



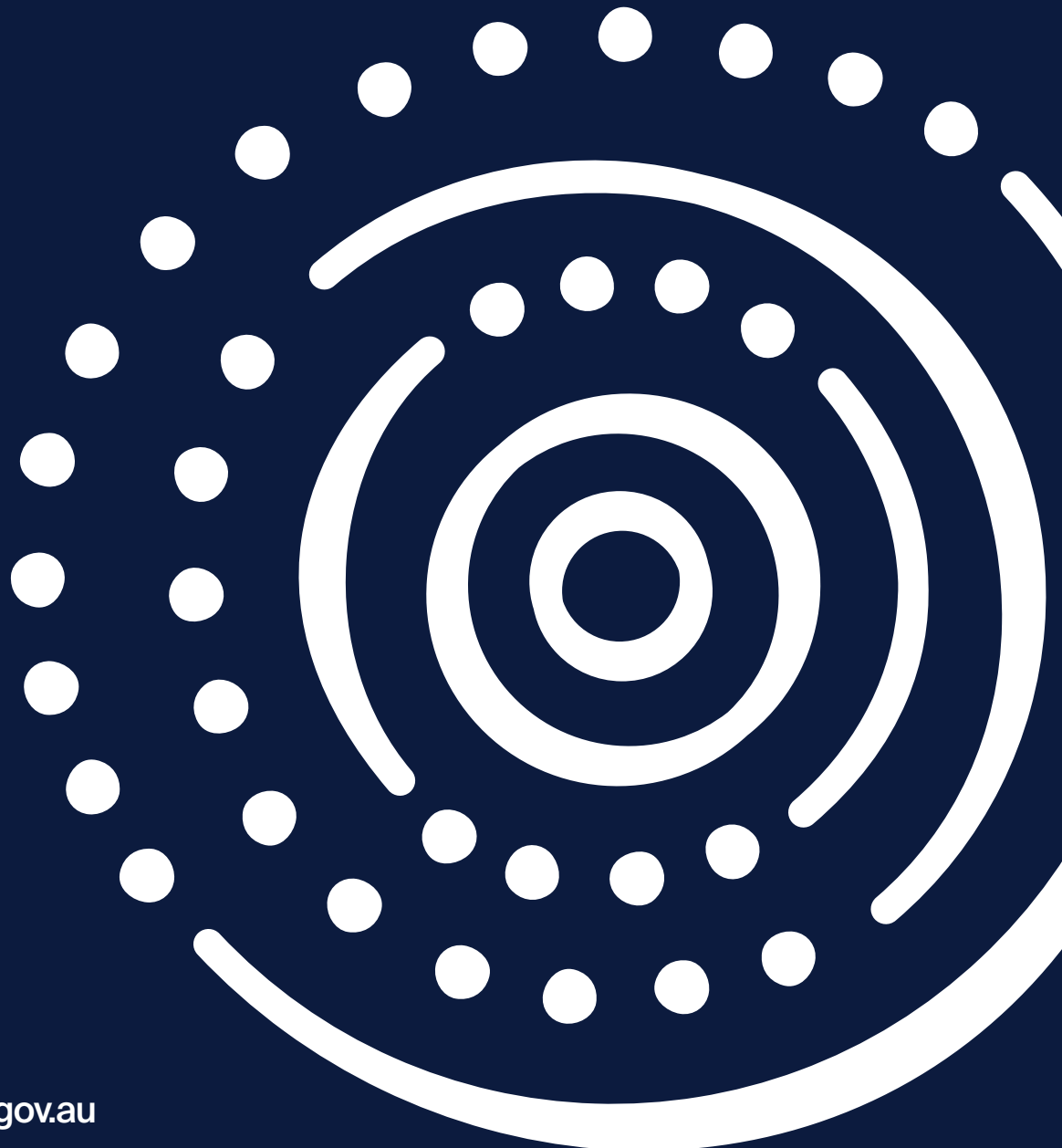
Government  
of South Australia

Department for  
Energy and Mining

Mineral Regulatory  
Guidelines

**MG33**

# Mineral exploration licences



### 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.Minerals@sa.gov.au](mailto:DEM.Minerals@sa.gov.au)

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

South Australian Resources Information Gateway (SARIG)

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



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# Introduction

In South Australia, minerals are the property of the Crown and land access for mineral exploration is regulated by the *Mining Act 1971* (Act/Mining Act) and *Mining Regulations 2020* (Regulations).

An exploration licence (EL) is the primary mineral tenement issued for exploration. It authorises the holder, subject to the Act, Regulations and licence terms and conditions, to explore for minerals, opal or both. It does not authorise extractive minerals exploration ie building construction materials, which must be conducted on a mineral claim (MC).

An EL may not be granted over or authorised operations conducted on areas subject to other current mineral tenements – including private mines (PM), mineral claims (MC), retention leases (RL), miscellaneous purpose licences (MPL) and mining leases (ML) – or other protected areas of the state such as wilderness areas, certain parks, Mining Act reserves and coastlines (see *Overlapping tenements*, p30).

On 1 January 2021, the *Mining Act 1971* was amended by the *Statutes Amendment (Mineral Resources) Act 2019* and, along with associated new Regulations and policies, introduced some important changes to mineral exploration licencing, including but not limited to:

- greater turnover of EL areas through a 50% compulsory area reduction after 12 years and a maximum term of 18 years
- increased security of tenure through longer licence terms and separation of expenditure commitment regulation from the licence renewal process
- increased focus on timely, genuine engagement between explorers, landholders and other stakeholders throughout the exploration process
- a new expenditure commitment policy that features a low starting rate and scales up to a mature rate for diligent ongoing exploration
- a new policy for expenditure commitment noncompliance that works in conjunction with the above lower commitment rates.

This means that tenements can be reduced and ultimately cancelled if the commitment is not consistently met

- increased focus on new data acquisition and on-ground exploration work after the initial two years of a licence, stipulated at a minimum of 60% of EL expenditure commitment
- a new Amalgamated Expenditure Arrangement (AEA) policy that:
  - eliminates regular mandatory AEA area reductions – because mandatory reductions are now required for every EL under the amended Act
  - excludes ELs with active advanced prospects
  - has an increased focus on spatial distribution of expenditure across the AEA area
- new EL division and amalgamation processes to simplify commercial dealings
- new retention status on ELs to provide expenditure and area reduction relief if access approvals cannot be obtained, or for ELs with uneconomic resources
- a modernised Mining Register to provide greater transparency of information and greater accommodation of, and protections for, commercial dealings
- an expansion of forfeiture provisions to include exploration licences as an additional means of ensuring EL holder accountability.

This guideline aims to assist explorers to understand the department's regulatory interpretation of the Mining Act and Regulations, as well as the operational policies and procedures relating to exploration licences. Appendix A provides a reference guide to relevant legislative provisions.



The guideline should be read in conjunction with the Act, Regulations and related legislative instruments such as Terms of Reference (TOR) and determinations, which can be found on the department's [Forms, legislation and guidance](#) page. Although every effort has been made to cover all relevant aspects, it is ultimately the explorer's responsibility to be consistently compliant with all South Australian legislation relevant to their activities. If there is any discrepancy between this document and legislation, the legislation will take precedence.

This guideline does not address exploration operations or exploration reporting. These are covered in detail in MG22 [Conducting mineral exploration](#) and MG13 [Mineral exploration reporting guidelines for South Australia](#).

The [South Australian Resources Information Gateway](#) (SARIG) provides statewide geoscientific and spatial data and is the best place for explorers and other stakeholders to find tenement and geoscientific information.

