



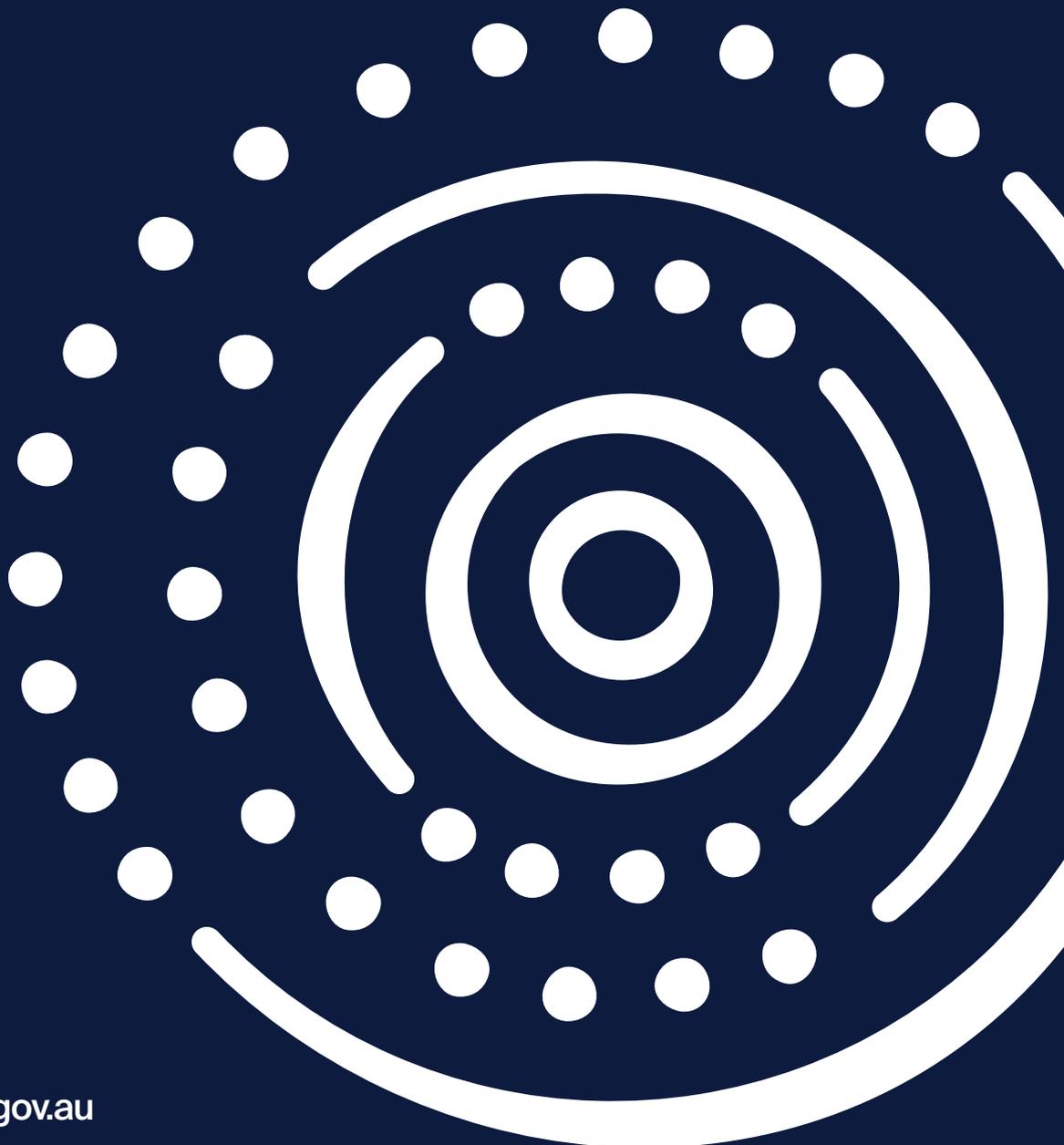
Government
of South Australia

Department for
Energy and Mining

Mineral Regulatory
Guidelines

MG32

Opal prospecting and mining



Mineral Resources Division
Department for Energy and Mining
Level 4, 11 Waymouth Street, Adelaide
GPO Box 320, Adelaide SA 5001
Phone +61 8 8463 3000
Email DEM.CustomerServices@sa.gov.au
energymining.sa.gov.au/minerals

South Australian Resources Information Gateway (SARIG)
map.sarig.sa.gov.au



© Government of South Australia 2020
With the exception of the piping shrike emblem and where otherwise noted, this product is provided under a [Creative Commons Attribution 4.0 International Licence](https://creativecommons.org/licenses/by/4.0/).

Published January 2021

Disclaimer

The contents of this document are for general information only and are not intended as professional advice, and the Department for Energy and Mining (and the Government of South Australia) makes no representation, express or implied, as to the accuracy, reliability or completeness of the information contained in this paper or as to the suitability of the information for any particular purpose. Use of or reliance upon the information contained in this paper is at the sole risk of the user in all things and the Department for Energy and Mining (and the Government of South Australia) disclaim any responsibility for that use or reliance and any liability to the user.

Preferred way to cite this publication. Department for Energy and Mining 2021. *Opal prospecting and mining*, Minerals Regulatory Guidelines MG32, Mineral Resources Division. January 2021. Department for Energy and Mining, South Australia, Adelaide.

Date	Comment
January 2021	First published as a compilation of M07 and M08

Contents

INTRODUCTION	5
PRECIOUS STONES FIELDS IN SA.....	6
Andamooka	7
Coober Pedy	8
Mintabie	12
Stuart Creek.....	14
PRECIOUS STONES PROSPECTING PERMITS.....	15
Rights and responsibilities of a PSPP holder.....	15
Identification plates	16
Prospecting and mining outside of a precious stones field.....	16
PRECIOUS STONES TENEMENTS	17
Rights under a precious stones tenement.....	17
Tenement size and shape	17
How to peg a tenement	18
Notice of pegging	18
Registration	18
Maintenance of claims.....	19
Recovery of posts	19
Tenement renewal	19
Tenement surrender	19
Cancellation of tenement.....	20
Re-pegging.....	20
Approval from the Director.....	20
WORKING CONDITIONS	21
Suspension of working conditions.....	21
Exemption from working conditions.....	21
Amalgamation of working conditions	21
Third party plaint	21
EXPLORATION LICENCES AND OPAL DEVELOPMENT AREAS	22
MINING DEVELOPMENT	22
ENTRY ONTO LAND	23
Notice of entry	23
Duration of entry	24
Exempt land	24
Compensation.....	25

ABORIGINAL HERITAGE	25
NATIVE TITLE LAND	26
ABORIGINAL LANDS	27
ENVIRONMENTAL REQUIREMENTS	27
Topsoil and vegetation management.....	27
Management of tenement during mining	27
Access	27
Camping areas.....	28
Aquifers	28
Rehabilitation	28
Storage of overburden.....	28
DECLARED EQUIPMENT	29
CAVEATS	29
ORDERS, COMPLIANCE DIRECTIONS AND OFFENCES	30
BONDS	31
OPAL MINING COOPERATION AGREEMENTS	31
DISPUTE RESOLUTION	32
RESOURCES	32
Laws.....	32
Department for Energy and Mining	32
CONTACTS	33
GLOSSARY	34

Introduction

Opals are an exceptionally rare commodity across the world, with only a few countries mining economic deposits. Australia is responsible for more than 95% of all worldwide opal production, with the vast majority of opals supplied by Coober Pedy. The South Australian opal fields provide a significant source of investment and jobs, and also stimulate commercial activities such as jewellery design, setting and local sales, local trade, regional employment, and national and international tourism to sustain regional towns.

Precious stones fields are areas that have been set aside for prospecting and mining for opal under the *Mining Act 1971*. Prospecting and mining of precious stones in South Australia is regulated by the *Opal Mining Act 1995* (Opal Mining Act) and *Opal Mining (Mineral Resources) Variation Regulations 2020* (regulations).

The Opal Mining Act and regulations apply throughout the state. Prospecting and mining are carried out under two tenement types:

- 1 A precious stones claim, known as a PSC or 'claim'.
- 2 An opal development lease.

Both require the holder to have a current precious stones prospecting permit (PSPP). All permit holders authorised to mine for opal must comply with the general requirements for prospecting and mining, and any additional requirements relevant to

the specific precious stones field relating to native title and Aboriginal heritage legislation.

This guideline provides information on precious stones fields, how to obtain a PSPP and the requirements to prospect and mine for opal both within and outside a precious stones field. It applies to all current and future opal miners and prospectors in South Australia.

It aims to:

- clarify the process and requirements for permit, lease and claim applications under the Opal Mining Act
- clarify the rights and responsibilities of holders of permits, leases and claims
- identify key requirements for miners wishing to prospect and mine for opal in South Australia.

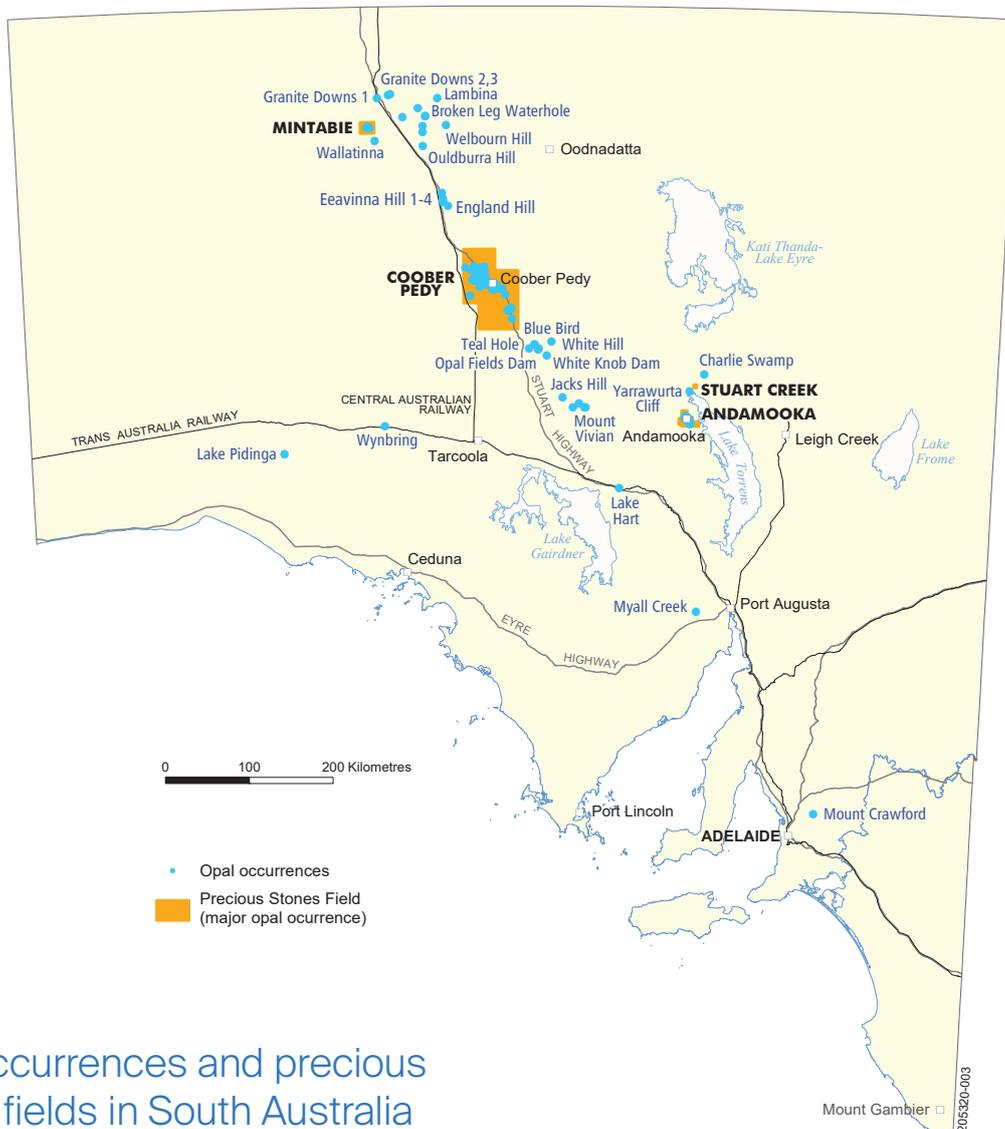
As a significant portion of South Australia's precious stones fields lie on native title land, this guideline assists with understanding the specific laws and regulations that apply to native title land. It describes the appropriate approach for each opal mining area and the people who hold native title interests on that land to ensure minimum impact on Aboriginal heritage.

