

# Engagement, negotiating, and agreement making

A guideline for  
explorers, miners and  
landowners

Draft



**Government  
of South Australia**

Department for  
Energy and Mining

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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 Government of South Australia 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.

**Preferred way to cite this publication.** Department for Energy and Mining 2020. Guidelines for explorers miners and landowners on engagement, negotiating, and agreement making, Minerals Regulatory Guidelines MGxx, Mineral Resources Division. Department for Energy and Mining, South Australia, Adelaide.

Job number 205378

The Department for Energy and Mining (DEM) acknowledges Aboriginal people as the First Nations of South Australia. We recognise and respect their cultural values and cultural connections as the Traditional Owners of the land and waters of South Australia on which we live and work. We acknowledge unique and ongoing contribution that Aboriginal people have made and continue to make to the State.

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Draft

# 1 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.

# 2 Purpose of this guide

This guideline supports explorers and miners, landowners and the community (collectively known as stakeholders) with information on building good working relationships. It provides general guidance for all stakeholders relating to resource exploration and mining projects, including quarries, in South Australia. The guideline addresses:

- 1. Engagement.** Defining engagement, engagement principles, why engagement is important and practical steps for effective engagement.
- 2. Negotiating.** Defining negotiation, negotiation principles and tips on how to proceed.
- 3. Agreements.** Defining agreements, the business case for making agreements, advice for stakeholders on how to do it, and a checklist of the key elements of a good agreement.

## 3 Defining success

Exploration and mining have the potential for positive and negative economic, social and environmental impact. Access to land and the support of stakeholders is fundamental to the success of exploration and mining activities. Regular, open and transparent engagement from early in the process builds positive relationships, leads to trust, respect and collaboration, and sets a foundation of trust and credibility for potential future mining operations.

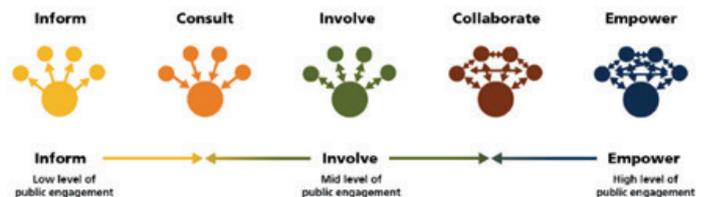
Developing respectful relationships with the people on whose land you are working will help you manage their expectations and facilitate mutually acceptable outcomes.

When engagement isn't done well you may undermine the credibility of the project, negatively impact social acceptance and create future schedule, economic, investor or social risks.

The regulator expects explorers and miners to develop and maintain an ongoing process of engagement and feedback with stakeholders on exploration and mining-related operations. This is consistent with principle 10 of the Minerals Council of Australia's Enduring Value Framework, which aims to bridge the gap between legal requirements and community expectations by implementing effective and transparent engagement, communications and independent reporting arrangements with stakeholders.

# 4 Engaging stakeholders

DEM uses international leading practice terminology, where 'stakeholders' describes landowners, state and local government agencies, non-government organisations (NGOs), community groups and interest groups.



The Mining Act defines landowners as:

- freehold landowners
- perpetual lease holders
- pastoral lease holders
- native title claimants
- native title holders
- a person who is in lawful occupation of the land, which can include a sub-lessee.

- Informing – providing balanced information.
- Consulting – obtaining public feedback
- Involving – understanding public concerns and taking them into account in decisions.
- Collaborating – partnering with the public in aspects of decision-making.
- Empowering – placing the final decision in the hands of the public.

## 4.1 What is engagement?

Good stakeholder engagement is the process of informing and involving people in activities, processes and decisions that may affect them. It aims to achieve better long-term, sustainable outcomes and relationships. Good engagement is respectful, meaningful and not necessarily bound to a particular project or timeframe. Engagement processes can take many forms, from social media, surveys and other written communication to conversations, focus groups and other direct interactions.

This spectrum, from the [International Association for Public Participation \(IAP2\)](#) shows the varying levels of community engagement, from simply informing the community to empowering them to make decisions:

Advantages of good engagement:

- establishing and maintaining good relationships with stakeholders
- enhancing opportunities, reputation and future interactions
- decreasing the risk to operations, delays and costs
- improving outcomes for business and the industry.

