

INITIAL DISCUSSIONS BETWEEN LANDHOLDERS AND PROJECT DEVELOPERS



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A landholder may not even think about the prospect of hosting a renewable energy development on their property until they are first approached by a developer.

The developer may have identified the site in a desktop assessment so will have enough detail to know that the site has some potential but will need to undertake some initial studies to increase the certainty of a project. For more details of the development process, refer to section [Project Development Process](#).

Farmers can approach developers if they are interested in hosting a renewable energy developer.

The landholder will need to consider whether they are interested in hosting such a development and the impact that it may have on other current or planned uses for the land.

The developer will ask the landholder to consider hosting a project and is likely to ask them to sign an initial agreement while some investigations are undertaken.

It is important to note that a farmer can say no

- You are not required to sign an agreement with a renewable energy company if you do not want to host a renewable energy development on your land.
- There are no obligations for you to meet certain timing to sign an initial agreement.
- A renewable energy developer cannot undertake activities on your land without your agreement.
- If you choose to say 'no' to hosting a project, it is worth keeping up-to-date with developments occurring locally or on neighbours land.



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There is no obligation to negotiate... this process is different to gas and resources developments.

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This initial discussion time is very important as you may need to consider:

- Are you interested in hosting a renewable energy project on your land?
- Does this opportunity support the future you want for your agricultural enterprise?
- What information do you need to gather and how do you prepare?
- What might the impacts be on my existing or planned operations?
- How do you decide who to work with if there is more than one company interested in your land?
- What are the steps in working with the developer: what progress of agreements and what level of commitment is required from you and when?
- What will be the impacts on my neighbours and my wider community and how prepared is a company to work with these issues?
- If you say no, could you miss out on potential benefits if a project still goes ahead in the area?

For further details of what is commonly included in a typical initial agreement, please refer to [Checklist #2: What should be included in the Initial Agreement?](#)

Are you interested in hosting a renewable energy project on your land?

Consider the benefits and impacts of having a renewable energy project on the land and who will need to agree to the project.

Benefits

- May provide a diversified income over the life of the agreement which is separate to agricultural income.
- Site benefits such as upgraded internal access roads and fencing. May add value to property.
- Potential community benefits.
- Other environmental benefits such as emissions reduction.

Impacts

- Change to property operations with a new interest on the land.
- Does the project involve all or part of the land? Will the remainder of the land be viable if the project site is excluded? Will you be able to run stock on the land once the project is operational?
- Length of the contract – will this constrain future agricultural development for you or your successors?
- Contractors accessing site for investigations during development phase.
- Construction phase impacts including works off-site that may cause some impacts for surrounding areas.
- Operational impacts – impacts specific to the technology such as noise.
- New operations which may give rise to extra workplace health and safety requirements.
- Potential for adverse community reaction.

Consultation

- Do all parties that have an interest in the property support the concept of a renewable energy project on the property? This includes but is not limited to: any successors, business partners, trustees, mortgagees and easement holders.
- If you hold a tenure under the Land Act 1994 (Land Act), it is recommended that you contact the Queensland Department of Resources at this stage for information (refer to [“Is my land state leasehold land”](#) below).



Western Downs Green Power Hub. Image Courtesy: Queensland Government

Hosting network connection infrastructure

The developer or a Network Service Provider (NSP) (Powerlink or Energy Queensland Limited EQL) may approach you as your land may form part of a preferred route to connect a new renewable energy project to the electricity network.

In this case, you may be approached as it may have been identified that your property might be suitable to host network infrastructure rather than the renewable energy development itself. Network infrastructure provides a route to carry the electricity from the renewable energy project to the electricity network. This route may form part of the project that is to be delivered by the renewable energy proponent or it may become part of the State's power network, separate from the project. Queensland's Network Service Providers (NSP): Powerlink (transmission) and Energy Queensland (distribution) may also become the owner of the asset with responsibilities to maintain the asset and its easement.

It is important to understand the possible connections a renewable energy project may have with Queensland's Network Service Providers (NSP)s. In order to connect a renewable energy project to the electricity network, a customer connection is required. A customer connection defines the ownership of the hosting infrastructure and associated responsibilities between the NSPs and the proponent for the project. There are two processes that can be followed:

1 The regulated grid planning and construction process, where the NSP:

- identifies and selects corridor options
- negotiates the corridor following landholder consultation
- establishes an easement over land for the infrastructure
- contracts construction directly
- constructs infrastructure which may become part of the state regulated asset base (RAB) where the NSP is responsible for operation and management of the infrastructure and corridor.