# EL applications

Exploration licences in South Australia are applied for over 'open' or available ground and granted on a first-come, first-served basis or, for recently relinquished ground, through the Exploration Release Area (ERA) competitive process (see [Exploration release area \(ERA\)](#), p10). If two or more applications for the same area of open ground are received on the same day, the successful applicant will be determined using the ERA competitive framework.

## APPLICATION REQUIREMENTS

An application for an exploration licence may be made by a company, individual or trust that has a registered address in Australia and an ABN/ACN if applicable. An application for an EL may be made on behalf of another party if they have authorisation from the intended EL holder. If the applicant is not known to the department, contact details must be provided for registration.

If there are any material changes in relation to the applicant or information provided in the application after it has been submitted, such as change of ownership or change of technical, operation or

financial capability, updated information must be provided to the department.

An EL application is to be submitted in electronic form and meet the following requirements:

1. *The application must identify the boundaries of the land over which the licence is sought, in accordance section 56E of the Act.*
2. *The application area must not be more than 1,000 km<sup>2</sup> (20 km<sup>2</sup> for precious stones in an opal development area) or less than a 1x1 minute block (~3 km<sup>2</sup>), unless special circumstances justify otherwise and the department has approved the request.*
3. *The application fee must be paid when the application is lodged.*
4. *The application must contain all of a) to f) below:*

### (a) Principal minerals sought and exploration model

List the main targeted minerals or commodities, describe the exploration model to be used and where applicable, list any deposit analogues. Provide rationale for why the model was selected for the EL area and information on how the model has informed the proposed exploration program's design.

## (b) Proposed exploration operations and expenditure

Propose a program of exploration and expenditure for the first two years of tenure that will effectively target the minerals and test the exploration model. It should outline a phased and costed breakdown of proposed activities, including geoscientific investigation and evaluation, stakeholder engagement and environmental management activities for the licence area.

The proposed program must meet the [exploration expenditure policy's](#) minimum requirements.

## (c) Technical and operational capability and resources

Provide the names, relevant qualifications, experience and any professional affiliations of employees, contractors or consultants responsible for the management, implementation and reporting of the proposed exploration operations' various aspects. When assessing technical and operational

capability, the department aims to determine whether the applicant has sufficient and appropriate expertise, experience and resources to implement the proposed exploration for the licence location, and to satisfy departmental reporting (including technical data reporting) requirements. Given the specialist and technical nature of geoscience and geoscientific data reporting, the department expects the person responsible for geoscience management and exploration data collection and reporting to be a suitably qualified and experienced geologist or geoscientist. Table 1 provides an example of how capability may be illustrated in an application.

**Table 1** Personnel capability

Aspect	Manager name	Qualification	Years of experience	Professional association
Overall exploration management				
Geoscience management and technical data collection				
Stakeholder engagement/access approvals (including engagement plan)				
Environmental management				
Logistics management				
Exploration technical reporting				
Environmental/compliance reporting				



Provide a statement of awareness and understanding of the environmental, land use and stakeholder engagement aspects that will need to be managed in the application area. Include an initial list of potential stakeholders and identify any necessary access approvals or agreements that must be obtained before starting the proposed exploration operations.

Stakeholders can be impacted as soon as exploration operations begin, so it is necessary to appropriately engage with affected stakeholders in accordance with an engagement plan for an exploration licence – as required by TOR 001 *Generic program for environment protection and rehabilitation – low impact mineral exploration* (see Early and appropriate engagement, p15)

Acknowledge the importance of these factors in the EL application and provide a commitment to operate accordingly.

Refer to MG22 *Conducting mineral exploration* for comprehensive information on the various environmental, land use and stakeholder aspects that will need to be managed when exploring for minerals in the state. SARIG can assist in identifying many of the environmental and land use aspects relevant to the application area.

Table 2 provides an example of how environmental and stakeholder aspects to be managed for an area may be illustrated in an application.

**Table 2** Environmental and stakeholder aspects

Environmental aspects to be addressed in the application area	eg Pureba Conservation Park, Vegetation Heritage Agreement areas
Stakeholders to be engaged in relation to the application area	eg pastoralists, native title groups, Department of Defence, Department for Environment/District Ranger, local government councils, petroleum or geothermal licence holders
Approvals or agreements to be obtained for proposed program	<p>eg landholders/pastoralists – contact before commencing exploration and provide statutory notices. Abide by <i>departmental guidelines MG4 and MG22</i>.</p> <p>eg Native title groups – Kokatha, Arabana. Follow procedures in <i>departmental guideline MG30 (in prep)</i>.</p> <p>eg WPA - access deed to be obtained and procedures followed as per <i>departmental information sheet M32</i>.</p> <p>eg Pureba Conservation Park - separate PEPR approved by the department for operations within the park (low impact PEPR does not apply).</p>

## (d) Financial capability and resources

Provide a statement of financial capability supported by evidence documenting available financial resources. When assessing financial capability, the department aims to determine whether the applicant has sufficient financial resources to meet their total annual commitments in the state across all their current ELs and EL applications.

Publicly listed companies must include their most recent financial statement, prepared in accordance with ASX listing rules or the equivalent for foreign exchange-listed companies, setting out the net equity position – eg latest ASX Appendix 5B report.

Non-listed companies or individuals must include their most recently audited and unaudited, if more recent, financial accounts including:

- a statement(s), no more than six months old, outlining where applicable:
  - cash – held at a bank or other APRA-regulated financial institution – eg bank statement
  - equity – either from the issue of shares or a call on the unpaid capital on existing shares – eg shareholding statement
  - debt – including, but not limited to, borrowings, either from a bank or other APRA-regulated financial institution – eg bank or financial institution statement
- a statement, no more than six months old, from a current member of a professional accounting body (eg CPA Australia or Chartered Accountants Australia and New Zealand), verifying that the applicant has the financial capability to meet their total annual expenditure commitments in the state.

If exploration funding comes from an entity other than the applicant – eg a domestic or foreign investor – the investor must provide a signed letter, or similar item, with an unqualified statement confirming they guarantee funding for the applicant's total annual commitment in the state. The letter must include independent evidence, as described above, to indicate that the investor has the available financial resources to support their guarantee.

If a common source of funding is being used for multiple entities in the state, the application must demonstrate the funder has the financial capability to meet the total annual expenditure commitment.

If an applicant's financial resources are less than their total annual commitments, they must provide a statement outlining how they will fund exploration and why this is reasonable. The department will consider the applicant's track record of meeting exploration commitments in South Australia and previous fund-raising performance when making an assessment.

## (e) Material noncompliance in the last five years

Provide a statement outlining the applicant's history of material noncompliance, if any, under any of the following Acts in the last five years:

- *Aboriginal Heritage Act 1988*
- *Aboriginal Lands Trust Act 2013*
- *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*
- *Environment Protection Act 1993*
- *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*
- *Landscape South Australia Act 2019*
- *Maralinga Tjarutja Land Rights Act 1984*
- *National Parks and Wildlife Act 1972*
- *Native Title Act 1993 (Cth)*
- *Native Vegetation Act 1991*
- *Offshore Minerals Act 2000*
- *Planning, Development and Infrastructure Act 2016*
- *Radiation Protection and Control Act 1982*
- *Work Health and Safety Act 2012*
- An Act of another state or territory that contains provisions that substantially correspond with the Mining Act 1971 or the Acts listed above.

Disclose all material noncompliances that could inform the decision to grant or refuse an application and determine the conditions for granting an EL.



