

Land access best practice guidelines

Petroleum Regulations 2020

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1.1	22 June 2023	A/Land Access Manager	<ul style="list-style-type: none"> insert new definition of 'low impact activities' insert new definition of 'airborne operations' update definition of regulated operations to replace preliminary activities with low impact activities replace all other references to preliminary activities with low impact activities throughout the document.
1.2	7 December 2023	Land Access Manager	<ul style="list-style-type: none"> removed "Schedule of onshore petroleum exploration and production requirements" and "Code of Practice: Onshore Petroleum Activities in the Northern Territory" from the definitions table inserted a definition for "Well Operations Management Plan" updated part 4.3.2 to state that WOMPs are a requirement under the Act, following amendments made to the Act on 1 July 2023.

Term	Definition for the purpose of these guidelines
Act	Petroleum Act 1984 .
Airborne Operations	<p>Airborne operations means:</p> <ul style="list-style-type: none"> Flying over any part of a permit or licence area by an aircraft (including a helicopter); or Causing a drone to fly over any part of a permit or licence area.
Airborne Survey	An airborne survey, also known as an 'aerial survey' is any survey conducted over land from the air using aeroplanes, helicopters or drones. E.g. collecting geomatics or other imagery, conducting a weed survey.
Department	Department of Industry, Tourism and Trade.

Term	Definition for the purpose of these guidelines
Designated Person	In accordance with regulation 3 of the Petroleum Regulations 2020 , a Designated Person is an Owner or Occupier of Private Land.
Environment Management Plan	A plan prepared under and in accordance with the Petroleum (Environment) Regulations 2016 that addresses potential environmental risks and impacts that might arise from carrying on the activities contemplated by the plan, as defined in section 5 of the Petroleum Act 1984 and required under section 6 of the Petroleum (Environment) Regulations 2016 .
Environment Regulations	Petroleum (Environment) Regulations 2016 .
Land Access Agreement	A legally binding document that sets out the Interest Holder and Designated Person's rights and obligations, including the standard minimum protections outlined in Schedule 2 of the Petroleum Regulations 2020 , as required under regulation 14 of the Petroleum Regulations 2020 .
Low Impact Activities	<p>In accordance with regulation 3 of the Petroleum Regulations 2020, low impact activities include:</p> <ul style="list-style-type: none"> • Preliminary activities • Carrying out surveys, including aerial surveys but not including surveys that involve: <ul style="list-style-type: none"> ○ the clearing of any vegetation ○ the permanent installation of any infrastructure or equipment on land • other activities that have no impact, or only a low impact, on land that comprise, or are directly related to testing, monitoring or maintaining infrastructure without the use of heavy equipment • airborne operations • in connection with an activity referred above: <ul style="list-style-type: none"> ○ taking workers to or from a location on a permit area or licence area ○ driving a vehicle, other than a heavy vehicle, on any part of a permit area or licence area ○ landing a helicopter on any part of a permit area or a licence area.
NT Land Register	The register kept by the Registrar-General in accordance with section 6 of the Land Title Act 2000 .
Minister	Minister for Mining.
Occupier	<p>An Occupier of the land may be:</p> <ul style="list-style-type: none"> • the holder of a lease or sublease, registered on the NT Land Register, over an NT freehold title • the holder of a sublease or under lease, registered on the NT Land Register, over a pastoral or Crown lease.
Owner	<p>An Owner of the land may be:</p> <ul style="list-style-type: none"> • the holder of an NT freehold title • the holder of a pastoral or Crown lease.
Parties	A relevant Designated Person and Interest Holder, as defined under regulation 3 of the Petroleum Regulations 2020 .
Preliminary Activities	<p>In accordance with regulation 3 of the Petroleum Regulations 2020, Preliminary Activities are preliminary/preparatory activities associated with the commencement of regulated operations that have no, or low, impact on land and include any of the following:</p> <ul style="list-style-type: none"> • taking water samples • taking rock samples without the use of heavy equipment

Term	Definition for the purpose of these guidelines
	<ul style="list-style-type: none"> taking soil samples to a depth that does not exceed 4 metres.
Private Land	Land held under a pastoral lease, Crown lease or NT freehold. This does not include vacant Crown land, Aboriginal freehold land, or land held by native title parties.
Regulated Activity	An activity defined under regulation 5 of the Petroleum (Environment) Regulations 2016 .
Regulated Operations	In accordance with regulation 3 of the Petroleum Regulations 2020 , regulated operations are any petroleum operations for which an exploration permit, retention licence or production licence is required under the Petroleum Act 1984 , except low impact activities.
Regulations	Petroleum Regulations 2020 .
Well Operations Management Plan	A plan that demonstrates to the Minister for Mining that well activities will be appropriately managed over the entire life cycle of the well, including in relation to drilling, well construction, operations, re-entry, modification, decommissioning and the post-decommissioning period, to ensure that the risks to the integrity of the well are reduced to as low as is reasonably practicable.

