

MG 4

Rights, access and interacting with landowners: a guideline for explorers, miners and landowners

Draft

Minerals Regulatory Guidelines
energymining.sa.gov.au



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Disclaimer. This document should be read in conjunction with the requirements of relevant Act and Regulations. It provides general advice for all stakeholders on how the Department for Energy and Mining administers mineral resources and energy legislation. This document is not intended to be exhaustive or a substitute for legal advice. Readers should seek independent professional advice when applying information in this document to a specific situation.

This is a draft version of the guideline. It has been developed to reflect the *Statutes Amendment (Mineral Resources) Act 2019* and the draft regulations. A final updated version will be published when the Act commences on 1 January 2021. Other documents referred to in this draft guideline, such as guidelines and forms, will be subject to review following engagement on the draft regulations.

Every effort has been made to ensure the accuracy of the material contained in this document at the time of publication. It may be revised to reflect changes in law, technology or practices. Readers should ensure they are using the latest version.

Any reference to products or companies in this publication should not be taken as government endorsement.

Alternative formats. This publication is available in other formats, including translation. Direct requests to Mineral Resources Division see contact details above).

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ABOUT THE DEPARTMENT AND OUR ROLE

The Department for Energy and Mining (DEM) is responsible for effectively managing and regulating South Australia's energy and mineral sectors in a way that responsibly unlocks the value and opportunities of our resources, and delivers affordable, reliable and secure energy supplies.

DEM strategic priorities:

- deliver effective, efficient, transparent regulation
- lower energy prices
- increase South Australia's resource exports
- grow future industries and jobs

The Mineral Resources division delivers services across the resources value chain from the provision of geoscientific information and policy advice to case management and regulation. The division delivers regulation that ensures high standards of environmental, economic and social performance are maintained across the exploration, extractives and mining sectors.

The *Mining Act 1971* (Mining Act) has regulated the exploration and mining sectors in South Australia for 50 years. The *Statutes Amendment (Mineral Resources) Act 2019* revises the *Mining Act and Mines and Works Inspection Act 1920*. The Mining Act and related regulations are administered by the Minister for Energy and Mining, the Director of Mines and the regulator, which is made up of authorised officers and other delegates in DEM.

The state's mineral resources are owned by all South Australians. The regulator's role is to ensure any development of the state's minerals is undertaken in a way that balances economic, social and environmental impacts. This is achieved by:

- requiring exploration and mining companies to engage openly and collaboratively with affected landowners and communities
- assessing exploration activity applications and ensuring related activities comply with the approved program for environment protection and rehabilitation (PEPR), current industry standards and any approval conditions
- ensuring explorers and miners follow the correct processes under the Mining Act
- following up complaints from landowners and taking necessary compliance action, if required
- requiring companies to put effective management strategies and measurement criteria in place to achieve required environmental outcomes, and
- expecting explorers and miners to develop a transparent engagement and feedback process to address stakeholder issues and communicate how the explorers or miners have responded to them.

DID YOU KNOW?

Mineral resources are owned by the state for the benefit of the South Australian community. Royalties are paid to the Government by extractive and mining companies. Royalties generated from mining contribute to the state's budget, which is in turn spent on health, education and many other services.

FOR MORE INFORMATION ON:

- regulation of mineral exploration and mining in South Australia http://www.energymining.sa.gov.au/minerals/knowledge_centre/policies
- regulator's responsibilities, including compliance with the Mining Act, lease conditions and the approved PEPR. See [Compliance and Enforcement Policy](#)
- ministerial determinations outlining the minimum required standards for the application and assessment processes for mining proposals and PEPRs http://energymining.sa.gov.au/minerals/knowledge_centre/regulatory_guidelines.

PURPOSE OF THIS GUIDE

To ensure a modern mining approach, that complies with the Mining Act, explorers, miners and landowners need to understand how exploration companies can apply for exploration licences, under what circumstances they can enter land to explore for minerals, what exploration and mining involves, and the required rehabilitation activities.

This set of guidelines is designed to support and inform explorers, miners and landowners and help them to understand requirements under the Mining Act and how they can be used to uphold rights and facilitate positive interactions and land access.

1. Guidelines for landowners, explorers and miners – provides information about the rights of land owners and what can be expected when exploration and mining operations are proposed on (or near) someone’s property
2. Guidelines for interacting with landowners, management of exploration and mining activities and rehabilitation – provides information on what landowners, explorers and miners can reasonably expect from each other
3. Contact information and further information sources
4. Appendix 1 – questions a landowner should ask a mineral explorer or miner seeking access to their property
5. Appendix 2 – questions an explorer or miner should ask a landowner before they enter the property.

FOR MORE INFORMATION

- landowner frequently asked questions about mineral exploration in South Australia can be found on DEM’s <http://energymining.sa.gov.au/minerals>

PART 1 Guidelines for landowners, Explorers and miners

1 INTRODUCTION

Mineral rights in South Australia are generally owned by the Crown, not owners of land titles. The Mining Act allows individuals and private companies to conduct mineral exploration and mining on most South Australian land, including freehold and pastoral land, subject to authorisation from the regulator.

The Mining Act and mining regulations encourage explorers and miners to interact appropriately with landowners and communities.

Exploration and mining have the potential for varying degrees of economic, social and environmental impact. Landowners — people who have an interest in the land, such as a freehold or leasehold titleholders, or dedicated reservation (eg park, road reserve, easement) — are key stakeholders in the exploration or mining process. Open, honest and transparent communication with regular, ongoing discussions from early on will help all parties to understand each other's interests and objectives and encourage respectful relationships.

These guidelines aim to promote better communication, understanding and working relationships between landowners and the explorers and miners who are authorised to enter, explore and or mine their land or their neighbour's. The first step is understanding all parties' rights and obligations.

Advanced exploration programs test potential mineral resource targets. These targets are usually identified through data reviews or early exploration activities. Advanced exploration works can include:

- drilling and associated activities
- earthworks or trenches
- the establishment of temporary camps and lay down areas for equipment storage
- use of machinery to create temporary access tracks and drill traverses
- the use of water tanks to store water for drilling activities.