It also addresses, in particular, land access and environmental requirements and provides information on resources that cover all topics.

Precious stones fields in SA

Under the Opal Mining Act, the Minister for Energy and Mining has declared the precious stones fields at Andamooka, Coober Pedy, Mintabie and Stuart Creek open for prospecting and mining (see Figure 1). However, mining is not allowed within the townships of Andamooka, Coober Pedy and the former township of Mintabie following a Minister's proclamation published in the Government Gazette.

A significant portion of South Australia's precious stones fields lie on native title land, which is land on which native title exists or might exist. In the case of the Mintabie Precious Stones Field, the land is owned in fee simple ie the land is a freehold tenure, which gives the owner the ability to sell the land if they wish. There are specific laws and regulations that apply to native title land.



Opal occurrences and precious stones fields in South Australia

Figure 1

ANDAMOOKA

The Andamooka opal field was discovered in 1930 and covers an area of 263 km² surrounding the town of Andamooka, approximately 35 km east of Roxby Downs.

The Kokatha People hold native title over country that includes the Andamooka Precious Stones Field. Their native title rights and interests on country include the right to undertake cultural activities, protect places of cultural significance, hunt and fish, live and camp, gather and use natural resources such as wood for fires. They do not include prospecting for precious stones. The Kokatha Aboriginal Corporation (KAC) represents the Kokatha People's native title rights and interests.

Under the [Andamooka Precious Stones Field ILUA](#) (Indigenous land use agreement), which came into operation on 7 May 2019 and replaces the 2014 Kokatha Native Title Claim Settlement ILUA, the Kokatha People have given native title consent for opal mining operations under a PSPP and the registration of precious stones tenements over certain areas of land within the Andamooka Precious Stones Field.

As long as opal miners comply with the ILUA, they may carry out their operations in these areas without having to follow the native title process in Part 7 of the Opal Mining Act or the *Commonwealth Native Title Act 1993*.

Andamooka Precious Stones Field

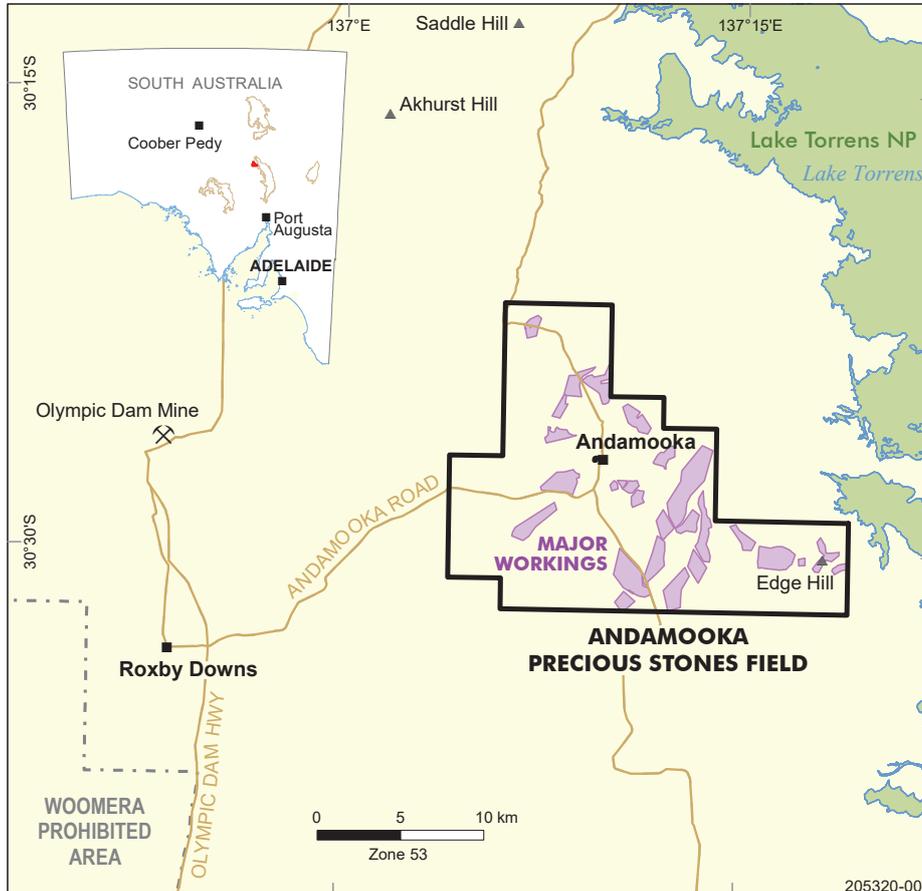


Figure 2

Within the existing diggings, the Andamooka Precious Stones Field ILUA authorises the registration and renewal of precious stones tenements and authorised operations under a PSPP, provided that those operations:

- are not carried out within 50 metres of either side from the edge of any watercourse, creek bed, waterhole, cane grass swamp or gilgais, a hollow where rainwater collects
- are not carried out within 50 m of the base of any dune system
- are not carried out within 50 m of the edge of any clay pans
- do not involve the removal of old growth trees.

Opal miners who are unsure whether their operations lie within these areas should contact the Opal Mining Registrar.

A PSPP holder wishing to prospect or mine for opal within the Andamooka Precious Stones Field, but outside the existing diggings, cannot use the Andamooka Precious Stones Field ILUA. Before registering a precious stones tenement or carrying out authorised operations that might affect the Kokatha People's native title rights and interests, they must either:

- negotiate a separate ILUA with the KAC under the *Commonwealth Native Title Act 1993*
- negotiate a native title mining agreement under Part 7 of the Opal Mining Act
- obtain a determination from the Environment Resources and Development (ERD) Court.

Authorised operations affect native title if they affect the rights and interests of the Kokatha People or are inconsistent with their ability to exercise their native title rights. Operators should consider getting independent legal advice to assess whether their authorised operations affect native title.

COOBER PEDY

Since the first discovery of opal in 1915, Coober Pedy has supplied the world with superior quality opal. Among the more famous discoveries are the Virgin Rainbow, described as the finest opal ever unearthed, and the Olympic Australis, weighing 3.45 kg, making it the most valuable opal in the world. The Coober Pedy Precious Stones Field (see Figure 3) covers an area of 4594 km².

The Antakirinja Matu-Yankunytjatjara People hold native title over country that includes the Coober Pedy Precious Stones Field. Their native title rights and interests on country include the right to undertake cultural activities, protect places of cultural significance, hunt and fish, live and camp, gather and use natural resources such as wood for fires. They do not include prospecting for precious stones. The Antakirinja Matu-Yankunytjatjara Aboriginal Corporation (AMYAC) represents the Antakirinja Matu-Yankunytjatjara People's native title rights and interests.

The [Coober Pedy Precious Stones Field ILUA](#) of 28 April 2015 is registered on the [Register of Indigenous Land Use Agreements](#) under the *Commonwealth Native Title Act 1993* (Native Title Act). A person wishing to prospect or mine for opal within the Coober Pedy ILUA area may:

- sign up to the ILUA by signing the attached acceptance deed
- negotiate a separate ILUA with AMYAC under the *Commonwealth Native Title Act*
- negotiate a native title mining agreement with AMYAC under Part 7 of the Opal Mining Act
- obtain a determination from the ERD Court.

Once a person signs up to the ILUA – there is no cost involved – they can carry out their authorised operations in certain parts of the Coober Pedy Precious Stones Field without having to follow the native title process in the *Commonwealth Native Title Act* or *Opal Mining Act*.

The ILUA divides the Coober Pedy Precious Stones Field into two areas: Area A and Area B (Figure 4). Different conditions apply within these areas.

Area A

Area A's major working section lies in the centre of the Coober Pedy Precious Stones Field and is up to 20 km wide. It covers almost 8% of the Coober Pedy Precious Stones Field. About 85% of PSCs in the Coober Pedy Precious Stones Field are held within this area.

Opal miners who hold a PSPP must sign the acceptance deed attached to the ILUA and submit it to the Opal Mining Registrar before commencing any work in Area A. Precious stones tenement applicants must also first submit a signed acceptance deed to the Opal Mining Registrar before the tenement can be granted or renewed.

By signing the acceptance deed, the mining operator agrees to be bound by the terms of the acceptance deed, including:

- to only undertake authorised operations within Area A
- not to undertake authorised operations that may damage, disturb or interfere with an Aboriginal site or object that is registered on the Register of Aboriginal Sites and Objects under the *Aboriginal Heritage Act 1988*.

The acceptance deed operates as a contract between the person signing the deed and AMYAC and only needs to be signed once to cover all authorised operations within Area A.

Area B

Area B is made up of land and waters that have been identified as culturally sensitive or have not been cleared for authorised operations in the ILUA surveys. The ILUA does not authorise operations or the registration of precious stones tenements within Area B.

