

Fast Facts

BENEFITS FOR ALL

Recommendations on new mining laws for South Australia

September 2017

SNAPSHOT

- On 23 September 2016 the Minister for Mineral Resources and Energy announced the *Leading Practice Mining Acts Review*.
- The *Review* is the most comprehensive review of mineral resources legislation (*Mining Act 1971*, the *Opal Mining Act 1995* and the *Mines and Works Inspection Act 1920*) undertaken in South Australia in decades.
- This *Fast Facts* document summarises the progress of the *Review* so far, and outlines 82 recommendations for changes to the mineral resources legislation, regulation, policy and practices. These recommendations will increase transparency, provide clear and improved landowner rights, promote investment in our regions, and introduce a fit-for-purpose environmental regulatory framework (that is aligned with leading environmental legislation such as the *Environment Protection Act 1993*). The recommendations are listed on pages 13-22 in three categories:
 - Benefits for landowners and community
 - Benefits for business and investment
 - Benefits for the environment.
- The Department is currently drafting legislation that reflects these 82 recommendations as the first stage of amendments, ahead of further engagement and discussions (with landowner, environment and industry representatives/working groups) on native title (Part 9B) and financial assurance (see pages 9-10).

How many times has mineral resources legislation been reviewed in South Australia?

Since South Australia was declared a colony in 1836, the mineral resources legislation has only been substantially reformed five times (approximately every 30-40 years; fig. 1). The *Leading Practice Mining Acts Review* is the sixth comprehensive reform undertaken in South Australia, and is supported by the most comprehensive community engagement ever undertaken on mineral resources law reform in South Australia.