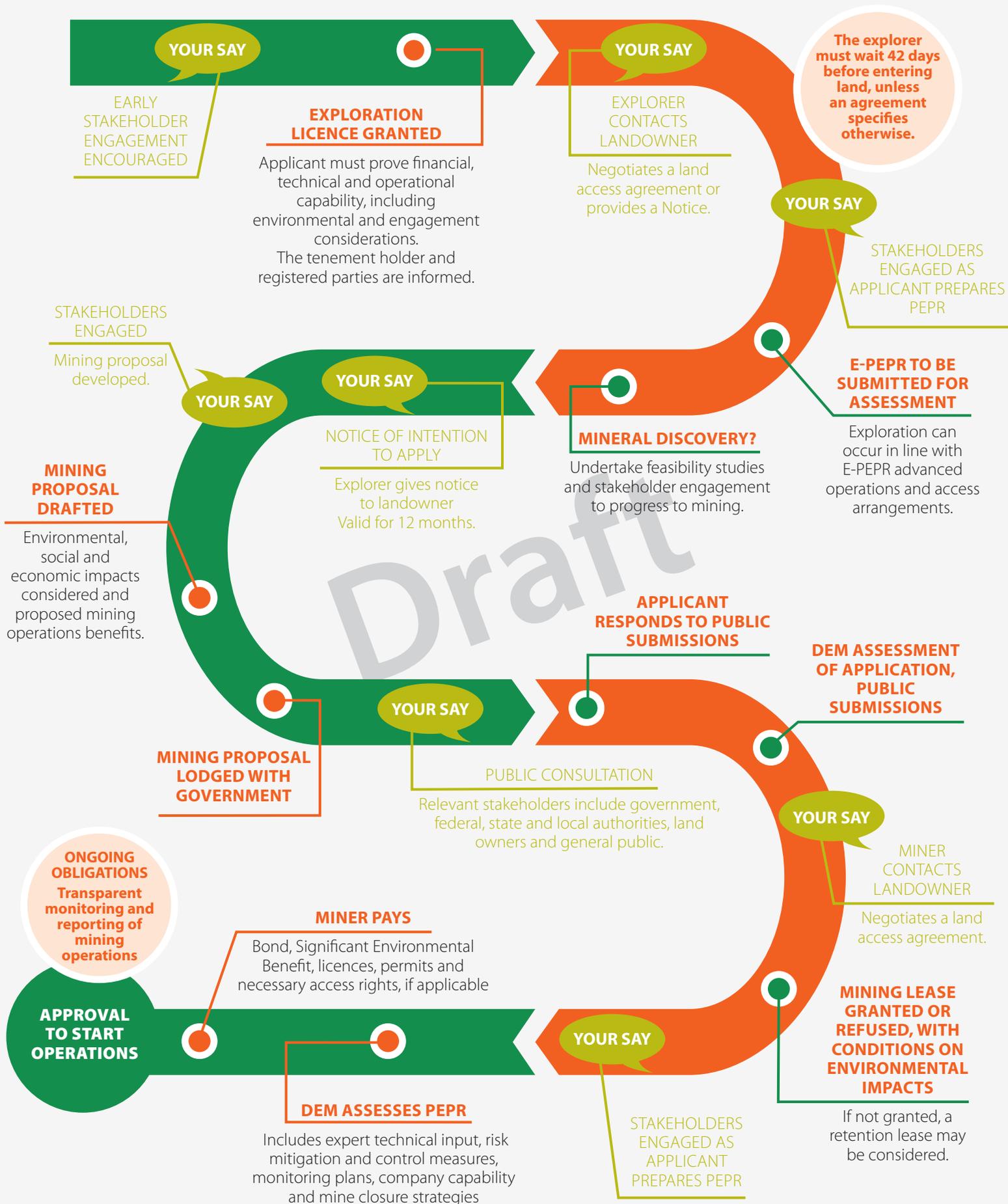
Read more about different exploration techniques in South Australia on DEM's website <http://energymining.sa.gov.au/minerals>.

UNDERSTANDING EXPLORATION ACTIVITIES

Low impact (or early) exploration activities usually have limited or no disturbance on the ground. They may consist of:

- a visual inspection by land or air
- Aboriginal heritage surveys or work area clearances
- geological mapping
- geochemical surveys – surface sampling, all geophysical surveys (excluding non-passive seismic), biogeochemical (vegetation) sampling, rock-chip sampling, sampling using handheld augers
- overnight camps comprising tents or swags for short periods of time (days)
- small, short-term campsites (up to one month)
- use of 4WD vehicles off existing tracks to conduct the above-listed activities.

EXPLORATION TO MINING ENGAGEMENT



30/07/2020-204182

DID YOU KNOW?



The Small Business Commissioner's Land Access Code or relevant court can help decide disputed agreements.



Landowners can access the Landowner Information Service throughout the exploration and mining process.
www.ruralbusinesssupport.org.au

UNDERSTANDING PEPRS

The holder of an exploration licence must have an approved program for environment protection and rehabilitation (PEPR) in place before commencing any exploration activities. Low impact exploration activities are covered under a generic PEPR. <https://sarigbasis.pir.sa.gov.au/WebtopEw/ws/samref/sarig1/image/DDD/MD001.pdf>.

Advanced exploration or mining requires a PEPR application detailing:

- the proposed activities
- the environment where the activities will be conducted
- any risks and impacts to the environment resulting from the proposed activities
- management strategies to avoid or reduce impacts to the environment
- how impacts to the environment will be rehabilitated
- any other matter determined by the Minister for that tenement.

Approval of a PEPR is dependent on evidence:

- information provided is accurate
- all credible risks and impacts to the environment (which includes existing land uses) have been identified and adequately addressed
- management and rehabilitation methods proposed by the explorer or miner are adequate to protect the environment.

2 NOTICE OF ENTRY AND NOTICE OF ADVANCED EXPLORATION OPERATIONS

There are three stages before an explorer or miner can access land to explore, peg a claim or mine:

- 1. Authorisation** – the explorer or miner must either enter into a written land access agreement with the landowner or give the landowner a Form 21 Notice of Entry on Land, or a Notice of Advanced Exploration Operations. This notice may be served electronically, by registered post or by personally handing the notice to the landowner.
- 2. 42-day notice period** – an explorer or miner must wait at least 42 days after serving a notice before entering the land. The maximum penalty for entering land to conduct authorised operations without serving a notice of entry or a notice of advanced exploration operations, or entering in less than 42 days is \$20,000.

The Notice of Entry and Notice of Advanced Exploration Operations must explain the purpose of entry, as well as the location, duration and management of the proposed activities on the land.

The landowner should expect to see the following:

- full name, address, phone numbers and email addresses of the landowner, if known
- full name and address of the party serving the notice
- name and contact telephone number of a person who may be contacted about the notice
- description of the land, including the certificate of title and parcel references
- a map clearly showing the area of the proposed operations
- tenement numbers of the relevant licence¹ relating to the notice
- copy of the PEPR (if approved), or a reasonable description of the activities proposed to be carried out on the land

- how the landowner will be kept informed about ongoing operations carried out on the land, including where, when and the duration
- reasonable information about the potential consequences of these activities and how they will be addressed or managed
- information on who to contact if the landowner is concerned about the proposed operations, including the Office of the Small Business Commissioner
- information on landowner rights to object to a notice, and rights to compensation.

If the level of information supplied is not adequate, the landowner should ask the explorer or miner for more information. If they are still not satisfied, they may contact the regulator for further discussion.

- 3. Objections** – both freehold landowners and pastoral lessees have three months to lodge an objection in court to a notice served. This means that freehold landowners and pastoral lessees can lodge an objection after the 42-day notice period for a Notice of Entry on Land or a Notice of Advanced Exploration Operations has ended. Relevant courts include the Warden's Court, Environment, Resources and Development (ERD) Court and Supreme Court. The objection can be lodged after the explorer or miner has entered the property and commenced activity. The regulator can provide guidance on how to lodge an objection to entry.

¹ An exploration licence authorises a licensee to carry out exploration activities under specific conditions and typically covers a large area.