Acronyms	Full form
ADR	Alternative Dispute Resolution
CEO	Chief Executive Officer
EMP	Environment Management Plan
NT	Northern Territory
NTG	Northern Territory Government
WOMP	Well Operations Management Plan

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1. Purpose

The purpose of these guidelines is to assist/inform Interest Holders of best practices when:

- following land access processes legislated under the [Regulations](#)
- issuing notices under the [Regulations](#)
- accessing Private Land in the NT to conduct low impact activities.
- negotiating with Designated Persons to reach Land Access Agreements
- drafting a Land Access Agreement.

While these guidelines may assist an Interest Holder to comply with the [Regulations](#), it is the responsibility of the Interest Holder to be cognisant with the statutory requirements of the [Regulations](#), the [Act](#) and all other relevant laws of the NT.

2. Background

The NTG is committed to balancing the interests of the pastoral and petroleum industries in the NT.

The [Regulations](#) underpin the integrity of shared land use arrangements between Designated Persons and Interest Holders in the NT.

The [Regulations](#) make it a statutory requirement for:

- an Interest Holder to reach a Land Access Agreement with a Designated Person prior to commencing Regulated Operations on Private Land
- a Land Access Agreement to contain prescribed minimal contractual provisions to protect the interests of a Designated Person.

The [Regulations](#) also provide a legislative and governance framework in relation to how:

- Parties should reach and vary Land Access Agreements
- party performance, including legislative and contractual non-compliance, should be managed.

Under the [Regulations](#), an Interest Holder is not required to reach a Land Access Agreement with a Designated Person to conduct low impact activities including airborne surveys.

The [Regulations](#) provide other notification requirements and responsibilities that Interest Holders must follow when conducting low impact activities.

More information can be found at:

- [Energy - NT.GOV.AU](#)
- [Guide to land access in the Northern Territory.](#)

3. Introduction

The Department administers the [Regulations](#) and most provisions of the [Act](#).

The Department has developed underlying best practice guidelines to help:

- promote minimum disturbance to livestock during petroleum exploration activities
- cultivate good relationships between Interest Holders and Designated Persons
- ensure sufficient consultation and mutual courtesy between the Parties
- prevent grievances, complaints and disputes
- streamline the Department's approval processes.

4. Best practices

4.1. Notification

4.1.1. Completing notices

Under the [Regulations](#), Interest Holders are required to complete a variety of prescribed forms to undertake low impact activities, commence negotiations for a Land Access Agreement or trigger certain stages of the negotiation process. These forms include:

Form name	Form use
Negotiation notice	Under regulation 15 of the Regulations , an Interest Holder must use this form to notify a Designated Person that it wants to commence negotiations to reach a Land Access Agreement.
Notice of alternative dispute resolution	Under regulation 18 of the Regulations , an Interest Holder must use this form if it wants to begin an ADR process to reach a Land Access Agreement with a Designated Person.
Notice of alternative dispute resolution for variation	Under regulation 37 of the Regulations , an Interest Holder/Designated Person must use this form if they want to begin an ADR process to vary an approved Land Access Agreement.
Notice to owner of approved access agreement or variation	Under regulation 51 of the Regulations , an Interest Holder must use this form to notify a landowner if the Minister has approved a Land Access Agreement or a variation to an existing Land Access Agreement, or the NTCAT has determined a Land Access Agreement or a variation to an existing Land Access Agreement (if the Designated Person is the Occupier, not the Owner of the land).
Notice of low impact activities	Under regulation 52 of the Regulations , an Interest Holder must use this form to notify a Designated Person that it intends to conduct low impact activities.

4.1.1.1. Including accurate details

A notice must be completed accurately and entirely, ensuring it meets the requirements under the [Regulations](#), as it may be considered invalid/void if details are listed incorrectly.

If a notice does not meet the requirements under the [Regulations](#) it may need to be reissued, resulting in time delays and impacting on the Interest Holder's work program commitments.

4.1.1.2. Identifying the Designated Person

It is important the Interest Holder correctly identifies the Designated Person on a notice. The term 'Interest Holder' and 'Designated Person' are defined at regulation 3 of the [Regulations](#).

