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Division of Resources and Energy
Mineral Resources

Coal Exploration Legislation

- Mining Act 1992
- Minister for Resources & Energy

What is an Exploration Licence (EL)?

- An exploration licence (EL) identifies a specific area where the title holder may explore for coal.
- An EL is granted by the Minister for Resources & Energy.
- The holder of an exploration licence has the right to carry out surveys to explore for coal in the land identified by the licence area.

How long is an Exploration Licence granted for?

- The EL may be granted for up to 5 years.
- The EL may be renewed.
- The continued tenure of the EL is subject to compliance with agreed commitments and title conditions.

What are the Conditions of the Exploration Licence?

An Exploration Licence is subject to a range of conditions including:

- Environmental
- Protection of Streams & Watercourses
- Aboriginal Culture
- Vegetation
- Rehabilitation
- Safety

Landholder's Rights

- Prior to entry, the company must establish an access agreement with the landholder.
- The licence holder must arrange reasonable access to lands whilst recognising the rights of landholders.
- No landholder should suffer a loss resulting from interference to the operations of his or her enterprise without compensation. The normal rights and courtesies associated with private ownership of property are to be protected.
- An access arrangement must provide compensation for loss or interference.

Landholder's Rights

The access agreement contains agreed conditions of entry and should include:

- Access route
- Times of access
- Status of gates
- Compensation payable
- Other

What happens if the 2 parties cannot agree?

- The best agreements are those where the 2 parties reach consensus.
- If consensus is not reached an Arbitrator may be appointed.
- Arbitrators can be appointed in two ways:
 - Either by mutual agreement between the parties;
or
 - By the Secretary of Trade & Investment.
- The costs of the arbitrator are to be borne by the explorer.

Land and Environment Court

- If either party does not accept the Arbitrator's determination the issue can be referred to the Land & Environment Court where exploration/mining matters are designated as Class 8 proceedings.
- Either party can initiate proceedings in the Land & Environment Court.
- For information about the conduct of mining matters in the Land and Environment Court, see www.lawlink.nsw.gov.au (mining).

Where to get more Information on Landholder rights

www.resourcesandenergy.nsw.gov.au
Landholders and Community

The screenshot displays the website's navigation and content for landholders. At the top, there are links for 'Miners & explorers', 'Investors', 'Landholders & community' (highlighted), 'Energy consumers', and 'Energy supply industry'. On the right, there are links for 'About us', 'Media releases', 'Careers', and 'Contact us'. Below this is the 'New South Wales Trade & Investment' header and a search bar. A red navigation bar contains 'Landholders & community'. A dark grey bar below it lists categories: 'Your rights', 'Energy', 'Minerals & coal', 'Coal seam gas', 'Opals', 'Geoscience', and 'Fossilicking in NSW'. The main content area is titled 'Mining and energy in NSW for landholders and the community' and features a video player with a photo of a woman and two children. A 'Quick Links' sidebar on the right lists various topics with expandable arrows.

Miners & explorers | Investors | **Landholders & community** | Energy consumers | Energy supply industry

About us | Media releases | Careers | Contact us

New South Wales Trade & Investment

Landholders & community

Your rights | Energy | Minerals & coal | Coal seam gas | Opals | Geoscience | Fossilicking in NSW

Mining and energy in NSW for landholders and the community

Exploration: what are your rights as a landholder?

Quick Links

- > Coal seam gas
- > Land access arrangements
- > Community consultation guidelines
- > Have your say: renewable energy projects
- > Land use assessment
- > Complaints and incident reporting (environment)
- > Ask a geologist
- > Native Title

The Holder of the EL cannot carry out exploration:

- Within 200 metres of a principal residence.
- Within 50 metres of a garden, vineyard or orchard.
- Where there are substantial improvements
being a substantial building, dam, reservoir, contour bank, graded bank, levee, water disposal area, soil conservation work or other valuable work or structure.

If need be, the Minister is to determine whether any improvement is substantial

Without the written consent of the occupant/owner.

Activities conducted under an EL

- Exploration (drilling, surveys & testing)
- Environmental studies (inc hydrological)
- Preliminary concept mine design
- Preliminary infrastructure studies

An Exploration Licence is *NOT* an authority to mine.

General Immunity of Landholders

Section 383C of the *Mining Act 1992* provides landholders with general immunity against actions arising as a consequence of the actions of title holders on their land.

Rehabilitation

NSW Trade & Investment -

- monitors exploration rehabilitation.
- holds a security deposit to ensure all surface disturbance caused during exploration (eg drill sites) is properly rehabilitated.

Complaints and Incidents Reporting by Members of the Public

If you have a concern or complaint relating to an exploration, mining or petroleum project you can contact NSW Trade & Investment – Division of Resources & Energy at:

516 High Street

MAITLAND NSW 2320

PO Box 344

Hunter Region Mail Centre NSW 2310

Email: compliance.environment@trade.nsw.gov.au

Telephone: (02) 4931 6605

Attention: Environmental Sustainability Branch

Office Hours: 8.30am – 4.30pm

Monday-Friday excluding Public Holidays.



Formal Complaints

Formal Complaints can be made by Phone or in writing (letter, fax, email).

Type of Information required for a formal complaint:

- your name
- your contact details
- the type of activity
- the time, date and location of activity
- a description, registration numbers and type of any vehicles or plant involved
- any other information you think is relevant.

Anonymous Complaints

Anonymous complaints will be investigated where sufficient detail is provided to substantiate a valid complaint.

However, any investigation may be hampered by our inability to seek further information and details.

Also, it is not possible to issue advice on outcomes to a complainant when no contact details have been provided.

When does an Exploration Licence become a Mining Lease?

The Minister for Resources & Energy will not grant a mining lease until the company has Project Approval under the *Environmental Planning and Assessment Act 1979*

Any future approved mining lease would include a multi-million dollar environmental security deposit.

Some of the issues to be Addressed Prior to any Project Approval

- Agricultural land
- Alluvial plains/floodplains
- Water aquifers
- Community concerns
- Noise
- Air quality
- Subsidence
- others

Environmental Assessment

The development assessment and approval process will involve the preparation and public display of a comprehensive Environmental Impact Statement (EIS)

Summary

- An EL is an authority to explore and carry out environmental and other studies. **It is not an authority to mine.**
- Progress beyond exploration licence tenure to a mine proposal would be subject to all normal processes of obtaining project approval and a mining lease.

More Information

www.resourcesandenergy.nsw.gov