3 NOTICE OF INTENTION TO APPLY FOR A MINING LEASE (FOR MINING AND QUARRYING), RETENTION LEASE OR MISCELLANEOUS PURPOSES LICENCE

If a company intends to lodge an application with the regulator for a mining lease (for mining and quarrying), retention lease or miscellaneous purposes licence, they must notify the landowners by serving the relevant notice of intention to apply.

If the company fails to lodge the application with the regulator within 12 months, they must provide the landowner with another notice of intention to apply.

The company must continue to engage with the landowner about the proposal and, within 12 months of issuing the notice of intention to apply, demonstrate to the regulator they have conducted scoping work (assessment and investigation of the feasibility of the proposal), defined a project, started engaging with landowners and are ready to lodge a valid application.

The landowner may lodge an objection if they choose. However, the court may delay proceedings until the application for the mining lease, retention lease or miscellaneous purposes licence is received. The court can then consider the proposed operations and make a determination about the impacts, conditions and compensation if applicable.

4 EXEMPT LAND

The Mining Act provides that some land is 'exempt' from mining and exploration. An explorer or miner cannot conduct any activities on that land under their licence or lease unless the landowner agrees to waive the land exemption and reaches an agreement with the explorer or miner about compensation and conditions of entry.

A waiver is a document that states the landowner agrees for specific activities to occur on their land. Both waivers and agreements should specify operating conditions that will ensure impact to the existing land use is either minimised or appropriately compensated, or both (see sections 4.1 and 5 respectively).

Section 9 of the Mining Act sets out the categories of exempt land. The following are relevant to private landowners:

- land that is lawfully and genuinely used as a yard or garden, plantation, orchard, vineyard, airfield or cultivated field, which is any field that is cultivated on a regular basis or is in the process of being re-established as cultivated
- land that is situated within 200 and 600 metres of a building or structure used as a place of residence, depending on the following:
 - 200 metres for low impact exploration operations
 - 400 metres for advanced exploration operations or any operations for the recovery of extractive minerals
 - 600 metres for all other authorised operations
- land that is situated within 150 metres of a building or structure with a value of \$2500 or more used for an industrial or commercial purpose, or a spring, well, reservoir or dam. A water bore falls within the definition of a well, according to a Warden's Court ruling.

The landowner's property may be exempt because:

- (i) a house, sheds, cropping land, vineyard etc. is located on the land where the proposed exploration or mining activities will be conducted
- (ii) the house, sheds or water supply is located on neighbouring land within the relevant prescribed distance from the proposed exploration or mining activities.

The distance between the exempt land and the authorised operation is measured as a straight line from the closest point of the exempt land to the closest point of the authorised operation.

Exempt land provisions also apply to activities that are authorised under a miscellaneous purposes licence granted under the Mining Act such as building access roads, pipeline and power line corridors, and mineral processing plants.

Exempt land provisions do not apply to private mines. Operators of private mines may be able to mine closer to the landowner's home than the distances outlined above, depending on the terms of the mine's operations plan.

WHAT IS A PRIVATE MINE?

When the Mining Act came into effect it provided a process whereby persons divested of the right to minerals could, under certain circumstances, make an application to retain the rights to the minerals, these became known as Private Mines. Private mine proprietors are required to lodge mining returns and pay royalties, but there is no renewal requirement like production tenements or mining leases. Private mines are generally large quarries producing extractive minerals such as aggregates for building and construction materials such as concrete and asphalt. No private mines have been declared since September 2000 and there is no intention to declare any new private mines.

4.1 WAIVERS

A waiver is a document stating the landowner agrees to specific activities occurring on their land. It aims to ensure the exploration or mining company helps all relevant stakeholders understand the arrangements for entering and using local land.

Before entering into a land access agreement the explorer must give notice to the person who has the benefit of the exemption, using the statutory [form 23A, Waiver of Exemption Request](#). Note: this form will be updated following engagement on the draft regulations.

If the landowner agrees to waive the exemption, it is recommended the waiver or agreement:

- is in writing
- lists the full names and addresses of the parties to the agreement
- sets out the term or length of the agreement
- details the cooling-off rights of the person who is waiving their exemption
- includes a diagram or a map showing the area relating to the agreement
- includes all the agreed terms and conditions
- sets out the details of the exemption provided under the agreement
- includes a dispute resolution process
- indemnifies the landowner against all loss or damage resulting from the proposed exploring and mining activities
- includes a guarantee that the explorer or miner can and will pay compensation for any damages or fund all rehabilitation works.

Form 23B can be used instead of a privately drawn-up agreement and provided to the landowner by the explorer or miner. Both the landowner and the explorer or miner must sign this form. Note: this form will be updated following engagement on the draft regulations.

There is a five-business day cooling-off period after a landowner has signed an agreement. Any cancellation of the agreement during this time needs to be done in writing.

The landowner still has the right to object to the explorer or miner entering their land as long as they do so within 28 days of signing the agreement.

An agreement or order of the court is binding on all future owners of the land. New owners must be informed of any agreements that apply to their land. They may choose to negotiate a new agreement with the explorer or miner.

4.2 FACTORS TO CONSIDER REGARDING EXEMPT LAND AND WAIVERS

Landowners should keep the following in mind when claiming exempt status or deciding to enter into a waiver agreement for land:

1. **Exempt status does not automatically prevent the granting of a licence or a lease, only operations. The regulator can grant a licence or lease without sighting any waiver forms.** The maximum penalty for failing to comply with a term or condition of a mineral tenement is \$250,000 and the maximum penalty for illegal mining is \$250,000 or imprisonment for two years.
2. **Exempt status is a matter of fact and should be claimed.** Explorers and miners must follow the correct procedure, as described in Section 2 of these guidelines. This will help landowners understand the concept of exempt land and give them enough information and time to make an informed decision about entry onto the land for the purpose described in the notice. The maximum penalty for entering land to conduct authorised operations without serving a notice of entry or notice of advanced operations, or entering in less than 42 days, is \$20,000.
3. **Exempt status and location can change over time.** Changes in land use can affect its exempt status. For example, if cultivated land is left uncultivated for a long time, it may no longer be considered exempt. A farmer must provide evidence of a farming cycle in order to prove a continuance of exempt land. Or if the landowner moves or abandons a dam or other structure then the status of the exempt land around them may change.

