

Access Arrangements

This fact sheet aims to assist exploration licence holders when approaching the Department of Primary Industries – Lands (the Department) for access to Crown land for prospecting purposes.

Introduction

Explorers and prospectors must obtain an exploration licence issued by NSW Department of Industry Resources and Energy (hereby referenced as Division of Resources and Energy) for mineral exploration in accordance with the [Mining Act 1992 \(Mining Act\)](#).

Exploration licences are granted subject to standard and/or special conditions, including strict environmental management conditions to protect native vegetation, fauna, land, water resources, heritage and community values. These conditions regulate the type of exploration that can be carried out and where these activities may occur.

A condition of the exploration licence is to obtain an access agreement with relevant landholders. Interactions between exploration licence holders and landholders is required and may be complex, but cooperative access arrangements can be made to satisfy each party. Courtesy, respect and honesty will go far in building positive working relationships for the purpose of entering into access arrangements.

For more information on the Division of Resources and Energy policies relating to exploration licences go to: <http://www.resourcesandenergy.nsw.gov.au>

Requirements of an Access Arrangement

Section 140 of the Mining Act prevents the holder of an exploration licence from carrying out any exploration activities under an exploration licence until there is an access arrangement applying to that land in place. An access arrangement must be between the holder or holders of the prospecting title and [the landholder, as defined in the Mining Act](#).

[Section 141 of the Mining Act](#) states that an access arrangement may make provision for or with respect to the following matters:

- the periods during which the holder of the prospecting title is to be permitted access to the land,
- the parts of the land in or on which the holder of the prospecting title may prospect and the means by which the holder may gain access to those parts of the land,
- the kinds of prospecting operations that may be carried out in or on the land,
- the conditions to be observed by the holder of the prospecting title when prospecting in or on the land,
- the compensation to be paid to any landholder of the land as a consequence of the holder of the prospecting title carrying out prospecting operations in or on the land,
- the manner of resolving any dispute arising in connection with the arrangement, the manner of varying the arrangement, the notification to the holder of the prospecting title of particulars of any person who becomes an additional landholder.

Please note: prospecting titles include exploration licences and assessment leases.

Division of Resources and Energy have published [a guide to negotiating land access arrangements for mineral exploration in NSW](#). The Department's guideline should be referenced as supplementary to the Division of Resources and Energy guideline.

Division of Resource and Energy have also published a [template access arrangement to assist exploration licence holders and landholders](#).

Approaching the Department to enter into an access arrangement

An issued exploration licence gives the holder the exclusive right to explore for minerals specified in the licence. An exploration licence for non-coal minerals is usually issued for a term of two years. It does not automatically entitle the exploration licence holder to enter any of the lands in the area covered by the licence. An exploration licence holder cannot carry out any exploration until access arrangements have been negotiated and agreed with landholders.

It is the responsibility of the exploration licence holder to propose an access arrangement with the landholder consistent with the terms of the exploration licence and s141 of the Mining Act 1992. Additional conditions may be negotiated and included as part of the access arrangement.

Holders of an exploration licence seeking access to Crown land for prospecting purposes must provide:

- a copy of the Exploration Licence (and, if available, copies of SDNs and REFs when category 2 or 3 activities are proposed); and
- a proposed draft Access Arrangement.

These documents should be forwarded to the Department via post to PO Box 2185, DANGAR, NSW, 2309 or via email to enquiries@crowland.nsw.gov.au

An exploration licence granted under the [Mining Act](#) constitutes a dealing with the Department in accordance with [s7\(b\) of the Crown Lands Act 1989 \(Crown Lands Act\)](#). Additional approval under the [Crown Lands Act](#) in the form of a lease or licence is not required. An access arrangement in accordance with the provisions of [s141 of the Mining Act](#) is required.

The role of the department

The role of the Department is to enter into access arrangements with exploration licence holders when access to Crown land is required for prospecting purposes. All negotiations will be managed by department staff when the Department is identified as the 'landholder'. The term of the access arrangement will be consistent with the term of the exploration licence.

The Department endeavours to enter into access arrangements within 28 days. However, a range of other factors are dependent upon the processing timeframe including:

- the quality and timing of the exploration licence documents provided by the proponent
- the terms of the proposed access agreement
- the type and extent of the proposed exploration activities and current land use and land management issues relating to the subject land
- an investigation of Aboriginal Land Claims or Native Title over the subject land
- the number of stakeholders affected by the access arrangement
- potential loss of access by others who have an interest in the land.

There may be times when the Department is approached to enter into access arrangements but is not the land holder. The Department will assist you identifying all relevant landholders through a Search (fees apply). More information relating to searches can be found on the Department's website.

As a landholder, the Department is entitled to compensation for 'compensable loss' suffered or likely to be suffered as a result of the exploration activities on their land. "Compensable loss" is defined in [s262 of the Mining Act 1992](#) and will be negotiated on an individual basis.

More information

Further general information on Crown land can be found at www.crownland.nsw.gov.au

For more information on access arrangements contact the Department on 1300 886 235 or enquiries@crowland.nsw.gov.au

Additional information relating to access arrangements is also available on the NSW Department of Industry Website

Acknowledgments

NSW Department of Industry Resources and Energy