Department of **Employment, Economic Development and Innovation**

Land Access Code

November 2010

Please note that this edition of the code has been superseded by the 2016 Land Access Code.

Visit www.business.qld.gov.au/industry/mining/land-access-environment/land-access-re-quirements/land-access-code for more information.

Queensland Government

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PART 1 – INTRODUCTION

1 Background

The Queensland Government is committed to balancing the interests of the agricultural and resource sectors to address issues related to land access for resource exploration and development. Good relationships between these groups, assisted by adequate consultation and negotiation, will improve transparency, equity and cooperation across the sectors involved and creates a more level playing field for all.

This Land Access Code has been developed by the Queensland Government in consultation with the resource and agricultural sectors through the Land Access Working Group.

2 Purpose and application

Section 24A of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) provides for the making of the Land Access Code by regulation. Section 24A states that 'a regulation may make a single code for all resource Acts (the ***land access code***) that—

(a) states best practice guidelines for communication between the holders of authorities and owners and occupiers of private land; and

(b) imposes on the authorities mandatory conditions concerning the conduct of authorised activities on private land.'

'All resources Acts' means the *Geothermal Energy Act 2010* (GE Act), *Geothermal Exploration Act 2009, Greenhouse Gas Storage Act 2009* (GHG Act), *Mineral Resources Act 1989* (MRA), *Petroleum Act 1923* (PA1923) and the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act).

In relation to (a) above, Part 2 of this document provides the best practice guidelines for communication between the holders of authorities and owners and occupiers of private land.

In relation to (b) above, Part 3 of this document imposes on the following authorities mandatory conditions concerning the conduct of authorised activities on private land[1]:

(a) geothermal tenures under the *Geothermal Energy Act 2010*;

(b) GHG authorities under the *Greenhouse Gas Storage Act 2009*;

(c) petroleum authorities under the *Petroleum and Gas (Production and Safety) Act 2004*;

(d) 1923 Act petroleum tenures under the *Petroleum Act 1923*;

(e) exploration permits and mineral development licences under the *Mineral Resources Act 1989*.

The definitions contained in Part 3, section 11 apply to the entire Land Access Code document.

Part 4 of this document provides further details of information sources that may assist parties dealing with land access issues.

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1 See the *Petroleum and Gas (Production and Safety) Regulation 2004*, schedule 1A, part 1, section 1.

PART 2 – GOOD RELATIONS

3 Introduction

Establishing good relations between parties requires the use of common sense, a practical approach and mutual courtesy between all those involved in dealings between holders and landholders.

The development of good relations between landholders and holders requires recognition of the rights and obligations of both parties. Any person who enters property owned or managed by another party to undertake authorised activities on behalf of a holder should demonstrate common sense and courtesy, consult regularly, and comply with statutory and contractual obligations.

Below are general principles that should be followed by both parties when undertaking discussions and negotiations about land access and compensation.

4 General principles

Holder	Landholder
• Liaise closely with the landholder in good faith • Advise the landholder of the holder's intentions relating to authorised activities well in advance of them being undertaken • Advise the landholder of any significant changes to operations or timing • Minimise damage to improvements, vegetation and land • Respect the rights, privacy, property and activities of the landholder • Rectify, without undue delay, any damage caused by the authorised activities • Promptly pay compensation agreed with the landholder once the agreed milestones are reached • Abide by this Code before, during and after undertaking activities • Be responsible for all authorised activities and actions undertaken by employees and contractors of the resource authority • Regard as confidential information obtained about the landholder's operations.	• Liaise with the holder in good faith • Provide responses to requests or notices with minimum delay • Advise the holder of any significant changes to operations or management programs • Engage with the holder to identify issues such as values of property and operational considerations • Respect the rights and activities of holders and provide reasonable access • Promptly notify the holder of any damage to property caused by the holder • Engage in negotiations with the holder to determine appropriate conduct and compensation arrangements • Adhere to principles of the Code and good neighbourly relations • Be responsible for all landholder activities, requests and actions undertaken on the property by landholder's employees and contractors • Regard as confidential information obtained about the holder's operations.

