

# EARTH

## Resources

### INFORMATION SHEET

## LIAISON GUIDELINES FOR LANDHOLDERS AND PETROLEUM EXPLORERS IN SOUTH AUSTRALIA

*A guide to establishing and maintaining good relations between the petroleum industry and land owners, occupiers and titleholders*

### INTRODUCTION

Access to land is a key factor for a long-term sustainable upstream petroleum industry. Community support is vital for the petroleum industry to access land and hence realise the resources beneath the land. It is therefore imperative that the industry establishes and maintains good relations with the community, particularly those most immediately affected, the landholder. In this document the term 'landholder' is used to describe any person or body who is the holder of legal right to the land. This can include an owner, anyone who is lawfully occupying the land (e.g. lease holder) or has other title in the land.

The object of these guidelines is to promote communication to establish good working relationships between landholders who have surface rights, and explorers who are authorised under the *Petroleum Act 2000* to enter the land to search for and extract oil and gas.

The landholder and the explorers both have an obligation to care for the land and use its resources in a sustainable way. This can be achieved if each party knows what the other is doing and can integrate their management practices.

### LEGISLATIVE REQUIREMENTS

Whilst the Petroleum Act enables petroleum companies to access the land for exploration and production purposes, it also recognises the rights of landholders. Regulation 22 lays down clear obligations for the explorer to notify and consult with landholders and provide sufficient information to enable them to make an informed decision about the impact or potential impact of the proposed operation on the land. The information includes:

- name and address of licensee
- name and telephone number of contact person
- description of proposed activities, sites and potential impacts
- information on timing of events
- information on any rights of objection an occupier may have
- information on compensation rights.

### ESTABLISHING GOOD RELATIONS WITH LANDHOLDERS

Consultation with landholders during the planning phase should facilitate:

- exchange of information
- identify and address potential concerns and conflicts of interest
- arrangements regarding infrastructure (e.g. water sources, roads, tracks, fences, gates etc.)
- meeting regulatory requirements
- development and maintenance of good working relationships
- negotiation of fair compensation (where appropriate).

Such consultation is seen by industry (APPEA, 1996) and the South Australian Government as good business practice.

The petroleum company should aim to:

- establish and maintain appropriate liaison with the landholder
- avoid damage to improvements (including water supplies), and carefully manage activities in relation to their effects on vegetation and soil
- avoid interference with crops, livestock and other economic activities on the property
- avoid disturbance to dwellings and other amenities by noise, dust and other nuisances
- rectify damage to the property or improvements without delay
- pay compensation promptly



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- ensure that all employees and contractors know of, and comply with, the company's obligations and commitments.

The landholder's contribution to a good working relationship is to:

- provide sufficient contact details
- respond with minimum delay to requests for information or to notices issued under the Petroleum Act
- advise the explorer of any changes to previously advised stock or management programs.

An appropriately qualified person should be appointed as the company 'Liaison Person' (company representative, permittee or permit person) who is responsible for liaison with landholders throughout the life of the program. This person should preferably have a knowledge of the agricultural and/or pastoral sector and an affinity with people on the land.

The Liaison Person shall be responsible to the company and should be familiar with all aspects and requirements of the proposed petroleum operation and relevant provisions of the Petroleum Act and regulations. This person should be authorised to make agreements and arrangements on behalf of the company. It would be his/her responsibility to ensure that the field crew are clearly notified of such conditions. Any change in this Liaison Person should be notified to the relevant landholder(s).

The Liaison Person should make direct contact with the landholder to discuss the exploration program before activities commence. This can also include agencies and other bodies who may have a less direct interest in the land or may be otherwise impacted (e.g. Government agencies, councils, police, emergency services). Regulations pursuant to appropriate fire legislation should be adhered to. In any case, liaison with local Country Fire Service officers is recommended. Appropriate emergency response plans must be in place and liaison with relevant organisations or agencies must be established. This should be undertaken as early as possible to minimise impacts on petroleum or land user operations.

If possible, the field program should be made flexible enough to fit in with the timetable of the landholder (e.g. reaping, lambing, mustering).

Landholder liaison should not be left to contractors who are inexperienced or not trained in such liaison. The contractor must know and abide by the terms of the agreements with the landholder and others with an interest in the land.