### Further information

- [South Australian Multiple Land Use Framework](#)
- [Community Engagement and Development: Leading Practice Sustainable Development Program for the Mining Industry](#)

## 4.2 Principles of engagement

This guide was prepared in line with the IAP2 guidelines and the South Australian government's *Better Together: Principles of Engagement*, which help the government make better decisions by bringing the voices of stakeholders into the issues that are relevant to them.

The six principles are interrelated and rely on each other – if one is left out, the engagement is not likely to be as successful. The principles may have a different weighting, or importance, depending on the circumstances, focus or stage of the engagement. However, all six principles should receive fair consideration as you plan and implement your engagement strategy.

Importantly, the principles should always be applied in ways that suit your engagement. They recognise and promote the variety of engagement opportunities. They acknowledge each engagement has a different purpose and happens in a different place with different external influences and people. The principles are:

- 1. Know why you are engaging.** You need to know why you're engaging with stakeholders and communicate this clearly.
- 2. Know who to engage.** Knowing who to engage with will flow naturally from knowing why you're engaging. Throughout your engagement there are likely to be different voices vying to be heard, and it may be appropriate to engage them at different stages and in different ways.
- 3. Know the history.** Understanding what may or may not have occurred in the past is a respectful approach to establishing and building relationships and is vital for your success.
- 4. Start together.** Starting together can build a sense of ownership and stewardship. It can help to bring people together for a positive purpose, rather than having them lobby around a negative cause further down the track.
- 5. Be genuine.** Trust is one of the most important foundations for the legitimacy and sustainability of relationships. Building and maintaining trusting relationships is vital to your success.
- 6. Be relevant.** Stakeholders will engage if the reason for your engagement is clear and relevant to them. Considering your messaging and how best to engage and interact will determine the level of participation.

## Further information

- MG4 Guidelines: landowner rights and access arrangements for mineral exploration and mining
- Guidelines for Community Engagement Plans

Engagement plans should evolve over time to meet the needs of the company and the stakeholders throughout the life of the project. Elements of a simple engagement plan typically include:

- background and purpose
- regulatory framework and company policy
- past engagement activities
- stakeholders
- communication protocols
- engagement techniques
- engagement program and schedule
- resources and responsibilities
- a simple grievance mechanism so there is a process to address matters, and
- monitoring and reporting – record keeping, disclosure.