This includes any breaches of the above Acts, and other state or territory equivalents, that result in:

- the revocation or suspension of any authority to carry out authorised operations – eg loss of a lease/licence or operational approval
- a prosecution for an offence
- the imposition of a penalty by the Court
- the issuing of a notice, direction or order that requires the suspension or discontinuance of any authorised operations
- the issuing of a notice, direction or order to rectify any harm to the environment or to rehabilitate any land, place or other aspect of the environment.

Disclosure of the loss or suspension of an authority to carry out operations will include any breach that leads to the loss or suspension of a mining or exploration lease or licence under Australian mining legislation. Exploration or mining operations around Australia routinely require complimentary authorisations such as native title, Aboriginal heritage, environmental, work health and safety, and/or other land access authorisations. Disclosure of the loss or suspension of an authority extends to these matters – eg EPA licences, water affecting permits, safe work approvals, native vegetation clearances.

### **(f) Application area held in the last three months**

Provide a statement advising whether the applicant or a related body corporate has held any of the land applied for in the three months before lodging the application.

If this is the case, the application will generally not be supported by the department. This is to prevent an applicant from immediately re-acquiring ground they have just relinquished, either as a result of compulsory relinquishment, surrender or expiry. This policy does not apply to ground released as an ERA.

## **GROUNDS FOR REFUSING AN APPLICATION**

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If any of requirements 1–4 have not been met or information is not provided for items 5 (a-f), the application will be considered invalid and rejected by the department, and the application fee refunded.

The department will, if necessary, provide advice on documentation necessary to meet each criteria. However, it is ultimately the applicant's responsibility to support their application. If the applicant is unable to do so in a reasonable timeframe after submitting the application, it will be refused.

The department may also refuse an application at any stage of the assessment if:

- the applicant fails to comply with a requirement of the Act or Regulations that is relevant to the application or assessment process
- the department considers that the applicant has not proceeded with reasonable diligence to obtain any other permission, authorisation, consent or other form of approval under another Act or law that is relevant in the circumstances – eg permission to explore on Aboriginal lands
- the department considers that there are other sufficient grounds for doing so when the public interest and other relevant matters are taken into account.

## **TARGET TIMEFRAMES**

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There are no statutory timeframes for processing an EL or ERA application. However, the department has set its own target timeframes (see Table 3).

Certain state legislation requires the department to consult with or seek approval from other Ministers or state government departments when assessing some EL applications, such as those located in a park or Aboriginal lands (see Other legislative provisions relating to ELs, p33). These additional steps fall outside the department's control and add to the EL application processing timeframe, as reflected in Table 3.

**Table 3** EL/ERA application processing target timeframes

Application type	Target timeframe (time with SA Government) - from application lodgement to grant of EL*
EL/ERA application (non-competing)	4 months
EL application requiring additional approvals – eg within a park/ reserve or Aboriginal land)	6 months
ERA application (competing)	6 months
ERA application (competing) requiring additional approvals – eg within a park/reserve or Aboriginal land	8 months

\*The targets exclude time where additional information is sought from the applicant or their application is with other government agencies for advice or approval, both of which fall outside the department’s control.

## EXPLORATION RELEASE AREA (ERA)

An exploration release area (ERA) is an area of relinquished ground that is made available for competitive application. When this happens, an ERA notice is published on the department’s website and the area displayed as a polygon on the SARIG ERA layer.

Land becomes relinquished ground and is released under the ERA competitive process if:

- an EL has expired, been cancelled or is fully surrendered
- an application to renew an EL has been withdrawn
- it has been subject to a revoked section 8 reservation
- it has been subject to a section 15 notice that has expired
- retention status has expired under section 33B(15)
- another section or regulation requires that land to be relinquished ground
- the Regulations prescribe, or the department determines, that it be released through the ERA process. For example, a compulsory area reduction or other partial surrender of an EL may be released as an ERA if the area is considered to have high prospectivity or mineral potential or is likely to attract competitive applications, or both.

## ERA applications

An ERA application is to be submitted in electronic form and:

- must meet all the requirements outlined under the Application for an EL – application requirements section above
- should address the ERA assessment criteria (see ERA scoring criteria, p11)
- must be lodged within the application period published in the ERA notice or indicated on SARIG, before 12:00 midnight, ASCT or ACDT on the closing date.

ERA applications require extra information covering various technical, operational, past performance and location-specific aspects, in addition to that required for a standard EL application. This extra information enables the department to perform a rigorous, merit-based assessment of competing exploration proposals to evaluate and rank them based on ERA scoring criteria detailed below, and select the best option for the state.

An ERA application must be for the whole ERA. It cannot include any land outside of the ERA or be for a smaller section within the ERA.

The previous holder of an EL that results in a future ERA may still apply for that ERA.



## Assessment and decision

If one valid application is received and the application information is of an acceptable standard, it will proceed as normal through the standard ELA process. If two or more valid applications are received for the same ERA, they will be considered as competing. The fee paid to lodge an ERA application is not refundable if the application has been accepted by the department.

Competing ERA applications are assessed by the department's Mineral Exploration Assessment Panel.

ERA assessment is based solely on the content and material provided in each ERA application and departmental records in relation to any current or recent noncompliance. Any prior knowledge the assessment panel may have about an applicant plays no part in the assessment process.

If a decision cannot be made on merit, the successful applicant will be determined by a ballot.

Once a decision has been made, all applicants will be notified of the result in writing and the successful application will then proceed through the remainder of the standard ELA process.

If the successful applicant withdraws their application before an EL is granted, the department has the discretion to decide how the land is dealt with.

## ERA scoring criteria

The department's categories and scoring criteria for assessing competing ERA applications are provided below. The associated table at the end of this section provides a checklist for formulating ERA applications.

Weightings for assessment criteria scoring are as follows:

- 40% – Mineralisation model/target, exploration strategy and work program, including expenditure.
- 30% – Applicant capability and current South Australian tenure.

- 30% – Past performance, regulatory compliance and location-specific aspects/ERA specific criteria, where applicable.

The department places strong emphasis on the technical strength of the applicant's exploration rationale and proposed work program, and how these will effectively test the proposed geological/mineralisation model. The department's holistic assessment will focus on rationale and methodology rather than the amount of expenditure proposed.

The following categories will be assessed:

### Exploration target and geological/mineralisation models

Provide the exploration model for the minerals sought, together with geoscientific reasoning for targeting the area and an indication of the priority target areas based on existing geoscientific data and knowledge.

Criteria for assessment:

- Documented regional and local geological context and deposit model.
- Discussion and review of currently available geoscientific data.
- Any immediate drill targets identified.

### Proposed exploration program (2 years)

Provide a phased program of exploration with a breakdown of activities and expenditure for the first two years of tenure. Proposed expenditure must be equal to or greater than the minimum expenditure requirement of the [exploration expenditure policy](#).

Criteria for assessment:

- Program is clear, logical and achievable with a phased and costed breakdown of activities.
- Program is consistent with, and will effectively test, the geological model or exploration concept.
- Total expenditure commitment for the two-year period.
- Area of ERA covered by proposed exploration plan.

Note that the department will adopt the two-year expenditure amount proposed by the successful ERA applicant as the resultant EL's expenditure commitment for the initial two-year period.

The proposed program should not be qualified by statements such as '*dependent/contingent on results from previous phase*'. The department will only take into account actual costings listed in the proposed program. The resulting amount will be used in the competitive comparison process and, if the application is successful, become the expenditure commitment for the resultant EL.

ELs resulting from a successful ERA application will be subject to a 50% area reduction if the two-year expenditure commitment is not met, unless a request for deferment or variation of expenditure is approved (see Expenditure deferment/variation, p21).

Over a previous five-year period, any ERAs on which an applicant has successfully met expenditure commitment will be taken into account positively when scoring their ERA applications, and any expenditure noncompliance will be taken into account negatively.