## ADVICE ON PROPOSED ACTIVITIES AND POTENTIAL IMPACTS

Initial contact by mail, email, fax or telephone should occur prior to entering the property. A reply to the initial correspondence should be requested and received to ensure that two-way communication is occurring. Upon arriving at the property or meeting place, introductions should be made immediately at the homestead or agreed meeting point. Wherever practical, notices under the Act should be served personally and the opportunity used to explain the program and establish a working relationship.

The landholder should be informed of the Liaison Person's responsibilities and who the Liaison Person reports to in the company.

The company should make the Liaison Person or other appropriate person available to discuss reasonable requests from the local community for information on the proposed activities.

The landholder should be provided with comprehensive details of the proposed activities, in particular:

- proposed location of field work (include a map)
- extent and type of operations to be conducted
- description of vehicles to be used
- names of key personnel involved, including contractors who will do the work
- living arrangements, particularly if a campsite is required
- proposed techniques or options to address the concerns of the landholder.

The Liaison Person should ask the landholder about:

- the existence of any Heritage Agreements or management plans approved under the *Native Vegetation Act 1991*, the *Pastoral Land Management and Conservation Act 1989*, the *Soil Conservation and Landcare Act 1989*, and any other statutory obligations
- the preference for reinstatement of disturbed areas
- the future potential use of drillholes which intersect useable groundwater
- access details (e.g. track conditions, loading capacities of bridges)
- suitable campsites
- the location of special features of the property including the location of known Aboriginal or European heritage sites
- landholder's planned work program (where it may be impacted by petroleum operations)
- crops, pasture or other areas requiring avoidance or special entry precautions (e.g. seed crops, export licence issues, weed infestations etc.)
- any quarantine restrictions
- updates of the explorer's map, i.e. fences, gates, bores, dams, etc.
- fire precautions
- use of water supplies
- the potential use of incidental petroleum infrastructure for landholder use following completion of petroleum activity (e.g. drill pads, access tracks, borrow pits)
- any other issues of concern.

The Liaison Person should provide the landholder with the Liaison Person's business and after hours contact details, such as telephone numbers, email, fax and address.

Where possible, the landholder should be given the opportunity of quoting for any contract work that may become available. Local people should be employed for field work wherever possible.

## POTENTIAL FUTURE ACTIVITIES AND IMPACTS

The Liaison Person should advise the landholder of the likelihood of subsequent petroleum activities occurring. For example, if a seismic program is proposed the potential exists for drilling of any favourable targets. If drilling is proposed then potential exists for pipelines or trucking products to market or processing facilities.

## COMPENSATION RIGHTS

The Petroleum Act clearly sets out the rights of landholders to compensation. Compensation is payable for:

- deprivation or impairment of the use and enjoyment of the land
- damage to the land (not including damage that has or will be made good by the licensee)
- damage to, or disturbance of, any business or other activity lawfully conducted on the land
- consequential loss.

Compensation is not payable if there is no such damage, disturbance or loss. Compensation cannot be related to the value or possible value of resources contained in the land.

Under the Petroleum Act, special situations may develop where land may be fenced off or compulsorily acquired to prevent damage to livestock or petroleum facilities. In these exceptional cases, close liaison with the landholder is required.

Compensation levels should be fair to both parties and equitable. Unfair or hastily derived compensation agreements are likely to set poor precedents and precipitate long-term detriment to working relationships between the petroleum industry and the community.

Any dissatisfaction with any compensation is not a ground for objecting to any entry on the land. Any dispute over access or compensation may ultimately be resolved by application to the relevant court. Claims under \$100 000 are to be heard in the Warden's Court, while for higher amounts the relevant court is the local court of full jurisdiction. However, prior to instigating court action, either party may contact the Office of Minerals and Energy Resources Petroleum Group, who will attempt to mediate a mutually agreeable outcome.

## REHABILITATION REQUIREMENTS

The prime environmental objective of petroleum activities is to avoid, or where not reasonably practicable, minimise impacts to the land and other land users. For each petroleum activity a formal document entitled 'Statement of Environmental Objectives' is required to be approved by the Minister before activities commence. The objectives can generally be divided into two aspects — avoid activities which are likely to have long-term negative impacts and manage those that are likely to have short-term negative impacts. Where accidental (or incidental) impacts occur which have a significant negative impact, rehabilitation may be required to meet the relevant environmental objectives.

It may be prudent to make landholders aware of the existence, availability and/or content of the applicable Statement of Environment Objectives.

