Knock knock

Chapter 04

In this chapter we cover:

- Why resource companies access private land
- First steps
- The entry notice
- Restricted land protections
- Mandatory conduct conditions
- Preliminary activities
- Advanced activities
  - Conduct and Compensation Agreements (CCA) introduction

Current as of April 2019
Why resource companies access private land

With over 90% of Queensland under freehold or leasehold tenure, resource companies need to access private land to produce gas and help meet our energy needs.

Land access is needed to carry out exploration and production activities, as well as to house associated infrastructure such as well pads, roads, pipelines and monitoring stations.

The main gas field development activities on private land are:
- **EXPLORATION**
- **PRODUCTION**
- **MAJOR PIPELINES**
- **WATER MONITORING BORES**
- **REHABILITATION**

A property may be subject to just one or any combination of all of the above types depending on the scale of the development.

It is possible a landholder will be approached by separate companies to conduct exploration, production, groundwater management and/or major pipeline construction. If this is the case and the activities require Conduct and Compensation Agreements (CCAs), you will need to negotiate several CCAs and you will likely find each company has a different approach.

Each type of development could require the resource company to conduct activities categorized as:
- **PRELIMINARY ACTIVITIES**
- **ADVANCED ACTIVITIES**

### TECHNICAL NOTE: EXPLORATION

The Geological Survey of Queensland collates and distributes geoscience data and information on the State’s resource potential. This information can highlight areas in Queensland that are made up of certain geological formations that can potentially contain gas reserves.

The government releases potentially viable areas of land and provides authority for companies to further explore these areas and confirm if/how much gas can be produced.

Once given the required authority, explorers further examine the local geology and undertake activities such as seismic surveys and drilling.

**SEISMIC SURVEYS**

Trucks emit sound vibrations from the earth’s surface and measure the time taken for the sound waves to reflect signals back from geological formations underground.

These measurements produce an image of what’s underground, indicating rock density and the likely presence of gases.

**DRILLING**

Informed by seismic images, exploration and appraisal wells are drilled to further confirm what’s underground.

Core samples and rock cuttings that are brought to the surface from drilling are examined to determine the physical properties of the underground reservoirs.

Explorers also lower specialised logging equipment into the well for more information. Exploration wells confirm the presence of gas. Appraisal wells assess the flow rates to confirm the gas can be extracted in commercial quantities.
TECHNICAL NOTE: PIPELINE EASEMENTS

Pipelines are fundamental to the development of the petroleum and gas industry.

Gathering lines are low pressure polyethylene networks that connect individual wells to compression facilities. These are buried to a depth that generally enables normal grazing or irrigation operations.

Major pipelines carry gas under high pressure to the national gas grid and export facilities such as Curtis Island.

A resource company can have authority to construct and operate a major pipeline on designated ‘pipeline land’ – defined as land the company either owns or over which it has:
- AN EASEMENT
- A WRITTEN AGREEMENT WITH THE LANDOWNER TO ENTER TO CONSTRUCT AND OPERATE THE MAJOR PIPELINE

The preferred way to secure designated pipeline land is to use existing road, rail or powerline easements. However if a major pipeline needs to cross private land, consultations with the landholder(s) usually results in the creation of an easement in return for some form of compensation.

If the landholder refuses to negotiate, a resource company can apply for what is termed a Part 5 permission.

This is a last resort (i.e. land resumption) and the resource company must satisfy the State Government that there has been continuing negotiation and consultation with the landholder. This process is also lengthy (at least 9 months), so it is in the interests of the parties to come to an agreement.
If a resource company wants to access private land – whether for exploration, production or related infrastructure – the first thing to know is that they can’t move without notifying the landholder.

Observing best practice, the resource company should request an introductory face-to-face meeting with the landholder, preferably convened on the property and at a time convenient to the landholder (and/or family members).

Contact is likely to be initiated by the company’s land access liaison officer – increasingly, someone with strong local knowledge and contacts. This meeting helps to set the tone for subsequent activities, negotiations and the start of a productive working relationship.

Experience tells us that landholders who ‘front-load’ their involvement are well rewarded. Every piece of relevant information and feedback delivered early plays a role in shaping subsequent actions, activities and the long-term relationship.

The introductory meeting should focus on learning about each other’s business and potential logistical and ‘amenity’ challenges. In most cases, a landholder’s property is also home and that is a major consideration for new activities and routines.

Never lose sight of the fact that this could be the start of a long-term business relationship and it helps to start with a positive attitude.

“Land access staff are the first and only point of contact with the gas company and are vital as they can help ensure consistency, familiarity and local knowledge. They are the oil between the rough surfaces of the landholder and company.”