It also includes the following areas:

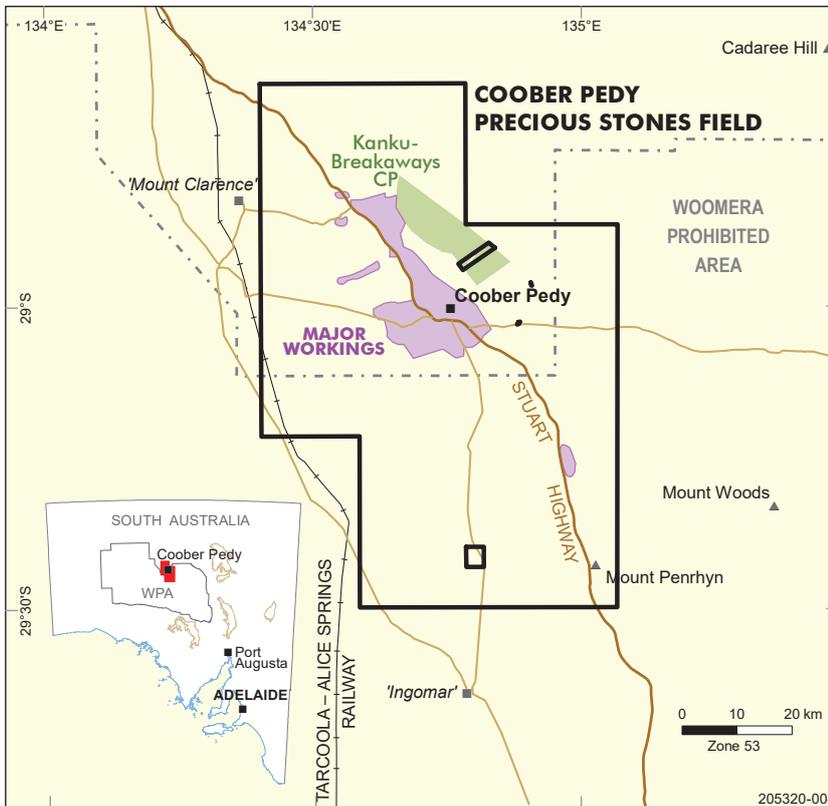
- 50 m either side of all minor creeks, including those within the boundaries of Area A.
- 200 m from the tree line of all major creeks, namely, Yellow Bullock Creek, Cotton Bush Creek, Longs Creek, Eight Mile Creek, Sixteen Mile Creek and Thunderstorm Creek, including those within the boundaries of Area A.
- 200 m radius from the edge of all clay pans, swamps and lakes, including salt lakes and those within the boundaries of Area A.
- The unworked area of John Deere.
- The mostly unworked hill at or near Hans Peak.

Before registering a precious stones tenement or carrying out authorised operations that might affect native title rights and interests within these areas, the holder of a PSPP must either:

- negotiate a separate ILUA under the Commonwealth *Native Title Act 1993* with AMYAC
- negotiate a native title mining agreement under Part 7 of the Opal Mining Act; or
- obtain a determination from the ERD Court.

Authorised operations will affect native title if they affect the rights and interests of native title holders or are inconsistent with their ability to exercise their native title rights. Operators should consider getting independent legal advice to assess whether their authorised operations affect native title.

Coober Pedy Precious Stones Field, major working and ILUA areas



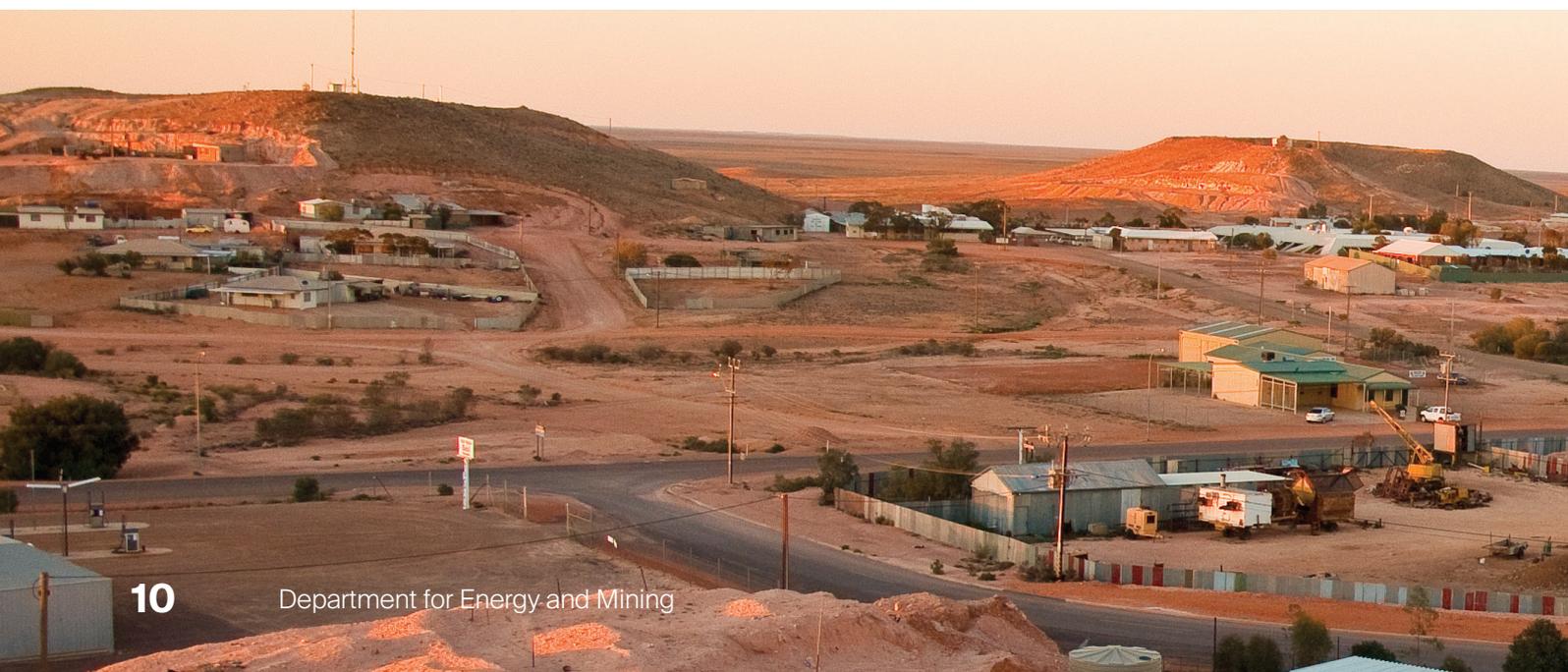
Figures 3

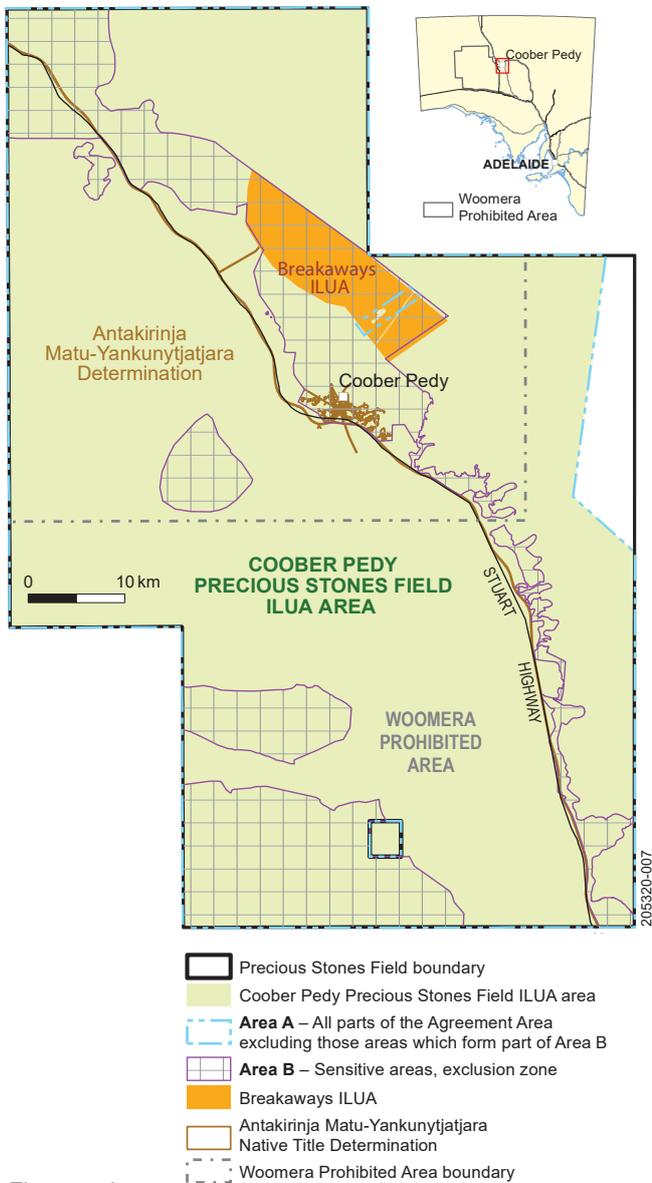
Woomera Prohibited Area

The Woomera Prohibited Area (WPA) covers approximately half of the Coober Pedy Precious Stones Field. The WPA is a prohibited area regulated by the *Defence Act 1903* (Cth), *Defence Regulation 2016* (Cth) and the *WPA Rule 2014*, and is primarily used for the purposes of testing war material. Landowners and other non-Department for Defence users, including opal miners, are allowed restricted access at certain times of the year.

Opal miners must not enter this area without an [Opal Mining and Precious Stone Prospecting Access Permit \(Form W006\)](#) issued by the Woomera Prohibited Test Range or at any time other than the specified dates. Operators may be required to evacuate for up to 56 days each year. The holder of an access permit will be given at least 21 days' notice before the exclusion period begins.

Panorama of Coober Pedy, South Australia





Figures 4

To access the portion of the Coober Pedy Precious Stones Field within the WPA to prospect or mine for opal, operators must:

- hold a PSPP or precious stones tenement issued under the Opal Mining Act
- hold an Opal Mining and Precious Stone Prospecting Access Permit (Form W006) issued by the Woomera Test Range (valid for 12 months)
- obtain approval for the intended access dates at least 10 days before entering the WPA by notifying the Woomera Test Range using the [Opal Mining and Precious Stone Prospecting Dates of Access Notification \(Form W006a\)](#).

Anyone accompanying or assisting the holder of an access permit in the WPA must also have approval. Entry will be approved for up to three months. At the end of each three-month period, a new Access Notification Form (Form W006a) must be submitted to the Woomera Test Range. More information about access to the WPA for opal mining activities can be found at defence.gov.au/woomera/permit-prospecting.htm.



MINTABIE

The Mintabie Precious Stones Field (see Figure 5) is on the *Anangu Pitjantjatjara Yankunytjatjara* (APY) Lands and is well known for its unique black and crystal opal. The Mintabie Precious Stones Field was first proclaimed on 30 November 1978, followed by a new proclamation in November 1980.

In October 1981 the APY Lands were vested in APY and APY was constituted as a body corporate created under the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* (APY Act). The lands held in fee simple incorporate what is known as the Mintabie Precious Stones Field.

Mintabie opal miners must have a Mintabie-endorsed PSPP before entering the Mintabie Precious Stones Field. This allows for more scrutiny of the people entering the APY lands to mine opal at Mintabie to ensure the assessment is consistent with APY's permitting process.

Background on the APY Lands can be found anangu.com.au.

Mintabie Precious Stones Field

PSPP and PSC operators must take reasonable steps to engage with APY People to assess how their operations will impact on Aboriginal heritage and gain their consent to operate. This requires an understanding of the laws relevant to Aboriginal heritage as well as the APY Act, which articulates the rights of APY people to self-determination and the management of their cultural and natural heritage.

Pegging a PSC on the Mintabie Precious Stones Field does not require APY consent.

A recent national police certificate must accompany an application for a Mintabie PSPP. Application forms are available online and can be posted or emailed to the Coober Pedy Office for processing.

