



DON'T SIGN the Standard Conduct and Compensation Agreement

The standard Conduct and Compensation Agreement is not fair to landowners¹. The standard agreement can be accessed at:

http://www.dme.qld.gov.au/mines/land_owner_occupier_information.cfm

Our comments below are all about it...

The fundamental legal nature of an agreement is two parties at arms length who reach 'agreement'. If either party is not satisfied with the outcome, no agreement is reached. An agreement is only fair where there is a reasonable equality of the bargaining position of each of the parties. Here, there is no real ability for you to walk away if you do not reach agreement. Entry can be obtained and court proceedings can be commenced against you; not usually a good start to an ongoing relationship. The legislative description of this document as a "Conduct and Compensation Agreement" makes a mockery of the term agreement.

When you reach agreement you want to know who you are agreeing with. Clause 5.1 requires only one of several tenement holders to be named and is then said to be binding on all other tenement holders. You should know everyone you are dealing with. Prior to negotiations, a search of the Department's records should disclose the identity of all the tenement holders. We are happy to assist you with this search.

Disclosure referred to in Clause 7 is of the utmost importance. Schedule 1 deals with the tenement holder's disclosure and is totally inadequate. You should be provided with copies of all relevant documents. A lack of knowledge by one party to an agreement results in an unequal bargaining position.

Couple lack of knowledge and forced entry and you are not being dealt with fairly.

¹This brochure provides comment on the standard conduct and compensation agreement and is not intended as legal advice. For legal advice that addresses your particular circumstances, please contact Lestar Manning or Clare Farley on 1300 303 866 or email lestar@paelaw.com or clare@paelaw.com.

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Clause 7.2 (c) indicates that you consent to the activities in section 1 of schedule 1. If this was filled in properly it would clearly and simply tell you everything that was going to impact you, your land and your business. Usually it's not. Usually, it will simply refer to the activities authorised under the tenement. You should require the activities to be specifically stated. They may be narrower than the range of activities set out in the tenement. You should require the impacts of the activities to be clearly set out. Without being specific you will have difficulty in understanding what you are being compensated for and determining the value of the compensation that you should seek. That defeats the purpose of the agreement.

Clause 7.5 requires you to set out what you are proposing to do on your land. This is not information that you should be obliged to provide. The government did not discuss with you its intention to allow these authorities over your land. The government simply granted the right to deal with the petroleum/minerals without discussion with you. If you do have a plan that is being compromised, by all means make the tenement holder aware as that may assist to minimise impacts, and may allow an opportunity for mutually beneficial works. You are not obliged to provide this information.

Clause 10 deals with additional conduct conditions. These are matters that will impact on your amenity and the liveability of your land. They will also impact on how you run any business on the land. The examples given are sparse and not overly helpful. These matters should be set out in the text of the agreement following a proper consideration by you.

Clause 11.2 requires you to ensure that third parties do not interfere with the tenement holder's activities. This is not a matter for you. You are not a police force.

Clause 12 then provides that failure to pay should be rectified by payment of interest. Failure to pay is a fundamental term and the payment of interest may not adequately compensate. Should you require a cessation of all production and be able to deny access? Should damages greater than interest be payable?

Clause 14 provides a limited indemnity. If the impacts of the activity are known and agreed then the tenement holder has paid you compensation for those impacts. The tenement holder should indemnify you for all other impacts.

Clause 17 dealing with insurance is of little comfort to you. Unless you are able to call on the insurance by being named on the policy in an appropriate way then how do you access it?

Clause 20 dealing with confidentiality has been a tool used to divide and conquer communities. You will make individual decisions in relation to this clause depending on your circumstances but we ask that you consider this issue.

The standard agreement states:

This document has been developed by the Queensland Government in consultation with landholder groups and groups representing resources explorers and producers. It is intended to represent a fair and balanced approach as between those parties to land access and compensation issues.

We at p&e Law disagree

*Our Conduct and Compensation Agreement standard clauses
can be accessed on our website.*

We have put them up to help make this work better for landowners.

p&e Law is one of the few and largest specialist planning, environment and native title law practices in Queensland. We aim to provide exceptional advice to clients throughout the whole of Queensland. The strength of our team of specialist solicitors is enhanced by our highly-skilled support team.

p&e Law provides its clients with outstanding service and enjoys their success. We identify problems but direct our energies to thinking laterally and providing solutions. We work with our clients so that they are rewarded for our efforts.

p&e Law acts for a range of clients from the development, government and community sectors, allowing us to bring a balanced perspective to our advice. Our lawyers are experienced in the specialised areas of Planning & Environment and Native Title Law. Our core areas of practice are:

- Town Planning
- Cultural Heritage
- Pollution
- Native Title
- Property Rights
- Vegetation & Wildlife
- Rural
- Water
- Governance

p&e Law's solicitors who can assist you include **Lestar Manning** or **Clare Farley**.



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