www.minerals.dpc.sa.gov.au

Leading Practice Mining Acts Review



Fast Facts

Legislative review of mining laws since 1836

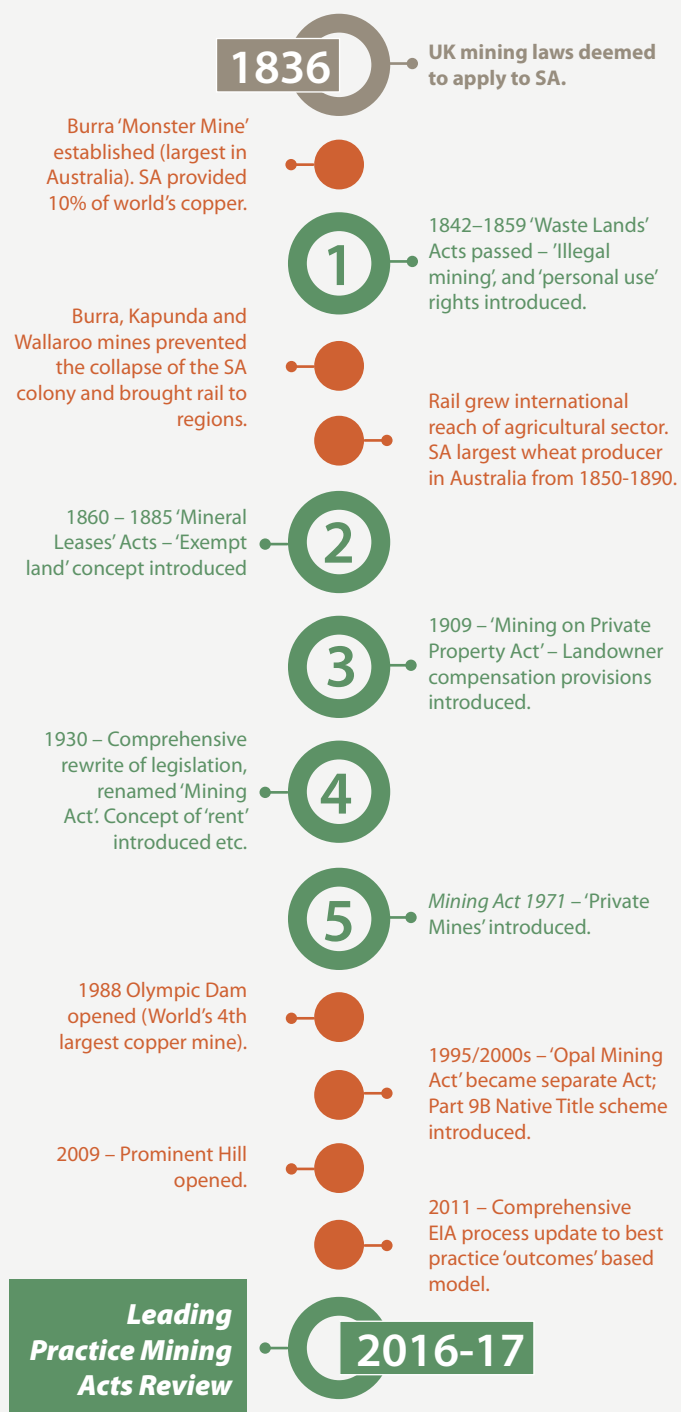


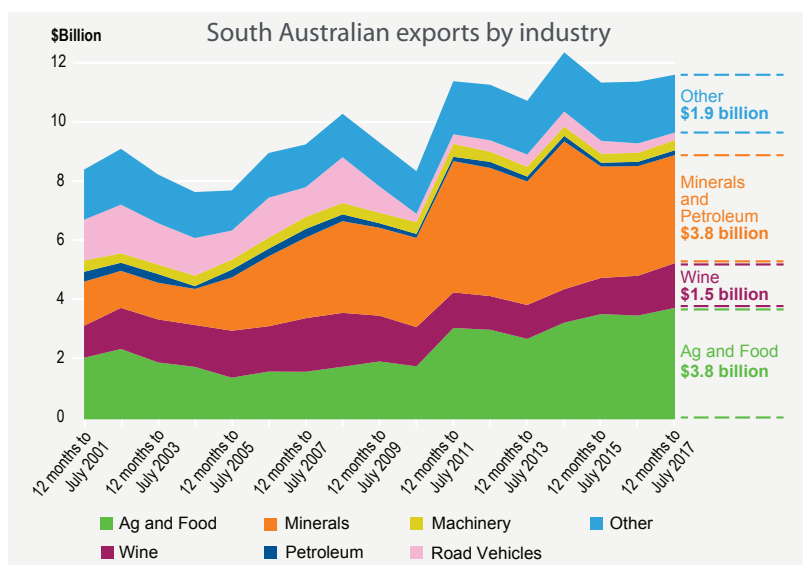
Figure 1

Why is it important to review our minerals legislation now?

The *Review* comes at an important time of economic transition for South Australia as mining and resource production plays a larger role in supporting and building the South Australian economy and workforce capacity, and providing regional employment as jobs in the more traditional sectors decline as a result of technological advancement (source: ABS Industry Sector of Employment 2006 to 2011, South Australia). The mining, agricultural/food and construction sectors have collectively driven South Australia forward for over 175 years and built our regional centres. Mining and agriculture will continue to be the twin 'engine rooms' of the South Australian economy moving forward, and South Australia remains rich in copper, gold, magnetite, graphite, uranium, silver and nickel deposits that continue to attract investment. For example, on 24 August 2017 OZ Minerals announced its intention to progress the Carrapateena copper mine, representing a \$980 million dollar investment in our State, which will create up to 1000 jobs in our regions.

We must update and modernise our legislation to attract further investment like the Carrapateena project, and ensure that our laws reflect current community and industry expectations, and leading practice environmental management.

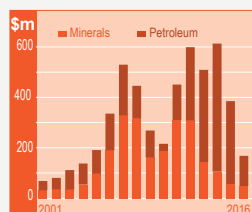
Summary of economic importance of the mineral resources industry to SA



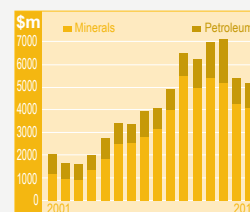
2016 Mineral and Petroleum industry indicators



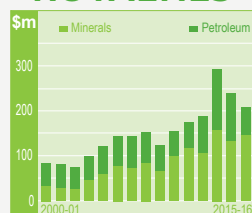
EXPLORATION



PRODUCTION



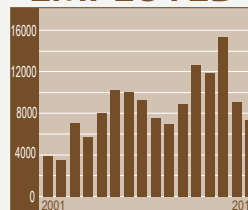
ROYALTIES



EXPORTS



EMPLOYED



[†]Data available by financial year only; [#]Feb 2017 ABS figure; graph shows 4 quarter annual average.

Fast Facts

The *Review* has provided a rare opportunity to have this important community conversation about balanced amendments. The 82 recommendations for proposed draft legislation (pages 13-22) incorporate your suggestions and feedback and will strike a new and fairer balance between the interests of operators, communities, landowners and environment.

How did the *Review* Team collect and collate community and expert feedback and submissions?



In September 2016 the Minister announced the *Leading Practice Mining Acts Review*, and launched http://minerals.dpc.sa.gov.au/mining/leading_practice_mining_acts_review and <https://yoursay.sa.gov.au/decisions/yoursay-engagements-mining-laws> so that you could track progress.

All materials and updates have been uploaded to the DPC site.