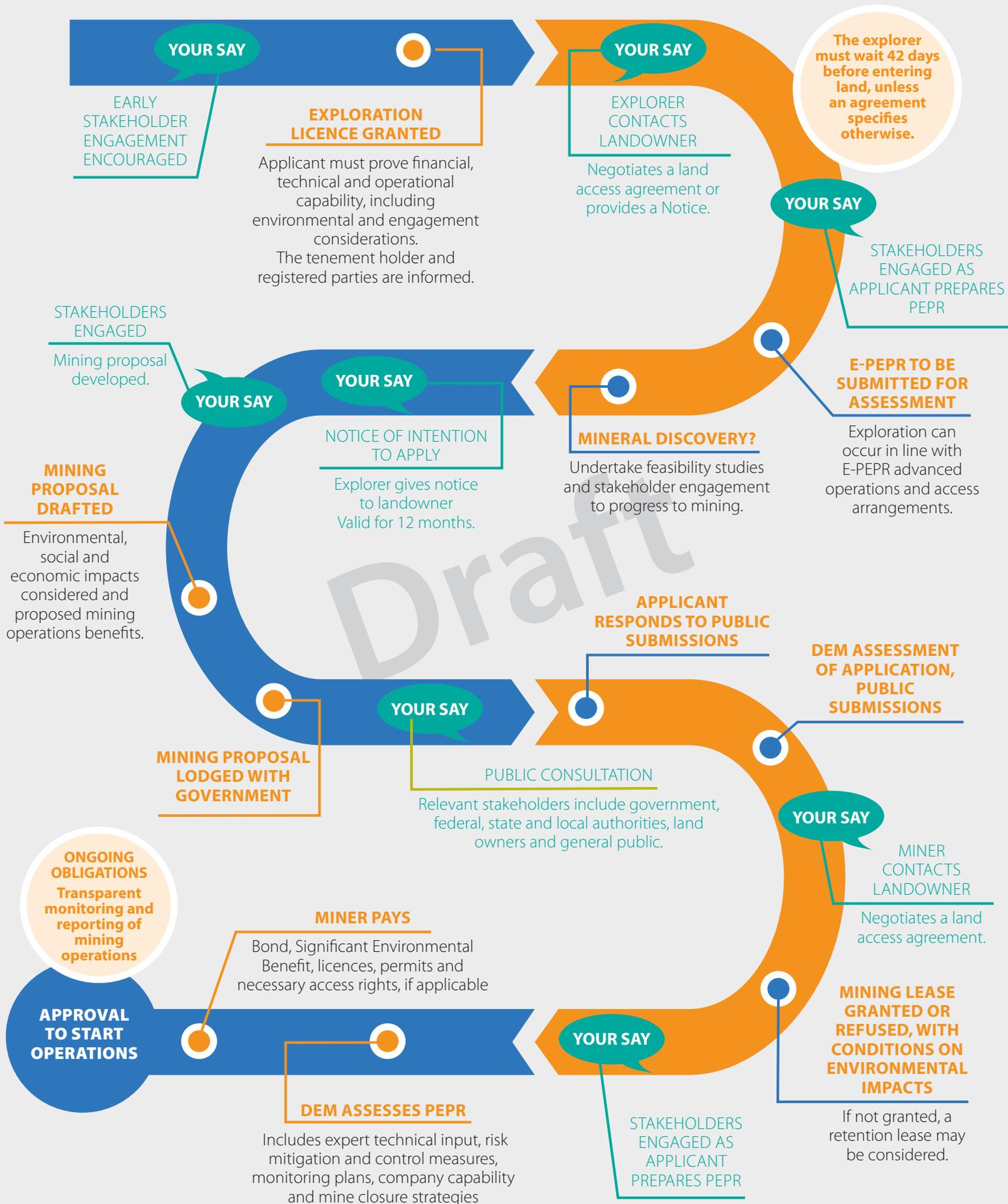
## Did you know?

An engagement plan is an essential aspect of exploration or mining activities. Engagement starts when planning for on-ground exploration activities. Under the Mining Act, before entering anyone's land, an explorer must:

- engage with relevant landowners and keep them informed of ongoing activities and impact to the land
- give 42 days' written notice of any proposed activities including to enter, explore or commence operations, known as a 'Notice of Entry' or 'Notice of Advanced Exploration Operations'
- work with landowners when preparing a program of environment protection and rehabilitation (PEPR) for exploration programs that are not covered by a generic PEPR such as 'low impact' or early exploration.

If exploration leads to an economic discovery of minerals, additional engagement with landowners and other stakeholders will be required, particularly as the mining lease application and production PEPR are prepared.

# 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](http://www.ruralbusinesssupport.org.au)

## 4.3 Important considerations when developing an engagement plan

### *Step 1: Understand your responsibilities under the Mining Act*

Engagement is a statutory, or legal, requirement of the application process for seeking approval of activities authorised under the Mining Act such as exploration or mining. When planning your proposed operations, take time to understand the stakeholders and the legislative and policy environment, as well as the rights of landowners over their land and how this may relate to your project. This will help you to communicate in an appropriate, effective manner.

### *Step 2: Identify and categorise your stakeholders*

Identify all stakeholders that may be impacted by or interested in your proposed operations. Learn what their key interests are, how much influence they might have and how they feel about the project.

Stakeholders may include:

- landowners directly and indirectly impacted by operations, including landowners, adjoining landowners and native title holders
- landowners who have legal rights under the Mining Act such as native title, exempt land and Crown land
- the broader community surrounding the physical location of the project
- communities impacted by related activities such as transport, infrastructure and environmental changes

- Non-government organisations (NGOs), local government, regional authorities or other organisation types
- Traditional owners, and
- other individuals who represent public interest in the environment and other relevant fields, or the community.

### **Further information**

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](#).

### *Step 3: Engage early*

The earlier you engage with stakeholders the greater the opportunity to create a mutually beneficial outcome. This commitment demonstrates trust and respect, and creates a strong foundation for an ongoing relationship. Engaging early in the planning process means contacting the landowner to inform them of your intent to undertake operations on their land. This can be in addition to the standard government [Form 21, Notice of entry on land](#) or a Notice of advanced exploration operations (note: this form will be updated following engagement on the draft regulations).