- 4. Exempt status cannot be created after a tenement has been granted or a claim pegged.** A landowner cannot claim exempt land status for developments such as a newly constructed shed or dam or newly ploughed field after an exploration licence or mining lease has been granted by the regulator. Satellite imagery is available to verify when such developments occur.
- 5. Waivers are not forever.** The Mining Act allows the exempt status of land to revive either at the end of exploration or mining operations governed by an agreement or court determination, or at an earlier time stipulated in the agreement or determination. This means it is possible for landowners to negotiate with an explorer or miner for operations to be conducted efficiently and to leave their land as soon as possible.
- Landowners should consider whether to waive the exempt status for only exploration in the first instance and reserve the right to negotiate a new waiver agreement for any proposal to proceed to mining.
- Landowners are also advised not to grant a general waiver that waives their rights for any mining activities that may be conducted in a mining lease. The waiver should be specific to the exploration work program or mining proposal discussed with the landowner and approved in the PEPR.
- 6. Exempt status does not prevent a mineral claim being pegged.** A mineral claim is essentially a small exploration tenement to explore for extractive minerals – eg gravel, sand, stone. An explorer or miner may peg a mineral claim on exempt land to identify the area of the claim without a waiver agreement. It is then registered by the regulator. After it is pegged and registered, no work can be done on the claim without a waiver agreement.
- The maximum penalty for failing to comply with a term or condition of a mineral tenement is \$250,000. Any tenement holder who carries out authorised operations under a mineral tenement without a PEPR is in breach of the Mining Act and the maximum penalty is \$250,000.
- 7. Understand the impacts exploration or mining may have on use of the land before waiving rights or agreeing to compensation.** The explorer or miner will provide enough detail of their proposed activities to make an informed decision on the proposal including what, where and when activity is proposed. Refer to Section 2 for what landowners should expect to see from the explorer or miner.
- 8. Interests of mortgagees.** If freehold or leasehold land is mortgaged, landowners may have an obligation to seek the mortgagee's consent to enter into a waiver agreement. Landowners should also consider advising other parties who have an interest in activities on the land, such as share farmers, about a waiver agreement.
- 9. Agreements and determinations run with the land and the tenement.** A waiver agreement or determination is binding on anyone who takes over either the land or the mineral tenement.
- Although waiver forms are registered on the Mining Register, they will not necessarily appear on a property title search. Owners of land that have entered waiver agreements should disclose this to a potential buyer of the land.
- 10. Disclosure of agreements.** The waiver agreement between the landowner and the explorer or miner must be lodged for registration with the Mining Registrar. They are considered confidential and are not normally released without the consent of the parties to the agreement. However, if an agreement is made through an ERD court determination, it will be made public as court determinations are public documents, unless both parties seek a confidentiality order from the court as part of the determination.
- 11. Available compensation.** Compensation is negotiated between the landowner and explorer or miner. The amount of compensation to be paid depends on the landowner's individual set of circumstances.
- Experience shows better results are usually achieved when the parties focus on conditions of access and conduct of operations to minimise impacts, rather than solely on monetary compensation.

As the details of waiver agreements are negotiated between the landowner and the explorer or mine, and are usually specific to that landowner's use and enjoyment of their land, it is inappropriate for the regulator to provide any guidance to landowners on possible levels of compensation.

Compensation valuation may be composed of any of the following, depending on the situation:

- Immediate loss of income
- Long-term loss of income
- Loss of amenity and enjoyment or inconvenience
- Devaluation of assets – calculated using methodology endorsed by the Australian Tax Office (ATO)
- Severance – loss of access to an area resulting in economic loss or hardship
- Damage to property
- Professional costs – such as legal, tax and experts for baseline assessments
- Time – spent by the landowner dealing with tasks arising from exploration activities and mining operations.

Each component of compensation can be calculated using its own specific method, usually based on measurable data. There may be more than one method or variations of a method applicable, depending on circumstances. Any rent paid to a landowner is also separate to any compensation negotiated with the explorer or miner.

The Minister may require the explorer or miner to pay an additional amount of compensation to a landowner at any time, if the Minister determines the landowner is entitled to compensation for loss or damage caused by exploration or mining on the mineral tenement.

12. Combination with other agreements under the Mining Act. A landowner may have some land that is exempt and some that is not. Section 61 of the Mining Act provides that owners of land affected by exploration or mining, whether exempt or not, are entitled to compensation, either through private agreement or by a determination of the appropriate court.

Usually the explorer or miner will seek a compensation agreement with the landowner to cover all land, including exempt land.

In the case of exempt land, the Mining Act specifically recognises the degree of impact mining or exploration will have on some existing land uses - eg residential housing and private commercial use - and provides greater protection to that land.

Over several cases in the Warden's Court, the Warden has developed a particular approach to these differences:

- where land is not exempt, mining should proceed unless the landowner can show substantial hardship. Hardship may be mitigated by conditions or compensation, or both to allow mining to proceed.
- where land is exempt, the exemption should only be removed if conditions and compensation can be imposed such that mining is not an unreasonable imposition on the landowner's enjoyment of the land.

13. Enforcement of agreements. An agreement between a landowner and an explorer or miner for access and compensation should include a dispute resolution process. This explains how a disagreement or dispute between the parties is managed, e.g. if the explorer or miner fails to pay compensation or operations continue beyond the agreed end date, the agreement may specify parties must go to mediation before a party can enforce the agreement in a court.

The regulator does not interfere in disputes when the parties have private arrangements. If a dispute arises and cannot be resolved, either party may refer the matter to the Small Business Commissioner for mediation (see Section 5.2) or to an appropriate court (see Sections 7-9)

14. Role of the regulator in relation to waivers.

The regulator regulates the requirement for an agreement to be made, not the content of the agreement.

- The explorer or miner must notify the Mining Registrar of all exemption agreements relating to exploration licences or mining leases for registration on the mining register.
- When an application for a mining lease is made to the regulator, the applicant must identify the exempt land and the regulator may request evidence of progress in the negotiation of exemption waiver agreements.
- Otherwise, the regulator does not regulate or enforce waiver agreements or determinations as they are private agreements between the landowner and the explorer or miner.

5 ASSISTANCE FOR LANDOWNERS IN MAKING AGREEMENTS

In most cases, negotiation between landowners and exploration or mining companies are successful. Either party may engage lawyers or other advisers to help and they are usually able to reach an agreement on compensation and conditions for waiving the exempt status of the land. This is the ideal outcome.

If not, the explorer or miner can apply to the appropriate court for a determination – a decision of the court is reached either through mediation between the parties, or a warden or judge’s decision. In most of these cases, the courts have found both parties’ needs can be satisfied with a combination of specific access terms and conditions, and compensation.

There is also free assistance available through the Small Business Commissioner and the Rural Business Support (RBS) Landowner Information Service (see further information below).

5.1 LEGAL ASSISTANCE

A landowner can claim up to \$2500 from the explorer or mining company for legal costs incurred in the process of considering their requested access to the exempt land.

The landowner also has other compensation rights under Section 61 of the Mining Act. In addition, they may seek to negotiate funding for legal assistance with the explorer or miner. This could include a formal land access agreement.

The landowner’s right to claim legal assistance is not restricted to a single occasion. It may be available again when there is a change in the company seeking access to the exempt land, a change in the activities being proposed, or a significant change in the location of the proposed activities.

To make a claim to have legal costs reimbursed, the landowner must provide the explorer or miner with a copy of a relevant invoice from their legal representative or other reasonable evidence of costs incurred.

FOR MORE INFORMATION

On the Small Business Commissioner
https://www.sasbc.sa.gov.au/industry_codes/mining-and-resources-industry-land-access-dispute-resolution-code

5.2 SMALL BUSINESS COMMISSIONER

Landowners and explorers or miners can contact the Office of the Small Business Commissioner for mediation services on land access issues.