2 Where the developer may choose to manage some of these tasks such as:

- negotiating the corridor with the landholders
- establishing easements over land for the infrastructure
- applying for planning and environmental approvals
- contracting construction to third party or an NSP.

Infrastructure is then constructed and the maintenance and ongoing operation of the line may become the responsibility of the NSP.

It is important to note that:

1. Landholders can negotiate suitable arrangements from the time they are approached to form part of the network connection route.
2. The agreement and incentives received by hosting landholders, may be different to landowners who host the generating equipment.
3. Powerlink or Energy Queensland may not be able to negotiate any additional outcomes or benefits once they have been engaged, than that what has already been negotiated and agreed by the Developer.
4. The site may then be managed by the contractor that is working for the NSP and not by the renewable energy developer.
5. Decommissioning of network infrastructure is rare.

You may wish to consider treating these negotiations as you would if you were negotiating with the developer for the location of a renewable energy project and ensure that you reach agreements about suitable payments and access considerations before signing any final agreements.

Powerlink has recently developed a new landholder payment framework. A link to the SuperGrid Landholder Payment Framework can be found in our resources section.

If you have any concerns or requirements about the long-term operation of the infrastructure, you need to negotiate these with the developer and ensure they are documented clearly for ease of reference throughout the life of the assets.

Timing

Developers will be keen to move quickly on the project and may press you to decide and sign an initial agreement quickly. This is generally because of competitive pressure to secure sites and secure network connections.

While there is no legal requirement for you to meet certain timelines in signing an agreement with a proponent, you should be aware that they will have competitive pressures and be trying to move quickly to secure sites and gain the necessary approvals. Although you are not bound by these timelines, companies may be working with several landholders at any one time, and delays on your part may lead them to choose another site or leave your site out of a project footprint.

As a result, if you are interested in hosting a renewable energy project, it may be beneficial to act promptly and keep the project developer informed of your considerations and progress with regular communication. It is equally important, however, that you fully consider the opportunities and risks when deciding whether or not to proceed.

Some developers may pressure landholders into signing agreements before they have time to check the agreements thoroughly. It is critical that a Landholder understands the agreement and its timelines.

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Everything is about speed, we are always in a race with someone, especially when it comes to the grid connection.

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DEVELOPER

Timing: The race to secure network access

One of the key areas of competition amongst renewable energy developers is the access to the electricity network. Developers will try to secure a location with a close point of connection to the network or in an area they consider has the necessary capacity to connect their project.

Timing is critical for the developer as there may be limited capacity in the electricity network. Developers must follow a number of steps in order to assess and then commit to a network connection (See section **Electricity Network Planning in Useful Resources** for more information). The Network Service Providers may be assessing proposals from competing projects and as they are bound by confidentiality arrangements, they are unable to disclose that they are working with other developers.



Western Downs Green Power Hub. Image Courtesy: Queensland Government

What preparations can I make?

If you are well prepared for the discussions with a renewable energy developer, it is likely that the negotiations will be able to proceed more quickly with more suitable outcomes for both parties.

If you know you are likely to be in an area that is suitable for renewable energy projects and/or wish to approach a developer yourself, you can make these preparations in advance of any discussions.

If you haven't made these preparations before you are approached by a developer, you may wish to make time for these preparations during the period an **Initial Agreement** is in place. In this case, you may wish to ensure that the initial agreement does not bind you to any future actions or activities that may limit your planning for the site.



Preparation

Have your plans ready

It is important to have detailed information about the property and the business that will help you make decisions about potential renewable energy developments.

Consider gathering or preparing the following:

- Plans of the Farm including the location of:
 - current farming activities and areas
 - ownership of various areas by different entities (such as farm business, family members, self-managed super funds, trusts etc)
 - other encumbrances such as easements, leases, mining and resource activities
 - future plans for farming and other activities
 - known sensitive areas such as agricultural land, protected vegetation, waterway corridors
 - “no go” areas which you would like to keep free from development
 - biosecurity plans.

Other documentation that you may wish to have considered as you enter into discussions with developers:

- a land valuation
- farm succession plans
- financial returns from areas of the farm (such as revenue or profit per hectare or field) so that current farm revenue can be compared to renewable energy income and to help inform discussions with legal and financial advisors.

You may not wish to share all of this information with the developer during negotiations but have it at hand for your own deliberations.

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The more preparation you have done, the better. Have a blueprint for what you would like to happen with your farm over time: you may be able to bring some of these projects forward by negotiating with the developer.

