



Resource activities and Organic Farming

Guidelines for organic producers and resource development companies in Queensland

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Purpose

Resource exploration and development activities may affect organic operations differently from other farming systems. These guidelines provide guidance to landholders and resource companies about the unique characteristics that should be taken into account when negotiating access and compensation arrangements for resource related activities on organic farms.

These guidelines should be read in conjunction with '*Tips for landholders negotiating with resource companies*', which can be downloaded from www.mines.industry.qld.gov.au.

The Queensland Government's land access framework sets out the requirements for resource companies regarding access to private land and related compensation. More information about the framework and the Land Access Code can be found at www.mines.industry.qld.gov.au. Organic producers in other States should refer to their relevant state agencies for information about land access frameworks associated with resource activities.

The potential impact of resource activities on organic operations is specifically recognised in the land access framework and laws. The resources legislation¹ define resource related activity that affects the lawful carrying out of an organic or bio-organic farms as an advanced activity. Before a resource company enters an organic or bio-organic farm to conduct advanced activities, the company must enter into a conduct and compensation agreement or a deferral agreement with the landholder.

Before signing any agreement it is recommended that you seek independent legal advice. Reasonable legal advice associated with negotiating a conduct and compensation agreement is recoverable as compensation.

What is organic farming?

Organic farming is a unique form of agriculture that avoids using synthetic chemicals, artificial fertilisers or genetically modified (GM) organisms. A focus on environmentally sustainable practices is a requirement of organic certification and standards.

Organic farming practices are described by an organic standard (domestic and international) which describes parameters for compliance, noting that these requirements do not override legislative requirements but differentiate organic agriculture practices from traditional farming practices.

Basic principles of organic farming² include:

- achieving optimum quantities of produce and food of high nutritional quality without using artificial fertilisers or synthetic chemicals
- preferring renewable resources and conserving energy, soil and water
- minimising the use of non-renewable resources and avoiding polluting activities.

Organic producers may be certified to varying international standards for their targeted markets. As a result, they may have different requirements for compliance. All materials brought onto a certified property must comply with the requirements of their specific organic certification or loss of certification (decertification) of the land and associated production that may occur.

¹ *Mineral Resources Act 1989, the Petroleum Act 1923, the Petroleum and Gas (Production and Safety) Act 2004, the Geothermal Energy Act 2010 and the Greenhouse Gas Storage Act 2009*

² Refer to section 4 of ACOS.

There are a range of relevant certification standards including: the domestic Australian Standard (AS6000); the National Standard for Organic and Biodynamic Produce (NS2009) the Australian Certified Organic Standard (ACOS) 2010; standards of other bodies accredited by the Australian Quarantine and Inspection Service (AQIS); standards of the International Federation of Organic Agriculture Movements (IFOAM); standards of the United States National Organic Program (NOP); the Japanese Agricultural Standard (JAS); the Korean Environmental Friendly Agriculture Promotion Act (EFAPA); standards of the Canadian Organic Regime (COR); and standards of European Union accreditation bodies.

The premium for certified organic products is based on both the basic principles of organic farming and the perception in the marketplace that organic food is produced in clean environments. It is important that appropriate arrangements and processes are in place to enable potential buyers of organic product to be assured that issues associated with the certification are strongly dealt with in partnership with the resource company.

Issues to consider

This section outlines the key issues that should be considered when negotiating with a resource company over access arrangements. Any conduct and compensation agreement should either specify the organic risk-management processes to be undertaken by the resource company or directly refer to a pre-existing organic risk-management process in the company's management plans.

