

A code of Conduct  
for the  
Owners of Farming Properties  
and  
Persons Exploring or Mining  
On Private (Agricultural) Land in the  
Central Great Southern

September 1999

Funded by: The Dept of Workplace Relations and Small business, and Great Southern Development Commission.

# INDEX

	<i>Page</i>
EXECUTIVE SUMMARY	1
INTRODUCTION	3
CONTEXT	4
1. GENERAL PRINCIPLES	4
2. PRE-EXPLORATION GUIDELINES	5
3. EXPLORATION ACCESS AGREEMENT	6
4. FOLLOWING THE GRANT OF A TENEMENT	7
5. MINERAL EXPLORATION GUIDELINES	8
5.1 Livestock	8
5.2 Cropping	8
5.3 Farm trees, remnant vegetation, soil and water	9
5.4 Clean vehicles for weed and disease prevention	10
5.5 Damage by vehicle movement	10
5.6 Pegging	10
5.7 Trenches for mineral exploration	11
5.8 Gates and fences	11
5.9 Drilling	11
5.10 General	12
6. MINING ACCESS AGREEMENT AND GUIDELINES	13
7. GENERAL INFORMATION	15
Exploration	15
Mining	16
8. APPENDIX 1	18
9. APPENDIX 2	21

# EXECUTIVE SUMMARY

The Exploration Code was developed in response to the steady increase in exploration activity on private freehold land during the current decade. The document is the end result of an extended period of consultation by a working party, made up principally of mining and farming industry representatives, local government and farm land owners, in the central Great Southern. The code of conduct is essentially a reference for mineral resource companies and private land owners, and covers the main issues associated with any minerals development activity that is anticipated for a farming property. It is a voluntary protocol for the various aspects and phases of mineral exploration and, **in an extreme minority of cases**, mining which may occur in the region.

The study method followed by the working party was to review the legislation, and similar codes being used in other places and to consult with, and accept submissions from, farmers who had experience with the mining industry. Through a prolonged period of review and redrafting the representatives in the working party have endeavoured to produce a comprehensive, though accessible document. Therefore, while the code is backed by the statutory regulations applying to the industry's activities, it is primarily a guide to assist farmers and mineral developers come to practical solutions "in the field".

As any entry, however temporary, to private land for the purpose of minerals investigation is a sensitive issue, this document recommends that a written agreement to govern such activities be drafted by the parties involved. Access agreements can be as comprehensive as necessary; and ideally cover issues such as the duration of the exploration program, communications to facilitate the interaction between exploration and agricultural operations, the care of agricultural, natural resources and farm infrastructures, rehabilitation and any compensation that is determined to be necessary. A soundly prepared Access Agreement negotiated between the farmer and the minerals developer should form the basis of a successful relationship during both exploration and any subsequent mining phase.

Given the importance of Access Agreements to both parties, a significant part of this document is devoted to providing information on the reasons for such arrangements, and on their general structure and provisions.

Access Agreements can be negotiated to cover the separate exploration and mining phases (disjunctive agreements) or both exploration and subsequent mining (a conjunctive agreement). Negotiations between the farmer and explorer will determine which type of agreement best suits their particular circumstances. It is reasonable to assume that most farmers may be reluctant to agree to future mining without specific details of the particular development proposal and what compensation might be due. Similarly, many explorers are reluctant to enter into an agreement to undertake exploration when there is no certainty that further access for mining can be negotiated. Some forms of mineral exploration are very costly and companies may require the security of an agreement that considers access for mining before commencing exploration. This code considers all of the issues associated with each

stage of the exploration and mining phases for inclusion in either type of agreement. As an appendix to the document, the working party has drafted a Framework for a Rural Land Access Agreement that may be used as a guide for a more formal, or expanded, agreement.

In summary, the development of good relationships between those concerned, respectively in agricultural and mineral resource pursuits, will depend on mutual trust, cooperation and good neighbour attitudes, which are in turn built on a sound knowledge of all of the issues involved.

# INTRODUCTION

Mineral exploration and mining (described under the broad term of “mineral development activity” in the balance of this document) on agricultural land is an issue that affects both land use and the regional economy. In the central Great Southern region there is a demonstrated need for a Code of Conduct to cover such activity on freehold agricultural land. In order to be useful for everyday application, the document was drafted to cover the issues of land access, exploration programs, compensation, rehabilitation and communication between the mineral development company and the private land owner. It provides guidelines for both farmers and those who are planning exploration and mining on private land. The document is based on the understanding that both parties in the negotiations regarding access will need to be flexible and cooperative.