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LANDHOLDER

Your Local Council may be able to assist with planning maps and maps of sensitive areas and the Department of Resources can provide details of mining and resource tenures. For more information see Planning and Development in Queensland in [Useful Resources](#).

Is my land state leasehold land?

If you lease a site from the Queensland Government under a Land Act 1994 lease, there are some additional requirements to consider. Approximately 62 per cent of Queensland is State Land, including unallocated state land, with around 46,000 rural leases in place.

If your site is leasehold land, you can either apply to convert land to freehold or apply to have an additional purpose added to the lease. You will need to consider the advantage and disadvantages of converting to freehold land before doing so for a renewable energy project.

Leasehold land

The Queensland Department of Resources advise that freehold is considered the most appropriate tenure for renewable energy projects on leasehold land. Leaseholders can apply to convert their lease to freehold but need to meet certain criteria (e.g. native title is addressed) and pay a purchase price/other associated costs. For primary production leases, the purchase price is at a discounted value.

Where a leaseholder doesn't convert their lease to freehold, they may apply under the Land Act to have an **additional purpose** of renewable energy to be added to the purpose of their lease —e.g. their existing lease could be for grazing/pastoral purposes and an additional purpose of renewable energy can be added. The lease – purpose will be grazing/pastoral and renewable energy. *The Operational policy - Additional purpose of a lease SLM/2013/425* provides some guidance.

The leaseholder may sublease to a renewable energy proponent subject to meeting certain Land Act requirements.

Native title will need to be addressed before the conversion of the lease to freehold tenure, an additional purpose is approved, or a sublease is entered into.

For projects on Leasehold land, the Department of Resources, as owner, is responsible for providing owners consent to the development application.

Leaseholders should contact the Department of Resources in the early stages for further information.

For more Information about project planning stages, refer to the Land Access and State Lands section of [Useful Resources](#).

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We had an unused 132kV powerline through the property. We had about four developers approaching at once.

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LANDHOLDER



How do you decide who to work with?

A renewable energy project is a long-term project, and you will be dealing with a company for an extended period of time: leases may be in place for over 30 years with options to extend.

You may have only one option as there may be one developer interested in the site. If there are a number of developers interested, you will need to work through the best way of selecting the most appropriate partner for your circumstances.

You may need to decide this before you sign an Initial Agreement as confidentiality and exclusivity provisions in an initial agreement may prevent you from working with other developers while the Initial Agreement is in place.

There are many developers active in the industry, with a variety of skills, resources, experience and business models such as:

1. Prospectors: Some developers will do the work necessary to enable them to sell the project to another entity that will take the project forward through the next stages.
2. Builder, Owner, Operator: Some developers will complete the whole development process through to the commencement of construction works and may look to own and operate the asset once operational.

You will want the company to give you confidence that they will be able to progress the project efficiently and with a high priority and therefore have good experience in such projects.

Who do I want to work with?

How do you do your due diligence on the proponent?

It may not be easy to tell, though some of the considerations are below:

Financially viable

You will want to make sure the company you are working with has the financial resources to plan and deliver a project; is likely to be around to manage the project and will be able to return the site to its original condition at the end of the project.

Business model

There are a number of business models for developers who may prefer to take a short or long-term interest in the projects. For example

- Prospector Model: a shorter-term interest in the project and may secure the site with approvals then sell to a developer.
- A Builder Owner, Operator (BOO) model: a company that plans to develop the site and own for the long-term.

Note that with either option above, ownership can change over the life of the project. For example, a BOO model operator may sell the project once operational to a new owner that may contract out the operations.

You may also wish to ask the developer if they offer a co-investment model where you or the members of the community may be able to purchase shares in the project.

Track record

Selecting a company with relevant experience in delivering similar projects has several advantages including:

- they can list projects that they have delivered, possibly in the same state or country.
- they are able to offer to take you to a project they have delivered to meet landholders and members of the community and Council.
- they can show final plans of similar projects they have delivered to talk about the likely scale of the project.

Committed

This project has a high priority within the company so that it will progress quickly, rather than a company that may have a list of projects and may compete internally for the funds to develop them.

Are your values aligned with the developer?