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5 Communication

To assist in the development of effective working relationships from the outset, the holder should make early contact with the landholder and arrange to visit and inspect the property well in advance of any planned commencement of authorised activities. The landholder should endeavour to actively engage with the holder and make time available to discuss relevant issues that require detailed discussions.

To facilitate efficient communication in the initial stages of the process, the holder and landholder should each appoint a responsible person with good interpersonal skills to negotiate the agreement and undertake all communications in relation to land access. The holder should ideally appoint a competent representative such as the field supervisor or site manager who has knowledge of the land and experience in successfully liaising with landholders.

The responsible person:

- is the contact for the holder and landholder respectively
- for the holder, is responsible for all communication on behalf of their respective employees and contractors
- is responsible for negotiating any required agreement and should be authorised to make agreements and arrangements on behalf of the holder or the landholder
- should be familiar with all aspects and requirements of their operations.

The responsible person for the holder should provide the landholder with:

- contact details for themselves and a senior executive (who is contactable at any reasonable time)
- the resource authority number
- a description of the work program, including the extent and type of operations to be conducted and the duration of the program
- a description of vehicles and equipment to be used
- a detailed outline of the activity and a map including
- the location of fieldwork
- proposed access routes and camp locations
- any other relevant spatial information
- an overview of the environmental management plan including remediation/ rehabilitation works.

The landholder should provide the holder with comprehensive information about their property, including:

- the location of special features or special management requirements of the property
- advice on the best or preferred access routes
- suitable campsite locations
- water supply and location
- the timing and nature of significant farm programs (e.g. cropping, lambing, mustering)
- any property information relevant to the resource-related activities (e.g. tracks, fences, gates, bores, dams etc)
- any biosecurity issues on-farm or potentially in the area.

Provision of this information will assist in ensuring that the pre-planning and agreement negotiations can be undertaken based on full knowledge of both the proposed work program and the activities associated with use of the private land.

6 Negotiating agreements

Agreements between the landholder and holders should clearly articulate what has been agreed to between the parties and comply with the relevant resource Acts. In the course of negotiations, the parties should endeavour to stay in regular contact and work together to reach a mutually acceptable and practical agreement.

7 Communication before and during the carrying out of activities

The responsible person for the holder should:

- ensure that contact is made with the landholder at least one week prior to the agreed commencement date for undertaking authorised activities
- accompany drilling and other contractors on site at the time of initial entry
- conduct an orientation, with input from the landholder if required, for all persons acting on behalf of the holder.

It is the responsibility of the holder to ensure authorised activities are conducted within the resource authority area according to best practice and the mandatory conditions of the Land Access Code.

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The responsible person for the holder should ensure that all agents, contractors and field personnel:

- carry the required authorisation to be on the land
- are aware of and adhere to:
- the holder's policies and procedures relevant to field activities
- the holder's responsibilities under the Land Access Code, any agreement in place and any other relevant statutory requirements
- potential compliance and enforcement actions associated with non-compliance with the Land Access Code.

Where practicable, the responsible person for the holder should maintain contact with the responsible person for the landholder throughout the work program, particularly:

- before commencing a new operational phase of a work program
- to obtain feedback from the landholder about the carrying out of the work program and any unforseen impacts that the program is having on the landholder.

8 After completion of activities

Upon completion of the work program, the responsible person for the holder should inform the landholder about:

- the potential use of incidental infrastructure following completion of any activities (e.g. drill pads, access tracks, borrow pits, casing etc)
- the likelihood of any subsequent activities occurring (e.g. seismic program, further drilling etc).

The responsible person for the holder should invite the landholder to inspect the work area when the project is finished so that any problems can be discussed. The *Environmental Protection Act 1994* provides for landholder sign-off for rehabilitation. The responsible person for the landholder is encouraged to participate in this process.