The Small Business Commissioner’s role is to help landowners and the explorer or miner reach a land access agreement by considering and resolving disputes in a timely manner. The commissioner:

- will try their best to accommodate individuals wherever possible – eg where a landowner has lodged or intends to lodge a notice of objection with the court, and the parties would like the matter to be resolved outside of court
- is not able to impose decisions on parties, or prevent an explorer or mining operator from entering the land
- cannot receive a ‘Notice of Objection’ or extend the three-month objection period under section 58A(9)(b) of the Mining Act. If a landowner wishes to object to entry of an explorer or miner on the land, they must lodge a ‘Notice of Objection’ with the relevant court. This applies regardless of any negotiations the landowner may be involved in with the explorer or miner directly or through the Small Business Commissioner.

5.3 INDEPENDENT LANDOWNER INFORMATION SERVICE

The Landowner Information Service, established in July 2020, is delivered by Rural Business Support (RBS) and is a free, independent information service for South Australian landowners on matters related to exploration, extractives or mining regulatory processes.

RBS is a not-for-profit organisation providing independent services and support to families and individuals involved in primary industries such as farming and fishing to help them manage change, risk and business challenges.

6 GENERAL COMPENSATION RIGHTS

Under Section 61 of the Mining Act, compensation is available to landowners, including pastoral leaseholders, for economic loss, hardship and inconvenience caused by mining operations conducted on their land – see section 4.2-11. This could include compensation for negotiating access to the land and any costs incurred by the landowner for independent legal advice.

Compensation is negotiated between the landowner and explorer or miner and does not have to be a monetary transaction. In-kind contributions can often be more valuable.

If agreement on the appropriate amount of compensation is not reached, the landowner or the explorer or miner can take the matter to the appropriate court, which varies depending on the amount of compensation sought – see sections 7-9 of this guideline. As part of the hearing the court may order the explorer or miner to rehabilitate the land disturbed by mining.

In the case of exploration, activities are usually temporary and have less impact on a person's land, so there is less scope for compensation. However, a landowner is still entitled to seek compensation. If the parties cannot agree on the appropriate compensation amount, the court will decide the issue.

7 WARDEN'S COURT

The Warden's Court deals with matters related to the Mining Act such as objections to notices of entry, forfeiture applications and claims for compensation where the sum does not exceed \$250,000.

Landowners may represent themselves in the Warden's Court or be represented by a lawyer at the landowner's own cost. If the landowner cannot travel to Adelaide, they may be able to attend court by telephone. An observer from the regulator may also attend court hearings.

If the court is satisfied the proposed exploration or mining activity is likely to result in substantial hardship or damage to land, the court may determine:

- the land, or a particular part of it, should not be used by the explorer or miner for the purpose of the proposed activities
- conditions on which the proposed activities may be carried out on the land by the explorer or miner with the least impact on the land and detriment to the landowners' interests
- the appropriate level of compensation to be paid.

FOR MORE INFORMATION

About lodging an objection go to the South Australia Courts Administration Authority website <http://www.courts.sa.gov.au/Pages/default.aspx>.

8 ENVIRONMENT RESOURCES AND DEVELOPMENT COURT

The ERD Court is a specialist court dealing with the enforcement of laws and disputes relating to the development and management of land, the natural and built environment, and natural resources.

Landowners may represent themselves in the ERD Court or be represented by a lawyer at the landowner's own cost. If the landowner cannot travel to Adelaide, they may be able to attend court by telephone. An observer from the regulator may also attend court hearings.

Although the court has the power to award costs against a party to the action or application, it is less likely in cases involving exempt land unless a party is being clearly unreasonable.

The court will hear the evidence put forward by each side and may adjourn proceedings to allow further evidence to be presented. The judge will also use the proceedings to encourage the parties to reach an agreement. The court provides a mediation service, which may assist parties to reach an agreement and avoid the need for a court determination.

A court determination is enforceable as a court order and the matter will need to go back to the ERD Court if a breach of these orders is alleged.

9 SUPREME COURT

The Supreme Court of South Australia is the superior court of the state and is a court of both law and equity. It deals with the more important civil cases and the most serious criminal matters. The Supreme Court reviews and determines errors that have occurred in other courts of the State, and interprets and expounds the law for the guidance of other courts. This is known as its appellate jurisdiction.

Permission of the Supreme Court is required before any application may be made to it.

10 MINING FOR EXTRACTIVE MINERALS

The Mining Act distinguishes between the mining of extractive minerals, such as sand, gravel, stone, shell and clay, and other types of minerals.

Freehold landowners have a right to veto mining for extractive minerals on their property and must consent in writing to the mining taking place. Their decision cannot be overruled in court. A landowner who proposes to give consent must make sure they enter into a comprehensive agreement with the miner regarding matters including access, rehabilitation and compensation.

11 UNAUTHORISED EXPLORATION AND MINING ACTIVITIES

If a landowner or anyone else believes exploration or mining operations are occurring on someone's land without the landowner's prior agreement, there may be a number of possible explanations:

- what looks like exploration or mining could rather be construction of a new council or government borrow pit for road works under the *Local Government Act 1999*, a landowner taking extractives for their own use, earthmoving for an approved development under the *Development Act 1993* or a private mine.
- it could be unauthorised exploration or mining.

If an explorer or miner does access exempt land without a waiver, the person entitled to the exemption should contact the explorer or miner to see if the issue can be resolved. If not, they may contact the regulator and request the matter is investigated.

DEM's [Mining Act Compliance and Enforcement in South Australia](#) policy handbook provides clear, concise information on the compliance model and regulatory tools available to the regulator to monitor risks, identify potential problems early and, if need be, take action to deal with and fix noncompliance.

If the regulator determines unauthorised exploration or mining activities have occurred, the Mining Act allows for the following maximum penalties:

- \$20,000 for entering land to conduct authorised operations without serving a notice of entry of intention to enter the land; or a notice of advanced exploration operations; or entering prior to the expiry of the 42 days outlined in the relevant notice
- \$250,000 for failing to comply with a term or condition of a mineral tenement
- \$250,000 for a change in operations without authorisation

- \$150,000 for failing to pay the required bond and security for an authorised operation
- \$250,000 for any tenement holder who carries out authorised operations under a mineral tenement without a PEPR, in breach of the Mining Act
- \$250,000 for:
 - contravening or failing to comply with a condition of a PEPR
 - failing to comply with the requirement to review a PEPR
 - failing to conduct a program audit or take action as a result of a program audit
 - contravening or failing to comply with a PEPR that applies in relation to operations
 - \$250,000 for failing to comply with an environmental, compliance or emergency direction under the Mining Act
- \$250,000 for failing to comply with a compliance order, rectification authorisation or emergency order
- \$150,000 for providing false or misleading information to the Minister, the director, the Mining Registrar or any other person involved in the administration of the Mining Act
- \$250,000 or imprisonment for two years for illegal mining.

Other relevant maximum penalties outlined in the Mining Act include:

- \$150,000 for obstructing a person authorised to mine is
- \$5000 for contravening or failing to comply with an order of the Warden's Court, where the Warden's Court has made an order to regulate, restrict or prohibit mining operations where two or more tenements include the same land
- \$10,000 or imprisonment for six months for hindering an authorised officer or obstructing an authorised officer from entering or inspecting
- \$20,000 for a tenement holder failing to comply with the requirement to lodge relevant reports and verification specified by the Minister.