## Technical and operational capability and resources

Include a statement and details of the applicant's technical and operational capability to undertake the proposed exploration program in accordance with EL application requirements. Provide the full range of expertise that will be used to implement the proposed program, including overall exploration management and the management of geoscientific, environmental, stakeholder engagement, logistics and reporting aspects of the program.

Criteria for assessment:

- Expertise – appropriately qualified and knowledgeable resources to implement the proposed program, including geoscientific, environmental and social aspects.
- Experience – years of relevant operational experience for all nominated personnel.
- The “statement of awareness and understanding of environmental, land use and stakeholder engagement aspects to be managed within the application area” as per the EL application section of this guideline.

## Current South Australian licences and applications

Provide a summary of the total number, area and annual expenditure commitment of ELs and EL applications held or being explored by the applicant – and related body corporates with a common source of funding – in South Australia. Provide information on the ERA's location in relation to the applicant's existing ELs and EL applications held ie are they adjacent or nearby, and major project areas held by the applicant.

Criteria for assessment:

- Tenements and/or major project areas close by or next to the ERA.
- Manageability of tenement package considering current financial, technical and operational capability.

## Past performance and regulatory compliance

Describe past performance in meeting exploration obligations and other regulatory requirements in South Australia, including environmental performance and data reporting, together with any current noncompliance issues. Material noncompliance under regulation 23(d) will also be taken into account in the assessment.

List any current or previous (within the last five years) noncompliance relating to ERAs or departmental instructions/directions/orders, and indicate their status and rectification timelines. List any currently overdue EL reports.

Criteria for assessment:

- ERA compliance – any departmental enforcement actions that occurred because the applicant did not meet the financial commitment of a previously successful ERA bid.
- Departmental instructions/directions/orders or regulation 23(d) noncompliance – current and for the last five years.
- Rectification – timely and efficient rectification of previous noncompliances.
- Reporting – any currently overdue reports, including exploration expenditure, exploration technical, surrender or compliance reports.



## Location-specific aspects/ERA-specific criteria

For certain ERAs, the department may request applicants to address additional aspects, for example relating to the location of the ERA over a conservation reserve, Aboriginal land or artesian groundwater basin, or a specific technical aspect the department considers to be important. The requirement to address any 'Location-specific aspects/ERA-specific criteria' will be included in the ERA metadata shown on SARIG and auto-populated into the SARIG ERA application form. It will also be included in the ERA notice published on the department website.

Criteria for assessment:

- Understanding of the aspect or sensitivity identified.
- Awareness of additional approvals required, policies in place or special management procedures.
- Previous experience in the management of similar aspects or working in similar areas, including performance track-record and effective engagement with relevant stakeholders.
- Quality of response provided in relation to any technical or other specific aspect identified by the department where applicable.

## Other considerations/comments

The applicant is invited to put forward any other considerations or comments that may support their application. The department may take other factors into account if it is considered appropriate.

When applying for an ERA, it is the applicant's responsibility to make themselves aware of land ownership, land use and environmental/social considerations, as well as any pre-existing production-related tenements. Table 4 indicates criteria for scoring ERA.

# EL grant

## EL TERM

Exploration licences can be granted for a term of up to six years and may be renewed up to a maximum of 18 years in total. ELs cannot be extended beyond a maximum of 18 years from grant. If an EL holder intends to secure a resource identified on the EL, they must apply for a ML or RL (see Retention leases, p32).

Departmental policy is that six-year terms will generally be granted to provide tenure certainty. Terms of less than six years may be applied by the department, if deemed appropriate or necessary.

## NOTIFICATION OF GRANT AND LICENCE TERMS AND CONDITIONS

Licence holders will be notified when a licence is granted. The terms and conditions of the licence will be publicly available on the Mining Register from the grant date and relate to exploration expenditure obligations, approvals required before starting operations, reporting requirements, and requirements to protect environmental, stakeholder and state interests.

Due to the relatively consistent nature and methodology of exploration operations, most EL conditions are standardised. These standard conditions can be found in Mineral Policy O10 *List of conditions for exploration licences* <https://sarigbasis.pir.sa.gov.au/WebtopEw/ws/samref/sarig1/image/DDD/MPOLO10.pdf>.

Additional conditions may be set depending on location-specific licence area considerations, such as ELs granted in Aboriginal, Defence or conservation lands (see Other legislative provisions relating to ELs, p33).

**Table 4** ERA scoring criteria summary

Assessment category	Criteria assessed (scored criteria)	Score weighting
Exploration target and geological and mineralisation model(s)	<ul style="list-style-type: none"> <li>■ Documented regional and local geological context and deposit model</li> <li>■ Sufficient discussion/review of currently available geoscientific data</li> <li>■ Any immediate drill targets identified</li> </ul>	40%
Proposed exploration program (2 years)	<ul style="list-style-type: none"> <li>■ Program is clear, logical and achievable with a phased and costed breakdown of activities</li> <li>■ Program is consistent with, and will effectively test, the geological model</li> <li>■ Total expenditure commitment for the 2-year period</li> <li>■ Area of ERA covered by proposed exploration plan</li> </ul>	
Technical and operational capability/resources	<ul style="list-style-type: none"> <li>■ Expertise – appropriately qualified and knowledgeable resources to implement the proposed program, including geoscientific, environmental and social aspects</li> <li>■ Experience – years of relevant operational experience for all nominated personnel, including geoscientific, environmental and social outcomes achieved</li> <li>■ The “statement of awareness and understanding of environmental, land use and stakeholder engagement aspects to be managed within the application area”</li> </ul>	30%
Current South Australian licences and applications	<ul style="list-style-type: none"> <li>■ Tenements and/or major project areas close, or adjacent to the ERA</li> <li>■ Manageability of tenement package considering current financial and technical capability/resources</li> </ul>	
Past performance and regulatory compliance	<ul style="list-style-type: none"> <li>■ ERA compliance – any departmental enforcement actions undertaken as a result of the applicant not meeting the expenditure commitment of a previously successful ERA bid</li> <li>■ Departmental instructions/directions/orders or regulation 23(d) noncompliance – any in the last five years</li> <li>■ Rectification – timely and efficient rectification of previous noncompliances</li> <li>■ Reporting – any overdue reports, including expenditure returns, exploration technical, surrender or compliance reports</li> </ul>	30%
Location specific aspects/ERA specific criteria	<ul style="list-style-type: none"> <li>■ An understanding of the aspect or sensitivity identified</li> <li>■ An awareness of any additional approvals required, policies in place or special management procedures</li> <li>■ Previous experience in the management of similar aspects or working in similar areas, including the performance track-record and effective engagement with relevant stakeholders</li> <li>■ Quality of response provided in relation to any technical or other specific aspect identified by the department, where applicable</li> </ul>	



## NATIVE TITLE LAND

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Part 9B of the Mining Act, as a recognised alternative to the 'right to negotiate' scheme under the Commonwealth *Native Title Act 1993*, allows an EL to be granted before a Native Title agreement is obtained. This differs from all other Australian jurisdictions, which operate under the Commonwealth scheme where an EL cannot be granted until certain legislative obligations have been satisfied – eg an agreement is in place.

An EL in South Australia does not confer any rights to carry out exploration operations on native title land, as defined in the *Native Title (South Australia) Act 1994*, unless they do not affect native title rights and interests. In accordance with Part 9B, the EL holder may acquire the right to carry out exploration operations under an Indigenous Land Use Agreement (ILUA), a Native Title Mining Agreement (NTMA) or through an Environment, Resources and Development (ERD) Court determination. Guidance on the operation of Part 9B of the Mining Act is available in M31 [Guidelines for proposed mining activities on native title land – Part 9B of the Mining Act 1971](#).

