

SACOME

**SACOME Land Access Guide 2020:
Mineral Exploration**

South Australian Chamber of Mines & Energy

The leading industry body representing the resources sector in South Australia

Introduction

The South Australian Chamber of Mines & Energy (SACOME) has prepared the SACOME Land Access Guide 2020 to assist South Australian resources companies undertake land access in a 'best practice' manner.

SACOME has drawn on the expertise and experience of its member companies in developing this guide, using the best examples of landholder engagement to set an expected minimum standard. Early engagement, respect and regular communication are consistently put forward by SACOME members as fundamental principles for reaching agreement.

SACOME has also sought input from the agricultural sector in preparing this guide to better understand landholder concerns and expectations around land access. In doing so, we hope to provide our member companies with useful advice on how to establish and maintain constructive relationships with landholders.

The SACOME Land Access Guide 2020 provides checklists as a practical guide for use 'in field' to assist explorers work through their responsibilities and obligations to landholders; as well as advice on understanding landowner concerns and questions ahead of time to assist in best practice engagement.



Engagement Principles

Respectful engagement is fundamental to successful land access outcomes. SACOME provides the following principles to guide discussions and build mutually agreeable working relationships with landholders.

Early Engagement

- Advise the landholder of your intentions relating to authorised activities well in advance of them being undertaken. Early engagement and understanding landholder concerns provides a basis for constructive discussion.

Planning

- Engage with the landholder, providing information on the proposed exploration program and seek advice on key issues for consideration in refining the program and drafting a compensation agreement.

Land Access Agreement

- Liaise closely with the landholder in good faith.
- Respect the rights, privacy, property and activities of the landholder.
- Treat all information obtained about the landholder's operations confidentially.
- If compensation is to be paid, promptly pay to the landholder once the agreed milestones are reached.

Operations & Remediation

- Advise the landholder of any significant changes to operations or timing.
- Minimise damage to improvements, vegetation and land.
- Be responsible for all authorised activities and actions undertaken by employees and contractors of the explorer.
- Rectify any damage caused by the authorised activities without delay.

Land Access Checklists for Operators

Early Engagement

Early engagement is critical to successful land access outcomes. Respectful and transparent communications provide a basis for forthcoming discussions and agreements on land access. This approach builds understanding between explorers and landholders, manages expectations and minimises the potential for conflict.

Prior to making initial contact with a landholder, the explorer should consider what information will aid landholder understanding of proposed operations; and what information is needed from the landholder to meet expectations while on their land.

Early engagement should begin with a conversation with the landholder so that a face-to-face relationship has been established and they have a point of contact for ongoing conversation throughout the exploration process.

<i>Information to be provided to landholder:</i>		✓
Overview of the exploration company, key personnel, the exploration licence area, minerals being explored for and work program intentions.		
Contact details of exploration site supervisor.		
List of personnel who will require access to the property and vehicles/equipment to be used on the property.		
Discuss if exploration personnel will be required to sign in/out before entering or leaving the property? If so, what is the procedure?		
If the landholder is not familiar with the regulatory process and landholder rights, provide a copy of the <i>South Australian Mineral Resources Division Guidelines (MG4): landowner rights and access arrangements in relation to mineral exploration and mining in South Australia</i> ¹ and a copy of <i>Landowner Frequently Asked Questions about mineral exploration in South Australia</i> ² .		
Discuss whether a compensation agreement is required.		

<i>Information sought from landholder:</i>		✓
Who will be my regular contact at the property? What is their role? What are their contact details? Who is an alternative contact?		
What is the best way to communicate (email, phone, radio) and best time to call?		
Can we schedule a next call, or when should I get back in touch with you?		
How many people work on the property? Who resides on the property?		
What are the main activities that will occur on the property during the exploration program timeframe (e.g. seeding, harvesting, lambing, mustering, shearing, etc.)? When do they occur?		
Are you familiar with the regulatory process and your rights in relation to exploration for minerals? Do you know where to find this information? Can I help you find it?		

¹ http://www.minerals.statedevelopment.sa.gov.au/_data/assets/pdf_file/0004/234247/MRGMG4.pdf

² http://minerals.statedevelopment.sa.gov.au/_data/assets/pdf_file/0006/182733/Landowner_FAQs_high.pdf

Program Planning and E-PEPR Preparation

During the exploration program planning and E-PEPR preparation phase, the explorer should continue to engage with the landholder to understand any constraints or requirements to be observed in undertaking activity; and to provide the landholder with further details of the work program. These discussions will also form the basis of a land access agreement.

<i>Information to be provided to landholder:</i>	✓
Provide further details of the proposed work program, commencement and completion timeframes, plant and equipment, employees and contractor personnel.	
Outline planned level of site disturbance and rehabilitation methods and timeframes.	
Provide safety policies or procedures that the landholder needs to be aware of – i.e. procedure for access to exploration operations, communications protocols, no entry zones, emergency plans. This includes WHS Regulation requirements that pertain to exploration.	
Advise the landholder if there are any activities planned on exempt land? (e.g. within 400 m of a residence, 150 m of a water supply, or in a cultivated field). If so, the Mining Act requires that Form 23A (Waiver of Exemption Notice) ³ is provided to the landowner and an agreement required to waive the exemption before this work can take place.	
Discuss requirement for an access agreement, key elements of the agreement, the process and timeframe for finalisation of the agreement.	
Discuss requirement to provide a Notice of Entry (Form 21) ⁴ at least 28 days prior to entry as required under the Mining Act.	
Discuss requirement to provide a Notice of Use of Declared Equipment (Form 22) ⁵ at least 21 days prior to entry, for drilling and earthmoving activities.	