However, originals must be presented to the Coober Pedy Office. An application will be refused if a person has been excluded under the APY Act.

If reasonable grounds are established, a tenement may be cancelled where a person has:

- acted in a manner prejudicial to the welfare of the APY or those who are lawfully on the Mintabie Precious Stones Field
- contravened, or failed to comply with, a condition of the tenement
- had an endorsement of a PSPP revoked.

If the registration of a tenement on the Mintabie Precious Stones Field is cancelled, the tenement holder may apply to the Warden's Court to have the decision reviewed within 28 days, unless the Warden's Court allows an extension of time.

Other conditions may also be placed or varied on tenement holders on reasonable grounds, by notice, in writing. The tenement holder may apply to the Warden's Court to review the decision within 28 days of a notice being issued.

To ensure compliance with these conditions, PSPP and PSC operators may only use non-permanent and moveable equipment on the field and must engage with SafeWork SA to ensure they meet all legal and policy requirements for the carriage and storage of explosives. Claim and permit holders must abide by applicable by-laws under the APY Act and may not live on the precious stones field or store explosives there.

Further information on access and conditions relating to Opal Mining within the Mintabie Precious Stones Field can be downloaded from the Department for Energy and Mining [website](#).

National police certificate checks for Mintabie

All persons over the age of 18 applying for a Mintabie PSPP or precious stones tenement must provide a national police certificate to the Opal Mining Registrar. For opal mining tenements, the National Police Certificate must not be more than one year old. Applications must be submitted in person and the original document viewed by an authorised person. For postal applications, a certified copy of the national police check is acceptable.

If the applicant, whether they are an individual or director, officer or employee of a company, was convicted of a crime in the past 10 years, the Opal Mining Registrar will take the following into consideration when assessing their police history check:

- the seriousness of the crime – eg violence, larceny, unlawful sale of a motor vehicle, sale of liquor or a regulated substance
- where and when the crime occurred. Only convictions of a sexual nature or where an Aboriginal sacred site has been damaged will be taken into consideration if more than 10 years back but not further than 2 October 1981
- whether the conviction related to illegal opal mining including on the Mintabie Precious Stones Field or elsewhere on the lands
- the effect of the person's behavior on the welfare of Anangu or the welfare of those who are lawfully on the Mintabie Precious Stones Field.

Mintabie Precious Stones Field

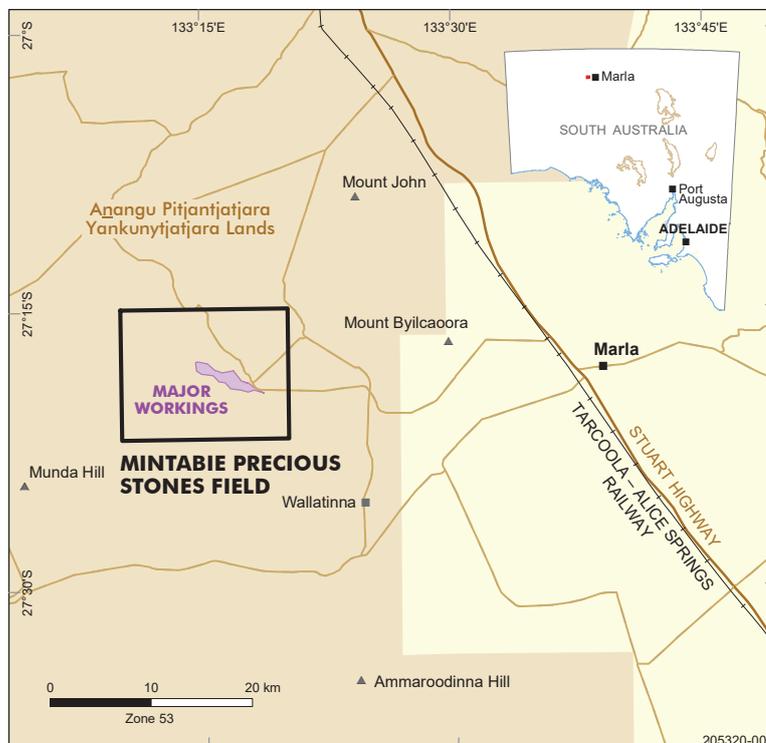


Figure 5

APY alcohol by-laws

APY alcohol by-laws restrict the possession and consumption of alcohol on the APY Lands, which includes the Mintabie Precious Stones Fields.

The former Mintabie township

For some decades, the APY leased the Mintabie township to the Government of South Australia. Following a 2017 [review of the Mintabie Township Lease](#), the South Australian government decided to uphold the decision made by the former government in February 2018 to terminate the lease. Following extensions to provide residents more time to make alternative arrangements and the conclusion of Federal Court action, the Mintabie township was closed on 31 December 2019.

STUART CREEK

The Stuart Creek Precious Stones Field (see Figure 6) is located approximately 58 km north of Andamooka and was discovered in 1947. It covers an area of about 13 km² and is only recommended for experienced opal miners and bush travellers. It is located on native title land of the Arabana People and is subject to the native title requirements in Part 7 of the *Opal Mining Act 1995*.

Stuart Creek Precious Stones Field

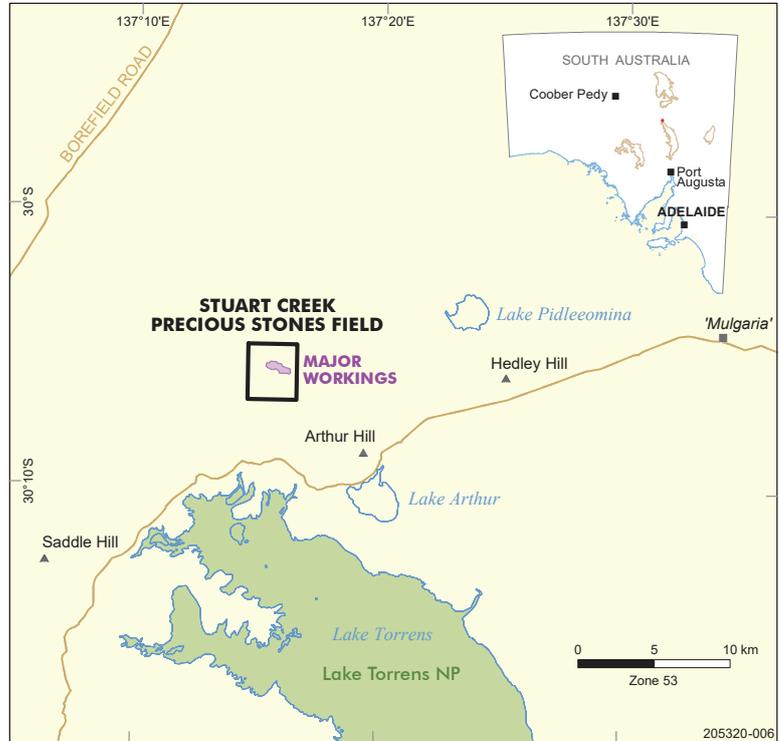
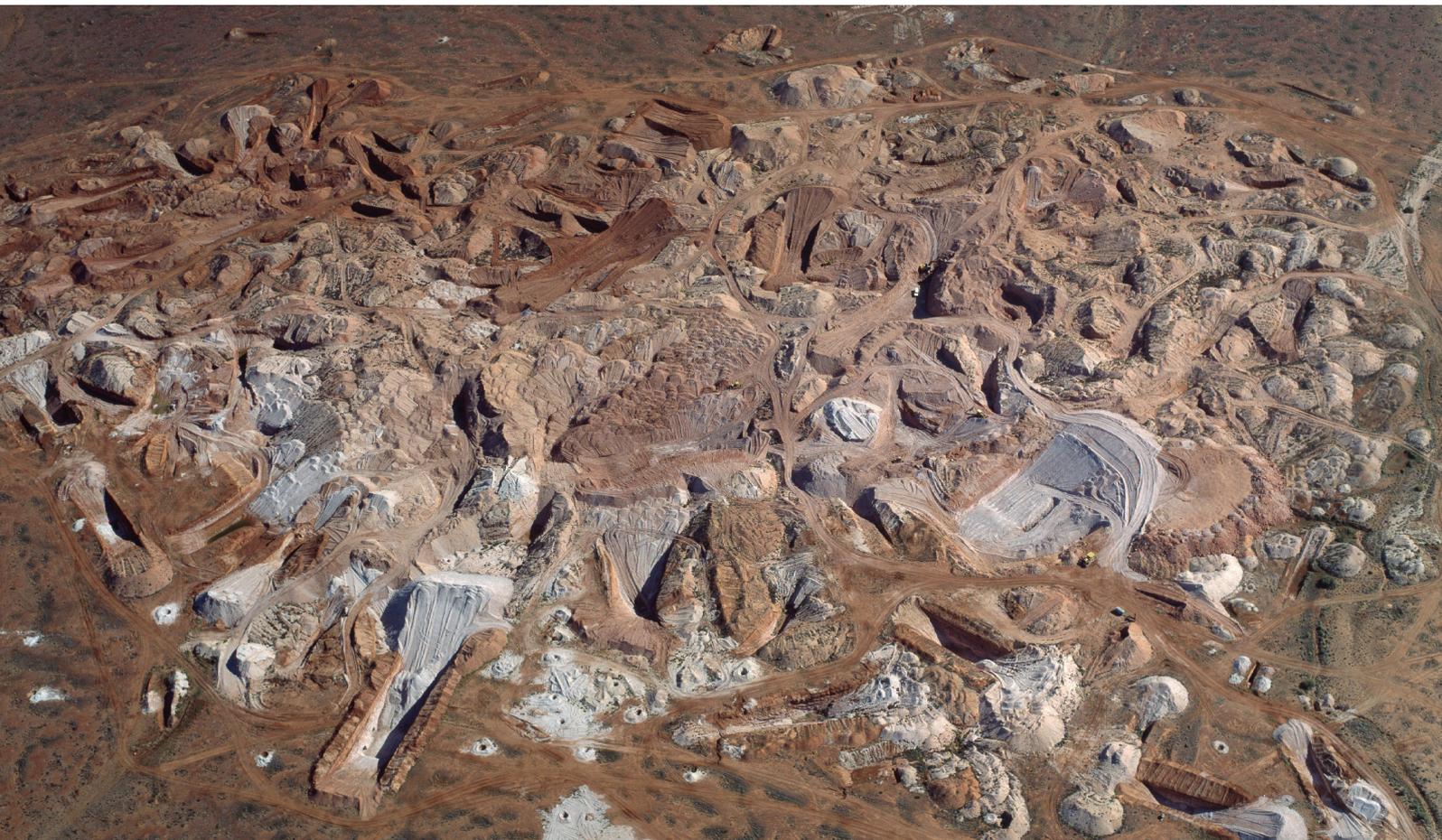


Figure 6

Aerial view of Andamooka opal fields , South Australia



Precious stones prospecting permits

Under the Opal Mining Act, every person or business prospecting or pegging a claim for opal in South Australia must have a current PSPP. Applications are lodged with an office of the Opal Mining Registrar or online. A PSPP is valid for one year and may be renewed by application within one month of its expiry. A person is only entitled to one PSPP at a time.

