

A Code of Conduct

for
Landholders and Mineral & Energy Explorers
in
South Australia

A framework for access to rural land



Disclaimer

This document adopts a simplified description of the exploration, mining and approvals process. Its purpose is to provide guidelines and act as a voluntary Code of Conduct. It should not be used as a reference in determining matters of law or as a basis of legal action.

1. Preamble

This Code of Conduct for Mineral and Energy Explorers ('explorers') is endorsed and supported by the SA Chamber of Mines and Energy (SACOME) and by the SA Farmers' Federation (SAFF). It has been drafted to facilitate dialogue between explorers and landowners, in conformity with the Mining Act 1971 (SA) and the Petroleum Act 2000.

This code:

- Recognises the rights and concerns of both explorers and private landholders.
- Presents a clear path for dialogue and negotiation of access and, if necessary, compensation for temporary disturbance.

The Code is designed to foster good relations between landholders and mineral explorers by providing a framework for access to rural land for mineral exploration. This is based on understanding and sensitivity by explorers that they are "guests" on land, whether private or leasehold, and appreciation by farmers of the needs and rights of mineral explorers.

This document adopts a simplified description of the exploration, mining and approvals process. Its purpose is to provide guidelines and act as a voluntary Code of Conduct. It should not be used as a reference in determining matters of law or as a basis of legal action.

2. In brief, what are landholders' and explorers' rights?

The Mining Act 1971 and the Petroleum Act 2000, allows, respectively, for explorers to conduct mineral exploration and mining on most land in South Australia, including freehold and pastoral land, subject to approval by the Department of Primary Industries and Resources South Australia (PIRSA).

The Government encourages mineral and energy explorers to seek, find and develop minerals and energy for the economic benefits which flow to South Australia and Australia. Economic benefits include royalties and other payments to Government as well as increased regional employment and prosperity. The export of minerals and mineral and petroleum products, also assists with the balance of trade.

The Mining Act 1971 and the Petroleum Act 2000 lay down clear obligations for the explorer to notify and consult with landowners, to repair damage to improvements, to rehabilitate disturbed areas and to pay compensation for financial loss, hardship or inconvenience.

3. Official Notice of Entry must be given to the landholder 21 days prior to entry.

- Under the Mining Act 1971 and the Petroleum Act 2000, an explorer must give a landowner 21 days notice of the intention to enter land for the purposes of exploration or to peg a mineral production tenement.
- Alternatively, under the Mining Act, a mineral explorer may negotiate an access agreement with the landowner setting out conditions of entry and this may be used in lieu of a Notice of Entry. Such an agreement must be negotiated between mineral explorer and landowner and signed by both.

- Under the Mining Act, the landowner (*excluding a pastoral lessee*) can, within 3 months of service of the notice of entry, object to entry by lodging a plaint with the Warden's Court.
- Under the Petroleum Act, the landowner can within 14 days, give notice of objection to the licensee. The licensee must then inform the Minister, who may then attempt to mediate.

4. Exempt Land

- Under the Mining Act, certain land is exempt from prospecting and mining. Examples are cultivated fields, forest reserves or land within 400m of a house and land within 150m of a building or structure used for pastoral operations (eg a shearing shed) or a water supply.
- It should be noted that there is no such provision under the Petroleum Act 2000, however under PIRSA's "*Liaison Guidelines for Landholders and Petroleum Explorers in South Australia*" it states that petroleum companies should aim to...'*avoid interference with crops, livestock and other economic activities on the property*' and '*avoid disturbance to dwellings and other amenities by noise, dust and other nuisances*'.
- Exempt land provisions also apply to activities that are authorized under a miscellaneous purposes licence granted under the Mining Act. This includes, but is not limited to, things like access roads, pipeline and power line corridors, and mineral processing plants.
- Exempt land status does not mean that the landowner has a right of veto over exploration or mining activities on that land. It means that the mining company cannot conduct any activities under its licence or lease, unless the landowner has reached agreement with the mining exploration company regarding compensation and agrees to waive the exempt status of the land and signs a 'Waiver of Exemption' form. If the parties cannot agree, the matter will go to the Wardens' Court for determination.

5. Guidelines to reaching an access agreement for exploration

- Under the Mining Act, a mineral explorer may negotiate an access agreement with the landowner setting out conditions of entry and this may be used in lieu of a Notice of Entry. Such an agreement must be negotiated between mineral explorer and landowner, put in writing and signed by both.
- An access agreement has benefits for both landholders and explorers as it is a negotiated agreement between the two parties and can help smooth out any issues before they arise on site. An access agreement may contain provisions covering duration of entry, exempt land, exploration methods to be used, precautions to minimise the risk of disease or weed introduction, compensation for damage as well as providing a framework for recognising landholder rights and aiding orderly mineral exploration.