## EXPLORATION OPERATIONS

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Before conducting exploration on an EL, the explorer must have an approved operating program in place, known as a program for environment protection and rehabilitation (PEPR), under Part 10A of the Act. MG22 [Conducting mineral exploration](#) contains detailed information on PEPRs and conducting on-ground exploration operations.

The department has developed a generic PEPR for low impact exploration to clearly define outcomes to be achieved when conducting low risk or low impact exploration operations in certain areas, and to streamline authorisation for explorers. When an EL is granted, the new licence holder is automatically considered to have legally adopted the generic PEPR and is strongly advised to read it thoroughly to understand its scope and limitations. Planned exploration operations that are not within the generic PEPR's scope or are located in certain sensitive environments, as described in the document, require separate approval.

Land for exploration can only be accessed if an agreement is in place or the appropriate statutory notice – [Form 21A: Notice of entry on land - prospecting and low impact operations](#) or [Form 21B: Notice of entry on land - advanced exploration operations](#) – is served on landowners at least 42 days before any on-ground exploration begins.

Certain land is classified as exempt from exploration, meaning that authorised operations cannot occur on that land without the owner waiving their right to the exemption and allowing those operations to occur. Examples are land used for a residence, shed, dam or bore. Exempt land must be taken into account when engaging with the landowner. For more information, see:

- MG22 [Conducting mineral exploration](#)
- MG4 [Land rights, access and engagement](#)
- MG31 [Engagement, negotiating and agreement-making](#).

Explorers must submit a [Notification of airborne survey form](#) at least 14 days before conducting an airborne survey over an EL. They should also engage appropriately with landowners whose interests may be affected by the airborne survey, particularly by low-level flying. For more information, see MG13 [Mineral exploration reporting guidelines for South Australia](#).

## EARLY AND APPROPRIATE ENGAGEMENT

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The South Australian government is committed to supporting the resources sector, our communities and other industry sectors to successfully coexist. Genuine, timely engagement by explorers with relevant stakeholders, particularly landowners, is key to achieving this. The Mining Act and Regulations set out requirements for engagement at various stages of the exploration and mining lifecycles.

Considering the importance of engagement from the earliest stages of exploration, it is essential to maintain a formal engagement plan and records of consultation to help plan, develop and maintain effective stakeholder relations. The plan must identify key individuals and groups in the community and outline how, when, why and what engagement should occur during specific stages of exploration.

The engagement plan is a licence condition and a measurement criteria of the TOR 001 *Generic program for environment protection and rehabilitation – low impact mineral exploration* and must be developed and implemented before any on-ground exploration happens and updated on an ongoing basis.

The department has produced an example engagement plan template that may assist explorers in preparing and maintaining an appropriate engagement plan for their exploration operations. This can be found in *Native Title and Aboriginal Heritage risk management guidelines for low impact exploration (IN PREP.) - Appendix A: Optional plan: Engagement plan and record of consultation for exploration* (see MG31 *Engagement, negotiating and agreement-making* for detailed information on engagement).

# EL expenditure regulation

Exploration expenditure is money spent by an EL holder on mineral exploration operations over the licence area. Determining, measuring and monitoring exploration expenditure and operations helps to ensure that ELs are diligently explored and new discoveries are progressed towards development.

## EXPLORATION EXPENDITURE POLICY

ELs are subject to a minimum expenditure commitment. This is set out in the [exploration expenditure policy](#), which provides for an obligatory minimum exploration spend, varying in accordance with the tenement's age:

- Level 1 (years 1-2): \$50/km<sup>2</sup> per annum, minimum \$20,000 p.a.
- Level 2 (years 3-6): \$100/km<sup>2</sup> per annum, minimum \$30,000 p.a.
- Level 3 (years 7-18): \$150/km<sup>2</sup> per annum, minimum \$40,000 p.a.

The calculation is rounded to the nearest \$5,000.

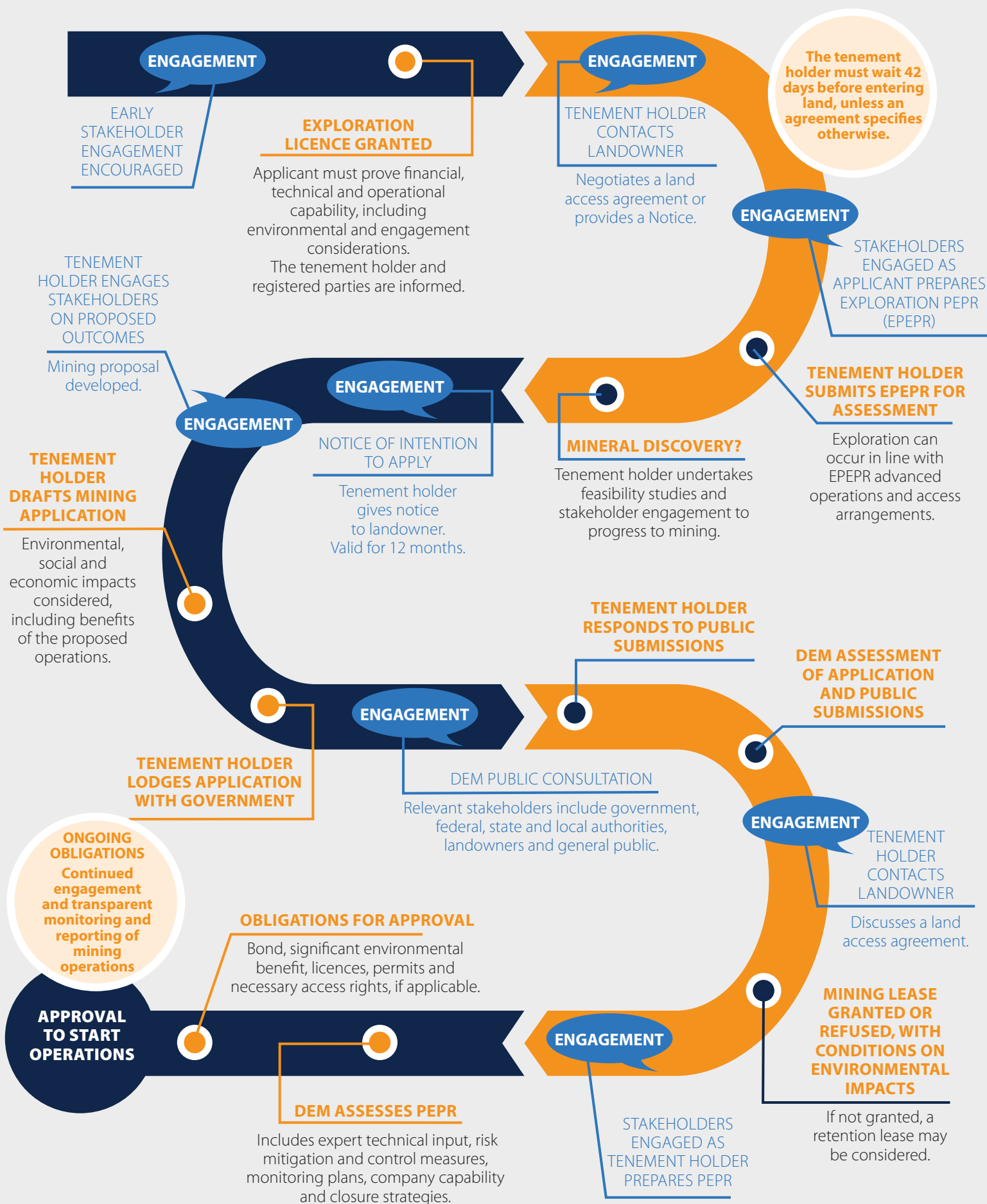
At least 60% of the expenditure commitment must be spent on on-ground work or acquiring and/or using new data ie a maximum of 40% can be spent on office-based work on old data, which includes activities like literature reviews and data re-modelling. The minimum 60% requirement does

not apply to the first two years of exploration on an EL which may be predominantly preparatory work or land access activities.