An Interest Holder should conduct a search of the [NT Land Register](#) to ensure it has listed the correct Designated Person on a notice. The Designated Person may be:

- an individual/s
- a company or association
- a trustee.

An Interest Holder should check the dealings listed on the land title; if there is a registered lease/sublease, the Designated Person may be the Occupier of the land.

4.1.1.3. Calculating prescribed timeframes

The [Regulations](#) include a prescribed nominated timeframe for:

- an Interest Holder/Designated Person to agree to participate in an ADR process
- an Interest Holder to notify a Designated Person about its intention to undertake low impact activities.

The [Regulations](#) state that:

- the Interest Holder/Designated Person must request for the other party to participate in an ADR process within a period of *at least* 14 days to negotiate/vary a Land Access Agreement
- the Interest Holder must provide *at least* 14 days' notice prior to undertaking low impact activities

The prescribed timeframes must be calculated to provide *at least* 14 days' notice, meaning the nominated date in the relevant notice should fall on the 15th day.

Example 1

If the Interest Holder issues a [Notice of low impact activities](#) on 6 February 2023, the activity may be undertaken on 21 February 2023.

The forms and prescribed timeframes are as follows:

Form name	Prescribed timeframe
Notice of alternative dispute resolution	Under regulation 18 of the Regulations , an Interest Holder must include a request that the Designated Person agrees to participate in an ADR process, for the negotiation of a Land Access Agreement, within a period (at least 14 days) nominated by the Interest Holder.
Notice of alternative dispute resolution for variation	Under regulation 37 of the Regulations , the Interest Holder or Designated Person must include a request that the other party agrees to participate in an ADR process, for the negotiation of a variation to a Land Access Agreement, within a period (at least 14 days) nominated by the party giving the notice.
Notice of low impact activities	Under regulation 52 of the Regulations , an Interest Holder must provide information to the Designated Person about when low impact activities are proposed to be carried out and provide at least 14 days' notice.

4.1.1.4. Providing detail on notices

One of the main objectives of the notices prescribed under the [Regulations](#) is to promote information sharing and facilitate good communication, negotiation and consultation practices between the Parties.

When issuing a notice to a Designated Person, an Interest Holder should endeavour to provide as much detail as possible to help inform the Designated Person.

Example 1

When issuing a [Notice of low impact activities](#) to a Designated Person, where the activities include airborne operations, sub-regulation 52(3)(d)(ii) of the [Regulations](#) requires an Interest Holder to include information about the type of aircraft will be used to conduct the airborne operations.

While the type of aircraft may be a helicopter, the Interest Holder should be as specific as possible e.g. 'Helicopter – Bell 206 Jet Ranger'.

Example 2

When issuing a [Notice of low impact activities](#) to a Designated Person, where the activities include an airborne survey, sub-regulation 52(3)(e) of the [Regulations](#) requires an Interest Holder to include information about when the airborne survey is proposed to be carried out and its expected duration.

While the Interest Holder may not be able to provide exact dates, due to contractor availability and unpredictable weather conditions, it should be as specific as possible. This helps reduce the Interest Holder's probability of disturbing livestock.

An Interest Holder should always update the Designated Person if changes to its proposed schedule arise.

Example 3

When issuing a [Negotiation notice](#) to a Designated Person, sub-regulation 15(3)(d) of the [Regulations](#) requires an Interest Holder to include information about the maximum period of access sought under a Land Access Agreement. The period sought must not exceed the balance of the term of the Interest Holder's petroleum title.

The Interest Holder should be as specific as possible when specifying the maximum period sought. E.g. '3 years 2 months' or 'until 31 January 2026'.

If the Interest Holder is seeking a maximum period of land access, it could state the expiry date of its petroleum title and indicate that the date is subject to any further extensions/renewals to its petroleum title.

It is important that Interest Holders are transparent when negotiating with Designated Persons in order to maintain effective working relationships.

4.1.1.5. Plan accompanying notices

The [Regulations](#) require an Interest Holder to provide a plan when issuing a:

- [Negotiation notice](#)
- [Notice of low impact activities](#)

The purpose of the plan is to inform a Designated Person of where an Interest Holder proposes to conduct its regulated operations or low impact activities.

The plan must enable the Designated Person to readily identify the subject area; solely using a generic survey plan obtained from the [NT Land Register](#) is insufficient.

At a minimum, the relevant petroleum title, land parcel/s, identifying markers and specific area/s for proposed activities should be clearly depicted and explained on the plan, using a legend.

The plan must be legible and should be of a print quality of 300 dpi resolution or better.