RIGHTS AND RESPONSIBILITIES OF A PSPP HOLDER

A PSPP authorises the holder to explore for precious stones without the use of machinery or explosives, other than to sink a prospecting shaft. It does not authorise the holder to:

- prospect or mine for opal on land that is exempt from mining¹ – eg residential land, houses, areas near buildings and structures, yards, cropped fields, water springs, wells and transport infrastructure
- conduct operations that disturb the land by using declared equipment – eg excavator, prescribed drilling and mechanically driven, digging, boring or tunnelling equipment or explosives
- live on the precious stones field.

Pegging an area under a PSPP is only permitted if it is entirely within or entirely outside of a precious stones field ie not over the boundary.

¹ Exempt land provisions only apply to areas outside of precious stones fields.

In the case of a company, pegging a precious stones tenement within a precious stones field is not authorised under a PSPP unless the land is:

- within a designated area
- not within 500 metres of a registered tenement at the time of pegging
- not within an exclusion zone.

A PSPP does not authorise any miner to peg an opal development lease within a precious stones field unless the land is:

- within a designated area
- not within 500 metres of a registered tenement at the time of pegging
- not over ground previously disturbed by authorised operations.

A PSPP does not authorise the pegging out of an area for a precious stones tenement on land that is:

- within an opal development area under the *Mining Act 1971*
- within an area that has been pegged out by another person, and that pegging has not lapsed or been cancelled
- within an existing precious stones tenement, unless the holder of an opal development lease pegs out a claim within the area of the lease.

Anyone who prospects or pegs an area in a precious stones field contrary to the Opal Mining Act will pay an administrative penalty and a maximum criminal penalty of \$5,000. Further, if a ballot is introduced to determine who may peg an area, any area that is pegged contrary to that ballot will not be valid.

IDENTIFICATION PLATES

PSPP holders are provided with identification plates when the PSPP is issue or renewed – one set for the major working area at Coober Pedy and up to three sets for other precious stones fields – eg two sets for PSCs and one set for an opal development lease.

Each set consists of four plates for each claim and must bear the relevant PSPP number and date of expiry.

An appropriate plate must be attached to each post of any tenement pegged under the permit, or the tenement holder can be plained in the Warden's Court for non-compliance. A 'plaint' is a legal term for an accusation or charge. The warden will decide what happens to the claim – eg issue an order to fix the issue or cancel the tenement.

If plates are lost or destroyed, the tenement holder can get replacements by lodging a declaration of loss and paying the appropriate fees at any office of the Opal Mining Registrar.

A PSPP, along with its associated identification plates, may be cancelled by order of the Warden's Court for a serious breach of any of the laws relating to mining.

The PSPP holder may surrender the PSPP, together with the associated identification plates, to the Opal Mining Registrar at any time.

If a person renews a PSPP and is the holder of a current precious stones tenement, that person must place the plates issued with the renewed permit on each post within 14 days.

PROSPECTING AND MINING OUTSIDE OF A PRECIOUS STONES FIELD

Opal miners who want to prospect or mine outside of a precious stones field require written landowner consent and will need to comply with the various requirements of the Opal Mining Act, including obligations relating to notices of entry, environmental protection and rehabilitation, financial security and the approval of the Director (known in full as the Director of Mines). Specific native title requirements may also apply.



Precious stones tenements

RIGHTS UNDER A PRECIOUS STONES TENEMENT

A precious stones tenement gives the holder – the person whose permit number appears on the posts – an exclusive right to prospect, mine and sell, use or dispose of precious stones recovered from the tenement. Within the Coober Pedy major working area, a person may hold only one PSC at any time and it must not be loaned or transferred to anyone else. On other precious stones fields or outside of a major working area of a precious stones field, a person may hold up to three tenements at the same time – two sets for PSCs and one set for an opal development lease.

If the tenement holder contravenes or fails to comply with a term of the tenement or a provision of the Opal Mining Act, the Opal Mining Registrar may cancel or suspend their tenement, having first taken all reasonable steps to notify them of the intention to do so and given them the opportunity to make written submissions on the matter. Appeals may be heard in the ERD Court and

the tenement holder has 28 days from receipt of the notice to tell the ERD Court they intend to appeal.

TENEMENT SIZE AND SHAPE

PSCs may be pegged in three sizes (see Figure 7):

- Small – a square with no side longer than 50 metres.
- Large – a rectangle a maximum of 50 m wide and 100 m long.
- Extra-large – a rectangle a maximum of 100 m wide and 200 m long. An extra-large claim is the maximum peggable claim and can only be pegged outside a major working area.

An irregularly shaped claim may be pegged if it is impractical to comply with the ordinary requirements – eg where adjoining boundaries prevent the pegging of an extra large or small claim.

Examples of precious stones tenements

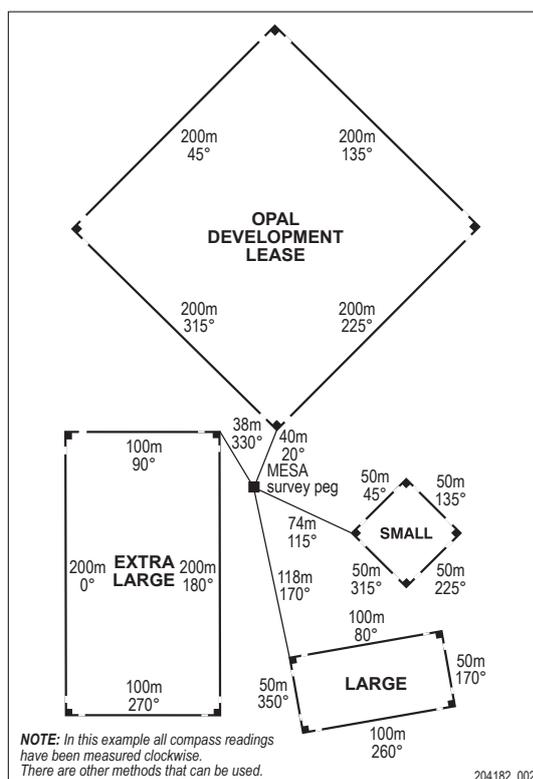


Figure 7

However, this can only be done if an application to approve the pegging is made immediately to the Opal Mining Registrar or authorised person.

Opal development leases may be a maximum of 40,000 m² (200 x 200 m) and are short-term, three-month- long prospecting leases. They cannot be renewed.

The holder of a PSC or an opal development lease cannot live on the precious stones field. A PSPP does not authorise pegging of an opal development lease on land within a precious stones field unless it is within a designated area or within 500 metres of a registered tenement.

The Minister can declare an area to be a designated area. However, at the time of writing, no areas have been declared.

HOW TO PEG A TENEMENT

GPS coordinates can be used to identify claim areas and locations to peg a PSC.

If physically pegging, posts must:

- be at least 7 cm thick
- be placed securely in the ground at each corner of the tenement
- project at least 75 cm above the surface
- not show any information of a previous pegging
- have indicator arms showing the direction of the tenement boundary (see Figure 8).

Securely attach a PSPP plate for the relevant type of tenement as near as possible to the top of each post, with the pegging date written in clear, legible characters below each identification plate. For a PSC, include the letter 'S', 'L' or 'X' depending on whether the claim is small, large or extra-large. For an opal development lease, include the letters 'ODL' and paint each post completely white.

Example of pegging a precious stones claim

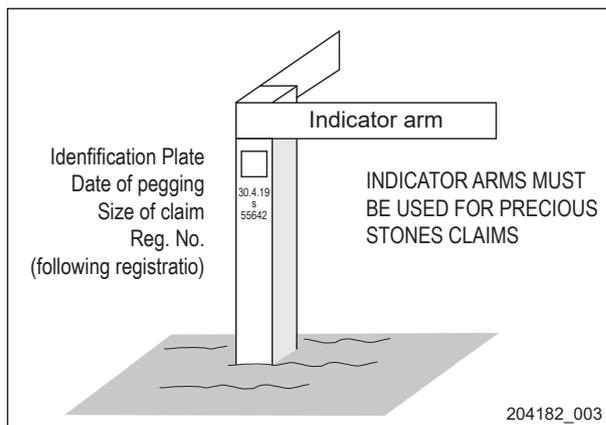


Figure 8

NOTICE OF PEGGING

When a claim is pegged out under a PSPP on a precious stones field, the PSPP holder must lodge a notice of pegging on the appropriate form with the Opal Mining Registrar or electronically by 5 pm on the next working day. If pegging is done on a Friday, the notice must be lodged by 5 pm the next Monday. If not, the claim ceases to exist and posts can be removed by the regulator.

An opal development lease in a precious stones field does not require a notice of pegging.

REGISTRATION

An application for registration of a PSC that outlines the location and area of the claim must be lodged with the Opal Mining Registrar within 14 days of the pegging, unless otherwise determined. The Registrar will register the application on the Opal Mining Register. The application can be made electronically in a form determined by the Director and accompanied by the [prescribed fee](#).

Registration of a PSC is valid for three months from the date of registration and may be renewed on application by the holder of a claim. The applicant must serve on the landowner a notice of the application within 14 days of applying for registration. An opal miner may not commence authorised operations on a precious stones tenement outside an opal field until notified in writing by the Opal Mining Registrar.

If the holder of a PSPP makes an application for an opal development lease, the Director will inspect the area, prepare a report on its suitability and notify the Opal Mining Registrar of the decision to either grant or refuse the application. Registration of an opal development lease is valid for three months from the date it is granted and registered.

The tenement holder must mark the registered number clearly on each post within seven days of registration for a PSC and 14 days for an opal development lease.

MAINTENANCE OF CLAIMS

Failure to keep the posts in their original position with indicator arms in place, identification plates on each post and the registered number and date of pegging clearly legible could result in another person applying to the Warden's Court for the claim to be forfeited.

Persons authorised under the Opal Mining Act carry out regular inspections of the opal fields and can issue rectification orders for any deficiencies in pegging. If these are ignored, the Director can apply to the Warden's Court for forfeiture of the claim.

RECOVERY OF POSTS

In certain circumstances, regulators are authorised to remove posts. The owner may recover them within one month and pay a prescribed fee.

TENEMENT RENEWAL

PSCs may be renewed for one year. This must be done within 60 days of its expiry and lodged with the office of the Opal Mining Registrar nearest to the location of the claim, or electronically, on the appropriate form, accompanied by the prescribed fee. The Opal Mining Registrar will register the application on the Opal Mining Register. The Opal Mining Registrar will consider whether the claim holder has met the requirements of the claim, including working conditions, in order to renew.

Opal development leases cannot be renewed.

TENEMENT SURRENDER

To surrender a claim, the tenement holder must lodge a notice of application to surrender with the Opal Mining Registrar. For claims outside a precious stones field, the claim will be subject to an inspection by an authorised person. The mining posts, with PSPP plates attached, must remain on the claim until it has been inspected. No other claim can be pegged by the claim holder until an Opal Mining Registrar or authorised person is satisfied that the current claim has been rehabilitated. All overburden is to be kept inside of the claim boundaries from where it is pushed.

The claim holder is responsible for everything that happens on his or her claim. Private agreements between miners are the individual miners' concern and do not change the claim holders' rehabilitation responsibilities under the Opal Mining Act.