On-ground work includes exploration operations that occur over the defined licence area. Examples are geological mapping, reconnaissance, sampling, surveying, drilling, rehabilitation and heritage surveys. On-ground work does not include office-based planning of field activities, stakeholder engagement activities or agreement-making.

New data acquisition includes collecting, purchasing or generating new 'raw' data and geoscientific work and analysis on that data for a one-year period afterwards. Examples are new geophysical and remote sensing data, new sampling or re-assaying of historical drill material or other geological samples, and office-based processing and analysis of geoscientific data acquired in the previous one-year period. New data acquisition does not include re-processing, re-working or re-modelling of historical data or its outcomes.

# EXPLORATION TO MINING ENGAGEMENT



09/03/2021-204182

## DID YOU KNOW?



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



Landowners can access the Landowner Information Service throughout the exploration and mining process. [www.ruralbusinesssupport.org.au](http://www.ruralbusinesssupport.org.au)

If an expenditure commitment is not met, the licence will be subject to area reductions or cancellation, unless there are valid reasons for expenditure deferment or variation (see Expenditure non-compliance, p20 and Expenditure deferment and variation, p21).

In certain circumstances and if it can be appropriately justified, the expenditure rate may be reset to a lower level, or set at an agreed rate that differs from the expenditure policy, through an expenditure variation approval. This includes:

- instances where exploration on a granted EL needs to revert to initial or early phase work – eg when 100% of an EL is sold to a new party, or if a company comes out of administration
- instances where it is unreasonable to achieve the standard expenditure level or minimum on-ground/new data acquisition component – eg low-cost exploration searching for shallow resources such as gypsum.

The expenditure commitment of two or more ELs can be amalgamated, subject to conditions, allowing the expenditure and exploration operations to be spread across the ELs (see Amalgamated expenditure arrangement (AEA), p21).

An expenditure commitment in accordance with the exploration expenditure policy is set at licence grant for an initial period, and at the beginning of each forward commitment period thereafter. It is effectively fixed for each period at that point. If the licence is partially surrendered during the period and expenditure non-compliance results at its completion, a request for variation of expenditure commitment (pro-rata adjustment) may be submitted by the EL holder.

For an EL that resulted from an ERA, the two-year expenditure amount proposed by the successful applicant will be set as the expenditure commitment for the initial two-year period. After the ERA expenditure period is complete, the EL expenditure commitment will revert to the appropriate level under the exploration expenditure policy.

## EXPENDITURE RETURNS

Exploration expenditure and operations are monitored through expenditure returns that must be submitted to the department every two years, unless otherwise determined. Returns must be submitted within 60 days following the end of the commitment period, using the *Form 29EXR: Mineral exploration licence (EL) - Expenditure Return*. If an EL is surrendered, cancelled or otherwise ends before the completion of the expenditure commitment period, a final expenditure return must be submitted within 60 days following the end date of the licence.

In the return, the EL holder must provide the following for the expenditure commitment period:

- A summary of exploration completed.
- Results of testing of the exploration model provided at EL application or renewal.
- A list of exploration operations and costs incurred, including any expenditure shortfall.
- Planned exploration operations and costings for the following (forward) period, which must meet the minimum commitment set by the exploration expenditure policy.
- Any updates to the exploration model.

If the expenditure commitment has not been met, the exploration expenditure policy will apply unless an application for deferment or variation is submitted with the return and subsequently approved.

Once the return has been processed by the department and any decision on an application for expenditure deferment or variation has been made, a categorised summary of completed exploration operations and associated costs will be published on the Mining Register. Only the category's name and total expenditure, as per the expenditure return, will be published. Neither the forward program nor any information about exploration results or exploration models will be published.

If an amalgamated expenditure arrangement (AEA) is in place, a single, combined AEA expenditure return must be submitted for the entire EL group, outlining the combined total expenditure versus AEA expenditure commitment. AEA returns are



due every two years, unless otherwise determined, within 60 days following the end of the commitment period. Submit using the [Form 29EXR-AEA: Mineral exploration licence \(EL\) – Expenditure Return for an Amalgamated Expenditure Arrangement \(AEA\)](#).

As part of an EL's annual technical report (ATR), the annual activity summary (AA summary) itemises each year's activities to cross-check the information and exploration data provided in that report (see Table 5). AA summaries are not a component of exploration expenditure regulation but can be used as supporting documentation for the expenditure return to list detailed expenditure. For more information on AA summaries and ATRs, see MG13 [Mineral exploration reporting guidelines for South Australia](#).

## ALLOWABLE EXPENDITURE

Allowable exploration expenditure comprises direct and related costs incurred when carrying out mineral exploration operations over a licence area.

Allowable expenditure includes costs incurred in:

- geoscientific data collection/surveys, analysis, technical studies and investigations for the purpose of carrying out mineral exploration operations

- enabling exploration operations to be carried out effectively and in a socially and environmentally responsible manner such as costs of land access and stakeholder engagement, environmental management and rehabilitation, management and logistics, and tenement and statutory fees.

Common allowable exploration expenditure items are illustrated in the table below in the categories they will be reported under in the expenditure return.

The following common items are not allowable exploration expenditure:

- Tenement purchase or transfer costs.
- Preparation and lodgement of a mining lease application.
- Fines, expiation fees and civil compensation.
- Bond/security deposit.
- Insurance.
- Marketing-related costs, including travel for this purpose.
- Corporate costs, including formulation of company prospectus, costs of floating a company, costs of reporting to a stock exchange.
- Research not directly related to the tenement.
- Salaries and wages of staff not engaged in activities related to the tenement.

**Table 5** Expenditure and activity reporting

Item	Submission frequency	Description	Confidentiality
Expenditure return	2 yearly	Expenditure and operations for the completed and forward commitment periods for purposes of exploration expenditure regulation.	Only summary costs for the completed period published on the Mining Register.  Forward period details remain confidential.
Annual activity summary	Annually	Component of the annual technical report (ATR). Itemised activities and costings to reconcile with the ATR and for departmental statistical purposes.	All information to remain confidential.

**Table 6** Common allowable exploration expenditure items

(note this list is not exhaustive)

Category	Items
Geoscience	Sampling and surveys including but not limited to geological, geophysical, geochemical, remote sensing, petrological/mineralogical and bulk sampling activities; office-based geoscientific data work and analysis.
Geoscience - drilling	Drilling operations and directly associated costs, including site access and preparation works, drilling contract costs and site supervision.
Management and logistics	Exploration program management; exploration operational logistics; tenement management; data management; field camp; accommodation, travel, vehicle costs and equipment hire; JV negotiation costs.
Environmental management and rehabilitation	Environmental management activities; achievement of PEPR outcomes; rehabilitation work; environmental monitoring including photo-monitoring of rehabilitation.
Land access and stakeholder engagement	Stakeholder engagement and maintenance of engagement plan; development and negotiation of land access agreements and permits; native title and aboriginal heritage requirements; exempt land waiver payments; land access agreement-related payments.
Project studies and research	Environmental, hydrogeological, geotechnical and metallurgical studies; mineral processing trials; resource evaluation, modelling and resource estimation; scoping and feasibility study work; university or other research project directly related to the tenement geological model.
Tenement and statutory fees	Exploration licence annual fees; PEPR application fees.
Other	Other items may be agreed to by the department if adequately justified.
Administration and overheads	Maximum of 10% of the minimum expenditure commitment for the period.