Every publication and update has been emailed out to

1700+ stakeholders

including landowner groups, resource companies, explorers, miners (both minerals and extractive minerals), landowners, tenement managers, industry consultants, commonwealth, state and local government agencies, mining lawyers, regulatory bodies, academic experts, environmental groups, community consultative committees, all SA Aboriginal traditional owner groups, primary industry associations, business associations and unions.

In November 2016-January 2017 we released

3 **DISCUSSION PAPERS**
seeking your feedback on



115+
QUESTIONS

1200+

**HITS PER MONTH
AVERAGE**

on the *Review* website
since **September 2016**



Average view/download time

**6.5-8.5
MINUTES**

45+

DIRECT ENGAGEMENTS with other national
and international mining jurisdictions to share
information and collaborate.

130+

**WRITTEN
SUBMISSIONS
RECEIVED**

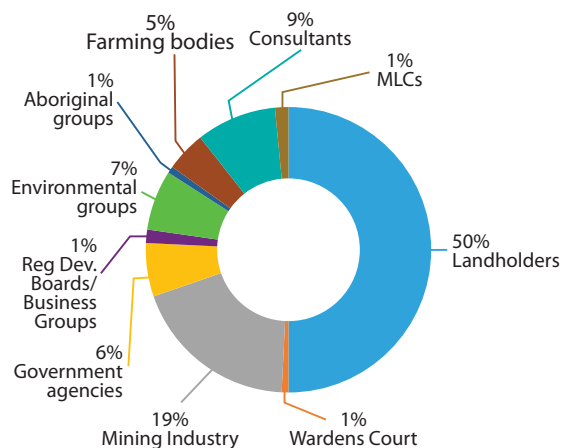


NUMBERING OVER

1000+

pages

**Breakdown of
submissions received**



Fast Facts



**DIRECT
ENGAGEMENT**

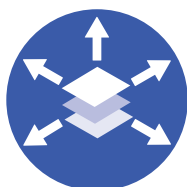
500+
Individuals

70
Groups +
Organisations



20+

Community meetings and
information sessions including
4 GPSA meetings



DISTRIBUTED

1000+

Discussion papers



1000+

Mining regulation materials
(policies, compliance reports etc)

20 policy directions documents released to give an update on key topics and seek feedback.



Regular updates on *Review* process



An **Academic Advisory Panel** was established to provide expert

advice on key legislative provisions and policies. The members of the Panel are recognised legal, commercial, environmental, public safety and agreement making experts, and members of national and international research centres and associations.



Continued regular meetings with key minerals, landowner, environmental, agricultural, legal and regional development stakeholders and representative bodies. Further regional information sessions will commence late September 2017.

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This extensive *Review* consultation process has led to the identification of:

82 Balanced, leading practice recommendations for legislative reform (see pages 13-22).



2 Key topics (native title and financial assurance) for further industry and stakeholder engagement and discussion for a subsequent round of legislative reform (see pages 9-10).

What new benefits will there be for landowners?

The recommendations outline significant new benefits and rights for landowners, and will significantly strengthen the transparency and compliance regimes under the *Mining Act 1971*. For example, it is recommended that the 'restricted land' buffer zone around residences should be increased 50% (from 400 m to 600 m) for high impact mineral operations. This places significant further obligations on mining lease operators, and is one of many recommendations that are aimed at addressing the concerns of landowners and agricultural representative bodies outlined in submissions.

The Department has also requested further information from various agricultural groups on schemes that may provide additional protection for unique agricultural land, and will release further updates on this once that feedback is received.

What two outstanding topics are being further considered?

The State Government has identified 2 topics for further consideration by community expert panels and forums (for later rounds of amendments):

Mine Rehabilitation Financial Assurance

Various forms of mine rehabilitation financial assurance schemes and levies for funding management of current and former mine legacies have been recently considered and

implemented across Australia. In early 2017, the Department held the *Intergovernmental Forum on Financial Assurance* and heard from all major Australian jurisdictions, and leading international jurisdictions, on their financial assurance schemes for current operations and former mines.

Most jurisdictions, including South Australia, use a 'bond' system where an operator must put up a 'bond' (in the form of cash or other security) to cover the full risk of environmental (and other) liability for current operations (section 62). In addition to requiring bonds, NT and NSW have introduced an annual 'levy' of 1% of the 'current mine liability' assessment which is used to finance the rehabilitation of former mines. However, WA introduced a different scheme over 2013-2014 replacing bonds for financially secure operators with an annual levy of 1% of the rehabilitation liability. High risk operators are still required to provide a full bond under the WA scheme. Queensland is currently proposing to introduce a customised 'risk-based' financial assurance scheme where eligible low credit-risk operators will be charged an annual levy of 0.5 - 2.75% of the 'current mine liability' assessment (depending on their credit rating), and higher risk operators are still required to provide a bond.

