: sch4p4(6) P
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: Wednesday, 28 July 2021 3:24 PM
To: Resources DLO
Cc: Corro Resources Minister and DG
Subject: UPDATE TO MIN REPLY ONLY | CTS 12640/21 - Ready for Ministerial approval

Hi Nadia,

[CTS 12640/21](#)

Updated to Attachment 1 at the request of the business area – ready for Minister approval for use of electronic signature for letters to Landholders

Attachments include:

- Ministerial Briefing note
- **Attachment 1 – Letter to Landholders – returned for rework 27/7 at the request of the business area**
- Attachment 2 – Factsheet
- Attachment 3 – Recipient list for mail merge
- Redraft request – 27/7 (FW: Directional drilling email)

King regards,



Nancy Edwards
Senior Correspondence Officer
Business and Corporate Partnership | Executive Correspondence Team
Department of Resources

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W: www.resources.qld.gov.au

- [Chat with me in Teams](#)

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~~ 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.

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 ~~negotiate the location of activities and assess the~~ discuss any concerns regarding actual or potential impact that the activities ~~will could likely~~ have on their business and land use activities and negotiate ~~discuss the location of activities.~~
- It is ~~important~~ 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 each any demonstrated 'compensatable effect' ~~suffered by the claimant~~ because of the holder's directional drilling 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 MERC Act applies to an entry to private land for the purposes of carrying out an authorised activity for a resource authority, which includes a petroleum lease and an authority to prospect (see section 10(b) of the MERC Act).

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

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

Examples –

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

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

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

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

Examples—

- *levelling of drilling pads and digging sumps*
- *earthworks associated with pipeline installation*

- *bulk sampling*
- *open trenching or costeaning with an excavator*
- *vegetation clear-felling*
- *constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump*
- *geophysical surveying with physical clearing*
- *carrying out a seismic survey using explosives*
- *constructing a track or access road*
- *changing a fence line*

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 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

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.

~~if there is no impact, or only a minor, impact on a landholder's business or land use activities. However, Where a landholder's business or land use activities falls under the category of advanced activity criteria or the impact can be demonstrated by the landholder to be greater than minor major either a conduct and compensation agreement, a deferral agreement, or an opt-out agreement would be required.~~

⁴ Penalties and Sentences Act 1992, s 181B.

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 any demonstrated 'compensatable effect' because of the holder's resource activities, 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.

Commented [JR2]: Demonstrating a compensatable effect prior to drilling a deviated well under neighbouring land may be difficult. In such circumstances, a clear and transparent process for lodging, assessing and resolving future claims of loss is encouraged.

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

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.

- Notice about intention to carry out hydraulic fracturing activities⁹
- Notice about completion of hydraulic activities.¹⁰

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⁹ *Petroleum and Gas (General Provisions) Regulation 2017, s33.*
¹⁰ *Petroleum and Gas (General Provisions) Regulation 2017, s34.*