The Code is the result of extensive consultation between farming and mining industry representatives over a considerable period. Throughout the development of the document both groups have consistently argued for the inherent interests of their respective constituencies. The Code of Conduct is therefore intended to assist mineral developers and land owners to understand the land use issues involved; and to be used as a reference in finding satisfactory practices that would allow for mineral development activity on private agricultural land.

The Code recommends that a written agreement be made between mineral explorers and land owners to cover the conditions under which mineral development activity could be allowed to take place. This can include the provision of compensation, rehabilitation strategies, and the standards of conduct expected between the parties. Such an agreement is referred to here as an Access Agreement, which may, subject to negotiation, be Disjunctive or Conjunctive.

# CONTEXT

The statutory context for the Code of Conduct is that all minerals are the property of the Crown. Ownership is vested in the State Government for the benefit of all Western Australians. Minor exceptions in the Mining Act 1978 relate to pre-1899 (ie. pre-Federation) Land Grants. Such exceptions could apply to a few land parcels within the central Great Southern region adjacent to the Perth-Albany railway.

The application of the Code of Conduct is voluntary. The land owner's statutory right to deny access for exploration on their properties, under defined circumstances, is maintained. The document serves as a pilot project on private and vested land in the five Shires of the central Great Southern region (Katanning, Broomehill, Woodanilling, Kent and Gnowangerup), and could also be used elsewhere in the agricultural region.

*This document adopts a simplified description of the exploration, mining and approvals process. Its purpose is to provide Guidelines and a voluntary Code of Conduct, and should not be used as a reference in determining matters of law or as a basis of legal action. The Mining Act and Regulations, and the Land Access Unit of the Department of Minerals and Energy can be consulted for precise and authoritative information. If civil action is contemplated consult your legal adviser.*

## 1. GENERAL PRINCIPLES

- 1.1 Mineral development activity on private land requires that a high level of cooperation and trust be established between the land owner and mineral company (staff and contractors) seeking access for exploration. In every case, the farmer and those involved in negotiations should have copies of this Code of Conduct in advance of any discussions regarding access to a property.
- 1.2 The mineral company should maintain close liaison with the land owner and ensure that contractor(s) or sub-contractor(s) conform to the guidelines established in this Code. The company will comply with the requirements of the Mining Act and Regulations concerning the serving of formal notices to the land owner and, if necessary, inform him/her of the compensation or land restoration provisions of those Regulations.
- 1.3 Although care should be taken to avoid damage to improvements, cultivated land, soil, natural vegetation, crops, livestock, water supplies or the land management system, a written agreement is recommended before any mineral development activity commences. This agreement should establish the basis for programs, compensation for any losses and rehabilitation where necessary. Such an Access Agreement should provide the protocol for notifying the timing, duration and nature of specific exploration programs, intended access routes, and the means

of liaison between the land owner, the mineral company and any contractors/sub-contractors. The agreement should set out the procedure for notification of damage, respective obligations, quantities, payments and completion dates for necessary repairs. If possible, the agreement should cover whether any rehabilitation may be required, and the anticipated work that would be undertaken to effect the defined land use. The conditions of the agreement should focus on practical and reasonable terms in the prevailing circumstances.

- 1.4 The written agreement on minerals development activity may also formalise other areas of mutual understanding regarding the project. It is useful if a clearly defined basis for cooperation and co-existence is established early, as for the duration of the activity two completely different businesses will be operating from the one property. Issues arising in such circumstances; include the strict maintenance of confidentiality, mutual respect for each other's plant/capital equipment, the communicating of changes in responsibility or management programs (etc), should be practically addressed in the paper. This will go a long way to ensure that a soundly managed minerals project operates alongside, and with a minimum effect on, the farm business.
- 1.5 While it is hoped that all operational issues could be resolved between the parties in advance, or through reference to the Access Agreement on which both land owner and mineral company have reached a negotiated settlement, this is sometimes not the case. If by chance a difficult issue does arise, both parties can refer it to their respective industry bodies, the Warden's Court or, as a final step, to the judicial courts for arbitration and determination. The Department of Minerals and Energy has the capacity to offer independent advice to all parties.