The Department proposes to further consult stakeholders and model possible financial assurance schemes (which may include a levy) that protect the State's financial interests, minimise any impact on industry investment, effectively manage environmental liabilities and meet

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community expectations for rehabilitation. Any proposed changes to the current scheme will form part of a subsequent stage of amendments.

Part 9B and Native Title

There are only minor amendments proposed to the native title scheme under Part 9B of the *Mining Act 1971* in the current round of amendments because more comprehensive changes will be identified as part of the *Stronger Partners, Stronger Futures* Aboriginal engagement program, which is currently underway (http://www.minerals.dpc.sa.gov.au/land_access/native_title_and_aboriginal_land/stronger_partners,_stronger_futures). It is important that no substantive changes are made to this Part without extensive direct consultation with all traditional owner groups, and other stakeholders.

There are currently two recommendations proposed for this stage of amendments. The first is to amend the timeframes in Part 9B to align with those in the *Commonwealth Native Title Act 1993* to ensure further consistency between the legislation.

The second is to repeal section 63W of the *Mining Act*, which gives the Minister the power to overrule a determination made by the Environment, Resources and Development Court and to make a substitute determination. This has been recommended because of the likely invalidity of that section.

When is legislation likely to be introduced into Parliament?

Introducing legislation into Parliament is a complex process, especially for such a large review like the *Leading Practice Mining Acts Review*. As outlined above, drafting has commenced based on the recommendations outlined within this document. The outstanding topics of financial assurance and native title will be further discussed and considered in the future. For this reason, there will be various 'stages' of the reform, with several *Review Bills* being proposed for lodgement over the coming years. The Department has also committed to reviewing the legislation every four years going forward, to ensure that appropriate regular improvements occur to these Acts.

If the drafting of a Stage 1 Bill is completed soon, there may be an opportunity for that legislation to be passed in the coming months, but this could not practically occur without the support of key stakeholder groups. If legislation is not passed by the end of 2017, the Parliament will not have an opportunity to pass any legislation before the March 2018 general election. That would mean that securing the proposed benefits for landowners, industry, communities and the environment would be a matter for any newly elected Parliament.

The *Review Team* will continue to provide updates on drafting and lodgement to all stakeholders and via http://www.minerals.dpc.sa.gov.au/mining/leading_practice_mining_acts_review.

What is the Bill/Act likely to be called?

An amending Bill can only amend the name of the Mining Act (but not the year) because of the legislative interaction between the *Mining Act 1971* (SA) and the *Commonwealth Native Title Act 1993*. For this reason, 1971 will be retained and an updated title to the Act is likely. The Review team will update stakeholders on any proposed re-titling as soon as possible.

What changes are being proposed for the *Opal Mining Act 1995* and the *Mines and Works Inspection Act 1920*?

The 82 recommendations in this document do not relate to these Acts, although some changes proposed to the *Mining Act 1971* and the *Opal Mining Act 1995* are similar. Further information about the changes proposed to these Acts will be released soon.

By way of summary, the following changes are proposed:

- Improve regulatory transparency and efficiency through the introduction of the new statutory position of the Opal Mining Registrar (and a distinct Opal Mining Register) as opposed to current arrangements under the Mining Act.
- Improve environmental and safety provisions for opal mining through strengthened powers of authorised officers to direct land rehabilitation.
- Improve consistency between the Opal Mining Act and the Mining Act, particularly in relation to terminology, fees and penalties.
- Reduce regulatory overlap by limiting the application of the Mines and Works Inspection Act to the Leigh Creek coal mine, Olympic Dam, and operations authorised under the *Whyalla Steel Works Act 1958*.
- Reduce red tape by removing the mine manager competency certification scheme, and amending the Work Health and Safety Regulations to include specific requirements for the competence of mine managers (as part of a future stage of amendments).

Quotes on recommendations

**Rob Kerin,
Executive Chairman,
Primary Producers SA**

"Primary Producers SA endorse the process of the Review of the Mining Act - it has been an open process and the proposed changes are likely to reduce uncertainty for those landholders affected by mining and exploration. Modernisation of the Act that leads to increased clarity of rights and processes is welcomed, and we will continue to work with the Government on this important Review."

**Rebecca Knol,
Chief Executive Officer,
South Australian Chamber
of Mines and Commerce**

"SACOME is committed to working together with other sectors to ensure that mining and agriculture not only sustainably co-exist, but prosper together. The proposed legislation is key to enabling economic development of the State's mineral resources and we are committed to initiatives that encourage multiple and sequential land use."