## EXPENDITURE NONCOMPLIANCE

Penalties will be applied for noncompliance with the exploration expenditure policy.

In line with the department’s MPoI 004 *Mining Act regulation compliance and enforcement*, a three-tiered penalty framework will apply to EL expenditure noncompliance. If the expenditure commitment for an individual EL or AEA has not been met during the expenditure return period and an expenditure deferment or variation has not been approved:

- a 25% area reduction will generally be applicable for a first offence
- a 50% area reduction will generally be applicable for a second offence
- a recommendation will generally be made to cancel the licence for a third offence.

Penalties on an AEA will apply to the combined EL area. The location for the area reduction may be from anywhere across the AEA group.

A 50% area reduction will always apply to an EL that resulted from an ERA if the expenditure commitment for the first two-year period ie for the proposed two-year work program in the successful ERA application, is not met (see ERA, p10).

The department will take into account individual circumstances and expenditure track record since the licence was granted when considering expenditure noncompliance enforcement action.



## EXPENDITURE DEFERMENT AND VARIATION

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Expenditure commitment may be deferred or varied under certain circumstances. Deferment refers to a request to carry an expenditure shortfall forward into the next return period. Variation refers to a request to vary, reset or waive all or part of an expenditure commitment.

All applications for deferment or variation must include clear reasons for the request and be supported by evidence that the inability to meet expenditure commitment was outside of the EL holder's control – eg due to court action or disputes relevant to the EL, inability to access land, regulatory delays or other relevant circumstances. The EL holder's past performance on expenditure commitment compliance will be taken into account when assessing an application.

Variation and deferment decisions will be registered on the Mining Register. Confidential or commercially sensitive information will not be published.

If on-going access approval delays, uneconomic resources or other circumstances result in an inability to meet expenditure commitment, the EL holder should consider applying for retention status (see Retention status, p31).

## EXPENDITURE VERIFICATION/AUDIT

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The Act empowers the department to require independent verification of the accuracy of an expenditure return and accompanying information, with the costs carried by the EL holder, if it has reason to suspect expenditure misreporting, or as part of a random departmental audit.

If the audit identifies discrepancies in the expenditure figures, there will be an investigation followed by regulatory action appropriate to the circumstance. This could include enforcement measures related to expenditure noncompliance

as outlined in Expenditure noncompliance (p20), and any penalties that should apply under section 79A of the Act for providing false and misleading information. If an audit finds significant and/or repeated false reporting, enforcement action under these provisions may be considered, with a \$150,000 maximum penalty.

A record that the audit has been completed and a summary of the findings will be published on the Mining Register.

## AMALGAMATED EXPENDITURE ARRANGEMENT (AEA)

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An AEA combines the expenditure commitments of a group of ELs. This provides flexibility for EL holders to spend the combined total expenditure commitment across the tenement group, subject to conditions, rather than being held to the individual expenditure commitment obligations of each EL. AEAs are aimed at promoting and facilitating effective, efficient exploration and accelerating new mineral discoveries by enabling a systematic, project-wide approach on groups of licences that are at a similar stage of exploration.

AEA expenditure noncompliance and expenditure returns are regulated like individual ELs. The Act's mandatory 50% area reduction at year 12 and EL expiry at 18 years still applies to all individual ELs within an AEA group. Individual EL renewal applications must continue to be lodged and are not overridden by the AEA.

### AEA eligibility and requirements

To be eligible for an AEA, EL holders must have:

- two or more ELs that cover a total area of no less than 1,000 km<sup>2</sup> and no more than 8,000 km<sup>2</sup>
- ELs that are contiguous (neighbouring) or near contiguous, with the same target geology
- ELs that are all in good standing under the Act, Regulations and licence conditions
- a majority interest in the ELs – if the application includes exploration licences owned by two or more parties, declare whether the parties are related body corporates under the Corporations Act 2001 (Cth)

- an exploration program over the group of ELs with a common commodity or deposit-style focus over common geology that will systematically explore the combined AEA area over time, and that meets the combined minimum expenditure commitment under the exploration expenditure policy
- ELs that do not contain active, advanced prospects that are being intensively worked ie prospects where resource definition/evaluation drilling or feasibility studies are taking place.

Although exploration expenditure may be spread across the ELs as the holder sees fit, expenditure and exploration work must still be satisfactorily distributed across the total AEA footprint to avoid situations comparable to 'land-banking' ie the majority of expenditure should not be continually focussed on a few discrete locations with minimal or no work being carried out over large parts of the AEA group. The standard exploration process of downgrading prospectivity and relinquishing areas of ground must still be occurring for AEA's.

To guarantee an acceptable spread of exploration operations is being carried out, the EL holder and department must agree on a forward work program at the beginning of the AEA return period. If the agreed spread of exploration expenditure and work does not happen during the return period, an area reduction penalty of 10% will apply to the EL group, unless there are exceptional circumstances. If an area reduction penalty is enforced, the EL holder must nominate the AEA area for reduction.

Where AEA status for an EL group is approved, joint reporting is required for annual exploration compliance and technical reporting.

## AEA expenditure and review

A single expenditure return for the AEA group of ELs must be submitted every two years, unless otherwise determined, within 60 days following the end of the commitment period. AEA's must have a minimum 60% of expenditure commitment spent on new data acquisition and/or on-ground work, consistent with the policy for individual ELs. This must be demonstrated in the return. Any requests to remove or add ELs to the AEA group should be made with the AEA expenditure return.

In some circumstances, work on nearby advanced prospects or projects may directly inform the exploration strategy for ELs in an AEA group. If so, an EL holder may submit a request that a portion of this expenditure is considered against an AEA commitment. The request should include evidence of the direct link to the AEA exploration program and justify the inclusion of this additional expenditure.

At the mid-point of the AEA expenditure return period, EL holders should undertake a self-audit of progress against their AEA expenditure commitment, spatial distribution of exploration expenditure and continued adherence to AEA eligibility criteria. Any concerns should be discussed with the department at this point.

An AEA review meeting with the department is required following the expenditure return submission so that EL holders can:

- present exploration results and new geoscientific knowledge to the department
- demonstrate compliance with the agreed work program and expenditure commitment
- discuss any requests for addition or removal of ELs from the AEA
- outline a proposed forward program.

The department uses this information to determine whether AEA status should continue.

The following criteria apply to EL additions and removals at review:

- Any EL now containing an active, advanced prospect will be removed.
- New ELs meeting AEA eligibility criteria may be added.
- ELs containing non-active, advanced prospects can be considered for addition if work on the prospect has been paused ie intensive resource drilling and/or feasibility work has mostly ceased and is not likely to begin again in the next AEA return period, for example as a result of a downgrade in the prospect's development potential.
- An EL that has been granted through the ERA process may only be added to an AEA once the two-year ERA work program/expenditure commitment has been met, or a 50% area reduction has occurred for ERA expenditure noncompliance.



Where EL additions and/or removals are acceptable to the department, an updated AEA approval will be issued and placed on the Mining Register.

### **AEA status and withdrawal/ cancellation**

Decisions about ongoing AEA status will be made as part of the AEA review process. An EL holder may only withdraw from an AEA at the review stage unless there are extenuating circumstances.