You should consider the following:

- use regular face-to-face engagement from early on
- provide clear information on what you want to do in an area, when it will happen and how
- seek mutual agreement on the terms of engagement, then discuss specific issues
- build good relationships makes it easier to negotiate costs and outcomes to suit all parties in the early phases of a project

- inform landowners who is working on their land and provide as much detail about your company and the project aims and plans as possible
- be aware of agricultural cycles, which vary across regions and industries. Further information on [understanding dryland farming](#) can be downloaded from DEM's website
- have regular conversations with landowners and other stakeholders. It is recommended executives make themselves available to meet in the early stages to demonstrate trust and respect
- for more advanced projects, take opportunities to sponsor or attend community events and activities to show support and be part of the community.
- allow time for conversations while considering competing demands of community people
- identify local events or business constraints that may affect attendance at meetings or limit your ability to interact with the community
- keep language easy to understand. Avoid technical terms and long presentations, rather presenting in a manner that aims to build stakeholder understanding and knowledge
- listen actively to stakeholders to demonstrate genuine engagement
- get an interpreter if requested. For assistance, contact the Government of South Australia Interpreting and Translating Centre.

#### ***Step 4: Engage regularly***

Engaging with stakeholders is an ongoing process. It's critical to keep stakeholders informed about operations, progress or lack of progress, issues and anything else impacting the operations in a positive or negative way.

Regular engagement will maintain and improve the relationships you have invested in. You should consider doing the following:

- identify someone who has the right skills to lead your engagement and be your representative
- engage with and be involved in community groups to strengthen relationships
- support community groups and businesses to be part of open, genuine dialogue
- choose when and where you host meetings carefully as people may have to travel large distances to get to them

#### ***Step 5: Share information***

By keeping people informed with concise, easy to understand information and regularly seeking their views you will strengthen relationships and outcomes over time. Regular community news updates, meetings or site visits can also help communities understand the operations and provide opportunities to redress concerns.

You should consider doing the following:

- minimise uncertainty by making the purpose of formal meetings clear and working to understand community expectations
- take records of meetings and retain copies of meeting agendas, participant lists and presentations. Summarise presentations and the community's response, and document concerns raised and responses as well as any verbal agreements.
- share information and promote formal meetings through local media

- use social media where appropriate to reach people quickly and easily
- get feedback from landowners and other stakeholders on how communication could be improved
- listen to community questions and try to answer them wherever possible. Asking questions is a sign of interest and good engagement. It provides opportunities to resolve concerns or misinformation.

### ***Step 6: Working together***

Working on land is challenging for operators, no matter how experienced. However, positive engagement and strong relationships will make it easier. Landowners who understand these activities can provide valuable insights and hold local knowledge that can help achieve better results or identify risks early.

You should consider doing the following:

- address issues of concern raised by landholders about operations on their land in the PEPR
- provide all personnel, including contractors that perform exploration or mining work, with information about the region, the site being explored or mined, and landowner concerns or requests such as areas to avoid or access points and times
- inform personnel of agreed protocols for handling any concerns raised in the field.

### ***Step 7: Keep the community informed of your progress***

If you have engaged well, stakeholders in the region of your operations will be aware of the work being carried out. Interest will likely be ongoing even if work stops or shifts. Regular updates on your process, next steps and being available to discuss any issues will send clear, positive messages to everyone involved.

You should consider doing the following:

- inform people about the results of your activities, whether you will be undertaking further work or if you are going to sell the tenement or bring in another party
- let them know when you have made any ASX announcements and what they mean for the project
- tell the local community if you find water or other important discoveries during mining or exploration, as they will be interested.

# 5 Negotiating

Negotiation is a process of discussion aimed at reaching agreement on a specific issue or set of issues – for example, access to land, use of land, and the timing relating to the use of land. For negotiation to be constructive, parties need to have an open mind and a genuine desire to reach an amicable agreement recognising the priorities and interests of both parties.