**Todd Hacking,
State Director NSW and
SA, Cements Concretes
and Aggregates
Association of Australia**

"CCAA welcomes the release of the recommendations from the public consultation regarding amending the Mining Act. In particular, we acknowledge the efforts of the Minister and DPC in working collaboratively with industry and other stakeholders to ensure the amendments are fair, balanced and will lead to the most innovative and modern mining / quarrying jurisdiction in Australia"

**Leanne McClurg,
SA President, Australian
Mining and Petroleum
Law Association**

"The recommendations address some fundamental issues within the existing legislation and we look forward to continuing engagement with the Department throughout the drafting process to ensure those issues are adequately addressed."




landowners & community

The recommended changes will provide landowners and community members with better and clearer rights by:

	Updating terms in the Mining Act so that notifications to landowners are clear about whether the proposed operations are exploration activities to be undertaken by explorers or mining activities to be undertaken by a mining operator.	Section 6
	Amending the term 'exempt land' to 'restricted' land, to avoid confusion.	Section 9 and 9AA
	Working with mining and agricultural representative bodies to introduce policies that define key terms such as 'cultivated field'; and outline how 'restricted land' should be applied and recognised so that native title holders, pastoral lessees, landowners, explorers and miners have greater certainty.	New guidelines to be released
	Creating a new, independent landowner advisory service to assist landowners with understanding the Mining Act processes and applications (in addition to the services provided by Government and other regional bodies).	Does not require changes to the Act
	Increasing the restricted land (previously, exempt land) radius around residential buildings and structures for high impact mineral operations by 50% from 400m to 600m.	Section 9
	Increasing 'restricted land' legal advice assistance by 500% (from \$500 to \$2500 per landowner) to ensure landowners can obtain advice on their rights.	Section 9AA
	Working with peak legal representative bodies to assist regional lawyers to obtain appropriate training on the operation of the Act.	Does not require changes to the Act
	Ensuring all 'appropriate' courts (a term under the Act for Warden's, ERD and Supreme Court) can hear 'restricted land' matters so that landowners and companies can choose the right level of court for their particular matter.	Various sections
	Giving landowners new rights to commence 'restricted land' proceedings once the nature of the proposed operations are clear.	Section 9AA

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	Expanding our transparent Mining Register to ensure that it contains or logs all documents, dealings and registrations affecting the tenement, including terms and conditions of tenements, transfers, mortgages, caveats, instruments, agreements, determinations, dealings, approvals, statements, notices, orders, directions (compliance, environmental, rehabilitation and emergency), bonds, penalties, Warden's Court matters (commencement and completion of proceedings, and decisions, determinations and orders of the Court), cancellations, suspensions, and surrenders. The new transparent Mining Register will be free to access and will give communities, native title holders and landowners a real-time indication of what is approved over their land.	New Part and sections
	Modernising powers for compiling, keeping, providing and releasing materials, which will promote industry and government transparency and accountability.	New Part and sections
	Updating public consultation provisions for applications for mining leases, retention leases, miscellaneous purposes licences, special mining enterprises, and relevant change of operations applications so the level of consultation relates to the proposed level of impact.	New section
	Improving native title holder, pastoral lessee and landowner notification processes, and increasing notice of entry requirements from 21 to 28 days.	Section 58A
	Introducing a new right for pastoral lessees to object to notices of 'advanced exploration' (consistent with the former 'declared equipment' right).	Section 58A
	Introducing impact-based 'notices of entry' during the exploration stage to ensure native title holders, pastoral lessees and landowners know what type of exploration operations are being proposed on their land e.g. a notice of entry to authorise 'early exploration' operations.	Section 58A
	Introducing a notice of entry for mining leases, retention leases, and miscellaneous purposes licences to allow a native title holder, pastoral lessee or landowner a right to object, or progress negotiations, prior to the grant.	Section 58A
	Clarifying 'personal use' of extractive minerals to allow landowners to use more of the extractive minerals on their property without triggering regulation under the Act.	Section 75