## **2. PRE-EXPLORATION GUIDELINES**

- 2.1 During the pre-exploration phase, trust and cooperation should be established between the mineral company and the land owner. The principal mineral explorer should provide a detailed explanation of the expected scope of the exploration program, the exploration techniques to be employed, the roles and responsibilities of employees/contractors, plus relevant tenement application information. The mineral explorer should endeavour:
  - 2.1.1 to make direct contact with the land owner well before property access is required, discuss the nature and likely duration of the exploration program as it affects the land, and its improvements, and to negotiate an entry agreement.
  - 2.1.2 to ensure that the company officer negotiating with the land owner has the authority to negotiate and finalise the Access

Agreement regarding access/compensation/restoration with minimum delay and has *full authority* in the field.

2.1.3 complete any other consultations or provide any other information that will secure an Access Agreement.

2.2 At this stage, the farmer and mineral company should be in a position to complete an agreement to cover exploration only (a disjunctive agreement) or both exploration and, if the resource is economic, mining (a conjunctive agreement). This choice will be arrived at after discussion of which regime is suitable for their particular circumstances. If both parties agree to a conjunctive agreement then the document should be drafted to include all of the issues listed under Sections 3 and 6 contiguously. If disjunctive agreements are chosen, the same listed issues should be covered, but under separate agreements.

### 3. EXPLORATION ACCESS AGREEMENT

3.1 After a full discussion of the proposed exploration program is completed, both parties should be in a position to complete an **Exploration Access Agreement**. The agreement should be comprehensive and practicable as possible. The land owner and the mineral explorer should agree on such matters as duration of entry, entry routes, access ways, precautions to minimise the risk of disease or weed introduction and compensation for any substantial loss or damage. Overall, discussions should focus on providing a framework for recognising the land owner's rights and aiding orderly mineral exploration.

3.2 In negotiating and signing the Exploration Access Agreement at this point, both parties are to recognise that, after the geological, geophysical and analytical results of the phased exploration program have been assessed, a mining operation may follow. The experience of many years of mineral exploration in Australia has, however, shown that for every 1000 prospects investigated, about 100 are subject to further testing; of these 10 are subjected to detailed assessment but only 1 becomes an actual mine.

3.3 If a significant area of mineralised ground is delineated as a result of the exploration activities, the definition of a commercially exploitable discovery would be generally undertaken before application was made for a Mining Lease. This phase of intense activity would probably involve geophysics, geochemistry, geological mapping and the drilling of closely spaced holes. While still covered by an Exploration Licence, the most advanced stage of this type of work is classed as mineral resource evaluation and, as such, its purpose should be explained to the land owner at an early stage in the negotiations.

- 3.4 The Exploration Access Agreement should provide a guideline for any compensation that may be sought by the land owner. Section 123 of the Mining Act defines those matters for which compensation is payable. A copy of that section of the Act is attached at appendix 2. In broad terms, compensation should be paid in the event of any diminution in farm income, or in the value of the property, which occurs as a result of exploration, including mineral resource evaluation, or mining.

#### **4. FOLLOWING THE GRANTING OF A TENEMENT**

It is the responsibility of the mineral explorer to undertake the following actions:

- 4.1 Inform the land owner of the terms of the tenement(s), including duration, conditions of grant, statutory reductions in area, possible extension of term and allowed substitute tenements.
- 4.2 Provide the land owner with a tenement map and (where appropriate) a detailed location map of the intended exploration grid, or area of activity.
- 4.3 Discuss these maps with the land owner and obtain identification of features such as gates and other entry points, buried water pipes, contour banks, farm dams, levee banks, irrigation channels, shade tree clumps, erosion and flood-prone land, and the position of tracks and fences.
- 4.4 Attend particularly to sensitive areas, stock movements and calving or lambing periods.
- 4.5 Jointly inspect the area with the land owner. Plan exploration activities to cause minimum inconvenience to the land owner, disturbance to stock and generally prevent damage to the property's commercial value.
- 4.6 Undertake prior to field work commencing, the appointment of a field supervisor with good communication skills and empathy to rural people (and preferably with a knowledge of farming practice) and who is familiar with all technical aspects and requirements of the project.
- 4.7 Ensure that senior field personnel and any contractors or sub-contractors are familiar with the Mining Act and Regulations and the environmental conditions attached to the tenement(s).