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PART 3 – MANDATORY CONDITIONS FOR RESOURCES AUTHORITIES[2]

9 What this part is about

This part provides for the mandatory conditions for the following (each a ***resource authority***) under the following Acts (each a ***resource Act***)—

(a) geothermal tenures under the *Geothermal Energy Act 2010*;

(b) GHG authorities under the *Greenhouse Gas Storage Act 2009*;

(c) petroleum authorities under the *Petroleum and Gas (Production and Safety) Act 2004*;

(d) 1923 Act petroleum tenures under the *Petroleum Act 1923*;

(e) exploration permits and mineral development licences under the *Mineral Resources Act 1989*.

10 Giving notice

A relevant person who is required to notify a landholder under this part must give the notice—

(a) orally in person; or

(b) if oral notice is impractical—by written notice.

Example of it being impractical to give oral notice—

The landholder has migrated to a place outside of Queensland.

11 Definitions

In this part—

access land, for a resource authority—

(a) for a geothermal tenure—see the *Geothermal Energy Act 2010*, section 220(3); or

(b) for a GHG authority—see the *Greenhouse Gas Storage Act 2009*, section 287(3); or

(c) for a petroleum authority—see the *Petroleum and Gas (Production and Safety) Act 2004*, section 502(3); or

(d) for any other resource authority—means land it is reasonably necessary to cross for access to land under the resource authority.

authorised activity, for a resource authority, means an activity that its holder is, under the authority of the relevant resource Act, entitled to carry out in relation to the resource authority.

holder means a person who, under a resource Act, holds a resource authority.

landholder means an owner or occupier of private or public land in the area of, or access land for, a resource authority.

relevant person means—

(a) the holder of a resource authority; or

(b) a person acting for a holder under a resource authority.

resource Act see section 9.

resource authority see section 9.

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2 See the *Petroleum and Gas (Production and Safety) Regulation 2004*, schedule 1A.

12 Induction training

(1) A holder must ensure each person acting for the holder, under the holder's resource authority, receives information and training specific to the obligations of the holder and the person under each of the following for authorised activities that will be carried out by the person on a landholder's land—

(a) the resource Acts;

(b) the land access code;

(c) an agreement between the holder and the landholder.

(2) A holder must give each person mentioned in subsection (1) a document to show the person has received the appropriate information and training.

(3) A holder must, if asked by the landholder, give the landholder a copy of the document.

13 Access points, roads and tracks

(1) A relevant person must, if practicable, use an existing access point, road or track to enter a landholder's land.

(2) If it is not practicable to comply with subsection (1), any new access points, roads or tracks, made by the relevant person, must be located at a place and in a way that minimises the impact of the access point, road or track on the landholder's business or land use activities.

(3) A relevant person must, for the period the access points, roads or tracks are used by the person, ensure the access points, roads or tracks are kept in good repair.

(4) For subsection (3), the relevant person must have regard to the condition of the access point, road or track when the person started using them.

(5) A relevant person must operate vehicles on a landholder's land at speeds that—

(a) are appropriate for the landholder's land; and

(b) minimise noise, dust and disturbance to the land.

(6) A relevant person may operate a vehicle in wet conditions on a landholder's land only in a way that minimises damage to access points, roads and tracks on the land.

(7) If a relevant person has caused damage to access points, roads or tracks on a landholder's land, the relevant person must, as soon as practicable—

(a) notify the landholder of the damage; and

(b) repair the damage.

14 Livestock and property

(1) A relevant person must use a landholder's land in a way that minimises disturbance to people, livestock and property.

(2) If, in carrying out authorised activities, a relevant person becomes aware of any potential adverse impact, caused by the activities, on a landholder's livestock or property, the relevant person must immediately notify the landholder of the potential impact.

(3) If a relevant person injures or kills a landholder's livestock, the relevant person must immediately notify the landholder of the injury or death of the livestock.