	Clarifying that rent paid under the Act is not compensation so as not to reduce the native title holders, pastoral lessees and landowners right to compensation under the Act.	Section 61
	Expanding the supporting evidence required for production tenement and miscellaneous purposes licence applications so they include more information on how the tenement holder has consulted with the community, native title holders, pastoral lessees and landowners about the proposed operations prior to the application.	Policy and Guidelines
	Introducing better mediation processes before court proceedings commence (e.g. informal Alternative Dispute Resolution processes) by updating and expanding the Warden's Court Rules and powers.	Part 10, Warden's Court Rules
	Empowering the Department's authorised officers with clear investigatory powers to ensure the community, native title holders, pastoral lessees and landowners feel confident that the Department can enforce compliance with the Mining Act appropriately.	Sections 14, 14A, 14B, 14C, 14D, 14E, 14G and 14H
	Introducing new caveat provisions which will allow a caveatable interest to be defined as set out in the agreement between the tenement holder and third party such as a landowner, which (subject to the agreement) may allow a landowner to register a caveat to protect their right to compensation.	New section
	Updating Mining Act forms which are to be sent to native title holders, pastoral lessees and landowners so they are easier to understand.	Various sections
	Aligning the timeframes in Part 9B (Native Title) of the Mining Act with the <i>Commonwealth Native Title Act 1993</i> which will increase notification timeframes by 100%.	Part 9B
	Introducing civil offences and expiable offences (so there will be expiable, administrative, civil and criminal) to ensure compliance action is fit for purpose and not too heavy or light in each matter.	Various sections
	Free online webinars to educate explorers and miners on what is good and early engagement, and how to engage.	Webinars to be released
	Free online webinars to educate landowners on processes and support services under the Act.	Webinars to be released



Photo 414444; Courtesy of OZ Minerals



The recommended changes will make it cheaper, safer and easier to do business in SA by:

business & investment

	Ensuring exclusion zones around restricted land for early exploration operations correspond with potential impacts, so there are less restrictions (400 m - 200 m) on low impact scoping and baseline exploration activities.	Section 58A
	Clarifying legal uncertainty of the court's jurisdiction and powers in section 9AA and its interaction with sections of the Act to avoid unnecessary legal expense.	Sections 9, 9AA, 58A, 61, 67, 75A
	Ensuring restricted land matters will be heard by an 'appropriate court'; namely the Supreme Court (with special leave), Environment, Resources and Development Court, and Warden's Court.	Various sections
	Expanding Government delegation powers to ensure efficient decision making.	Section 12
	Ensuring South Australia is leading transparency with a comprehensive Mining Register of tenements, terms and conditions of tenements, transfers, mortgages, caveats, instruments, agreements, determinations, dealings, approvals, statements, notices, orders, directions (compliance, environmental, rehabilitation and emergency), bonds, penalties, Warden's Court matters (commencement and completion of proceedings, and decisions, determinations and orders of the Court), cancellations, suspensions, and surrenders. The Mining Register to evidence the whole tenement life and assist in due diligence and claims for forfeiture.	New Part and sections
	Introducing an innovative caveat and mortgage regime which allows for commercial freedom to define mortgaged interests and caveatable interests. The new regime will allow for better recognition of contractual and equitable rights and interests to promote certainty and attract international investment.	New Part and sections
	Limiting the obligation to notify or obtain consents or waivers from persons who are an 'owner of land' because they have "care, control or management" of land or "who is lawfully in occupation" of land to circumstances where the explorer or miner is aware of such a person or it is reasonable to expect the explorer or miner to be aware of such a person.	Section 6: "owner of land" definition (c) and (d)
	Updating royalty provisions which will give better certainty to industry and the introduction of a first sale approach for arms-length transactions. This will allow for appropriate market valuations which correctly reflect 'point in time' values.	Section 17

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	Streamlining the tenement process so the holder of an exploration licence can elect to directly apply for a mining lease or a retention lease.	Parts 6, 6A and 8
	Introducing an innovative new process to allow the holder of an exploration licence to subdivide an area of their exploration licence so the Minister can grant to a third party in order to promote and encourage further exploration investment in South Australia.	Section 30AA
	Extending exploration licence renewal periods, but including clear compulsory relinquishment requirements to promote turn over of land.	Section 30A
	Removing subsequent licence provisions and replacing with renewal provisions.	Section 30A
	Introducing a new retention status regime for exploration licences to allow for reductions or exemptions of fees, compulsory relinquishment requirements or expenditure commitments.	New section
	Extending terms of mining leases and miscellaneous purpose licences to ensure security of tenure for the appropriate project mine life.	Sections 38 and 55
	Reducing overly prescriptive application requirements for extractive operations by updating Ministerial Determinations (MD).	Update MD
	Allowing for mining leases to be granted for mineral, extractive minerals, or both (subject to the appropriate landowner consents).	Section 34
	Reforming Part 8A (Special Mining Enterprises) to allow for a fit for purpose regime with public accountability and transparency.	Part 8A
	Introducing a new 'outcomes based' system for identifying the boundary of a tenement to allow for the transition to online tenement applications, and technological advancements.	Systems update & new section
	Expanding the powers of the Mining Registrar to rectify the boundary of a tenement on application of the tenement holder to cut unnecessary red tape.	Section 91A
	Introducing a new process to amalgamate tenements to provide commercial flexibility and to promote joint ventures.	New section
	Introducing clear public consultation requirements which ensure the Minister can publish all public submissions.	Various sections
	Restructuring common provisions which relate to several tenement types to remove any inconsistencies.	New Part

