

NEW SOUTH WALES*

LAND ACCESS AGREEMENT BETWEEN MINERS AND FARMERS

After four years of negotiation between the New South Wales Farmers Association and the Chamber of Mines, Metals and Extractive Industries, a common legal contract for land access for mineral exploration has been entered into.

The new pro forma contract forges a relationship between landholders and mining companies by setting out protocols for operating exploration programs, details of access arrangements, compensation for surface disturbance and methods of arbitration. A printed form of the contract will be available for use by the end of September.

The three year old Code of Practice for Explorers and Landholders is currently being reworked to incorporate changes introduced under the *Mining Act 1992* and this will form an integral part of the new access agreement.

A Code of Conduct for Landholders and Mineral Explorers has been created to accompany the access agreement. The stated purpose of the Code is a dual recognition of the rights and concerns of private landholders and recognition of the importance of determining if mineral resources exist on rural land.

The Code of Conduct sets out in brief the respective rights of farmers and explorers and provides that so long as an agreement between the landholder and mineral explorer is in place, all rural land will now become available for mineral exploration. Previously, agricultural land "as determined by the Department of Agriculture" could mean exclusion of mineral exploration. Land also previously not classified as "agricultural" could be accessed without any agreement on the relative rights of landholders and mineral explorers.

In future, landholders will not have a right to veto access to land for mineral exploration and, should an agreement not be privately reached, the issue will be referred to an arbitrator.

If the parties fail to agree on an arbitrator, then the matter will be referred to the Department of Minerals and Energy which, in conjunction with the Department of Agriculture, will appoint an arbitrator who will determine the terms of access. This procedure is designed to encourage private agreement free from legal and governmental process.

The access agreement will be binding on both parties, although the landholder will have the right to suspend the agreement if there is a breach. This can only occur after the landholder notifies the mineral explorer's field supervisor.

Any disputes may be resolved by mutual agreement or submitted to an arbitrator, however, the agreement represents a contract and a breach by either party may also be resolved lawfully.

Landholders and mineral explorers will be able to agree on duration of entry, exploration methods used, precautions to minimise the risk of disease or weed introduction, and compensation for any actual damage.

An important step in reaching an access agreement is the appointment of a field supervisor by the mineral explorer who will if possible have a knowledge of farming and grazing practice and will be familiar with all aspects and requirements of the mining project.

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COMPREHENSIVE SECURITY DEPOSIT SCHEME

The New South Wales exploration industry (represented by the Chamber of Mines) has successfully negotiated with the Department of Mineral Resources for the institution of a comprehensive security deposit scheme for exploration in New South Wales.

The Scheme will be beneficial for company administration and will assist in minimising paperwork in exploration licence administration thereby providing a positive incentive for the carrying out of exploration business in New South Wales.

The scheme will allow companies with a number of exploration licences to lodge a single security deposit for their exploration activities. Full details of the scheme will be available shortly.