- The explorer should appoint a 'Liaison Person' who has an affinity for people on the land and, if possible, a knowledge of farming and grazing practices, who must be familiar with all aspects and requirements of the exploration project.
- The Liaison Person should acquaint themselves with local regulations and conditions covering such matters as fire or water restrictions, control of disease and noxious weeds in the area, pest animal control activities and other land management issues, e.g. areas with high soil erosion potential.
- The Liaison Person should make direct contact with the landholder well before requiring access for exploration on the property and discuss the nature and likely duration of the exploration programme as it affects the land and improvements and the need to negotiate an access agreement. The explorer must have due regard for the landholder's agricultural activities in conducting the work programme including such things as low-flying airborne surveys.
- The Liaison Person and all senior field personnel should be familiar with the provisions of all relevant Acts and regulations, and the conditions attaching to the exploration licence and the terms of the access agreement. Whenever possible and appropriate the explorer should use local contractors, who must be fully briefed as to their responsibilities under the law, the access agreement and this Code of Conduct.
- The Liaison Person should have the authority to negotiate and finalise an access agreement with minimum delay and have full authority in the field. Liaison should not be left to contractors or inexperienced personnel

6. A landholder has a right to compensation if exploration causes or may cause certain kinds of loss

- A landholder is entitled, under the 1971 Mining Act and the Petroleum Act 2000, to receive compensation for any economic loss, hardship and inconvenience suffered as a consequence of carrying out regulated activities. These Acts include specific provisions and requirements regarding compensation.
- The amount of compensation can be determined by agreement between the owner and the exploration company or, if agreement can't be reached, by the relevant court.

7. Provision of exploration details to landholder

- The explorer should have a detailed location map available identifying the proposed exploration or mining sites, with a copy to be left with the landholder. Explorers should discuss the map with the landholder and identify any particular problems such as entry points, buried water pipes, contour banks, farm dams, levee banks, irrigation channels, shade clumps, erosion prone land, and position of gates and fences. Particular attention should be paid to sensitive areas, stock movements and calving or lambing periods.

- If available, a spare aerial photograph, or satellite image, of the area should be left with the landholder.
- The landholder should be given the number of the explorer's licence / tenement, names and contacts of senior personnel and, most importantly, the name of the Liaison Person.
- Ensure regular contact with the landholder and inform him/her of work progress.
- The landholder must be made aware of any significant changes to the exploration plan or programme as soon as possible and before they affect the property. This is particularly important when there are changes to the timing of the activity or the nature of the activity.
- Let the landholder know when personnel and/or equipment will be entering, or leaving, the property.
- Reasonable notice should be given to landholders for subsequent entry to continue exploration activities following an extended period of absence.

8. Commonsense Guidelines for Exploration

- Once an access agreement has been entered into, inspect the area and pre-plan the activity to cause minimum disturbance to the landholder and property.
- Ensure any topsoil that is removed is stored separately and replaced so as to facilitate re-growth of natural or seeded vegetation.
- At all times, the religious, cultural and moral beliefs of the landholder should be respected.
- Respect privacy of landholder especially where exploration activities occur within the vicinity of dwellings.
- Report anything that you notice as being unusual or out of place, whether or not you are responsible.
- Water and timber are not to be used without the permission of the landholder.
- Do not cut fences without consent of the landholder and promptly repair any fences, or other improvements, damaged in the course of mineral exploration activity.
- Camp sites should be positioned at least 400m away from watering points, drainage lines, homesteads and not positioned over stock pads leading to watering points. If in doubt, liaise with the landholder.
- Do not take dogs or other domestic animals onto private property.

- Leave all gates as found, whether open or shut.
- Keep noise to a minimum, especially around livestock, landholder premises or occupied work areas.
- Do not use aircraft or helicopters without first checking with the landholder. This is especially important during lambing and where mustering is planned or in progress.
- Firearms are not to be brought onto the property without the permission of the landholder.
- Be aware of overhead power and telephone lines when using equipment with an elevated reach.
- Marker pegs should be of a nature and positioned where they are not likely to cause injury to stock or hinder farm machine movement.
- Invite the landholder to inspect the work area when each section of the project is finished so that any problems can be discussed.

9. Be aware of stock and cropping priorities

- Study stock movements and habits. Do not disturb stock, particularly during lambing and/or calving, after lamb-marking and/or calf-marking etc.
- Minimise disturbance to livestock and wildlife and avoid vehicle movement at night.
- Do not leave geophysical cables run out overnight in areas where stock are running. If it is necessary to leave wires run out overnight, arrangements should be negotiated with the landholder, in advance, to remove stock from the area at a mutually convenient time.
- Do not leave valuable equipment out where stock are grazing as it may be damaged.
- Understand that land is the livelihood of farmers and graziers. Be sensitive to any disturbance to stock and crops that may affect agricultural yields.

10. Clean vehicles for weed and disease prevention

- Be aware of the problems associated with vehicles carrying noxious weeds and possible plant and livestock diseases. Take all agreed and other practicable measures to minimise risk of exotic weed and disease introduction.
- Reasonable precaution may include cleaning all vehicles, including radiator airways, underbody of vehicle and tyres before entry into a property to minimise

the risk of infectious material or weed seeds being carried in mud, etc which may become dislodged on the property. Also be aware of landholder concerns over livestock diseases and any quarantined properties or areas in the locality.