- 4.8 Ensure that the field supervisor knows local regulations and conditions covering such matters as fire or water restrictions, control of disease and noxious weeds.
- 4.9 Provide the land owner with the names, titles and contact telephone numbers of senior personnel and the field supervisor responsible for the project.

## **5. MINERAL EXPLORATION GUIDELINES**

Productive agricultural land constitutes the livelihood of farmers and therefore mineral explorers must be sensitive to any disturbance to stock and crops that may affect agricultural yields. The mineral explorer should be aware of the infrastructure and productive elements of the farm property on which exploration is to take place. All capital improvements and the natural endowment of soil, water and vegetation (including timber) should be considered. Recommended guidelines are as follows:

### **5.1 LIVESTOCK**

- 5.2.1 The land owner's current and foreseeable stocking programs should be discussed in detail before commencing any exploration activity.
- 5.2.2 Stock disturbance should be kept to a minimum. The mineral explorer should take particular care when stock is watering, lambing and calving, or when other stock management work is in progress or is planned for the period of exploration. The land owner should be consulted before any low-flying aircraft are involved in the exploration activity and that flight paths are sited so as to avoid concentrations of stock where possible.

### **5.2 CROPPING**

- 5.2.1 The land owner's current and foreseeable cropping program should be discussed in detail before commencing any exploration activity; and ways found to minimise disruption.
- 5.2.2 The exploration program and timetable should be organised so as to minimise the number of paddocks being used and to exclude any areas that have been prepared for cropping. The agricultural program, such as the likely timing of crop management should also be agreed upon in advance.

### 5.3 FARM TREES, REMNANT VEGETATION, SOIL AND WATER

- 5.3.1 The impact of exploration on trees or vegetation should be minimised. It should be specifically recognised where the land owner has sought to protect areas of remnant bush, which may contain native flora and fauna, through fencing and caveats. Where timber must be removed, it should be effected in accordance with the conditions determined by the Department of Minerals and Energy and after discussion and agreement with the land owner. Such practices must conform with any tree preservation and catchment priority legislation strategy or regulation. A range of statutory requirements are covered in documents such as the Soil and Land Conservation Act, the CALM Act and the National Heritage Trust legislation.
- 5.3.2 Clearing of lines in timber clumps and tree-belts is an extremely rare occurrence in modern exploration programs. If such access is absolutely necessary, it is preferable to lop branches than to fell trees, or to offset lines away from these areas.
- 5.3.3 Clearing on steep hillsides and along creek beds should be avoided, especially where there is an obvious tree shade line. All clearing is subject to the appropriate approvals.
- 5.3.4 Requirements of the Bush Fires Act and local shire council by-laws should be observed. It is essential to liaise with local fire authorities and observe their operational procedures, including the restrictions on vehicle movements during periods of total fire ban.
- 5.3.5 It is highly desirable to minimise soil disturbance during construction of grid lines and, where possible, restrict the disturbance of vegetation.
- 5.3.6 Topsoil removed for drill pads and trenches must be stored separately from the subsoil in shallow stockpiles, and replaced where possible before buried seeds germinate and die. Regrowth of natural or seeded vegetation should be undertaken after consultation with the land owner to ensure that the species are compatible with agricultural objectives.
- 5.3.7 There must be no pollution of water courses, dams and ground water through such contaminants as drilling fluids, fuels, rubbish, detergents or human waste. Under no circumstances should chemicals, oil or their containers, be introduced into surface drainage channels or groundwater systems. The exploration crew should carry rubbish containers for the

appropriate off-farm disposal of all waste generated by their field activities.

#### 5.4 **CLEAN VEHICLES FOR WEED AND DISEASE PREVENTION**

5.4.1 The mineral explorer should be aware of the problems associated with sampling equipment, vehicular wheels and trucks carrying noxious weeds and possible spread of plant and livestock diseases. The exploration crew should take all practicable measures to minimise risk of exotic weed and disease introduction. Particular care is needed to prevent the spread of die-back disease in areas of native vegetation within or adjoining the private property.

5.4.2 The requirements of the Agricultural and Related Resources Protection Act must be complied with when operating within a declared area.