CANCELLATION OF TENEMENT

If the tenement is cancelled in accordance with the Opal Mining Act:

- the tenement holder must immediately remove all posts, boundary indicators and markers unless exempted from the requirement to do so
- the owner of machinery or goods on the tenement must ensure they are removed within three months or face a maximum penalty of \$250,000. The Treasurer can deduct the associated costs of seizing, holding, maintaining, repairing, cleaning or selling the abandoned machinery or goods from the sale of the machinery or goods.

RE-PEGGING

For a PSC, the tenement holder cannot re-peg another tenement within the previous claim unless:

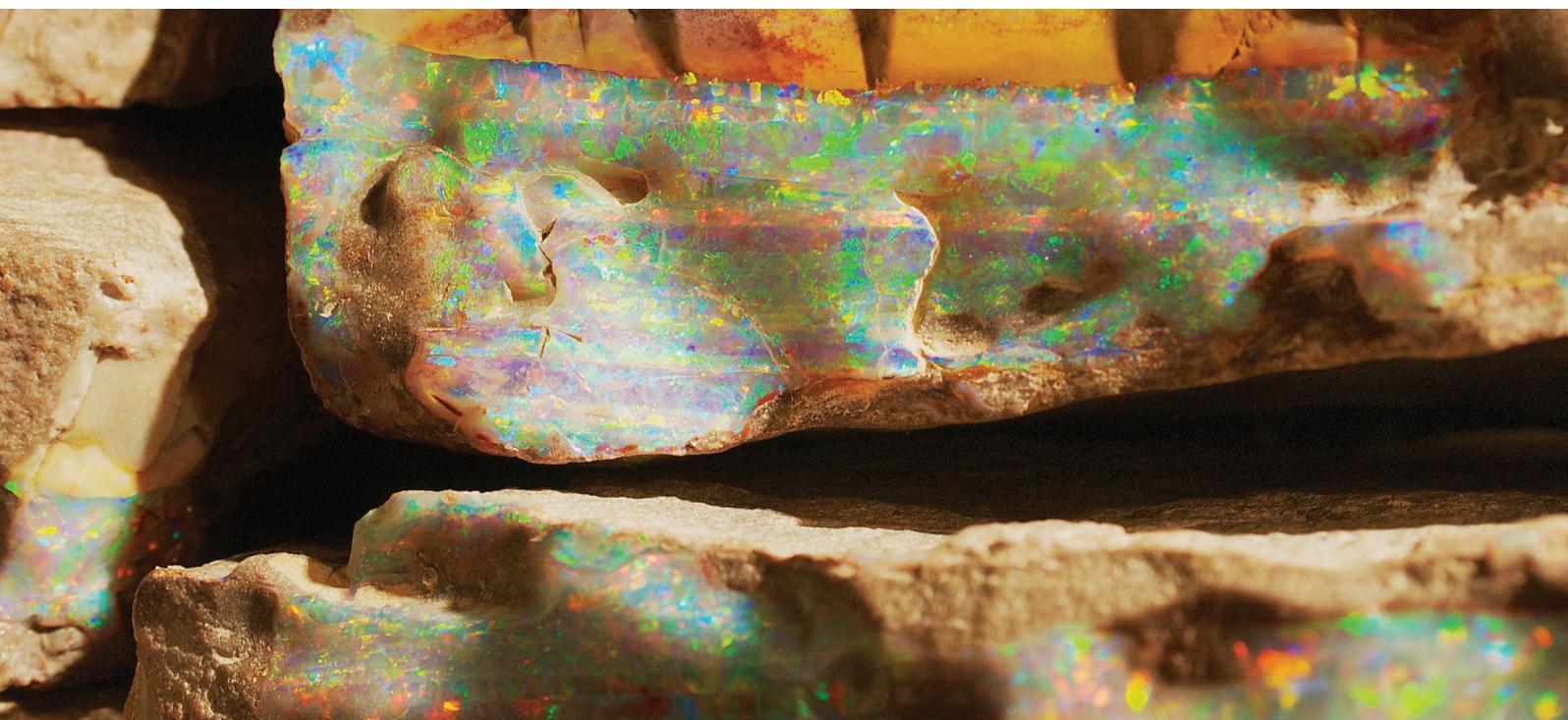
- at least 12 months has elapsed since the previous claim ended
- the Opal Mining Registrar has given written approval.

When an opal development lease lapses or is surrendered, the holder cannot re-peg another lease on land within that lease. Further, no other person may peg a lease on land within the previous lease until 30 days has elapsed since the end of the previous lease.

APPROVAL FROM THE DIRECTOR

A tenement application must be completed and forwarded to the Director who must provide written approval before authorised operations on a precious stones tenement can begin. This approval will be incorporated with the applicant's registration details when the Opal Mining Registrar advises that opal mining may commence. For further information, contact any office of the Opal Mining Registrar.

Opal in Coober Pedy, South Australia



Working conditions

PSCs must be diligently worked on a regular basis except for a three-month amnesty from working conditions between 15 December and 14 March each year, which is provided by the Opal Mining Regulations for when extreme weather conditions prevent work on the claim. There are no working condition provisions for opal development leases.

SUSPENSION OF WORKING CONDITIONS

The holder of a PSC may apply to the Warden's Court for a suspension of the claim's working conditions for a maximum of six months. Work may still be done on the claim during its term.

EXEMPTION FROM WORKING CONDITIONS

A PSC holder is exempt from working conditions and is not liable for forfeiture or penalty if the reason for not meeting working conditions is due to:

- illness or absence on urgent work in the public interest – applies for a maximum of two months from the start of the illness or absence
- flood, drought or other act of nature – applies for a maximum of two months from the event
- an order of a court specifically preventing the holder from working the claim.

It is the claim holder's responsibility to maintain compliance with working condition requirements or request a suspension to protect against compliance action by the regulator or through a third-party plaint to the Warden's Court.

AMALGAMATION OF WORKING CONDITIONS

The holder may apply to the Warden's Court for the amalgamation of working conditions, where the total amalgamated area is not more than 10,000 m². This allows the working condition requirements of all tenements to be met by working at any location within the boundaries of the tenements. Amalgamations will not be granted for more than a year at a time.

Third parties may object to an application. The Warden's Court may cancel the order at any time in the period for which amalgamation has originally been granted.

THIRD PARTY PLAINT

If a PSC holder is not meeting their working conditions, another person can take plaint action in the Warden's Court for the claim to be forfeited. Another PSPP holder or the landowner relating to the claim can apply for the area. If they are successful, they will have an exclusive right to peg out an area for a PSC of the same kind on the land within 14 days. The Director can also seek forfeiture of a PSC. If successful, the ground will become available for pegging and claim by another person.

Download the [working conditions policy](#) and [information sheet](#) to learn more about working conditions under the Mining Act 1971 and Opal Mining Act.

Exploration licences and opal development areas

Exploration licences can be granted for opal under the *Mining Act 1971*.

If mineral land within a precious stones field is declared to be an opal development area, only persons who hold an exploration licence or mining lease issued under the *Mining Act 1971* may perform authorised operations in that area. An exploration licence for precious stones on an opal development area cannot exceed 20 km² in area, unless there are existing circumstances that justify the grant of a greater area.

Opal development areas may be gazetted by the Minister in consultation with relevant opal mining associations and are carefully defined and located away from established workings.

Exploration licences cannot authorise exploration for precious stones on land that's within a precious stones field but outside of an opal development area, or on land within an exclusion zone declared under section 5 of the Opal Mining Act.

Mining development

If a company's exploration is successful and it wishes to proceed to a mining development over part of a precious stones field, the development will be conducted under the *Mining Act 1971* as currently applied to all other minerals. An application must be made for a mining lease and all mining lease

requirements will apply in the usual way, including the submission of six-monthly production returns, payment of royalties on the opal recovered for sale, rehabilitation of the areas mined and annual rent.

Entry onto land

Under the Opal Mining Act, an opal miner may enter land to prospect or mine if the opal miner:

- has an agreement with the landowner. If the land is under native title, the agreement is to be negotiated as under Part 7 of the Opal Mining Act. In any other case, Part 6 of the Opal Mining Act will apply
- is authorised by a native title mining determination
- has given the prescribed notice of entry form, the operations will not affect native title and the opal miner complies with any determination made on objection to entry; or
- enters the land to continue operations that lawfully began before the commencement of the Opal Mining Act.

NOTICE OF ENTRY

If an opal miner does not have the authority to enter land they must give the landowner at least 21 days' notice of his or her intention to enter land to prospect or mine, on a form determined by the Director and validated by an authorised person.

The notice must be served:

- in the case of native title land, as prescribed by the *Native Title (South Australia) Act 1994*
- in other cases, personally, by post or by email.

After the 21 days has lapsed, the miner may then enter the land specified on the form and peg out a precious stones tenement. However, before doing so, the miner is required to ensure that there is no existing exploration licence or application for an exploration licence over the area of interest (see [SARIG](#)).

If an exploration licence does exist over the area, the licensee must give written notice before any area can be pegged within that licence. The landowner, which includes a freehold landowner or pastoral lessee, may object to entry on the land within three months by lodging a notice of objection with the relevant court – Warden's Court, ERD Court or the Supreme Court. If the landowner can demonstrate that the proposed operations would be likely to cause substantial hardship or damage to the land, the court may impose conditions under which the opal miner can enter the land, or even prevent entry.

The maximum penalty for not complying with the requirements of notice of entry or a determination of the court is \$50,000.

An opal miner should always maintain good relations with landowners by keeping them informed of movements and progress. After serving a notice of entry to a pastoral lessee for mining purposes, an opal miner must comply with provisions of the *Pastoral Land Management and Conservation Act 1989*. However, within the opal miner's tenement, the provisions of the Opal Mining Act apply.

Provisions of the *Pastoral Land Management and Conservation Act 1989* that apply include:

- No camping within 500 m of a dam or any other constructed stock watering point.
- No mining within 150 m of a dam or any other constructed stock watering point.
- No camping within 1 km of any house, shed or other out-building.
- No mining within 400 m of any house.
- No erection of a structure without permission of the lessee or [Pastoral Board](#).

- No cutting of timber, lopping or damage to any living tree or bush without permission of the lessee.
 - No pollution of water sources.
 - No littering or abandoning of goods on pastoral land.
 - No hunting or shooting without permission from the lessee.
 - No animals may be brought onto pastoral land without permission from the lessee.
 - No activities which may damage or interfere with pastoral land or anything on pastoral land.
 - Use of water is allowed, with the permission of the Pastoral Board, within reason for personal domestic and mining purposes provided that it does not deprive the lessee of water.
 - Any variation of these provisions that an approved association may negotiate with a pastoral lessee shall be adhered to by the association members.
 - the grounds of a church, chapel, school, hospital or institution.
- Any land considered parkland or recreation grounds under control of a council.
 - Any land used for, or reserved, as waterworks, including land administered by the Minister for Water under the *Water Industry Act 2012* or land within an easement administered by the Minister for Water.
 - Any land within a forest reserve managed under the *Forestry Act 1950*.
 - Any separate parcel of land less than 2,000 square metres within any city, town or township.
 - 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 \$2,500 or more used for an industrial or commercial purpose, or a spring, well, reservoir or dam. Note that the Warden’s Court has previously ruled that a water bore falls within the definition of a well.