From experience, successful leading exploration and mining companies understand the need to:

- show willingness to engage in the process and be available to meet at reasonable times as required
- set agreed milestones and protocols so negotiations progress in a timely manner
- allow sufficient time for each party to consult with their family and colleagues to come to a decision
- demonstrate flexibility and a willingness to consider the other's position, and expect the same from other parties in the negotiation
- maintain communication whether it's face-to-face or via exchanging correspondence as part of a simple grievance process or framework. Any refusal to communicate with the opposing party will damage the process
- include people with authority to make decisions
- identify what financial, legal and other support all parties need to ensure the process is fair and equal

- ensure enough information is exchanged by all parties to allow everyone to make informed decisions
- include plain English explanations of legal clauses in the agreement and any associated documents so all stakeholders can clearly understand it.

## Further information

For information on how to commence engagement with native title groups or other traditional owners see [MG 25, Guidelines for explorers on Aboriginal engagement, good faith negotiation and agreement making](#).

A landowner and an explorer or miner may request mediation assistance from the South Australian Small Business Commissioner. The Commissioner can help landowners, explorers and miners by providing mandatory alternative dispute resolution processes on a low (or no) cost basis. Contact details are provided in section 7.6 of this guideline.

The [Rural Business Support](#) (RBS) operated Landowner Information Service, established in July 2020, also provides free, independent information for South Australian landowners and stakeholders on exploration and mining regulatory processes and rights.

# 6 Making agreements

Successful exploration activities and mining projects need secure access to land. By respecting people's rights and their connection to the land, negotiated agreements with landowners and communities can minimise potential adverse impacts and maximise local benefits.

A land access agreement is an agreement between the landowner or equivalent and explorer or miner authorising access and entry to land for the purpose of conducting operations. Agreements are a legal way of documenting commitments between parties and outlining how company and contractor personnel who work on that land are expected to behave.

Agreements contain mutual obligations that can be enforced and audited. They can help reduce potential negative effects of exploration activities and mining projects on communities and their environment. Getting parties to negotiate and agree on impact mitigation, benefits, opportunities and obligations can reduce the risk of conflict or legal action that could delay a project, impact or halt an operation, or damage an explorer or miner's reputation.

Again, from experience, successful leading exploration and mining companies understand the need to:

- include commitments such as land use, environment, procurement, social and economic development and employment in the agreement

- provide clear information on the proposed development and its potential impacts to give stakeholders a clear idea of how their rights and interests might be enhanced or diminished by the project
- take the social, cultural, economic and geographic circumstances of stakeholders into account
- ensure there is full company commitment up to the level of chief executive officer and the board
- a land access agreement is a legally binding document. Landowners may choose to seek legal advice before signing the final version of the land access agreement
- agreements can be simple or staged depending on the complexities of operations

Successful agreements generally feature:

- clear goals
- institutional structures for implementation
- clear allocation of responsibilities
- adequate resources
- penalties and incentives for compliance
- monitoring
- review mechanisms
- communication and reporting
- capacity for amendment.

## Further information

IFC (2014), A Strategic Approach to Early Stakeholder Engagement A Good Practice Handbook for Junior Companies in the Extractive Industries; [Negotiation and Implementation of Impact and Benefit Agreements](#)

## 6.1 Business case for good agreement making practice

The International Council on Mining and Metals (2010) points out that stable and mutually beneficial agreements with landowners are fundamental to achieving long-term certainty and security around access to land and its resources. These agreements create confidence for commercial decision-making and capital expenditure, and reduce risk associated with unpredictability. From experience, successful leading exploration and mining companies understand the need to:

- companies with a poor reputation or poor skills in negotiating agreements are more likely to experience delays and hurdles in the negotiation and agreement making process
- companies that fail to recognise landowners' rights are more likely to become involved in disputes and conflicts that affect current and future business performance
- companies that perform well in agreement making will enjoy reputational benefits including 'improved relations with governments and international organisations, and more constructive engagement with civil society groups' (International Council on Minerals and Metals 2010).