#### 5.5 **DAMAGE BY VEHICLE MOVEMENT**

5.5.1 Inform the land owner when heavy mobile equipment will be entering or leaving the property.

5.5.2 During adverse weather conditions, mineral explorers should restrict movement of vehicles and machines that may unduly damage roads or cultivation. Any damage resulting from moving or bogging a vehicle should be repaired as soon as conditions allow.

5.5.3 Wherever possible, drive vehicles on established tracks. Where new tracks are needed, their positions and design should be jointly agreed by the mineral explorer and land owner. Safe driving methods should be applied to all vehicle movements, of either tracked or conventional vehicles.

5.5.4 Confining exploration programs to the dry periods of the year could be a practical solution in some situations.

#### 5.6 **PEGGING**

5.6.1 Marker pegs should be of a mutually agreed size and material; and be positioned where they are visible to farm workers and do not hinder stock or farm machinery movement. Remove all marker materials, which includes pegs, plastic tapes, stakes, measuring strings, wires and other materials as soon as practicable after the job is completed. These items are hazardous to stock and agricultural practices.

## 5.7 TRENCHES FOR MINERAL EXPLORATION

- 5.7.1 The land owner should be consulted about the position and size of any trenches.
- 5.7.2 Trench excavation should ensure separate sub-soil and topsoil stockpiles for subsequent backfilling and spreading respectively.
- 5.7.3 Refill trenches as soon as possible after completion of mapping and sampling. Where water is likely to run along trenches, construct check banks to divert water flow from the trench. Re-seed replaced topsoil on completion, and fence off from stock if the land owner considers this precaution necessary.

## 5.8 GATES AND FENCES

- 5.8.1 Leave all gates as found, whether they are open or shut. Stock security is a priority at all times.
- 5.8.2 Any necessary disruption of farm infrastructure and equipment should have the consent of the land owner. The mineral explorer should either have a competent contractor carry out any permanent repairs, or make provision for such work to be done through an agreement with the land owner.
- 5.8.3 If a new gate or fence (temporary or permanent) is required by the mineral explorer, its position and design should be discussed and agreed with the land owner. The construction should be undertaken by a fencing contractor or by other arrangement, as agreed with the land owner.

## 5.9 DRILLING

- 5.9.1 Drilling and associated work requires a high level of cooperation between land owner and mineral explorer. Drill holes should be located to minimise surface disturbance and inconvenience to the land owner while optimising their use in defining mineralised ground.
- 5.9.2 All drill holes should be back-filled or properly capped (PVC collar and cement plug flush with ground level) and after they have been drilled generally made safe for stock and native animals immediately. After bagging and sampling, excess cuttings should be removed unless other arrangements are agreed. All plastic sample bags should be removed by an agreed date.

- 5.9.3 The mineral explorer should ensure that drilling sumps are of sufficient capacity to retain drilling slurry during operations. Drill sumps should be filled when they are no longer required.
- 5.9.4 Saline water flows should be capped or directed to a suitable collection site, as agreed with the land owner and stipulated by the Commissioner of Soil and Land Conservation. Any water (potable or saline) identified by the drilling program should be reported (location, quality, quantity, depth) to the land owner upon the completion of the work. The land owner should be given the opportunity and, when feasible, assisted to develop such water resources.

#### 5.10 GENERAL

- 5.10.1 A cooperative 'good neighbour' attitude by the mineral explorer during the exploration program, would mean that he was alert for means to assist the land owner in farm management. Opportunities could include reporting unusual situations or events, prohibiting contractors from bringing dogs, domestic animals or firearms onto the property, and facilitating infrastructure development while drilling or earth-moving equipment is on the property. Minimising noise near homesteads, stock holding areas (etc) would be consistent with the principle of a shared environment.
- 5.10.2 Exercise due regard for agricultural activities on the property while conducting the exploration program.
- 5.10.3 Ensure regular contact with the land owner and provide information about work in progress.
- 5.10.4 Advise the land owner of any significant changes to the exploration plan or program as soon as possible and before they affect the property's management program.
- 5.10.5 Completion of the exploration program on each property should involve a thorough rehabilitation of the site. This work would include removing rubbish, filling trenches and sumps, capping drill holes, and rehabilitating the area to a safe and productive state. The land owner should be invited to inspect all areas subjected to exploration activities. This occasion would probably be the best time to finalise any agreed rehabilitation and to pay any agreed compensation. When this has been completed, each party should sign acknowledgment that all terms of the Exploration Access Agreement have been fulfilled, particularly regarding terms of compensation and rehabilitation.