DURATION OF ENTRY

A notice of entry remains in force for 12 months from the date of validation and for the duration of the tenement, including any renewal. If the notice of entry has lapsed, a new validated notice must be served. If served within 28 days of the lapse of the previous notice, the miner does not need to give 21 days’ notice before re-entering the land.

EXEMPT LAND

Certain land is exempt from prospecting and mining if outside a precious stones field, which means it cannot be explored without permission from the landowner, or by order of the court. The land is exempt according to the following categories:

- Land that is lawfully and genuinely used as:
 - a yard, garden, cultivated field, plantation, orchard or vineyard
 - an airfield, railway or tramway

Land may be categorised as exempt land even if the authorised operation is not occurring on the landowner’s property.

Further information on exempt land is provided in the department’s [Land rights, access and engagement](#) guidelines.

COMPENSATION

A landowner, including a pastoral leaseholder, is entitled to compensation for economic loss, hardship or inconvenience caused by authorised operations on the land. This could include compensation for negotiating access to the land and any costs incurred by the landowner for obtaining independent legal advice.

Compensation is negotiated between the landowner and opal miner and does not have to take the form of a monetary transaction. Often it is possible to achieve a more valuable outcome through in-kind contributions.

If the landowner and opal miner are unable to reach an agreement on the appropriate amount of compensation, either party can take the matter to the appropriate court – Warden’s Court, ERD Court or Supreme Court.

Aboriginal heritage

The *Aboriginal Heritage Act 1988* (AH Act) provides protection for all Aboriginal sites, objects and remains of significance to Aboriginal archaeology, anthropology, history and tradition, known as Aboriginal heritage. The AH Act requires that land users manage their risk of damage to Aboriginal heritage from their on-ground activities. These requirements apply even if an approval to mine has been granted.

It is an offence to damage, disturb or interfere with Aboriginal heritage without authorisation under section 23 of the AH Act, or a Local Heritage Agreement or Division A2 agreement. There are substantial penalties for not complying with the requirements of the AH Act:

- \$50,000 for unauthorised damage, disturbance or interference in the case of a company
- \$10,000 or six months imprisonment in any other case.

Where there is no ILUA, miners are encouraged to contact the relevant native title group for advice before entering an area. The miner, not the regulator, is responsible for this task.

Miners can find out from Aboriginal Affairs and Reconciliation whether there are Aboriginal heritage sites to avoid in their area of interest. AAR’s Central Archive contains a searchable database of Aboriginal sites, objects and remains, reports and surveys. It is not publicly accessible. However, basic information can be made available on request. AAR will also provide contact details of the native title group or Aboriginal organisation for the area. To make a request, email DPC-AAR.Heritagesites1@sa.gov.au. Search fees apply.

Aboriginal Heritage Surveys or Work Area Clearances are usually undertaken to minimise the risk of breaching the AH Act during ground-disturbing activities. These involve an on-ground inspection by an archaeologist or anthropologist accompanied by members of the native title group. The client will be given a report advising of restricted areas and areas that can be excavated. Following these directions will ensure compliance with the AH Act. Surveys or clearances are funded by the miner.

If Aboriginal heritage is discovered during excavations or earthmoving after the area is cleared, activity in that area must stop and the

discovery must be reported to Aboriginal Affairs and Reconciliation and the local native title group or Aboriginal organisation for further advice. Suitably qualified personnel may need to be engaged to investigate the significance of the discovery. To assist in streamlining this process, the miner should have a discovery protocol in place with the native title group or Aboriginal organisation to confirm an agreed course of action when a discovery has been made.

Further information on identifying and avoiding Aboriginal heritage sites can be found in the [Aboriginal heritage guidelines for resource projects in South Australia](#).

Native title land

Native title is the Australian legal system's recognition of the rights and interests of Aboriginal peoples and Torres Strait Islanders in relation to land and waters, according to their traditional laws and customs.

Native title land is defined in the *Native Title (South Australia) Act 1994* to mean "land in respect of which native title exists or might exist".

Native title rights may include the possession, use and occupation of traditional country. In some areas, native title may be a right of access to the area. It can also be the right of native title holders to participate in decisions about how others use their traditional land and waters.

Authorised operations will affect native title if they extinguish (affect) native title rights and interests or if they are otherwise inconsistent with their continued existence, enjoyment or exercise – see section 227 of the *Native Title (South Australia) Act 1994*. Whether authorised operations affect native title will depend on the nature and location of the proposed operations and the particular native title rights and interests held or claimed by the relevant native title party. Opal miners should seek their own

legal advice about whether their operations may affect native title.

Agreement with native title parties or a determination from the ERD Court is required to prospect and mine for opal on native title land if those activities affect native title. The South Australian Government has negotiated ILUAs on behalf of opal miners with native title holders over the Andamooka and Coober Pedy Precious Stones Fields. The ILUAs provide native title authorisation to prospect and mine for opal within areas of the Andamooka and Coober Pedy Precious Stones Fields. If a person complies with the relevant ILUA they do not need to negotiate a native title mining agreement or obtain a determination under the Opal Mining Act to prospect or mine for opal within those areas.

Operators who wish to prospect or mine outside of a precious stones field are strongly encouraged to contact the Opal Mining Registrar about these specific requirements and how to make an application.

Aboriginal lands

Certain conditions apply for Maralinga Tjarutja and APY Lands:

- Anyone seeking to mine for opal on Aboriginal lands must send a written application to the Opal Mining Registrar prior to entry onto the lands. The applicant must also be the holder of a current PSPP.
- The approval of the Minister is then required before anyone approaches the landholding body under the *Maralinga Tjarutja Land Rights Act 1984* or APY Act.
- On receipt of the Minister's approval, the approved person may approach the relevant Aboriginal board – APY Executive Board or

Maralinga Tjarutja Council, submit their written tenement application and seek permission for access to the lands to mine for opal.

- A tenement on Aboriginal lands cannot be issued without approval from the relevant Aboriginal board.

These procedures could be lengthy as the boards must process the application at the direction of the traditional landowners. For further information on Maralinga Tjarutja and Anangu Pitjantjatjara Lands, please refer to maralingatjarutja.com.au and anangu.com.au.

Environmental requirements

The following minimum requirements can only be varied with the approval of the Director or an authorised person in consultation with the pastoral lessee.

TOPSOIL AND VEGETATION MANAGEMENT

Topsoil and vegetation cover should be removed separately from the proposed excavation site and stockpiled in a position where it will not be interfered with during opal mining. Topsoil should not be stripped when wet to avoid compaction when respread. Nor should it be stored in large heaps but in low mounds no more than 1-2 metres high and protected from erosion with roughened dump surfaces.

MANAGEMENT OF TENEMENT DURING MINING

While the tenement is being worked, no materials or rubbish are to be placed outside or allowed to blow off the tenement area. All Calweld or other drillholes, as well as test trenches, are to be backfilled, tamped down and left with a mound of soil above the backfilled hole to allow for subsidence.

ACCESS

A mining track system must be designated by the pastoral lessee in consultation with the Director or authorised person, and miner or representative from an approved association. No station tracks should be graded or bulldozed without the pastoral

lessee's consent. A lessee shall not prevent a track being made to a mining area that is not reasonably accessible from any existing track. Any tracked earthmoving equipment must, where possible, be moved on a low loader or with the blade or bucket in the raised position so as to avoid damage to the land surface and vegetation.

CAMPING AREAS

Any areas to be set aside for camping or non-permanent habitation will, when outside the tenement, be defined by the lessee in consultation with the miner or a representative from an approved association. The miner must comply with the provisions of the *Pastoral Land Management and Conservation Act 1989* when camping outside the tenement. These include preservation of live and dead standing vegetation, removal of all structures including concrete pads and environmental rehabilitation of the area upon leaving.

AQUIFERS

A miner must advise the regulator of any aquifers encountered, and take remedial action as advised. Aquifers are underground layers of rock that are saturated with water that can be brought to the surface through natural springs or by pumping.

REHABILITATION

The holder of a precious stones tenement outside a precious stones field must rehabilitate land within the tenement that has been disturbed by authorised operations. This must be completed to the satisfaction of an authorised person under the Opal Mining Act.

When authorised operations are complete, the surrender of a precious stones tenement will not be granted until:

- all excavations have been backfilled with overburden and sloped to form a shallow central depression with the outer gradient between the raised overburden and the surrounding ground simulating the local topography. This need not apply where the topography includes steep gradients
- stockpiled topsoil has been respread over the newly formed area, with the surface left in a roughened state to aid water and seed entrapment as well as helping prevention of soil erosion. Stockpiled vegetation is to be respread after topsoiling
- non-toxic materials have been buried at least one metre below the rehabilitated soil surface. Toxic materials must be removed from the pastoral lease
- investigator holes have been fully backfilled and tamped with a central pile of dirt to allow for the compaction over time. No back-blading of investigator holes by bulldozers or bobcats is allowed
- access tracks and campsites on the claim have been either rehabilitated to allow the regeneration of indigenous and natural vegetation, or left for future use by the lessee.

STORAGE OF OVERBURDEN

All operations, including the storage of overburden, must be performed within the boundaries of a tenement. The operator must have written permission from an authorised person if they propose to push overburden or extend an open-cut operation past the boundaries of the tenement. Applications must be made to the Opal Mining Registrar. The maximum penalty for breaches to the storage of overburden and other waste is \$10,000.

Declared equipment

A mining operator can use declared equipment in the course of authorised operations on a registered tenement within a precious stones field. If a mining operator wishes to use declared equipment outside of a precious stones field, they can only do so with the prior written authorisation of the Director. An application for authorisation must be made in a manner and form determined by the Director and accompanied by the prescribed application fee. Authorisation may be given subject to conditions.

Opal mining activities authorised under a PSPP do not allow the use of declared equipment. Penalties of up to \$120,000 apply for a breach of declared equipment requirements.

Declared equipment includes:

- a trench digger or excavator
- mechanically driven equipment, equipped with a blade or bucket of a width exceeding 0.75 m, capable of ripping, gouging, scooping or digging earth or rock material
- equipment that is capable of digging, boring or tunnelling underground, generally in a horizontal plane, with a cross-sectional dimension greater than 0.75 m
- equipment of a kind prescribed by the regulations for the purposes of this definition, not including surface drilling equipment.

Caveats

The precious stones tenement holder or someone claiming an interest in the precious stones tenement may lodge a caveat² in the Warden's Court.

A person with an interest in a precious stones tenement that is subject to a caveat registered under the Opal Mining Act, or an interest that's

directly affected by a caveat, may apply through the Warden's Court to:

- have the caveat declared invalid
- have the caveat lapse
- have a transfer or surrender registered despite the registered caveat
- obtain compensation.

² A caveat is a legal way to protect an interest in a mineral tenement as agreed to between contractual parties. A caveat can operate to prevent transfers and surrenders.

The application may be moved to a higher court if required. For more information on caveats please contact the Opal Mining Registrar.

Orders, compliance directions and offences

The Minister may issue an order for the rehabilitation of land at any time, even if the tenement has already expired or if it is outside the precious stones field. The maximum penalty for failing to adequately rehabilitate the land is \$120,000.