– Western Downs grazier

“You need to have all your information at hand with property maps and business plans – only you know your property, know your business and know your country”

– Maranoa grazier
Introductory discussions with resource companies

The following best practice industry checklist is what you can expect from resource companies seeking access to your land:

01 Explain the planned activities and type of infrastructure the company would like to construct.

02 Obtain a copy of the landholder’s biosecurity management plan.

03 Understand the landholder’s property plan and long term business plans.

04 Discuss the way the company intends to access the property and work through necessary constraints.

05 Understand any timing constraints you may have prior to scheduling the ‘scouting’ activities.

LANDHOLDER TIP:
THIS IS YOUR OPPORTUNITY TO...

- Ask about the proposed infrastructure the resource company would like to construct on your land
- Understand how the resource company will approach the construction and what they expect from you
- Discuss your property map
- Discuss your business plan (at least 5-10 year plan)
- Discuss your biosecurity management plan with the resource company, particularly to identify appropriate points of entry and any other requirements for, or constraints to access
- Discuss potential locations for infrastructure to assist the resource company in identifying possible locations for wells, gathering lines and other infrastructure
- Discuss potential dates for the resource company to conduct preliminary activities to assist them in scheduling the work at an appropriate time

PROFESSIONAL SERVICES ARE NOT USUALLY REQUIRED AT THIS STAGE – IF YOU CHOOSE TO OBTAIN PROFESSIONAL ADVICE AT THIS STAGE THE RESOURCE COMPANY MAY NOT BE REQUIRED TO PAY ANY COSTS YOU INCUR
The entry notice

Land access generally begins with an entry notice detailing the nature of the activities the resource company wishes to conduct on the property.

The entry notice is an important step in allowing – within defined limits – physical access to your land by a resource company.

The impact of the activities covered by the entry notice on your daily routine will be largely determined by the extent and quality of the information offered and exchanged during your preliminary meetings with the resource company.

As a result of those discussions, the entry notice should hold no surprises when it arrives. Remember, this is a procedural step. It does not constitute a commercial agreement.

The entry notice must be in the hands of the landholder at least 10 business days before the resource company’s nominated date of entry to the property (usually agreed in advance).

The entry notice confirms the resource company will undertake prescribed activities within a designated area of land, subject to strict conditions.

THE ENTRY NOTICE MUST DETAIL

- 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 petroleum resource authority holder’s contact details or those of their representative.

THE ENTRY NOTICE SHOULD ALSO INCLUDE COPIES OF

- The petroleum resource authority (issued by DNRME)
- The relevant Environmental Authority (EA issued by DES)
- The Land Access Code (DNRME 2016)
- Any other supporting code or code of practice applying to activities proposed in the notice.

Entry notice for private land

This template is produced by the Queensland Department of Natural Resources and Mines to assist resource authority holders with a standard notice that is required prior to entry on land to undertake activities on the resource authority. This is a template form and is not an official document. Resource authority holders are required to provide an appropriate notice prior to entry and comply with the requirements of Chapter 3 (Land Access) of the Mineral and Energy Resources (Common Provisions) Act 2014 Part A.

Resource authority details:

Registered holder(s) of the authority:

Additional contact details: For further details regarding this notice, please contact this person via the details provided below.

Name:
Company:
Address:

Town/City:
Country:
Mobile no.:
Email:

Name of landowner or occupier:
Address:

Town/City:
State:
Postcode:
Case study

A WORKING PARTNERSHIP
Senex Energy is exploring for natural gas in coal seams near Injune.

For the company’s most recent program, detailed planning showed an “appraisal” well would be required on each of four properties to confirm gas could be produced in commercial quantities.

Senex contacted those landholders to explain the initial concept and begin a process of consulting the owners on how exploration could take place with minimal interference.

Landholders were consulted about the location of drilling sites, including the selection of suitable access tracks and weed control measures.

In each case, the parties agreed the design of the plan and negotiated a Conduct and Compensation Agreement.

Activity began on the ground from mid-2018. Each well was drilled, made secure and work begun to restore sites to their original condition in an average of 10 days.

Senex will continue to monitor the restoration work with landholders to ensure it is successful.

RIGHTS & OBLIGATIONS

FOR RESOURCE COMPANIES
- Right to enter private land only if they have given a valid entry notice to each landlord
- Can only conduct preliminary activities that are listed on the entry notice
- No obligation to enter into a Conduct & Compensation Agreement, Deferral Agreement or Opt-Out Agreement for preliminary activities conducted under an entry notice
- Obligation to comply with the Land Access Code
- Obligation to comply with restricted land framework remains (meaning that the requirement for written consent of the landholder remains despite the giving of a valid entry notice)

FOR LANDHOLDERS
- Right to receive a valid entry notice at least ten (10) business days prior to entry
- No right to object to the entry for the purposes of undertaking activities authorised by the resource authority,
- Right to consent to entry to areas of restricted land is not limited by the receiving of a valid entry notice

Source: DNRME’s A Guide to Land Access Queensland
CAN I ALLOW THE COMPANY ENTRY BEFORE THE 10 DAYS HAVE PASSED?