PART 2 GUIDELINES FOR INTERACTING WITH LANDOWNERS, MANAGEMENT OF EXPLORATION AND MINING ACTIVITIES AND REHABILITATION

Engagement is required between the landowner and explorer or miner during the following stages:

EXPLORATION

- **Granting of an exploration licence** – the Minister is required to provide a notice, usually published on the Minerals website and in local and regional newspapers, when an exploration licence has been granted.
- **Issuing a notice of entry** – explorers must provide landowners with a notice of entry at least 42 days before accessing the land, or initiate negotiations for a land access agreement. The regulator encourages explorers to engage with landowners **before** serving a notice of entry or initiating negotiations for a land access agreement. A copy of the PEPR, if approved should also be provided with the notice.
- **During exploration** – the regulator expects the explorer to continue to engage with the landowner throughout the exploration program.

MINING

- **Pegging and registering a mineral claim** – if an explorer discovers a suitable extractives mineral deposit, they may peg the mineral claim and apply to have the claim registered. This does not apply to metallic deposits such as iron ore, copper, aluminium, gold, silver and zinc. The explorer must have a valid notice of entry or land access agreement in place and should already be engaging with the landowner – see above.

- **Issuing a notice of intention to apply for a mining lease (for mining and quarrying), retention lease or miscellaneous purposes licence (notice of intent to apply)** – the explorer is required to issue the landowner a notice of intent to apply within 12 months of lodging a mining lease, retention lease or miscellaneous purposes licence.
- **Developing the mining proposal** – the regulator expects the company to continue to engage with the landowner during the development of a mining proposal and demonstrate they have conducted scoping work, defined a project, started engagement and are ready to lodge a valid application within 12 months of issuing the notice of intention to apply.

FOR MORE INFORMATION

On engagement, negotiating and making agreements, including a checklist, is detailed in [Engagement, negotiating, and agreement making – A guideline for explorers, miners and landowners. website](#)

- **Lodgement of the mining proposal and mining lease application** – at this time the Minister is also required consult with relevant stakeholders including government, federal, state and local authorities, landowners and the general public. The applicant must respond to the public submissions, outlining the steps, if any, proposed or taken to address their concerns.

When assessing the application, the regulator considers:

- the mining proposal supporting the applicant’s mining lease application
- public submissions and the applicant’s response to them
- detailed input from technical experts
- results of a number of other processes that must be followed to ensure a rigorous process. A detailed overview is located on the department’s website: http://www.energymining.sa.gov.au/minerals/mining/claims,_leases,_licences,_private_mines (Note: these processes will be updated following engagement on the draft regulations).

- **If a mining lease is granted** – stakeholders are engaged in the development of a production PEPR.

If the regulator, with input from technical experts, approves the detailed risk mitigation and control measures, monitoring plans, company capability and mine closure strategies have been settled, the PEPR will be granted.

At the same time, the regulator will determine requirements for transparent monitoring and reporting, bond payment and significant environmental benefit, offset for removal of native vegetation. There will be other requirements for licence and permitting arrangements.

- **During mining, rehabilitation and closure** – mining companies must continue to engage with all relevant stakeholders throughout the mining, rehabilitation and closure stages.

12 RESPONSIBILITIES OF PARTIES



WHEN INTERACTING WITH LANDOWNERS, EXPLORERS AND MINERS SHOULD AIM TO:

- establish and maintain open and regular communication with the owner and occupier of the land on which exploration or mining operations are being conducted
- ensure the landowner is aware of their rights
- understand the landowner’s business and how exploration or mining activities may impact it
- avoid damaging any improvements, including water supplies, and carefully manage activities so they have minimal effect on vegetation and land
- avoid interference with crops, livestock and other economic activities on the property
- observe landowner agricultural biosecurity requirements
- limit noise, dust and other disturbances to the owner’s house and other amenities
- rectify damage to the property or improvements without delay
- negotiate and pay compensation promptly
- ensure all employees and contractors know of and comply with the explorer or miner’s obligations and commitments.

THE LANDOWNER SHOULD AIM TO:

- provide timely responses to requests for information or to notices issued under the Mining Act, with the understanding it may be difficult in very busy times such as harvest and seeding
- provide timely communication about any issues of concern or special management requirements for the property, with the understanding it may be difficult in very busy times such as harvest and seeding
- try their best to accommodate the explorer or miner’s reasonable needs

- identify any biosecurity requirements
- provide timely advice on any changes to previously agreed stock or management programs
- not interfere with or damage temporary markers, exploration or mining equipment or campsite facilities etc.
- make property personnel such as managers and farmhands aware of agreements and arrangements in place with the explorer or miner
- respect the confidential nature of exploration and mining operations and results of the work.

- offer to provide information relating to the discovery of useable groundwater in exploration drill holes. Location, depth, flow estimate and salinity can often be provided depending on the type of drilling being done
- be available to discuss reasonable requests from the local community for information on the project.

13 GUIDELINES FOR ESTABLISHING AND MAINTAINING GOOD RELATIONS

13.1 ENGAGEMENT AS A KEY PART OF BUSINESS

It is important explorers or miners appoint a liaison officer such as a project manager, community engagement officer, project geologist or appropriately experienced and qualified person to be responsible for community and neighbour communication and engagement. This should be listed as a specific responsibility in their duties. The appointed person should preferably have knowledge of the agricultural or pastoral sector or relevant community land use and industries, or both, and an interest in interacting with people. The liaison officer should:

- make direct contact with landowners to discuss the exploration or mining program, give sufficient notice before work commences and supply the landowner with the tenement number and conditions attached to the tenement number
- make sure the landowner is aware of their rights and provide a copy of this document
- ensure all project personnel, including contractors, are briefed on the explorer or miner's policies. They must be aware of and comply with the tenement conditions and any agreements made with the owner and occupier
- ask the landowner about the location of special features of the property, including any known Aboriginal or non-Aboriginal heritage sites and areas of environmental sensitivity

13.2 NATIVE TITLE AND ABORIGINAL HERITAGE

Explorers and miners must recognise native title rights when engaging landowners, including native title groups, about access to land. Part 9B of the Mining Act details the native title requirements for mineral exploration and the South Australian requirements for mining rights to be granted on native title land – land on which native title exists or might exist.

Explorers may not carry out exploration activities that affect native title until they comply with Part 9B. Most importantly, they must negotiate a native title agreement with the group, which will detail, amongst other things, how the explorer will comply with the requirements of the *Aboriginal Heritage Act 1988* to not damage, disturb or interfere with Aboriginal sites, objects or remains while undertaking ground works. This is usually achieved with a work area clearance or Aboriginal heritage survey to inspect the potential exploration, determine whether any Aboriginal sites, objects or remains are present and discuss how they are to be avoided.

Even where no native title exists, explorers must still comply with the Aboriginal Heritage Act and manage any risk of negatively impacting Aboriginal heritage.