The Minister also has the ability to issue compliance directions to ensure compliance with terms or conditions of a tenement, preventing or ending specified operations that are contrary to the Act or a tenement and requiring rehabilitation of land as a result of any operations under the tenement or to ensure public safety. Under the Opal Mining Act, there is no right of review with the ERD Court, but judicial review will apply. The maximum penalty for contravention of a compliance direction is \$250,000.

The Opal Mining Act provides penalties for a range of other offences. The maximum penalties are:

- \$10,000 for unlawful entry onto a precious stones tenement
- \$10,000 for the obstruction or hindering of PSPP or opal mining tenement holder with a lawful excuse
- \$10,000 for a person who obtains or attempts to gain a permit or tenement by a false or misleading statement or information, or fraudulently alters or uses a permit or tenement
- \$10,000 for a person who, in providing information for the purposes of the Opal Mining Act, makes a false or misleading statement
- \$50,000 for breaches of an agreement or determination relating to the Opal Mining Native Title Register

- \$150,000 or two years in prison for the mining, selling, use of or disposal of precious stones recovered in the course of mining operations without the proper authorisation under the Opal Mining Act
- \$150,000 or two years in prison for an offence relating to a breach of a prohibition order under the Opal Mining Act
- \$10,000 for interference with land and operations that are simultaneously subject to a registered precious stones tenement under the Opal Mining Act and a mining tenement under the *Mining Act 1971*
- \$10,000 for any contravention or failure to comply with an order of the Warden's Court.

Any administrative penalties of up to \$15,000 and prescribed by regulations will be applied to any provision of the Act or the regulations. However, an administrative penalty may not be imposed twice for the same matter.

Bonds

The Minister may request the applicant for, or holder of, a precious stones tenement that is outside a precious stones field, to enter into a bond.

The Minister will determine the amount, form and terms of the bond, taking into account:

- liabilities the person may incur in the course of authorised operations
- present or future obligations that the miner may incur for the rehabilitation of land.

Authorised operations must not start, or must cease if already begun, until the bond is lodged with the Opal Mining Registrar. The South Australian Opal Miners Association Inc. (SAOMAI) liaises with pastoral lessees on land that members wish to access. The office of the Opal Mining Registrar at Coober Pedy has names and addresses of the relevant committee members.

The maximum penalty for breaches of matters relating to bonds is \$120,000.

Opal mining cooperation agreements

An opal mining cooperation agreement may be made between the landowner and an opal miner or approved association, as set out in Part 6 of the Opal Mining Act. However, such an agreement cannot relate to native title land or land within a precious stones field. For further details, refer to the Opal Mining Act or the relevant approved association.

Underground machine-dug opal mining tunnel in Coober Pedy, South Australia



Dispute resolution

Grievances and disputes are most commonly resolved through informal processes directly between permit holders and the Opal Mining Registrar.

In some circumstances, the [Office of the Small Business Commissioner](#) is able to offer mediation services.

Formal processes may be required for more complex or serious matters through the Warden's Court. The [Warden's Court](#) has jurisdiction to determine all matters concerning any right claimed in relation to a tenement, or a PSPP or otherwise arising under the Opal Mining Act.

Disputes may also be referred to the [ERD Court](#).

Resources

LAWS

Copies of the laws relevant to opal mining are available at no charge from legislation.sa.gov.au or may be purchased for a fee from [Service SA](#):

- *Aboriginal Heritage Act 1988*
- *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*
- *Maralinga Tjarutja Land Rights Act 1984*
- *Mines and Works Inspection Act 1920*
- *Mining Act 1971*
- *Opal Mining Act 1995*

- *Opal Mining (Mineral Resources) Variation Regulations 2020*
- *Pastoral Land Management and Conservation Act 1989*

Copies of the following Commonwealth law is available at no charge from the [Federal Register of Legislation](#):

- *Defence Act 1903*
- *Defence Regulation 2016*
- *Native Title Act 1993*
- *Woomera Prohibited Area Rule 2014*

Further information about access to the WPA for opal mining and precious stones prospecting, including the relevant permit and dates of access forms, can be found online on the Department of Defence website.

DEPARTMENT FOR ENERGY AND MINING

The following information is available from Opal Mining Registrar offices or online from the [department website](#). As information may be updated at any time, always check on the website for the latest versions.

- *Aboriginal Heritage Act 1988* and [Aboriginal site avoidance guidelines, M29](#)
- *Frequently asked questions*
- *Aboriginal heritage guidelines for resource projects in South Australia*
- [Guidelines for proposed activities on native title land – part 9B of the Mining Act, M31](#)
- [Regulating mineral exploration and mining in South Australia](#)
- [Establishing and registering a mineral claim in South Australia](#)

The following forms are available online from the department's website:

- [Form 21, Notice of entry on land](#)
- [Form 23A, Waiver of exemption – request](#)
- [Template, Waiver of exemption agreement](#)
- Other opal mining forms

Schedule of fees

energymining.sa.gov.au/minerals/mining/forms_and_fees

Websites and contacts

- [Anangu Pitjantjatjara Yankunytjatjara](#)
- Andamooka Progress and Opal Miners Association Inc (APOMA):
 - Email: admin1@apoma.com.au and secretary@apoma.com.au
 - Phone: 0477 184 485
- Coober Pedy Miners Association (CPMA):
 - Contact: Justin Freytag
 - Phone: 0419 847 095
- [Maralinga Tjarutja](#)
- Mintabie Miners & Progress Association
 - Contact: Max Novelli
 - Phone: 0407 123 156

Maps

Maps showing the existing diggings of the Andamooka, Coober Pedy and Mintabie Precious Stones Fields are available from the Opal Mining Registrar and can also be accessed online from [SARIG](#).

Contacts

Opal Mining Registrar services are provided at the following locations:

Department for Energy & Mining

Opal Fields Program
TAFE Campus, Hutchison Street
PO Box 475, Coober Pedy SA 5723
Tel: 08 86725800
Fax: 08 86725788
Email: DEM.CooberPedyAdministration@sa.gov.au

Andamooka Post Office

275 Opal Creek Blvd, Andamooka SA 5722
Tel: 08 86727074
Fax: 08 86727062

Department for Energy & Mining

Mineral Resources Division
L4, 11 Waymouth Street, Adelaide SA
GPO Box 320, Adelaide SA 5001
Tel: 08 84633000
Email: DEM.CustomerServices@sa.gov.au

Glossary

For the purposes of this guidelines, key terms are summarised below. Legal definitions are outlined in section 3 (Interpretation) of the *Opal Mining Act 1995*.

Approved association. Any association granted an approval under section 96 (Approval of Associations) of the *Opal Mining Act 1995* – eg South Australian Opal Miners Association Inc., Coober Pedy Miners' Association Inc., Andamooka Progress and Opal Miners' Association Inc., and Mintabie Miners and Progress Association Inc.

Aquifers. Aquifers are underground layers of rock that are saturated with water that can be brought to the surface through natural springs or by pumping.

Authorised person. A person appointed by the Director as an authorised person under section 77 (Appointment of authorised persons) of the *Opal Mining Act 1995*, who is then authorised to act on behalf of the Minister or Director.

Corporation. A body corporate, which is a legal entity identified by a particular name.

Declared equipment. Includes:

- a trench digger or excavator
- mechanically driven equipment, equipped with a blade or bucket of a width exceeding 0.75 m, capable of ripping, gouging, scooping or digging earth or rock material
- equipment that is capable of digging, boring or tunnelling underground, generally in a horizontal plane, with a cross-sectional dimension greater than 0.75 m
- equipment of a kind prescribed by the regulations for the purposes of this definition but does not include surface drilling equipment.

Designated area. An area within a precious stones field declared by the Minister under section 5 (Declaration of designated area or exclusion zone) of the *Opal Mining Act 1995* to be a designated area. These will be declared in consultation with appropriate mining associations and will be gazetted. They will be located away from established workings to encourage prospecting over new ground.

Exclusion zone. Land declared by the Minister under section 5 of the *Opal Mining Act 1995* to be an exclusion zone for the purposes of the Act.

Fossicking. The gathering of precious stones, meaning opal for the purpose of the *Opal Mining Act 1995*, as a recreation, without the intention to sell the stones or to utilise them for a commercial or industrial purpose, but does not include the gathering of precious stones through the disturbance of land by machinery or explosives.

A fossicker cannot go onto a precious stones claim without the owner's permission or enter land outside a precious stones field without the landowner's consent. It is an offence to enter or remain on land comprised in a claim without obtaining the permission of the owner of the claim.

Landowner. See owner of land.

Machinery. A device operated other than solely by muscular force exerted by the operator.

Mining operator or operator. A person by whom, or on whose behalf, authorised operations are carried out under the *Opal Mining Act 1995*.

Native title. Native title is the recognition by the Australian legal system of the rights and interests Aboriginal peoples and Torres Strait Islanders have in relation to land and waters according to their traditional laws and customs.

Native title mining agreement. An agreement under section 54 (Negotiation of agreements) of the *Opal Mining Act 1995* negotiated by a particular mining operator and the relevant native title representatives to authorise operations on native title land.

Native title mining determination. A determination authorising a mining operator to enter land and carry out authorised operations on the land under Part 7 (Native title land) of the *Opal Mining Act 1995*.

Opal development lease. An opal development lease registered under section 19 (Application for registration of tenement) of the *Opal Mining Act 1995*.

Opal Mining Register. The register of all opal mining tenements, including precious stones tenements, registered or granted in South Australia, including precious stones prospecting permits, opal mining tenements, agreements, proceedings in the Warden's Court related to tenements under the *Opal Mining Act 1995* or any other function the Opal Mining Registrar determines. The Opal Mining Register is a public register. Reports and information from the register can be requested by the public and will be provided free of charge.

Opal Mining Registrar. A statutory position under the *Opal Mining Act 1995*. The Opal Mining Registrar manages the Opal Mining Register and regulates the *Opal Mining Act 1995*.

Owner of land/landowner. A person who holds an existing registered interest in the land. This may include a person who:

- holds a registered estate or interest in the land conferring a right to immediate possession of the land
- holds native title in the land
- has, by statute, the care, control or management of the land
- is lawfully occupying the land.

More than one party may be considered to be a landowner.

Precious stones tenement or tenement. Includes a precious stones claim and an opal development lease.

Prospecting. Operations carried out in the course of exploring for precious stones, including the pegging out of an area for a tenement, but does not include operations that involve disturbance of land by declared equipment or explosives.

Tenement holder. The party who has the rights and obligations under the *Opal Mining Act 1995* related to a precious stones tenement, precious stones claim or an opal development lease.

Acknowledgement of Country

The Department for Energy and Mining acknowledges Aboriginal people as the First Nations Peoples of South Australia. We recognise and respect the cultural connections as the traditional owners and occupants of the land and waters of South Australia, and that they continue to make a unique and irreplaceable contribution to the state.

FURTHER INFORMATION

Department for Energy and Mining
Level 4, 11 Waymouth Street, Adelaide
GPO Box 320, Adelaide SA 5001
T +61 8 8463 3000
E DEM.Minerals@sa.gov.au
www.energymining.sa.gov.au/minerals