4.1.2. Issuing notices

In accordance with regulation 59 of the [Regulations](#), an Interest Holder may give a notice to the Designated Person:

- personally
- by fax to the fax number of the Designated Person
- by prepaid post to the Designated Person's usual or last known place of abode or business
- by email to an email address known to be used by the Designated Person
- by leaving it with a person apparently of, or above, the age of 16 years at the Designated Person's usual or last known place of abode or business

If a notice is not given to a Designated Person in accordance with the above, service of the notice may be considered invalid/void. This may result in delays with negotiating a Land Access Agreement with a Designated Person and/or impact the Interest Holder's work program commitments.

An Interest Holder should endeavour to obtain accurate and current contact details for a Designated Person and, where possible, serve notices via email.

In accordance with regulation 59(2) of the [Regulations](#), a notice/document served by email is taken to be served on the Designated Person at the time of transmission.

In accordance with section 25 of the [Interpretation Act 1978](#), a notice/document served by post is taken to be served when it would have been delivered in the ordinary course of post.

When serving notices, an Interest Holder should factor in appropriate service times (where applicable) and keep sufficient records to demonstrate that it has served a notice on a Designated Person correctly.

4.2. Consultation

4.2.1. Follow-up telephone engagement

An Interest Holder should endeavour to contact the Designated Person via telephone after issuing a [Notice of low impact activities](#).

This approach helps:

- ensure the Designated Person is aware of the low impact activities before they are conducted on/over the land
- identify mustering plans, crop-dusting and overlapping activities
- identify when other aircraft may be operating at low levels in the area
- prevent the likelihood of an Interest Holder disturbing livestock while conducting its low level activities.

An Interest Holder should also endeavour to contact the Designated Person via telephone after issuing a [Form 15 negotiation notice](#) to confirm that they have received the notice.

This approach helps:

- ensure the Designated Person is aware that the Interest Holder has commenced land access negotiations under the [Regulations](#)
- establish a working relationship and good lines of communication between the Parties
- cultivate respect between the Parties to assist their future negotiations.

4.3. Drafting Land Access Agreement

4.3.1. Standard minimum protections

Parties negotiating a Land Access Agreement must ensure that the agreement contains provisions addressing each of the matters specified in Schedule 2 of the [Regulations](#), known as the standard minimum protections, in accordance with subregulation 14(1) of the [Regulations](#). The provisions may:

- be expressed in the same, or substantially the same, terms as a provision specified in Schedule 2; or
- reflect or satisfy a requirement specified in Schedule 2; or
- reflect a standard that is greater than a standard specified in Schedule 2.

If a Land Access Agreement does not include all standard minimum protections it may be returned to the parties to amend/vary the Land Access Agreement, resulting in time delays and impacting on the Interest Holder's work program commitments

Parties may negotiate additional provisions to be included in the Land Access Agreement, as they consider appropriate.

4.3.2. Consistency with WOMP and/or EMP

An Interest Holder is required to submit a WOMP to the Minister for Mining, prior to commencing any well-related operations, in accordance with subsection 61(1) of the [Act](#).

Under the [Environment Regulations](#), an Interest Holder who proposes to carry out a regulated activity must first submit an EMP to the Minister for Environment, Climate Change and Water Security.

While the land access requirements/approvals under the [Regulations](#) are separate to the approval processes for a WOMP or EMP, the Interest Holder should maintain consistency throughout all of the documents.

For example, if the Interest Holder refers to a well as Petroleum-1 in a WOMP and EMP, the same naming convention should be used in the Land Access Agreement.

This approach helps:

- prevent confusion between parties to the Land Access Agreement
- streamline the Department's approval processes.

4.3.3. Signature page

It is recommended for the signature page to be dated by all parties signing the Land Access Agreement for transparency purposes.

4.3.4. Location of petroleum well

If an Interest Holder intends to drill a petroleum well/s, it should consider including a detailed plan in its Land Access Agreement showing the location of the petroleum well/s, including exact coordinates.

The location of the petroleum well and coordinates in the Land Access Agreement should be consistent with details provided in the WOMP and EMP.

This approach helps:

- prevent confusion between parties to the Land Access Agreement
- streamline the Department's approval processes.

4.3.5. Future related activities

The Interest Holder should be mindful to include all future related activities, when negotiating a Land Access Agreement with the Designated Person.

For example, if an Interest Holder is negotiating a Land Access Agreement for the drilling of a petroleum well, it should consider including:

- the ongoing monitoring and maintenance requirements
- the possible suspension and decommissioning of the well
- any associated rehabilitation activities.

This approach assists the Interest Holder in meeting all of its regulatory requirements.