You may wish to work with a company who operates in a way that aligns with your values. This might include a company who:

- is keen to maintain a good Social Licence to Operate (see text box) and:
 - o will communicate openly with neighbours and members of the community
 - o may offer community benefits, such as local benefit sharing programs, prioritising use of local businesses, and even community investment options
 - o applies the same standards to their contractors
 - o has a track record in meeting best practice guidelines for aspects of the development process such as community consultation and benefit sharing.
- Has committed to the Clean Energy Council's Best Practice Charter for renewable energy projects. This Charter outlines a commitment by signatories to engage respectfully with the communities in which they plan and operate projects, to be sensitive to environmental and cultural values, and to make a positive contribution to the regions in which they operate.
- Has its own sustainability and decarbonisation targets and is committed to other Sustainability Measures such as the [United Nations Sustainable Development Goals](#).

Are you comparing like for like?

Initial layouts proposed by developers may include more turbines or solar arrays than are likely to be finally approved or installed. These may be reduced as developers make more investigations on the site. Be aware that developers may show you initial layouts and some may be more ambitious because they have not yet assessed all constraints.



What is Social Licence to Operate?

The Queensland Solar Farm Guidelines define Social Licence as: *The general level of acceptance, approval or support, continually granted to a solar farm proponent's proposed or actual project, by local communities and other stakeholders (p7).*

The guidelines set out some practices that a proponent may implement to achieve social licence for the project.

Note that the concept of Social Licence applies to all developments and developers alike.

Refer to [Checklist #1: How do you decide who to work with?](#) See also information in [Useful Resources](#) relating to community consultation, benefit sharing and regional renewable energy.

Disputes and Complaints

Ensure that you discuss a dispute resolution procedure in your early discussion with the proponent and decide on a clear process for resolving disputes with the developer and complaints about any aspects of the project. These should be documented in any agreements.

If any disputes arise during the project, you may be able to call on the agreed dispute resolution process.

If the dispute resolution process fails to resolve the matter, you may make a complaint to the [Australian Energy Infrastructure Commissioner \(AEIC\)](#) or other suitable agency to assist.

Co-location of resources and renewable energy developments

Where a site has resource interests such as exploration or mining leases, there are other parties that should be included in the discussions. Any resource companies that have an interest should be advised of the potential for a renewable energy project and introduced to the developer.

Mineral and energy resources found in Queensland are not owned by individuals or companies, regardless of who owns the land over which the resource lies. The Queensland Government owns and manages these resources.

Access to land by resource companies is governed by legislation in Queensland and landholders should refer to the Gas Guide which has been produced by the independent [Gas Fields Commission Queensland \(GFCQ\)](#) to help landholders navigate the processes and pathways for petroleum and gas development on private land.



The Gas Guide & Roadmap for landholders navigates through oil and gas project development, the different stages of the gas industry and provides advice to landholders about the different stages of projects.

The type of agreements negotiated with resource companies are different to those negotiated with renewable energy companies.

Conduct and Compensation Agreement (CCA)

Resource companies accessing private land to undertake 'advanced activities', must negotiate a land access agreement, commonly known as a Conduct and Compensation Agreement (CCA) which is a legally binding document and the most widely used agreement in Queensland between a landholder and a resource company (oil, gas or minerals) seeking access to and conducting authorised activities on private land.

Landholders should seek legal advice to understand the rights and obligations when a CCA is delivered to them following the [Mineral and Energy Resources \(Common Provisions\) Act 2014 \(MERC Act\)](#) and [Land Access Code](#).

To assist landholders, the [GFCQ](#) has developed a 'Negotiating a Conduct and Compensation Agreement' Fact Sheet containing 7 tips for land access negotiations. The seven tips are relevant to discussions between renewable energy developers.

Commonly Oil and Gas tenures have a duration of 15-30 years, and it is required that both the resource company and landholder have an efficient communication across the oil and gas project development.

After a compensation agreement has been entered into, a material change in circumstances may impact the amount of compensation payable. If you have concerns that the circumstances agreed to in the compensation agreement have changed significantly you should seek further advice.

What if I have a gas or resources development on my land?

The presence of resource interests on land does not necessarily prevent the development of a renewable energy project, though there may need to be discussions between the landholder and the affected companies.

If there is a gas tenure over the property but no CCA, it is advisable to inform the tenure holder, but not mandatory. Renewable Energy proponents should do their due diligence on any resource tenures over the land.

It may be suitable to initiate discussions between the renewable energy developer and the resource company. If the landholder has communicated their requirements to both companies, they should be able to reach an agreement about coexistence. The landholder may wish to monitor these or have a representative keep abreast of the discussions but may not need to be involved in all of the discussions.

The developer may request spatial data of the gas or resource infrastructure over the land from the tenure holder to share with the developer.