5.10.6 A courtesy call should be made by the mineral explorer to the land owner before leaving the area.

## 6. MINING ACCESS AGREEMENT AND GUIDELINES

- 6.1 This section details issues which should be considered:
- 6.1.1 If the farmer and mineral company choose to enter into a conjunctive agreement prior to the commencement of any mineral activity; or
- 6.1.2 If the farmer and explorer have chosen to use disjunctive access agreements and the exploration program results in the identification of economic mineral resources on the private (agricultural) land. At that time the mineral explorer, who holds the rights to develop the discovered minerals, and the land owner should renegotiate the key compensation and operational sections of the original Exploration Access Agreement. The negotiation of a revised agreement will strongly depend on the level of trust and cooperation achieved between the parties during the exploration phase. The mineral explorer will have made a decision on the feasibility of extracting the minerals contained in the deposit as a result of the mineral resource evaluation phase. In most instances this work will have been completed while the deposit was still held under an Exploration Licence.
- 6.2 It is important to note that without an **Access Agreement**, which covers conditional mining activity on the mineralised ground identified, the Department of Minerals and Energy cannot advise the Minister for Mines to grant a Mining Lease.

Steps for the preparation of a separate Mining Access Agreement or for inclusion in a conjunctive Access Agreement are as follows:

- 6.2.1 The land owner should be informed that if a Mining Lease is issued, the title will be for a period of 21 years, and the developer will have the option of two further renewals, each for 21 years. It should also be advised that the developer's right to the minerals can be traded as part of a commercial transaction between the developer and another company.
- 6.2.2 The land owner should be briefed on the estimated extent of land to be affected by the proposed mining operation, and the area of land which will be covered by the proposed Mining Lease. In most cases, the lease area will comprise a relatively small portion of the ground covered under any original Exploration Licence.

- 6.2.3 The land owner is not normally given technical information regarding the composition, value and size of the ore body and other feasibility data because of commercial sensitivity and corporate obligations, including statutory regulations. However, these aspects should not prevent a thorough explanation being made by the developer about all the facets of the project that could affect the land and the land owner's interests.
- 6.2.4 The Department of Minerals and Energy requires that the developer drafts a Notice of Intent (NOI) before approval is given by the Minister for Mines to mine. The NOI outlines the method and duration of mining, the environmental management program and how the ground disturbed will be progressively rehabilitated. It is a key document for the approval process. Its provisions regarding the final use of the land (eg. pasture, water catchment, etc) must be fully understood and acceptable to the land owner. If a disjunctive Mining Access Agreement is being used, the developer could use a draft of the NOI as a basis for discussion with the land owner. In the case where a conjunctive Mining Access Agreement is in place, the signatories would not have had such information (extent of mineralisation, method/duration of mining) at that earlier stage of discussions. This lack of information would have made necessary an agreement that was drafted in more general terms.
- 6.2.5 The Mineral Exploration Guidelines provisions in regard to livestock, cropping, farm trees, remnant vegetation, weed/disease prevention, vehicle movements and all other factors that affect on farm operations and viability should be examined. While the provisions for the Mining Access Agreement will be similar to those documented for consideration during the exploration phase, the nature and duration of the mining phase may require their re-evaluation in the light of different circumstances.
- 6.2.6 As with any original Access Agreement, the settlement made by the two parties should clearly document any compensation that is deemed necessary (see Appendix 2). While several of these issues will be similar to those previously dealt with (eg. social disruption and constraints to farm income), the effective alienation of agriculturally productive land requires detailed examination. As a general rule, compensation should be paid in the event of any diminution in farm income (or in the value of the property) which occurs as a result of exploration or mining.

If there is to be any ongoing, or post mining, cost to the land owner such as an assumed public liability in reference to an open pit, this should also receive consideration when drafting the second Access Agreement.

6.2.7 The Mineral Exploration Guidelines (listed under Section 3 of this document) provide a sound basis for arrangements to be considered by land owners and explorers. Similarly, the provisions of the guidelines for preparing a NOI, approved by the Department of Minerals and Energy, the Minister for Mines and the relevant company, are required to be followed during the whole course of the mining operation. The NOI document can be reviewed by the Minister and the Department in light of changed circumstances during the life of each project. The mining operation is regularly inspected by Departmental inspectors to ensure compliance with the agreed conditions and management objectives. The decommissioning phase of the project would require the removal of buildings and the restoration of the ground in keeping with the agreement between the mining contractor and the land owner, as well as under the terms of the NOI and Mining Lease title.