# 7 References and resources

## 7.1 References

- *Negotiation and implementation of impact and benefit agreements.* The Gordon Foundation.
- Agreements between mining companies and Indigenous communities, Report. Ninti One.
- *Good Practice Guide: Indigenous peoples and mining.* International Council on Minerals and Metals.
- Implementing agreements between Indigenous peoples and resource developers in Australia and Canada. Aboriginal Politics and Public Sector Management Research Paper No 13 January 2003.
- IFC (2014), A Strategic Approach to Early Stakeholder Engagement A Good Practice Handbook for Junior Companies in the Extractive Industries.
- IFC (2007), Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets.
- *Native title information handbook South Australia.* Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra (0.5 MB)
- Leadership and Management, Chapter 16: Group Facilitation and Problem Solving, Section 2 – Developing Facilitation Skills
- Department of Conservation / Te Papa Atawhai. Facilitate effective meetings
- Department of State Development 2014. *Understanding mineral exploration - Information for farm businesses and the community in South Australia* (PDF 13.6 MB)
- *Agreement-making with Indigenous groups: Oil and gas development in Australia,* Centre for Social Responsibility in Mining. University of Queensland, Brisbane (PDF 3.2 MB)
- Prospectors & Developers Association of Canada 2014. e3PLUS – A Framework for Responsible Exploration. Principles and Guidance Notes (0.6 MB)
- [www.skillsyouneed.com](http://www.skillsyouneed.com) (communication skills)
- [www.yourthoughtpartner.com](http://www.yourthoughtpartner.com) (eight steps to active listening)

## 7.2 Resources

- Community Engagement and Development: Leading Practice Sustainable Development Program for the Mining Industry
- *Working with Indigenous communities: Leading Practice Sustainable Development Program for the Mining Industry.* Department of Industry, Innovation and Science in partnership with the Department of Foreign Affairs and Trade (PDF 4.5 MB)

## 7.3 Laws

Commonwealth and South Australian Acts and Regulations are available for free download from the Federal Register of Legislation and South Australian Legislation websites, respectively.

- [www.legislation.gov.au](http://www.legislation.gov.au)
- [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au)

## 7.4 Department for Energy and Mining

### General inquiries

DEM Customer Services

Phone +61 8 8463 3000

Email [DEM.customerservices@sa.gov.au](mailto:DEM.customerservices@sa.gov.au)

[www.energymining.sa.gov.au/minerals](http://www.energymining.sa.gov.au/minerals)

[map.sarig.sa.gov.au](http://map.sarig.sa.gov.au)

Publications are available for download from DEM's website and SARIG. As publications may be updated at any time, always check for the latest versions. SARIG provides up-to-date views of mineral, petroleum and geothermal tenements and other geoscientific data. You can search, view and download information relating to minerals and mining in South Australia including tenement details, land access, mines and mineral deposits, geological and geophysical data, publications and reports.

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

### Forms

- 21, Notice of entry on land
- 23, Waiver of Exemption – Request (currently being updated)
- Notice of advanced exploration operations (currently being prepared)
- Notice of intention to apply for a mining lease (for mining and quarrying), retention lease and miscellaneous purposes licence (currently being prepared)

### Regulatory Guidelines

- MG4 Guidelines: landowner rights and access arrangements for mineral exploration and mining

- MG 24 Establishing and registering a mineral claim in South Australia
- MG8 Preparation of a program for environment protection and rehabilitation (PEPR) for low impact mineral exploration in South Australia
- MG13 Mineral exploration reporting guidelines for South Australia
- MG22 Guidelines for conducting mineral exploration in South Australia
- MG2a Preparation of a mining proposal for metallic and industrial minerals
- MG2b Preparation of a PEPR for metallic and industrial minerals
- MG30 Development of environmental outcomes for quarrying and mining
- MG16 Guide for a significant environmental benefit for the clearance of native vegetation associated with the minerals and petroleum industry
- MG6 Guidelines for miners: preparation of a program for environment protection and rehabilitation (PEPR) for extractive mineral operations in South Australia
- MG12 Guidelines for miners: preparation of a mine operations plan (MOP)
- MG23 Preparation of a mining proposal and program for environment protection and rehabilitation for quarries in South Australia with defined impacts

## 7.5 Who to contact in the region

- Local council  
<http://www.lga.sa.gov.au/page.aspx>
- Regional Development Associations  
<https://www.rda.gov.au/my-rda/sa>
- Primary Producers SA <https://ppsa.org.au/>
- Grain Producers SA  
<http://grainproducerssa.com.au/>

- Livestock SA <https://livestocksa.org.au/>
- South Australian Chambers of Mines Energy <https://www.sacome.org.au/>
- Association Mining and Exploration Companies <https://www.amec.org.au/>
- Cement Concrete Aggregates Australia [https://www.ccaa.com.au/iMIS\\_Prod/](https://www.ccaa.com.au/iMIS_Prod/)

## 7.6 Other resources

- Interpreting and Translating Centre
- Leading Practice Sustainable Development Program for the Mining Industry
- Small Business Commissioner South Australia - 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: (08) 8303 2026  
Email: [sasbc@sa.gov.au](mailto:sasbc@sa.gov.au)

# Appendix A – Agreement making checklist

An agreement should set out procedures for the landowner and the explorer or miner to follow to maximise cooperation. The agreement must:

- be in writing
- include the terms and conditions the parties have agreed to
- meet the requirements of the Mining Act and Mining Regulations.

