

## Land Access Checklist for Landholders

### Disclaimer

It is impossible to predict every situation you may face when engaging with resource companies. This is not an exhaustive checklist of issues, nor does it represent legal or professional advice. This checklist was developed based on Don Stiller's seven (7) quick tips for land access negotiations. It also draws upon other land access checklists and factsheets published by government, companies and agricultural bodies.

### Background

Under Queensland's laws, all resource companies undertaking work on private land, including coal seam gas (CSG) operators, have to comply with a Land Access Code:

[http://mines.industry.qld.gov.au/assets/land-tenure-pdf/land\\_access\\_code\\_nov2010.pdf](http://mines.industry.qld.gov.au/assets/land-tenure-pdf/land_access_code_nov2010.pdf)

### Phases of Activities

Resource company activities are usually classified in three phases:

- **Preliminary activities**, such as walking the area, taking soil samples or survey pegging have minimal impact on landholders);
- **Advanced activities**, such as infrastructure construction have longer term and / or extensive impacts on landholders); and
- **Decommissioning activities**, such as rehabilitation for wells or pipelines.

The following concepts apply to all phases, some more than others.

### 1. Take Time

*Commit some time upfront to understand the resource company you are dealing with and their proposed timeline and program for undertaking proposed activities on your property.*

- Try to identify and understand the bigger picture of the company's development plans, e.g. existing infrastructure on neighbouring properties, as well as future plans for development.
- Request information from the company about its approach to approving conditions negotiated as part of a CCA. If the company has CCAs with neighbours, seek their views.
- Before advanced activities commence on your property, the company is required to develop a comprehensive development plan. This should be in consultation with your property management. Take the time to understand the company's program of work and plans, including:
  - proposed locations and timelines for construction of infrastructure (wells, gathering lines, roads, dams, powerlines, etc.);
  - laydown areas, duration, and weather contingencies relating to construction equipment; and
  - the proposed timing and impact of decommissioning CSG infrastructure.
- Ensure that you receive sufficient notice for entry for advanced activity (at least 6 months prior)
- Remember, the life of the company's activity may be many years so invest time in planning your business into the future.

## 2. Get Advice

*Land access is a complex negotiation that requires a good understanding of a wide range of disciplines, including resource industry law and regulation, land valuation, natural resource economics and accounting.*

- Seek advice from a range of sources, both professional and practical including landholders who have undergone similar negotiations.
- Seek financial advice, especially when identifying the amounts and stages of compensation payments. Inform your bank / financial advisors of negotiations because of potential implications on your cash flow and the value of your land asset.
- In negotiating a Conduct and Compensation Agreement, consider including:
  - review periods for new impacts;
  - specific company conduct requirements (e.g. washdown and audits); and
  - penalty clauses for noncompliance or failure to meet agreed deadlines for construction or development.
- Take note of the relevant cooling-off period.

## 3. Keep Talking

*It is important that both sides keep communicating to try to better understand each other's point of view and to identify possible solutions or a way forward.*

- Resource companies often engage in area wide consultation prior to making contact with individuals. Ensure you participate in this wider consultation so that you have a sense of what is proposed for your area.
- Try to keep the channels of communication open throughout the process.
- Establish a reporting and reviewing process of the activity/business relationship, e.g. a yearly company report which includes:
  - future planning for the next period;
  - maintenance schedule;
  - instances of non-compliance; and
  - accidents / incidents.

## 4. Think Business to Business

*Treat your negotiations with resource companies as you would negotiations with any other business seeking to operate alongside or underneath your existing rural business.*

- Respect each other's business, and promote the principles of industry best management practice for both parties (CSG and agriculture).
- Treat each other's time as valuable. Provide comprehensive and punctual responses to information requests and expect the same in return.
- Where possible, minimise the impact on you / your staff / your property by ensuring that:
  - arrangements do not increase your liability or your staff's liability;
  - the imposition on your time is minimised and included as a disturbance compensation;
  - your right to farm is preserved (with planned farming activities, such as lambing, mustering, irrigating or aerial spraying, taking precedence over other activities); and
  - infrastructure arrangements minimise disruption to your property.
- Establish standard procedures and contacts in relation to:
  - emergency management, including fire and flood procedures and management of chemical emergencies (MSDS and chemical notification); and
  - accident /incident management and reporting.
- Ensure the company complies with vendor declaration and produce certification requirements.

## 5. Progress Property Plan

*It is important that your plan is on the table when undertaking land access negotiations, to ensure that the resource company is well aware of your intentions for the future development of the property and your rural business.*

- Maps of your property should include details of:
  - specific no-go zones;
  - internal infrastructure (houses, sheds, bores, dams, roads, gates, grids, yards and fences);
  - areas of pasture improvement and areas with, or at high risk of, weeds;
  - crop / livestock production cycles.

## 6. Measure Baseline Impacts

*To help quantify and measure impacts and disturbances to your underlying rural business over time, it is critical that you as the landholder keep a record of the state of your land, soils, pastures, weeds, vegetation, roads and rural infrastructure before and after the resource company undertakes activities on your land.*

- A pre-entry baseline assessment of key features of your property should include details of:
  - light (the extent of light at houses and other key sensitive receptors at night);
  - noise (outside normal working conditions on the property, at the house and other key sensitive receptors);
  - traffic /roads (number of vehicles using roads, including traffic at key times, as well as road conditions);
  - dust (pastures and dams which could be impacted upon by dust in future development);
  - bio/farm security (current weed areas, property accreditation programs, e.g. organic, EU cattle);
  - groundwater and standing water (level and quality) and the possibility of ongoing bore monitoring as part of future agreement;
  - overland flow paths (areas which are important for maintaining overland flow and distributing surface water); and
  - soil (salinity and sodicity levels for areas prone to erosion and areas which may be recharge locations for surface water).
- Identify how the company's work program and infrastructure is likely to impact on the property, your business, including:
  - locations and times of land access;
  - work frequency;
  - ongoing maintenance schedule for infrastructure; and
  - areas and activities which could be impacted by weather restrictions (e.g. roads which are dry weather only)
- Identify the types of impacts, including surface and subsurface impacts (ground water or overland flows, etc.) and ensure all identifiable impacts are compensated.
- Compensation may include make good arrangements if bores are impacted.

## 7. Key Contacts

- Establish contact details and procedures for both parties entering into negotiations, including:
  - Contact names and positions;
  - preferred contact times; and
  - means of contact (home phone, mobile, email).

## References

**Department of Natural Resources and Mines**

<http://mines.industry.qld.gov.au/mining/landholder-information.htm>

**AgForce CSG Project**

<http://www.agforward.org.au/>

**Rural Industries Research and Development Corporation**

<https://rirdc.infoservices.com.au/items/12-114>