FOR MORE INFORMATION

Interactions between exploration and the *Aboriginal Heritage Act 1988* can be found in the [Aboriginal heritage guidelines for resource projects in South Australia](#) (PDF 5.8 MB).

For guidance about engaging and negotiating with Native Title Groups, see the department's [Guidelines for explorers on Aboriginal engagement, good faith negotiation and agreement making](#).

13.3 OTHER CONSIDERATIONS

Field programs must be flexible enough to fit in with an agricultural or pastoral landowner's timetables - eg reaping, lambing and mustering. Wherever practical, explorers or miners should personally serve notices required under the Mining Act. They should explain the program and establish respectful working relationships.

Explorers or miners should advise the landowner of the use of any helicopters or low-flying aircraft and provide details of the extent and timing of the flights. The landowner can detail planned stock programs such as lambing and mustering, and pilots should be instructed to cause minimal disturbance to stock.

13.4 WHEN EXPLORERS OR MINERS FIRST ARRIVE ON THE LAND

The landowner or manager must receive comprehensive details of the proposed program, see Appendix 1, in particular:

- proposed location of fieldwork – include a map
- extent and type of operations to be conducted
- likely duration of the program
- description of vehicles and equipment to be used
- names of personnel involved, including contractors who will do the work
- living arrangements, particularly if a campsite is required.

The explorer or miner should request the following details from the landowner, see Appendix 2:

- location of special features or special management requirements for the property, including exempt land
- advice on best or preferred access routes
- suitable campsite locations
- permission for use of water and location of preferred sources
- the timing and nature of significant farm programs such as cropping, lambing, mustering
- updates on the explorer or miner's map such as tracks, fences, gates, bores, dams etc.

Agreements between the landowner and explorer or miner should be simple and clearly identify what has been agreed between the two parties. The agreements should be in writing, as verbal agreements can lead to

misunderstandings. If agreements are made verbally, each party should have a witness present.

The liaison officer and landowner should schedule regular meetings to discuss progress, performance and agreements. These discussions should ensure the owner, occupier and explorer or miner understand each other's needs and how they can be met.

Where possible, it is recommended the landowner be given the opportunity to quote for any contract work that becomes available. Local people should be employed wherever possible. All contractors must have adequate public liability and third-party insurance. Explorers or miners are responsible for successful completion of all works in accordance with their regulatory approvals, not the landowner or contractor.

13.5 MANAGEMENT OF EXPLORATION AND MINING ACTIVITIES

It is the explorer or miner's responsibility to:

- comply with the terms of the exploration licence or mining lease and the PEPR
- keep the landowner fully informed of the progress of the program
- find out where stock is located on a regular basis to avoid disturbance
- be mindful of the possibility of discovering sites of scientific or heritage significance. The *Aboriginal Heritage Act 1988* requires the discovery of any new sites discovered is reported to the Aboriginal Affairs and Reconciliation Division – see Aboriginal Heritage Act, sections 20 and 23
- reduce vehicle speeds when travelling along property tracks, particularly near homesteads, watering points and grazing stock, to reduce dust and disturbance
- ensure biosecurity requirements are maintained
- observe the appropriate duty of care and take action to prevent potential health and safety hazards to stock and people associated with cables, drill casing, excavations etc.
- use earthmoving equipment only under competent supervision. The supervisor must be fully aware of the explorer or miner's environmental policies and obligations. They should identify any site specific-concerns and implement appropriate management practices in consultation with the landowner.

13.5.1 Property infrastructure

Disturbance to property infrastructure needs to be minimised. The explorer or miner should:

- Report any damage to gates, fences, roads, crops etc. to the landowner, even if the explorer or miner is not responsible. If the explorer or miner was responsible, they should deal with the damage as soon as possible, in consultation with the landowner.
- Consult with the landowner for alternatives before cutting a fence. If a fence is cut, stock-proof gates must be installed and removed if requested by the landowner. Permanent repairs must be affected as soon as possible.
- Limit vehicle movements when the ground is wet. Any track damage caused by vehicle movements in wet or dry conditions should be repaired as soon as possible in consultation with the landowner.

13.5.2 Managing fire risk

- The explorer or miner should minimise fire risk by:
- carrying appropriate fire suppression equipment in vehicles at all times
- placing fuel stores, generators and similar equipment on suitably cleared areas
- adhering to fire legislation regulations. Talk to the local Country Fire Service officers if in any doubt
- having a fire fighting plan and procedure
- having firefighting equipment supplied, installed and properly maintained in the camp
- training personnel and carrying out fire drills.

13.5.3 Land care

In addition to the agreed arrangements with the landowner, the explorer or miner has legal obligations to avoid, minimise and rehabilitate environmental disturbance, in line with state government requirements and industry standards. Operations should be planned and conducted based on the *Statement of Environmental Objectives and Environmental Guidelines for Mineral Exploration Activities in South Australia: Earth Resources Information Sheet M33*.

These are the minimum requirements:

- reduce any vegetation clearance to the absolute minimum. Unavoidable track clearing and construction should be done in a manner acceptable to the landowner and in line with environmental guidelines.
- be mindful of causing weed infestations and outbreaks of disease. Thoroughly clean vehicles before moving into new areas. More information on biosecurity impacts and regulating biosecurity in South Australia can be found in DEM's Biosecurity Information Sheet **[add link when available]**.
- no pets or firearms may be taken onto the property without the express permission of the landowner.
- agree on preferred locations of campsites with the landowner if required. The campsite should be positioned at least 400 m away from watering points, drainage lines and homesteads, and avoid stock pads leading to watering points.
- prevent surface or groundwater systems from being contaminated.
- all rubbish must be contained, managed and disposed of in accordance with the terms of the exploration work approval and exploration licence conditions.
- fuel stores and vehicle servicing areas must never be located or used in a manner which contaminates soil or pollute water.

13.6 REINSTATEMENT OF DISTURBED AREAS

The explorer or miner must implement a program to restore disturbed areas, which complies with tenement and work approval conditions and timelines, and meets the reasonable needs of the landowner. They should:

- offer to rehabilitate sites where there has been soil compaction in line with acknowledged good practice and to the landowner's satisfaction
- place permanent survey markers in consultation with the landowner so they do not hinder farm management. Temporary markers, pegs, tags and flagging tape should be made from biodegradable materials or removed if requested by the landowner

- make drill holes safe as soon as they are completed and rehabilitate the site as soon as possible following the works. Groundwater conditions must be reinstated in line with *Mineral exploration drill holes — general specifications for construction and backfilling, Earth Resources Information Sheet M21*. If drill holes need to remain open temporarily, install casing to prevent animals from being injured or falling in
- backfill costeans and other excavations as soon as they are no longer required. If excavations must be left open for extended periods, install ramping and visibility fencing to ensure the safety of people, stock and native fauna
- get approval from the regulator to leave constructed tracks for the landowner's use. All requests should be accompanied by a letter from the landowner to the explorer or miner nominating tracks to be retained and a map showing their location, and include GPS coordinates if possible.

The liaison officer should visit sites of major disturbance with the landowner and attend to any reasonable requests for further work.