✓	Introducing new 'outcomes based' change of operations processes which will allow for mid-project changes to lease or licence conditions (as distinct from minor changes or changes to the requirements of a Program for Environment Protection and Rehabilitation (PEPR)) via a robust environmental and social impact assessment process to provide operators with more flexibility to react to market changes.	New Section
✓	Updating the cancellation and suspension process whereby the tenement holder is served with a notice of intent to cancel or suspend the tenement, with time to respond and/or rectify any issues.	New combined section
✓	Introducing a clear power for the Minister to prepare and publish assessment reports for decisions under the Act.	New section
✓	Clarifying that if consent of landowner is obtained under section 75 for the use of extractive minerals, or a waiver is obtained under section 9AA, the requirement to issue notices of entry is not required (to remove unnecessary requirements on landowners and operators).	Section 9AA and 75
✓	Introducing a voluntary Residual Risk Payment payable into a fund. A Residual Risk Payment can be deducted from the bond prior to surrender, and will allow the previous tenement holder to pass requirements and liabilities to maintain and monitor any ongoing externalities to the Government, after a detailed assessment/approval by the regulator.	New section
✓	Expansion of the Warden's Court powers to ensure it is empowered to address matters specific to the mining industry, and increase the jurisdiction and mediation powers of the court.	New section
✓	Making more land available through a stricter 'use it or lose it' commercial forfeiture regime.	Section 70
✓	Clarifying that the avoidance of double compensation also includes payments under other provisions of the Mining Act.	Section 75A
✓	Proposing more flexible pro-forma bank guarantees so that bonds can be reduced to align with rehabilitation during operations (non-legislative solution: Industry/Bank Working Group 2018).	Non-legislative
✓	Introducing new provisions that in the event the tenement holder and the landowner are the same person, any agreements or consent required under the Act are deemed to be complied with, and will bind subsequent owners of land. This will remove the confusing practice of having to enter into agreements or obtaining consent from yourself.	New section
✓	Ensuring private mines retain the benefits of their original grant (namely non expiring tenure, and the ability to mine to the boundary) and there is an appropriate transition period to more consistent regulation of private mines.	Various sections













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The recommended changes will ensure that we have improved environmental protections by:

environmental

✓	Expanding the exclusion zones around sensitive environmental receptors (residential) by 50% for high impact mining operations.	Section 9
✓	Expanding the environmental compliance tools to apply to some operations authorised under other Acts to ensure all mining operations across the State are undertaken in an environmentally accountable manner.	Section 7
✓	Modernising investigatory powers to assist evidence gathering for environmental prosecutions under the Act.	Sections 14, 14A, 14B, 14C, 14D, 14E, 14G and 14H
✓	Ensuring a jurisdiction-leading and transparent mining register of tenements, terms and conditions of tenements, PEPRs, directions (compliance, environmental, rehabilitation and emergency), bonds, penalties, Warden's Court matters (commencement and completion of proceedings, and decisions, determinations and orders of the Court), cancellations, suspensions, and surrenders. Mining register to provide evidence of non-compliance and environmental accountability.	New Part and sections
✓	Modernising powers for compiling, keeping and providing materials, and the release of materials, to promote industry and government transparency and accountability.	New part and sections
✓	Introducing a new test for the grant of a mining lease, retention lease and miscellaneous purposes licence, whereby the Minister must not grant unless satisfied that appropriate environmental outcomes will be able to be achieved.	New sections
✓	Expanding referrals to the relevant Minister for applications, renewals and PEPRs authorising declared equipment which are within or adjacent to a specially protected area (the Adelaide Dolphin Sanctuary, a marine park or the River Murray Protected Area).	New combined section
✓	Ensuring that provisions of the Mining Act are consistent with relevant requirements of the <i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i> , to be ready for possible future bi-lateral negotiations.	Various sections
✓	Strengthening public consultation provisions for applications for mining leases, retention leases, miscellaneous purposes licences, special mining enterprises, and relevant change of operations applications.	New combined section
✓	Introducing new accountable surrender processes to ensure all environmental outcomes are achieved prior to approving a surrender of whole or part of a tenement.	Detail to appear in Mining Act Regulations