<i>Information sought from landholder:</i>	✓
What is your farm program (i.e. seeding, harvesting, lambing, mustering, shearing) and what are the significant times in that program that we need to avoid?	
Can we set up a campsite if needed? If so, where are suitable locations?	
Can we have your permission to use water? Where can we access it? Cost per m ³ ?	
What biosecurity requirements do you have? Where can we wash down vehicles or equipment prior to entering or leaving your property?	
What fire and emergency plans do you have in place?	
Are there any special features on the property such as known Aboriginal or European heritage sites? (Also check Aboriginal Affairs & Reconciliation Central Archive)	
Are there any native vegetation heritage agreement areas or other areas of environmental sensitivity to be avoided?	
What access routes and entry and exits points would you like us to use? How would you like your gates managed? Can you please point out all gates in affected paddocks, so we can be aware of emergency exits?	
If we need to make new access tracks, how can we minimise the impact of the new track on your cropping plans or movement of stock?	

³ Forms available at: http://www.energymining.sa.gov.au/minerals/mining/forms_and_fees

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Land Access Agreement

Once the exploration program is defined, an agreement can be negotiated and agreed for the planned works. A simple access agreement will be required for low impact exploration and a more detailed access agreement, which may include provisions for compensation, will be required for drilling and earthworks activities (use of Declared Equipment).

<i>Information to be provided to landholder:</i>		✓
Offer goodwill services that the explorer could provide while operating on the landholder property, e.g. track maintenance work, new bores, gates, grids, fences, water tanks, provide leftover materials (e.g. poly-pipe), data on groundwater aquifer intersection.		
Provide maps showing location and extent of exploration program, e.g. proposed drill hole locations, lay down areas, proposed camp location, access points, travel routes, proposed water source.		
If required, provide a draft compensation agreement to the landholder for review. Draft agreement to include relevant maps. Also provide compensation calculations.		
If required, provide final compensation agreement to landholder for signing.		
<i>Information sought from landholder:</i>		✓
Seek the land-holder views on what interruption or impact the exploration program will likely have on the farming operation and business. This could include loss of grazing areas, loss of cropping area and harvest value. Discuss ways to minimise impact.		
Seek information on \$ value of harvested crops, livestock prices, cost of water, or other impacts the exploration program could have on the farm business.		
Request maps of the property if available, detailing access points, no-go zones, infrastructure, active agricultural areas, biosecurity risk areas, sensitive areas.		
<i>Compensation may be paid for:</i>		✓
Loss of productive land (e.g. crop loss for coming season, reduced land area for grazing).		
Separation of parts of the land from other land on the property which could affect cropping plans or movement of stock across the property.		
Damage to the surface of the land including drill holes, pits, access tracks, vegetation.		
Damage to any improvements on the land (including buildings, roads, fences, gates etc).		
Disturbance or loss of amenity due to noise, vibration, dust, light impacts, vehicle movements.		
Any cost, damage or loss arising from the carrying out of activities on the land, e.g. intensive use and damage to existing property tracks.		
Use of water for drilling or other exploratory operations.		
Management time, including negotiating initial agreement, operational supervision, time to deal with unplanned incidents.		
Professional / legal advice costs necessarily and reasonably incurred in the negotiation of a compensation agreement (Note: explorer is obliged to pay for the first \$500 of legal fees).		

Operations and Site Remediation

Regular communication must continue from commencement of operations through to the remediation phase of the exploration activity. Fully satisfying remediation obligations should be a core concern for all explorers, as failure to do so causes irreparable damage to the reputation of the explorer and public perception of the resources sector.

<i>Explorer Obligations</i>		✓
Keep the landholder informed of any material change in circumstances that may affect the landholder property or business and require a review and amendment to the access and compensation agreement.		
Provide an appropriate (fit for purpose) safety induction to the landholder and their workers, to ensure they are aware of the safety and security measures that relate to the exploration program. Discuss emergency protocols with the landholder.		
Provide an induction to the explorer employees and contractors who will be required to access the site and ensure all relevant contractual and regulatory obligations are included in the induction.		
Provide an overview of the E-PEPR requirements to the landholder, so they are aware of the regulator expectations. Provide a copy of the E-PEPR requirements and conditions if requested.		
Keep the landholder informed of the exploration program progress, location of activities and future plans.		
Immediately inform the landholder of any unsafe conditions, incidents or damage to property, crops or livestock and discuss and agree corrective actions. Take photographs for records and to include in Exploration Compliance Report ⁶ .		
Communicate with the landholder in the case of wet weather or fire ban days, to check conditions that may require deferment or modification to exploration operations.		
Accompany drilling and other contractors on site at the time of initial entry. Introduce the Principal Contractor representative to the landholder at first opportunity.		
Check that all explorer field personnel and contractors are working to the agreed landholder requirements during operations and take appropriate action if breaches are occurring.		
Arrange an inspection of remediated sites with the landholder to ensure the regulatory and contractual obligations have been met.		
Arrange a close-out meeting with the landholder and discuss the likelihood of any subsequent activities occurring (e.g. further drilling, remote sensing program, ongoing site monitoring, etc). If further exploration is planned, outline the works program, timeframe and next steps.		
<i>Landholder Obligations:</i>		✓
Inform the explorer site liaison of any proposed activities that may affect exploration operations or personnel safety (e.g. planned movement of livestock, commencement of harvesting, shooters on property, etc.)		
Inform the explorer site liaison of unsafe conditions on the property, e.g. road conditions following rainfall or deterioration of roads due to traffic.		
Communicate to the explorer site liaison any incidents or complaints for discussion and prompt resolution.		

⁶ http://energymining.sa.gov.au/minerals/exploration/exploration_reporting