13.7 ACTIONS TO BE UNDERTAKEN UPON PROGRAM COMPLETION

Upon program completion the liaison officer should:

- invite the landowner to inspect the work area and carry out any reasonable requests for reinstatement of the land
- undertake any agreed restoration without undue delay and promptly pay any agreed compensation due to the landowner in full
- make a final inspection of all roads, gates, fence lines, campsites, drill sites, trenches etc. to ensure all areas are left in a condition that meets the rehabilitation requirements of the works approval and licence or lease conditions
- obtain sign off from the landowner.

PART 3 GENERAL INFORMATION

14 DEPARTMENT CONTACTS

For further assistance and advice on rights and obligations with regard to exploration or mining on private land, please contact the appropriate group as per below.

GENERAL INQUIRIES

Department for Energy and Mining
Resource Information Centre

Phone: 08 8463 3000

Email: resources.customerservices@sa.gov.au

15 FURTHER INFORMATION

15.1 LEGISLATION

Copies of the Mining Act, Regulations and other legislation are available for free download from the South Australian Attorney-General's Legislation website www.legislation.sa.gov.au.

15.2 OTHER RESOURCES

Mining Act and regulations-related policies, guidelines, ministerial determinations, fact sheets and other explanatory material are available via DEM's website <http://energymining.sa.gov.au/minerals>. Access is free.

All regulatory guidelines, information sheets and forms will be subject to review by DEM following engagement on the draft guidelines.

The South Australian Resources Information Gateway (SARIG) also provides global, digital access to South Australia's key geoscience information, and mining and exploration project information. Access to SARIG is free and no login is required. Visit <https://map.sarig.sa.gov.au/>.

15.3 ABORIGINAL AFFAIRS AND RECONCILIATION

Phone: 88226 8900

Email: DPC-AAR@sa.gov.au

Register of Aboriginal Sites and Objects: DPC-AAR.HeritageSites1@sa.gov.au

15.4 OFFICE OF THE SMALL BUSINESS COMMISSIONER

Small Business Commissioner South Australia
www.sasbc.sa.gov.au

Fair Trading (Mining and Resources Industry Land Access Dispute Resolution Code) Regulations 2018 – also known as the Mining and Resources Industry Land Access Dispute Resolution Code.

Phone: 88303 2026

Email: sasbc@sa.gov.au

15.5 RURAL BUSINESS SUPPORT

Rural Business Support Landowner Information Service
www.ruralbusinesssupport.org.au

Phone: 88364 2577

Email: admin@ruralbusinesssupport.org.au

15.6 SOUTH AUSTRALIAN MULTIPLE LAND USE FRAMEWORK

South Australian Multiple Land Use Framework (2018)



Appendix 1 – questions for a landowner to ask a mineral explorer or miner

General project information – please provide details of the exploration licence number or mineral claim or lease number in the case of mining as well as licence holder name, explorer, miner or contractor conducting the work, how many people, how many and what sort of vehicles, and duration of proposed activities.

Main contact – who is the main contact person or liaison officer for the exploration or mining program? What is their name, position, contact details and best means of communication – phone, email or fax?

Notice of entry – is a current Notice of Entry or Notice of Advanced Exploration Operations in place? If not, has one been served at least 42 days prior to entry as required under the Mining Act?

Waivers – are any activities planned on exempt land? If so, the Mining Act requires the landowner receives [Form 23A Waiver of Exemption Notice](#) and they must enter into an agreement with the explorer or miner to waive the exemption before this work can take place. The waiver agreement must be signed by both the landowner and explorer or miner.

Staff and contractor induction - have all project personnel been briefed on their responsibilities and are they aware of the terms of any agreements with the landowner?

Wet weather and track damage - what procedures will take place if the ground is wet? Will vehicle movements be temporarily stopped? What is the timeframe to repair any track damage caused by vehicle movements?

Low-level flying - are you planning to use helicopters or low-flying aircraft? If so, discuss any potential impact on stock programs, such as lambing and mustering, and how to minimise it.

Rubbish – how will crews contain their rubbish and where will this be disposed of?

Fire and fire danger season – are field crews aware of fire restrictions for the area? How will the risk of fire be minimised? For example access to fire suppression equipment.

Pets, firearms – are any pets or firearms to be brought onto the property?

Drilling and earthmoving activities – are any of these activities planned? If so:

- where is the regulator's written approval to do the work or Notice of Advanced Exploration Operations?
- where and when will these activities happen?
- is the site supervisor fully aware of any site-specific issues raised, or agreements made with the landowner?
- will drilling and earthmoving equipment be thoroughly cleaned prior to entry to prevent the spread of weeds?
- what is the timeframe for rehabilitating drill holes and excavations?
- can you commit to informing me of any useful groundwater discovered during drilling?

Follow-up meeting – can we schedule this to discuss program details such as:

- location of proposed fieldwork and map
- extent and type of activities
- likely duration of the program
- description of vehicles and equipment to be used
- names of personnel involved, including contractors who will do the work
- living arrangements, particularly if a campsite is required
- rehabilitation of impacts associated with the proposed activities
- preparation of a written access and compensation agreement . If any agreements are made it is preferable these are in writing, as verbal agreements can lead to misunderstandings.

Periodic meetings – when can further meetings be held to discuss program progress and performance against agreements?

Rehabilitation inspection – when will rehabilitation be completed so it can be inspected by both parties?



Appendix 2 – Questions for an explorer or miner to ask a landowner before entering their property

Main contact – who is the best person to deal with regarding access to the property, and to communicate with about ongoing progress on the program? What are their contact details? Are there preferred times to make contact?

Special requirements – are there specific issues of concern or special management requirements for the property?

Special features – are there any special features on the property such as known Aboriginal or non-Aboriginal heritage sites, native vegetation heritage agreement areas or other areas of particular environmental sensitivity?

Farm programs – what is the timing and nature of significant farm programs such as sowing, harvesting, lambing and mustering so we can plan exploration or mining activities or operations to minimise disturbance to these activities?

Groundwater information – make a commitment to providing the landowner with information about useable groundwater found during exploration drilling such as location, depth, flow estimate and salinity.

Possible site works – is the landowner interested in quoting for any contract or site preparation or restoration work that may take place during the program?

Follow-up meeting – can we schedule this to outline plans for our program and discuss property-specific issues such as:

- location of special property features – mark on a map
- any special management requirements for the property
- suitable campsite locations – mark on a map
- best or preferred access routes – mark on a map
- permission for use of water and location of preferred sources – mark on a map
- other updates on my map such fences, gates, disused tracks etc.
- preparation of a written access and compensation agreement. If any agreements are made it is preferable these be in writing, as verbal agreements can lead to misunderstandings.

Periodic meetings – when can further meetings be held to discuss program progress and performance against agreements?

Rehabilitation inspection – when should there be an inspection of the main areas of disturbance when the project is complete? Commit to promptly carry out any reasonable requests for reinstatement of the land.

Further information

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GPO Box 320,

Adelaide SA 5001

T: +61 8 8463 3000

E: DEM.customerservices@sa.gov.au

www.energymining.sa.gov.au