- If in doubt, check with and respect the wishes of the landholder.

11. Be aware of damage by vehicle movement

- When ground is wet, curtail movement of vehicles and machines which may unduly damage road or cultivation. If it is absolutely necessary to move such vehicles or machines, any resulting damage should be repaired (at the explorer's expense) as soon as conditions dry out.
- Drive vehicles around contours where possible and on ridges, not along water courses or wet areas. Do not drive straight up hills or embankments.
- Limit the number of vehicles driven on the property and keep the number of vehicle trips to the work site to a minimum. Where possible keep to recognised tracks.
- When not on recognised tracks, change the area of vehicle traffic regularly so as not to destroy vegetation.
- When removing bogged vehicles, backfill all holes and trenches.
- Do not drive tracked equipment straight down the centre of any track or road. Drive alongside or straddle wheel tracks. Determine the best place to turn with minimum damage to the road before turning.
- Ensure vehicles observe moderate speed to minimize dust, noise and stock disturbance. Avoid vehicle movement at night.
- Any damage to tracks and roads caused by the movement of vehicles should be rectified as soon as possible, at the explorers expense.

12. Access tracks and trenches for exploration

- Plan exploration works to use existing tracks and roads as much as possible, in consultation with the landholder.
- When tracks need to be constructed, seek the help and the advice of the landholder. Ensure that tracks are properly formed, consolidated and drained.
- Understand the waterflow and catchments before making any trench.
- When digging trenches, separate topsoil and subsoil for backfilling.

- Refill trenches as soon as possible after completion. Where water is likely to run along trenches, construct contour banks to divert water from flow from trench. Re-seed on completion, and fence off from stock if necessary.

13. Drilling Program and Liaison

- Discuss plans and patterns with owner so as to minimize number of paddocks being used at any time and to establish best order and siting of drilling. Conform to any timetable that may be arranged with the landholder for the movement of stock from work areas.
- Companies exploring for minerals should, wherever possible, be flexible as to the positioning of bores in order to reduce to a minimum the destruction of vegetation, surface disturbance and inconvenience to the landholder.
- Ensure drilling sumps are of sufficient capacity to retain drilling slurry during operations.
- Make sure all bore holes are filled or properly capped and made safe for stock immediately after they have been drilled and that excess cuttings are removed, if required.
- Backfill all holes and ram tight at surface when completed.
- Drill one area at a time and, as far as possible, in the one paddock at any time.
- Do not drill holes on agricultural airstrips.
- Do not drill holes near dams or on the lower side of dam walls.
- And remember... if you find water tell the landholder.

14. Properly manage the environment

- Minimise impact of exploration activity on trees or vegetation.
- Minimise disturbance to the soil surface during construction of survey lines and, where possible, restrict the disturbance of surface vegetation, particularly on cultivated land.
- Erosion on survey lines should be minimised where appropriate by the prompt construction of check banks and/or spur drains.
- Particular care should be taken in catchments to prevent contamination or siltation of farm dams.

- Exploration crews should carry rubbish containers and avoid littering of any sort at all times. All rubbish should be taken on leaving the property. Do not dispose of rubbish by burying it or using drilling sumps for disposal.
- Under no circumstance should chemicals, oil or their containers, be dumped into surface or underground water systems.
- Where timber must be removed, it should be effected in accordance with the conditions of the exploration and in a manner acceptable to the landholder. Such practices must conform with any tree preservation legislation. All water courses should be treated with respect.
- The width of clearing for lines, especially in timber clumps and tree belts, should be kept to a minimum where possible. Lop branches rather than fell trees.
- Minimise clearing on steep hillsides and along creek beds, especially where there is an obvious shade line.
- Have appropriate fire-fighting plans and procedures in place to minimize potential for wild fire initiation or propagation. Maintain fire-fighting equipment in readiness at all times.
- During a “Bushfire Danger” period, carry a knapsack spray filled with water or approved extinguisher with all internal combustion engines. Do not use grinders or welders in the open.
- During times of “Total Fire Ban”, movement must be restricted to those vehicles fitted with spark arresters.
- Liaise with local fire authorities and observe their operation procedures.
- Train all personnel on fire procedures and the necessity for precautions at all times.
- Do not burn anything in the open during fire ban periods without obtaining a permit (from local bushfire brigade captain).
- Ensure that all internal combustion engines are maintained to minimise risk of bushfire ignition.

15. On completion of access, clean up work area

- In particular, do not leave plastic or pieces of wire or nails etc on site as they may be digested by stock and cause injury. Leave area tidy on completion.
- Remove all pegs, stakes, measuring strings and wires etc when job is completed.
- Undertake agreed restoration without undue delay and pay any agreed compensation promptly.