(4) If a relevant person damages a landholder's property, the relevant person must—

(a) immediately notify the landholder of the damage; and

(b) repair the damage as soon as practicable.

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15 Obligation to prevent spread of declared pests

(1) A relevant person must take all reasonable steps to ensure that, in carrying out authorised activities, the person does not spread the reproductive material of a declared pest.

(2) A relevant person must take all reasonable steps to ensure that, in entering or leaving land in the area of a resource authority, the person does not spread the reproductive material of a declared pest.

Note — For further information on preventing the spread of declared pests see the document called 'Petroleum Industry–Pest Spread Minimisation Advisory Guide' published by the department in which the *Land Protection (Pest and Stock Route Management) Act 2002* is administered.

(3) Subsections (1) and (2) do not apply to the release of a declared pest authorised under the *Land Protection (Pest and Stock Route Management) Act 2002*.

(4) A holder must ensure each person acting for the holder under a resource Act washes down vehicles and machinery before entering a landholder's land in the area of the resource authority, if the risk of spreading a declared pest is likely to be reduced by the washing down.

(5) The holder must keep a record (the ***wash-down record***) of all wash-downs under subsection (4) carried out during the period in which the holder is allowed access to the landholder's land.

(6) If asked by the landholder, the holder must give a copy of the wash-down record to the landholder.

(7) In this section—

declared pest means—

(a) a declared pest under the *Land Protection (Pest and Stock Route Management) Act 2002*, schedule 3; or

(b) an animal or plant declared under a local law to be a pest because the animal or plant is causing, or has the potential to cause, an adverse environmental, economic or social impact in all or part of the local government area.

reproductive material, of a declared pest, see the *Land Protection (Pest and Stock Route Management) Act 2002*, schedule 3.

wash-down means the removal of reproductive material from a vehicle or machine using an appropriate cleaning process.

16 Camps

(1) If a holder intends to set up a camp on a landholder's land, the holder and the landholder must, before the camp is set up, agree on the location and a plan for managing the camp.

(2) However, if the holder and landholder cannot agree on a location and plan for managing the camp, the holder must ensure the location of the camp is in a place that will minimise any impact on the landholder's business or land use activities.

17 Items brought onto land

(1) A relevant person carrying out authorised activities must collect rubbish or waste produced in carrying out the authorised activities and deposit the rubbish and waste in a suitable local waste facility.

(2) A relevant person must not bring firearms, domestic animals or alcohol onto a landholder's land without the landholder's consent.

(3) In this section—

local waste facility means a waste facility owned, operated or otherwise controlled by a local government.

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18 Gates, grids and fences

(1) A relevant person must, after using a gate, return the gate to its original position unless advised otherwise by the landholder.

(2) If a relevant person damages a grid on a landholder's land the person must—

(a) immediately notify the landholder of the damage; and

(b) replace or repair the grid as soon as practicable.

(3) A relevant person must—

(a) obtain the landholder's consent before erecting a gate on the landholder's land; and

(b) ensure any gate erected by the person is stock-proof.

(4) A relevant person must not cut a fence on the landholder's land without the landholder's consent.

(5) If the landholder allows a fence to be cut by a relevant person to carry out an authorised activity, the person must, immediately after carrying out the activity—

(a) repair the fence; or

(b) erect a stock-proof gate, as required by the landholder, where the fence was cut.

PART 4 – USEFUL CONTACTS AND FURTHER INFORMATION

Stakeholders may access information associated fact sheets and guidelines through:

- the Landholder Information page at www.deedi.qld.gov.au
- DEEDI district offices / Regional Mining Registrars — phone 13 25 23 or visit www.deedi.qld.gov.au
- the CSG–LNG Hotline — phone 13 25 23 or visit www.lng.industry.qld.gov.au
- the Government Community Liaison Officer — 13 25 23 or email minesCLO@deedi.qld.gov.au
- Legal Aid — phone 1300 65 1188 or visit www.legalaid.qld.gov.au

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