A landholder can choose to drop the 10 business day notification period by giving the resource company a written waiver of entry notice.

To give a waiver of entry notice, the entry notice must be signed by the affected landholder and include updated details of the period of entry. It must also include a statement that the landholder has been advised by the resource company that they are not required to give a waiver of entry notice.

A decision to give a waiver rests with the landholder and cannot be withdrawn during the period of entry stated on the waiver of entry notice.

AM I REQUIRED TO PROVIDE CONSENT FOR THE COMPANY TO ENTER MY PROPERTY?

Landholder consent is not required if a resource company issues a valid entry notice. After a 10 business day waiting period, the company can access the identified land and begin preliminary activities authorised by its petroleum resource authority.

IS AN ENTRY NOTICE ALWAYS REQUIRED?

There are some exemptions from the requirement for a resource company to provide an entry notice. In addition to the landholder’s waiver option above, an entry notice is not required when:

- A landholder and resource company have entered into an Access Agreement (for example a Conduct and Compensation Agreement – see Chapter 5) that provides for alternative obligations
- A landholder and resource company have entered into an Opt-Out Agreement (covered in Chapter 5)
- A resource company has an independent legal right of entry (such as a contractual right of entry)
- Entry is to preserve life or property, or prevent or stop an emergency
- Entry is otherwise authorised under a resource Act – e.g. where an easement has been agreed, or other written permission has been given in relating to a pipeline licence
Entry report

Where a resource company enters private land to carry out authorised activities, it must provide the landholder with a report about the entry. The report must state whether or not any activities were carried out on the land, and if they were, the nature and extent of those activities and where they were undertaken.

The obligation to give a report also applies where a resource company has exercised their access rights under an Access Agreement and entered access land. For more information on this aspect, see DNRME’s A Guide to Land Access in Queensland.

The resource company must give the entry report to each landholder either:
- Three months after the period stated in the entry notice
- Six months after the waiver notice was given if the resource authority is an exploration resource authority
- One year after the waiver was given for a production resource authority.

CHANGE OF OWNER/OCCUPIER OF PRIVATE LAND
If there is a change in landholder after an entry notice is issued, the entry notice and any waiver notice carries over to each new landholder, providing the resource company gives each new landholder a copy of the entry notice and/or the waiver notice within 15 business days of becoming aware of the new landholder.

LANDHOLDER TIP:
REGARDLESS OF RESOURCE ACTIVITY IN YOUR AREA, YOU SHOULD HAVE A PROPERTY BIOSECURITY MANAGEMENT PLAN THAT MAY INCLUDE...
- A description of declared and non-declared weed species and other biosecurity matter in each known infestation area
- Existing biosecurity measures and management controls for each known infestation and risk area
- A biosecurity risk assessment for each known infestation and risk area that includes the risk of spread
- Guidelines for high-risk visitors to the property including interstate and overseas visitors
- A biosecurity induction for everyone working on your property
- An at-risk gate register to record who enters the property and when
- Biosecurity signage at all property access points
- Clean-down procedures and a clean down area for visitors to reduce the risk of vehicles and equipment spreading weed seed and diseases
- A soil erosion management strategy including the management of dormant seeds and practices for disturbed soils and wet weather access
- A chemical usage record that documents the location, date and withholding period of any chemicals used to control biosecurity matter on the property
- Procedures for the safe storage of any chemicals, battering and equipment on the property to prevent livestock exposure and residues in crops
- Details of fenced off areas that restrict livestock access and minimise the risk of livestock being exposed to chemicals, rubbish and food scraps
- Rubbish removal procedures to contain and manage discarded materials and high risk food scraps on the property such as meat derived products
- Checks to ensure incoming materials such as gravel and sand are certified as pest and weed free

BY SHARING YOUR BIOSECURITY MANAGEMENT PLAN WITH RESOURCE COMPANIES AND CONTRACTORS, YOU CAN DISCUSS WAYS TO WORK TOGETHER TO MINIMISE BIOSECURITY RISKS ON THE PROPERTY.
Restricted land protections

Queensland maintains a consistent ‘restricted land framework’ for resource authorities.

The framework supports landholders when a resource company wants to undertake authorised activities on or below the surface of land near homes, businesses and certain key agricultural infrastructure.

A resource company cannot enter land within an area classed as restricted without the written consent of the landholder. There is no obligation for a landholder to allow a resource company to enter restricted land.