General guidelines for organic producers

- Prior to discussions with the company identify and document all potential risk points that should be addressed by the resource company (e.g. traffic volumes, potential weed incursions, protocols etc).
- Seek to negotiate an organic management plan with the resource company. The organic management plan may deal with issues such as risk management, document control and base-line data.
- Discuss with the resource company how costs of any relevant experts or consultants and your time are to be dealt with in the agreements – there may be opportunities for reimbursement for these costs directly attributed to negotiations.
- Ensure that good communication and meeting protocols are practised including keep records of the personnel the company deals with, and ensuring proposed actions are documented and signed off by both parties.
- Check with your certification body if you need to clarify any certification issues and ensure that you are clear what the certification body's requirements are in relation to the proposed activities.
- Provide a copy of the organic standards relevant to your operation to the resource development company as early as possible in the process.
- Make the company aware that the standards describe what is required to maintain your organic certification.

For more general information regarding negotiation tips and techniques, refer to the '*Tips for landholders negotiating with resource companies*'.

Operational considerations

As mentioned previously, organic operations are highly reliant on certification to access market. Any potential risks to certification need to be carefully considered. The following are key operational considerations that should be addressed in negotiations about access and conduct:

- organic producers must declare to their certification body all inputs used on certified lands therefore it is important that chemicals to be used on the property be declared to the producer and its material safety data sheet (MSDS) and/or product specification sheet be made available;
- organic producers must have wash-down protocols for contractors operating on the property to prevent contaminants coming onto the land, therefore all machinery and vehicles accessing the property must be clean;
- long-term maintenance of semi-permanent facilities such as gas well or compressor stations should be a priority of the resource company to ensure areas remain weed free;
- some inputs (e.g. gravel for roads) brought onto the property can result in decertification. The source of inputs should be considered and options should be researched (e.g. an onsite gravel pit, materials sourced with supporting information such as contaminant residue sampling and materials sourced from neighbouring organic farms).

Contamination risks and incidents

Given the importance of the organic producer's certification, it is imperative that risk management and incident reporting arrangements are included in any agreement between the parties.

Appropriate protocols should be negotiated and agreed. These protocols should address:

- use of compliant materials and compounds wherever possible;
- notification processes prior to outside inputs being brought onto the property;
- unexpected loss of certification and should include compensation clauses that cover lost premiums and losses associated with contamination incidents;
- case by case assessment processes for site contamination including impact determination and buffer zone establishment; and
- incident reporting process including documentation requirements such as compounds involved, volume spilled, area affected and action taken.

Specific considerations

These are key things to consider when negotiating detailed conduct and compensation agreement provisions with a resource company.

Brought-in materials, vehicles and equipment

- Specify that inputs must be free from contaminants and contaminating agents, and must comply with the relevant organic standard.
- Discuss appropriate the wash-down procedures for machinery and vehicles.

Pest and weed control

- Negotiate with the resource company about adopting organic control methods or other agreed compliant-control measures for pests and weeds.
- Establish appropriate buffer zones for well heads, access roads and any other form of infrastructure.
- Develop agreed site management strategies to prevent weed incursion and to allow for effective weed management. Ensure it is clear who is responsible for pest and weed management.

Incidents

- Ensure that clean-up procedures and products are agreed upon by both parties, and document them in the organic management plan.
- Agree on and document the process for recovering decertification/rehabilitation/recertification costs (including any loss of revenue during the rehabilitation/recertification process).
- Provide for compensation to be recoverable in the case of loss of market access, or market premium, due to a incident arising from a resource activity on the property.

Water³

- Agree on location and map out water-containment facilities and buffers and prepare overflow contingency plans.
- If potentially using produced water consider whether it constitutes waste water under certification standards, and whether the standards prohibit its use on food crop production and pastured areas for grazing livestock (irrigation uses), or for livestock watering.
- Discuss and agree on water quality required (to maintain organic certification) for dust-suppression activities, vehicle wash-down and other ancillary purposes.

More information

For more information:

- Call 13 25 23; or
- Visit www.Ing.industry.qld.gov.au or www.mines.industry.qld.gov.au

³ Refer to the requirements of NS2009 section 3.6 and ACOS 2010 section 4.4 as a guide.