The Petroleum Act includes other land users as part of the social 'environment'. The landholder is therefore entitled to consideration where repairs or rehabilitation of infrastructure or land are concerned, and such requirements should be made clear to the landholder in the initial contact.

Where any activity creates a need for repair or rehabilitation, this work should be discussed with the landholder as early as possible, and rehabilitation promptly undertaken.

## NATIVE TITLE AND ABORIGINAL HERITAGE IMPLICATIONS

The operator should consult with the traditional Aboriginal custodians of the land to avoid disturbance of any significant Aboriginal sites. The Office of Minerals and Energy Resources will liaise with the Department of State Aboriginal Affairs to advise on the relevant groups or contact persons.

For petroleum tenement applications after 1994, there are requirements under the Commonwealth *Native Title Act 1993* to address prior to issue of a petroleum licence. Procedures under this legislation may involve negotiations, agreement and/or arbitration prior to resolving the conditions or procedures acceptable to Aboriginal groups who may have native title rights for access to the land.

It would be equitable to have similar levels of consideration regarding liaison, impact assessment, rehabilitation and compensation in this context as to all other land users.

Under the *Aboriginal Heritage Act 1988*, there are significant penalties for disturbing Aboriginal sites. Potential compensation under the Native Title Act, is a matter of negotiation or arbitration between explorers and Native title claimants or title holders.

## AGREEMENTS

Agreements between the landholder and explorer should be simple, and clearly identify what has been agreed to between the parties. It is preferable that agreements are in writing, as verbal agreements can lead to misunderstandings. If agreements are made verbally, all parties should have a witness present. There may be agreements in place regarding native title arrangements or Indigenous Land Unit Agreements.

The company should prepare and implement a program which complies with tenement conditions, best practice, agreements in place and the reasonable needs of the landholder.

All petroleum field personnel, including contractors, should be briefed on company policy and be aware of, and comply with, the tenement conditions and agreements made with each landholder. A close liaison between the Liaison Person and the field crew is required to ensure that conditions agreed to with the landholder are achieved.

If a campsite is required, prior agreement with the landholder on preferred locations should be reached. However, the campsite should be positioned at least 500 m from watering points, drainage lines, and homesteads, and not be positioned over stock pads leading to watering points.

Any agreement with the landholder relating to native vegetation clearance in excess of that required for petroleum operations must comply with the *Native Vegetation Management Act 1991*. PIRSA must be advised of any such agreement.

If any such agreement is reached, then it is:

- outside the Petroleum Act
- under the Native Vegetation Management Act
- the responsibility of the landholder.

These facts are to be clearly indicated to the landholder, who should sign a document so stating. If an operator undertakes native vegetation clearance in excess of that necessary for petroleum operations, without due authorisation under the Native Vegetation Management Act, then they may be liable to a penalty under the Petroleum Act.

## MANAGEMENT OF FIELD OPERATIONS

Where activities are likely over an extended period, regular meetings between the Liaison Person and landholder should be arranged to discuss progress, performance and agreements.

If operations are delayed for a significant period, the landholder should be contacted to ascertain any changes to local conditions, and to be kept informed.

Field crew should minimise the potential for weed infestations and outbreaks of disease. Vehicles should be thoroughly cleaned before moving into new areas.

Any incidental impact on infrastructure should involve consultation with the landholder. If an explorer needs to cut a fence or incidentally impact any other infrastructure, the landholder should be consulted for alternatives. However, if a fence is cut, stock-proof gates must be installed and removed if requested by the landholder. Explorers should also ensure that they leave gates as found (e.g. shut or open).

Any damage to gates, fences, roads, crops etc. Should be reported to the landholder (even if the explorer is not responsible). Where necessary, discuss any arrangements for repairs. Temporary repairs should be completed without delay.

When the ground is wet, vehicle movements should be curtailed to minimise damage to tracks, river crossings etc. All field personnel should bear in mind that they are on someone else's property and that due courtesy should be given to the landholders and their property. Disturbance from noise, dust and other nuisances should be avoided. Vehicle speed should be reduced near dwellings, watering points and grazing stock to reduce dust and disturbance.

Where several days are to elapse between the various operational phases of the survey, any temporary gates should be checked for stock security.

Appropriate fire fighting plans or procedures should be in place for each field activity; fire fighting equipment should be supplied, installed and properly maintained.

The explorer should find out where stock are located on a regular basis to avoid disturbance. The explorer and field crew should be aware of hazards to health and safety to stock and people from cables, drill casing, excavations etc., and take actions to prevent potential hazards.