	Introducing a new power to reinstate expired tenements to allow full use of compliance and enforcement tools under the Act. This will ensure full rehabilitation of the area occurs and all environmental outcomes are met.	New section
	Introducing a Fund to hold 'Residual Risk Payments'. A Residual Risk Payment can be deducted from the bond prior to surrender, and will allow the previous tenement holder to pass requirements and liabilities to maintain and monitor any ongoing externalities to the Government (after robust assessment), and provide assurance that all rehabilitation issues are managed.	New section
	Introducing powers to allow the Minister to condition a PEPR.	Sections 70B and 70C
	Introducing a new power to require the audit of a PEPR to assess the tenement holder's ability to achieve the outcomes or requirements of a PEPR.	Section 70D
	Expanding the scope to which a compliance direction can be issued.	Part 10B
	Clarifying that a rehabilitation direction can be issued after the expiry of a tenement.	Part 10B
	Introducing a clear emergency direction power that can be issued verbally, to allow for more efficient emergency management.	New section
	Clarifying that an environmental direction can be issued directing the tenement holder to undertake an act or omission that may otherwise be in contravention of the Act (i.e. rehabilitation on land to which there is no waiver of restricted land) to ensure operators and the regulator can act quickly to prevent or remediate environmental harm.	New section
	Introducing clear restrictions so a tenement holder cannot establish a new claim if a direction of any type is outstanding.	Section 70H
	Clarifying that it is not a defence to not comply with a direction, or provide any information required by a direction, because it might tend to incriminate the person.	New section
	Introducing a civil offences and penalty regime to ensure compliance action is appropriate and commensurate with the behaviour.	Various sections
	Introducing continuing offences provisions to appropriately address continual non-compliance with the Act.	New section

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✓	Scoping the introduction of offences against Directors (for offences of a body corporate) if the Director knew or ought to have known the offence would be committed, was in a position of influence, and the Director failed to exercise due diligence to align with other environmental regulatory regimes.	Working group to be established, new section
✓	Introducing a provision making all offences under the Act summary offences, to ensure appropriate compliance responses.	New section
✓	Significantly expanding the evidentiary provisions to ensure the regulator has modern investigatory tools available.	Section 90
✓	Introducing enforceable voluntary undertakings which allow for a person to accept an undertaking, rather than being prosecuted under the Act, to facilitate faster rehabilitation.	New section
✓	Clarifying where one or more tenement holders are jointly and severally liable or vicariously liable for harm.	New section
✓	Introducing a new provision which gives rise to a statutory interest over all-present-and-acquired-after property recognised under the <i>Personal Property Securities Act 2009</i> for debts due to the Crown under the Act, so the Crown has a priority interest over other interests in the same property.	New section
✓	Ensuring all penalties paid under the Act will be paid into a fund to assist with the rehabilitation of former mine sites.	New section
✓	Ensuring further environment consistency in the regulation of private mines, with commercial transitional provisions.	Various sections
✓	Clarifying protections for wilderness protection areas declared under the <i>Wilderness Protection Act 1992</i> , to ensure clearer oversight by the Minister for Sustainability, Environment and Conservation over geological and geophysical investigations and surveys in such areas.	Section 15
✓	Reflecting the obligations in the <i>National Parks and Wildlife (National Parks) Regulations 2016</i> and the <i>Wilderness Protection Act 1992</i> to consult with co-management boards, or advisory committees, (in addition to the Minister for the relevant Act) for co-managed parks under the <i>National Parks and Wildlife Act 1972</i> prior to entry for any geological and geophysical investigations and surveys.	New section

Collaboration with the Environment Protection Authority

“The 82 recommendations outline fair, balanced changes that will cut unnecessary red tape, better protect landowners and our environment, increase transparency, and attract investment in South Australia’s regions.

The Department has worked closely with the Environment Protection Authority during the *Review* and sought its advice on environmental regulatory practice and has drawn on some of the leading regulatory approaches found in the Environment Protection Act, including broader compliance and enforcement powers. The farming, mining, and regional communities have all been actively engaged in this extensive consultation process and their insights have been reflected in the breadth and quality of the recommendations now under consideration.

The key farming, mining and legal representative groups are agreed: what is proposed will be ground-breaking legislation.”

Hon Tom Koutsantonis MP
Minister for Mineral Resources and Energy



Leading Practice Mining Acts Review

Further contact details

The Department is now entering the legislative drafting phase.

Please contact us via email: DPC.miningactreview@sa.gov.au, or (08) 8463 3317 to book an appointment to meet with the *Review Team* or arrange for us to come and speak with your organisation about the recommendations or the draft legislation.



**Government
of South Australia**

Department of the
Premier and Cabinet