The explorer should provide the landowner with relevant information to facilitate productive discussion, including:

- notice of entry (access requirement)
- a copy of the exploration program for environment protection and rehabilitation (PEPR)
- a map or plan showing the location of exploration or mining activities
- description of activities
- liability insurance
- evidence the landowner is indemnified against loss or damage.

In addition to the above requirements, for mining activities the miner should provide the landowner with:

- notice of intention to apply for a mining lease for mining and quarrying, retention lease or miscellaneous purposes licence
- draft mining proposal, noting the miner or explorer is required to engage with relevant landowners in the development of a mining proposal

- production PEPR if the mining proposal has been granted and production PEPR has been completed, noting the above requirement to engage with relevant landowners throughout the process.

The landowner should discuss any concerns about the potential impact of exploration or mining on the farm business and the environment, including possible long-term productivity issues on disturbed sites and how farm business activities may impact on exploration or mining work.

Arrange a tour of proposed work sites to clearly see the working environment. This will assist in identifying potential issues.

Make sure you clearly understand:

- each other's business
- what exploration or mining equipment is proposed for use
- what earthworks are required – eg drill pads and access tracks
- any temporary work camps planned
- the timeframe for carrying out the activities
- if a staged approach to an agreement is beneficial.

## 1 General baseline assessments

All intended activities should be thoroughly detailed, whether for early exploration, exploration drilling or mining, to help decide what baseline information to collect.

Depending on the intensity of the proposed operations, it may also be necessary to document the condition of the property before the proposed program begins, especially if intensive land disturbance is proposed in its later stages. This information should be based on quantifiable measurement wherever possible. This makes it easier to set rehabilitation targets, quantify existing damage and, if necessary, calculate compensation following exploration activities or the mining program.

In many cases, the landowner may be able to provide information for general baseline assessment, depending on the expected level of impact. Items could include:

- crop yields in and near areas that will be disturbed
- pasture yield in and near areas that will be disturbed
- condition of roads, tracks, fences, gates, dams, creek crossings, sheds, dwellings and exempt land
- location of existing surface water and groundwater resources used for farming. The explorer or miner should then advise and discuss with the landowner how they intend to avoid any impact to water resources
- photographs of sites prior to high impact activities being undertaken.

## 2 Detailed checklist for developing the content of an agreement

The next sections provide a checklist of items commonly discussed and considered for inclusion in a land access agreement. They are not all required in every agreement, particularly if the exploration activities are low impact. However, the more items discussed, the less scope there is for subsequent misunderstandings and disputes. Impact on neighbouring properties should also be kept in mind when setting the terms of an agreement.

### 3 Map of the property, where applicable and where information is available, showing:

- property boundary
- existing and proposed new tracks
- farm infrastructure – eg homes, sheds, gates, fences, water troughs etc.
- native vegetation and cropping areas
- location of dams, waterways, springs and soaks.

### 4 Operational factors for the expected duration of exploration or mining activities

Discuss possible interactions between exploration or mining and farming operations, their impact and how they will be managed. Overlays for each separate year may be required for multi-year agreements.

These may include the following:

- areas that will be cropped, fallow or grazed
- areas for lambing or calving
- timing of operations for cropping cycle
- timing of livestock production cycle.

## 5 Factors that could impact the business and family

- loss of cropping area
- loss of yield from lack of timely access for spray equipment
- livestock disturbance – eg water access
- duration of the exploration or mining program
- noise, lights and dust
- increased traffic and impact to existing tracks
- change to waste management - eg drilling fluids or saline water leaks, or fuel or oil leaks from equipment
- changed access for farm equipment - eg where sowing equipment needs to divert around or traverse temporary access tracks
- fire
- biosecurity.