Water must only be sourced from those locations agreed to by the landholder.

When using helicopters or low-flying aircraft, the landholder should be advised of their proposed use, the area being flown over and the timing of such flights. Discuss with the landholder the planned stock program (e.g. lambing and mustering), and ensure that the pilots are instructed to use the aircraft so as to cause minimal disturbance to stock.

Unless otherwise requested by the landholder, all drillholes should be backfilled, raked over or removed, and 'octa-plugs' or 'tiger-paws' put in place. If drillholes are required to remain open temporarily, casing should be installed to prevent injury to stock and small animals from falling in.

Under no circumstances should chemicals or their containers be dumped where they could enter surface or groundwater systems. This also applies to camp waste, sewage or effluent. All hazardous rubbish should be removed and placed in authorised waste disposal depots. If pits are required for the disposal of sewage and biodegradable domestic waste, they should all be of a size sufficient to contain all waste and allow for burial to a minimum depth of one metre. Pits should only be used when it is impracticable to remove waste to an approved public refuse pit. General rubbish should be taken to a local waste disposal depot.

Permanent survey markers should be placed where they will not hinder property management. Temporary markers, pegs, tags and flagging tapes should be made from biodegradable materials or removed if requested by the landholder.

## ACTION TO BE UNDERTAKEN ON PROGRAM COMPLETION

The Liaison Person should invite the landholder to inspect the work area when the project is complete and carry out any reasonable request for repair of the land. Where significant soil or other damage has inadvertently or unavoidably occurred, it should be rehabilitated to the landholder's satisfaction.

Any agreed restoration should be undertaken without undue delay and any agreed compensation, which is due to the landholder under the Petroleum Act or an agreement between the parties, should be promptly paid in full.

Permanent repairs must be effected as soon as practicable. Any repair work required should be initially negotiated with landholder, and consideration given to contracting the landholder to undertake the repair work.

Any track damage caused by vehicle movements in wet conditions should be repaired as soon as conditions dry out.

The Liaison Person should make a final inspection of all roads, gates, fence lines, campsites, drillsites etc. to ensure that all areas are free of rubbish and left in a condition that is safe to stock and free of hazards to people.

It is recommended that a written sign-off process be undertaken to ensure that both parties are satisfied with the state of the land on completion of activities.

## LONG TERM LIABILITIES

Whilst a petroleum tenement is current, it is the responsibility of the licensee to ensure that there are no long-term negative

impacts from activities undertaken. Where such impacts are identified, the licensee will remain liable for rehabilitation or compensation even where a petroleum licence expires or is cancelled. The Office of Minerals and Energy Resources, Petroleum Group will undertake procedures to ensure that any risk of future negative consequences from the activities undertaken are reduced to as low as possible. Upon sign-off of a licence activity by the Petroleum Group, the licensee will cease to have liability for those activities.

## MEDIATION AND CONFLICT RESOLUTION RESOURCES AND PROCEDURES

It is good business practice for the licensee and landholder to come to mutual agreement on matters where field activities interact with land management. However, if a mutually agreeable solution cannot be attained through direct discussion, there are two mechanisms available to facilitate resolution.

In the first instance, the Office of Minerals and Energy Resources, Petroleum Group can act as a mediator, if requested by either party, to try to facilitate a mutually acceptable outcome. This may be using Petroleum Group staff or an external mediator pending discretion of the Minister. If this fails to bring a satisfactory conclusion, then either party may bring an action to court to resolve issues of compensation. Where compensation claims are under \$100 000, this will be the Warden's Court, set up under the Petroleum Act (which would operate in a similar fashion to the Mining Act Warden's Court). For larger claims, the nearest court of full jurisdiction is the appropriate court for such actions to be heard.

## GUIDELINE DISTRIBUTION

This guideline is to be freely available to all interested parties. It is available from the Office of Minerals and Energy Resources, the Chamber of Mines and Energy, and the South Australian Farmers Federation. It is also on the PIRSA website ([www.petroleum.pir.sa.gov.au](http://www.petroleum.pir.sa.gov.au)).

It is expected that this code would be reviewed regularly, at intervals of not less than five years.

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These *Liaison guidelines for landholders and petroleum explorers in South Australia* have been endorsed by the South Australian Chamber of Mines and Energy and the South Australian Farmers Federation.