Restricted land can apply to areas surrounding:
- A permanent building used for the purpose of a residence, business, childcare centre, hospital, library or place of worship
- A permanent building used for a community, sporting or recreational purpose
- An area used as a school, or for ‘environmentally relevant activities’ such as aquaculture, intensive animal feedlotting, pig keeping or poultry farming
- An artesian well, bore, dam or water storage facility
- A principal stockyard
- A cemetery or burial place
- Other resource authority types (e.g. water monitoring authorities, survey licences and data monitoring authorities)

Specific details of restricted land areas, along with exemptions that allow a resource company to access otherwise restricted land can be found in DNRME’s A Guide to Land Access in Queensland.

“Land access staff are the first and only point of contact with the gas company and are vital as they can help ensure consistency, familiarity and local knowledge. They are the oil between the rough surfaces of the landholder and company.”
– Western Downs grazier

RIGHTS & OBLIGATIONS

FOR RESOURCE COMPANIES
- Must not enter areas of restricted land without the written consent of the landholder
- May seek to negotiate access to restricted land as part of conduct and compensation negotiations with the landholder

FOR LANDHOLDERS
- Right to say “No” to a resource company seeking to enter restricted land
- Right to not negotiate access to restricted land as part of conduct & compensation negotiations
- Landholder cannot establish new areas of restricted land following the lodgment of an application for a production authority over the land

Source: DNRME’s A Guide to Land Access in Queensland
Mandatory conduct conditions

The Queensland Land Access Code (2016) sets out mandatory conditions of conduct by resource companies covering issues such as:
- Induction training of staff and contractors
- Land access points, roads and tracks
- Livestock and property
- Weeds and pests (biosecurity)
- Worker camps (construction and operation)
- Items brought onto land
- Gates, grids and fences

“Negotiating and managing coexistence with a gas company all boils down to a matter of trust. But trust is not just one way. We as landholders also have to be trustworthy not just the companies”
- Western Downs grazier

RIGHTS & OBLIGATIONS

FOR RESOURCE COMPANIES
- Be respectful of landholders and actively engage landholders in good faith
- Use reasonable endeavours to consult with landholders about access, planned authorised activities and compensation
- Ensure timely responses to landholder enquiries
- Provide regular operational updates to landholders that are aligned with the level of activity
- Avoid unreasonable interference with the landholder’s use of their property
- Meet all legal obligations, including the mandatory conditions of the Land Access Code

FOR LANDHOLDERS
- Be respectful of resource company rights
- Engage with resource companies in good faith to negotiate agreements regarding access, land use and compensation
- Do not obstruct a resource company from entering or crossing their land to carry out authorised activities, if all legal obligations have been met

Source: DNRME’s A Guide to Land Access Queensland
Preliminary activities

The following are considered to be preliminary activities due to having no impact or only a minor impact on the land use or business activities of a landholder.

While classified as low impact, they do provide multiple opportunities for building the relationship between a landholder and resource company through its field-based representatives.

Preliminary activities are also sometimes referred to as ‘scouting’ or ‘surveying’ and may include:

• Walking the area of the designated resource 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

However, the above are not considered preliminary activities if they are carried out on land that is less than 100 hectares in size and is being used for either intensive farming or broadacre agriculture.

The preliminary meeting between the landholder and the resource company may also identify greater impacts of the proposed preliminary activities. In these cases, the resource company can work with the landholder to find ways to minimise the impacts of their activities or reclassify them as advanced activities.

LANDHOLDER TIP:

Minimising the impacts of a resource company’s advanced activities is a realistic but challenging goal. The Queensland Land Access Code provides advice on best practice communication, consultation and negotiation. Establishing and maintaining an effective working relationship can come down to the simplest thing – like having a ‘go-to’ contact at the resource company, especially someone experienced with the local region and landholders.

Advanced activities

Advanced activities by a resource company are assessed as having direct impacts on a landholder’s business activities and/or residential amenity.

This can occur during exploration, production, laying of pipeline or other gas related activity such as the drilling of water monitoring bores.

At this point a resource company is effectively committing to a business partnership.

A Conduct and Compensation Agreement (CCA), details of which are outlined in Chapter 5, is required to be in place before a resource company can undertake advanced activities on the property.

A CCA is an important contract and its purpose is to clearly state each party’s obligations and provide the protections necessary to support the ongoing business relationship.

Remember the relationship you establish is paramount. If you have to rely on the terms of the CCA to resolve an issue, there’s a fair chance the relationship has broken down.

Advanced activities that could be undertaken by a resource company include:

• Constructing drilling pads and digging sumps
• Drilling of petroleum and gas wells
• Bulk sampling
• Open trench sampling (costeaneing) with an excavator
• Removal of vegetation
• Construction of temporary camp for workers, concrete pad, sewage/water treatment facility or fuel dump
• Geophysical surveying with physical clearing
• Construction of water treatment facilities or gas compression facilities
• Construction of a track or access road
• Changing a fence line