## 6 General access information

- notification procedure for site entry and exit
- agreed communication method
- expected number of vehicles movements per day and identification of explorer or miner's vehicles
- contractor management
- complaint procedure.

## 7 Access routes

- entry points to the property and access routes the explorer or miner will use. Make sure these are marked
- new access tracks and water crossing upgrades
- how existing tracks will be maintained
- new tracks, which should be placed to have minimum interference with normal farm equipment access onto arable land - eg on fence lines and parallel to the usual direction the farmer runs machinery to sow and harvest
- no access beyond the agreed routes and sites
- alternate evacuation routes and property exits marked for emergency use only
- dust suppression requirements - eg in the case of exploration, from vehicles, or in the case of mining, from specific mining operations
- wet weather access terms
- placement of new tracks and construction methods to minimise risk of soil erosion
- separate placement of productive topsoil from temporary tracks if they are removed
- placement and construction specifications for new tracks
- management of gates.

## 8 Site safety

- speed limits near dwellings
- speed limits for other areas
- portable toilets that will be present on site for workers
- records of type and volume of chemicals used on site

- procedure for explorers or miners to vacate sites so farmers can spray crops, including observing the legally required re-entry period detailed by the chemical label
- camp fires
- rubbish disposal
- dogs and firearms on site
- behaviour standards
- penalties for violation of safety terms.

## 9 Biosecurity

- biosecurity induction briefing for staff and contractors describing the types of risk, potential costs of spreading a new weed or disease to the property, and how easy it is to spread particular diseases and weeds
- designated wash down points that will be used every time each vehicle enters the property
- a specific agreement for exemption to wash down
- identification of areas within the property that have a specific weed or disease issue
- requirements for moving vehicles within the property to manage internal biosecurity
- penalties for violation of biosecurity terms.

## 10 Drilling operations and temporary work camps (if applicable)

If the explorer or miner intends to conduct any drilling operations or establish temporary work camps, it will be detailed in the PEPR. However, the following matters may not be included in the PEPR so should be in the agreement:

- tank or sump use
- specifications for size and depth of sumps
- notification of bores finding underground water, and the supply of information or samples to indicate its quality
- dogs, campfires, firearms, wood collection

## 11 Rehabilitation of work sites and tracks

- include the PEPR for the exploration licence or mining lease. It is a useful foundation for the rehabilitation section of the land access agreement.
- consider the timing and level of rehabilitation relative to the completion of work at each site and on temporary and existing tracks. For example, rehabilitation work should be completed within X weeks of site work ending, or as soon as conditions are favourable.

## 12 Rehabilitation specifications for worksites

- discuss and agree to rehabilitation requirements for all impacts associated with proposed activities.

## 13 Compensation payment calculation

- whether the explorer or miner will pay the landowner's costs for monitoring or overseeing elements of the activities being carried out on the property

- ❑ a system for calculating yield loss and loss of income as a result of the impact of proposed activities. Compensation is payable until the yields reach agreed levels
- ❑ compensation for inconvenience and loss of amenity
- ❑ compensation for damage to property
- ❑ will the explorer or miner cover devaluation of assets and severance costs - loss of access to an area that results in economic loss or hardship
- ❑ compensation for professional costs - legal, tax and experts for baseline assessments.

## 14 Variation clause

It is important to agree on a process for varying the land access agreement after it is signed because exploration activities, proposed mining project and farm business needs may change from when the agreement is first negotiated.

## 15 Disputes and breaches of agreement

The agreement should include a section on how disputes about adherence to the terms of the agreement will be resolved. Consider including a clause to enable the landowner to exclude the explorer or miner from access to land until breaches are resolved or rectified.

## 16 Transfer of agreement between exploration or mining companies

Include content in the agreement to deal with change of ownership of the land, or a change in the explorer or miner undertaking the work.

## 17 Confidentiality

Confidentiality clauses in agreements may lead to distrust. Transparency and honesty will foster more open and harmonious relations between landowners, the community and the explorer or miner undertaking the work.

## 18 Duration of agreement

Make sure the land access agreement has clearly defined start and finish dates for the duration of the agreement.

You may include dates for reviewing long-term agreements if you choose not to use a staged approach to large or long-term – eg more than 12 months duration - exploration or mining programs on your property.

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