## **7. GENERAL INFORMATION**

Statutory and practical requirements of a possible minerals extraction project from the initial stage of Exploration to final stage of Rehabilitation are outlined below. Also attached is a flow chart of the process and a framework for an Exploration Access Agreement. A Mining Access Agreement would be more complex and project specific.

### **EXPLORATION**

- 7.1 Literature search of previous mineral survey work.
- 7.2 Regional surveys (aerial surveys, interpretation of satellite imagery, mapping and drilling along road reserves, satellite maps etc).
- 7.3 Application for an Exploration Licence (if not sought earlier).
- 7.4 Preliminary discussions with land owners.
- 7.5 Granting of a Permit to Enter (for ground surveys and surface sampling).
- 7.6 Exploration Access Agreement negotiated with the land owner(s).
- 7.7 Exploration program reviewed by the Department of Minerals and Energy (DME).
- 7.8 Warden's Court hearing, including presentation of supporting and/or opposing evidence if required.
- 7.9 Warden's decision and recommendation

- 7.10 DME briefs Minister for Mines.
- 7.11 Refusal or approval (for 5 year period).
- 7.12 Exploration of licence area in accordance with the negotiated agreement. Project may be abandoned at any stage during 5 year term if progressive results are discouraging.
- 7.13 Reduction of land held under Exploration Licence (compulsory reduction to 50% of original area after 3 years, reduction to 25% after 4 years). For some cases (eg when government approvals delay the exploration program), there is a provision under the Mining Act where land may be exempted from “drop off” and held under the Licence for a longer period.
- 7.14 Finalise extent of mineralised ground (by geological mapping, geophysics, geochemical analyses, drilling, etc).
- 7.15 Closer definition of lateral and vertical limits of mineralisation in some cases.
- 7.16 Delineation of an economically extractable ore body in a few cases.
- 7.17 Possible application for extension of term for Exploration Licence.

## **MINING**

- 7.18 Bulk sampling
- 7.19 Metallurgical and process studies.
- 7.20 Feasibility study based on metallurgical, engineering, infrastructure, economic and marketing factors.
- 7.21 Decision by mineral explorer to proceed to mining phase (based on economics of project).
- 7.22 Discussions with the land owner(s).
- 7.23 Application for a Mining Lease (may occur earlier).
- 7.24 Revised Access Agreement with the land owner(s).
- 7.25 Mining program reviewed by the DME.
- 7.26 Warden's Court hearing (regarding Mining Lease application), including presentation of supporting and/or opposing evidence (if required).
- 7.27 Warden's decision and recommendations.
- 7.28 DME briefs Minister for Mines.
- 7.29 Refusal or approval by Minister for Mines (approval of the Mining Lease will result in the expiry of the Exploration Licence in favour of the granted Mining Lease). Mining Lease has an initial 21 years duration.
- 7.30 Notice of Intent prepared, which is reviewed by a consultant employed by DME and then evaluated by the DME.

- 7.31 Mining and post-mining rehabilitation program approved.
- 7.32 Mining commences. A mining project may be deferred for economic or corporate reasons and a Retention Licence sought for the area covering the mineral resource. The Retention Licence normally has a duration of up to 5 years, and may be renewed for further intervals of up to 5 years.
- 7.33 Rehabilitation, usually progressive, always to a documented schedule.
- 7.34 Decommissioning.

**Framework for a Rural Land Access Agreement  
for Mineral Exploration**

This agreement is made this            day of            1999 between the private land owner/occupier (“the owner/occupier”) and the mineral explorer (“the explorer”) described below.

Owner/Occupier.....of

Address: .....and

Mineral Explorer  
(Head Office Contact).....

Address .....  
.....Tel.....

Mineral Explorer  
(Local Contact).....

Address .....  
.....Tel.....

Supervisor’s Name.....Tel.....

Name and address/location.....  
of Property (“the property”).....  
Shire: .....

Land Titles (location numbers):  
(where available) .....  
Points of Entry .....  
.....

Duration of  
Agreement.....

Exploration or Prospecting  
License Number and  
details.....

Methods of Exploration  
to be used .....

## **Terms of Agreement**

In consideration of the mutual promises set out below it is agreed that:

### **1. General**

By this agreement the owner/occupier licenses the explorer to enter and leave the property, to conduct exploration for minerals on the property and to bring onto and remove from the property such equipment, vehicles, employees and contractors as the explorer may reasonably require to conduct such exploration for minerals.

- (a) Operations are to be conducted in such a way as to cause minimum damage to pasture, crops and other improvements. Any disturbance to stock should also be kept to a minimum. All defined areas of remnant vegetation should be excluded from activities.
- (b) The Code of Conduct for land holders and mineral explorers endorsed by the Pastoralists and Graziers Association, W.A. Farmers Federation, Association of Mining and Exploration Companies (Inc), and the W.A. Chamber of Mines and Energy, will be observed (attached).
- (c) The explorer shall ensure adequate public liability cover is maintained by himself or his subcontractor to satisfy all eventualities including drilling areas, workings and costeans.
- (d) That in the event that a mineral deposit which it is judged will support a viable commercial mining venture is discovered, that a renegotiation of this agreement will occur on questions of compensation and any relevant operational matters, to enable that venture to proceed.

### **2. Other Conditions**

“Refer to Rural Exploration Code”  
.....  
.....

### **3. Supervision Of Agreement**

A supervisor will be appointed by the explorer, with responsibility for ensuring that this agreement is observed. He will normally be the senior representative of the explorer and will keep in close contact with the owner/explorer.

**4. Compensation and Making Good**

- (a) Any damage to stock, crops and property shall be promptly compensated. Compensation terms, setting out payments to be made by the explorer to the owner/occupier for specific types of damage or disturbance are set out below. (If insufficient space add a separate page headed “Annexure to Rural Land Access Agreement for Mineral Exploration: Compensation Terms”)

Compensation terms:

.....  
.....

**5. Compliance with the Agreement**

- (a) In the event of any demonstrated failure to observe the terms of this agreement the owner/occupier shall:
  - (i) Notify the field supervisor or head office contact
  - (ii) Have the right to suspend further entry, and to refer the problem to the Wardens Court.
- (b) Any provision in this agreement which is unenforceable shall not cancel nor invalidate the remaining provision of this agreement.

**6. Special Reference**

Major earth disturbing excavations, for example, the construction of costeans or the use of explosives, which require special approval under the exploration or prospecting license, are to be subject to negotiation.

Signed by Owner/Occupier.....

Date .....

Signed by Mineral Explorer.....

Date.....

The framework of this agreement has been endorsed by the  
Pastoralists and Graziers Association, W.A. Farmers Federation, Association of Mining and  
Exploration Companies (inc),and the Chamber of Minerals and Energy of Western Australia Inc

## Summary of Private Land Provisions for Compensation under the Mining Act 1978

Taking into account several sections and subsections of the Mining Act, the owner or occupier of land may be broadly entitled to compensation for :

1. Being deprived of the possession or use, of the natural surface of the land or any part of the land.
2. Damage to the natural surface of the land or any part of the land.
3. Severance of the land or any part of the land from other land of, or used by, that person.
4. Any loss or restriction of a right of way or other easement or right.
5. The loss of or damage to improvements.
6. Social disruption.
7. In the case of private land that is land under cultivation, any substantial loss of earnings, delay, loss of time, reasonable legal or other costs of negotiation, disruption to agricultural activities, disturbance of the balance of the agricultural holding, the failure on the part of the person in the mining to observe the same laws or requirements in relation to that land as regards the spread of weeds, pests, disease, fire or erosion, or as to soil conservation practices, as are observed by the owner or occupier of that land.
8. Any reasonable expense properly arising from the need to reduce or control the damage resulting or arising from the mining.
9. Where the use for mining purposes of aircraft over or in the vicinity of any land (whether or not private land) occasions damage that damage shall be deemed to have been occasioned by an entry on the land thereby affected.

***Please note that the above provisions are meant to be used as a guide for any land owner who is engaged in drafting an Access Agreement with exploration or mining interests. The provisions covered are not exhaustive, and both parties to any agreement should consult Sections 35, 123, 124, 125 and 125A (and any other sections that can provide background information) of the Mining Act 1978.***