AEA group status will remain in place subject to satisfactory performance. AEA approval may be cancelled at the end of the return period if conditions for that period have not been met – eg the agreed work program for expenditure commitment or spatial spread of exploration was not implemented, or the relevant tenements are no longer in good standing.

If an AEA approval is withdrawn or cancelled, the exploration obligations, including expenditure commitment and expenditure returns, will revert to what is required for each EL on an individual basis.

If any ELs that are part of an AEA are transferred to a third party within an expenditure commitment period, the licences will be considered removed from the AEA on transfer and pro-rata expenditure commitments will be set for the transferred licences. A variation of expenditure commitment may be submitted for the AEA at this time if desired.

# EL renewal

Exploration licences will generally be granted and renewed for six years up to a maximum total of 18 years ie three six-year terms. The department or Minister cannot modify, prevent, exempt or defer compulsory licence expiry at the end of 18 years (see Retention Leases, p32).

The department uses the EL renewal process to re-affirm that the reasons for granting the licence still apply and remain valid, and that overall performance during the licence term supports the continuation of exploration rights. The department's appraisal of an EL renewal application focuses on evidence of diligent exploration, logical progression of exploration to more advanced stages and good regulatory performance.

The Mining Act and Regulations intend that an EL should only be renewed if statutory requirements have been met. While the department will deal with noncompliances on an EL at the time they occur using the appropriate enforcement powers under the Act, Regulations and department's compliance and enforcement policy (Report Book 2016/00028), the EL may not be renewed if there are substantial, cumulative and/or repeated noncompliances during the licence term.

## **RENEWAL APPLICATIONS**

An EL renewal application must be made before the licence expires but no earlier than three months before its expiry date. If not, the EL will expire, become relinquished ground and subsequently be released through the ERA competitive process. There is no mechanism in the Act to resurrect or reinstate an EL that has expired in this way, so diligent tenement management is critical. It is the sole responsibility of the EL holder to lodge their renewal application before expiry.

If a renewal application is not decided before the licence expiry date, the licence continues to be valid and in operation until a decision is made.

On application for renewal at the 12<sup>th</sup> anniversary of the licence, a mandatory 50% reduction of the original granted licence area is required. Any area reductions that took place in the first 12 years of the licence are counted toward this. If retention status has been granted on the licence, the department may provide relief from the 12<sup>th</sup> anniversary 50% reduction, for the retention status area (see Retention status, p31).

Note that an expenditure return must still be submitted within 60 days following the end of a licence term, in addition to the submission of a renewal application.

An EL renewal application is to be submitted in electronic form and include the application fee and supporting information as detailed below. The department will, if necessary, provide advice on documentation necessary to meet each criteria. However, it is ultimately the applicant's responsibility to support their application. If the applicant is unable to do so in a reasonable timeframe after submitting the application, it will be refused.

If there are any material changes in relation to the holder or information provided in the application after it has been submitted, such as change of ownership or change of technical, operation or financial capability, updated information must be provided to the department.

Supporting evidence for an EL renewal application must include:

### **(a) Statement of performance for the previous term**

A statement of performance for the previous term is required and must include:

- a summary of exploration operations conducted, and total expenditure incurred over the term
- a discussion of the success or otherwise of exploration for the principal mineral(s) sought at the start of the licence term, and the results in relation to the testing of the nominated exploration model

- a summary of stakeholder engagement undertaken including:
  - a copy of the stakeholder engagement plan
  - an explanation of how the engagement plan has been implemented and updated to maintain currency
  - timing, frequency and mode of engagement
  - any issues raised, and the steps, if any, taken or proposed to be taken to address those issues
- information on any breaches of the Mining Act, Mining Regulations or licence conditions over the previous term, steps taken to remedy these issues and improvements to prevent similar breaches in the future.

### **(b) Principal minerals sought and exploration model**

Nominate the principal minerals to be targeted over the forward term. Describe the exploration model being used, how the model has changed or developed over the previous term and how this has informed the design of the proposed exploration operations for the next term.

### **(c) Proposed exploration operations and expenditure**

Include a proposed program of exploration and related activities for the first two years of the renewed term that will effectively target the minerals sought and test the exploration model. It should outline a phased and costed breakdown of proposed operations including geoscientific investigation and evaluation, ongoing stakeholder engagement and environmental management activities for the licence area.

The proposed program must meet the exploration expenditure policy's minimum requirements.



### (d) Technical and operational capability/resources

Provide the names, relevant qualifications, experience and any professional affiliations of employees, contractors or consultants responsible for the management, implementation and reporting of the proposed exploration operations' various aspects. When assessing technical and operational capability, the department aims to determine whether the applicant has sufficient and appropriate expertise, experience and resources to implement the proposed exploration for the licence location, and to satisfy departmental reporting (including technical data reporting) requirements. Given the specialist and technical nature of geoscience and geoscientific data reporting, the department expects the person responsible for geoscience management and exploration data collection and reporting to be a suitably qualified and experienced geologist or geoscientist. Table 7 provides an example of how environmental and stakeholder aspects to be managed for an area may be illustrated in an application.

Advise of any significant corporate, technical or operational changes over the previous term of the licence, such as change of ownership, JV operator or significant board level changes, and how they have affected the holder's capability and resources.

Provide a statement of how environmental and stakeholder engagement aspects will be managed for the term of the licence to demonstrate operational capability (see Table 8). Provide information on how the stakeholder engagement plan will be maintained and updated, and how appropriate records will be kept. Thorough record-keeping will help the EL holder demonstrate how stakeholder concerns and input contribute to project decision-making.

Refer to MG22 *Conducting mineral exploration* for comprehensive information on the various environmental and stakeholder aspects that must be managed when conducting mineral exploration in South Australia.

Table 8 may assist in documenting the management of environmental and stakeholder engagement for the licence area.

### (d) Financial capability and resources

Provide a statement of financial capability supported by evidence documenting available financial resources. When assessing financial capability, the department aims to determine whether the applicant has sufficient financial resources to meet their total annual commitments in the state, across all their current ELs and EL applications.

**Table 7** Personnel capability

ASPECT	MANAGER NAME	QUALIFICATION	YEARS OF EXPERIENCE	PROFESSIONAL AFFILIATION
Overall exploration management				
Geoscience management and technical data collection				
Stakeholder engagement and land access (including maintaining an Engagement Plan)				
Environmental management				
Logistics management				
Exploration technical reporting				
Environmental/compliance reporting				

Publicly listed companies must include their most recent financial statement, prepared in accordance with ASX listing rules or the equivalent for foreign exchange-listed companies, setting out the net equity position – eg latest ASX Appendix 5B report.

Non-listed companies or individuals must include their most recently audited and unaudited, if more recent, financial accounts including:

- a statement(s), no more than six months old, outlining where applicable:
  - cash – held at a bank or other APRA-regulated financial institution – eg bank statement
  - equity – either from the issue of shares or a call on the unpaid capital on existing shares – eg shareholding statement
  - debt – including, but not limited to, borrowings, either from a bank or other APRA-regulated financial institution – eg bank or financial institution statement
- a statement, no more than six months old, from a current member of a professional accounting body (eg CPA Australia or Chartered Accountants Australia and New Zealand) verifying that the applicant has the financial capability to meet their total annual expenditure commitments in the state.

If exploration funding comes from an entity other than the applicant – eg a domestic or foreign investor – the investor must provide a signed letter, or similar item, with an unqualified statement confirming they guarantee funding for the applicant’s total annual commitment in the state. The letter must include independent evidence, as described above, to indicate that the investor has the available financial resources to support their guarantee.

If a common source of funding is being used for multiple entities in the state, the application must demonstrate the funder has the financial capability to meet the total annual expenditure commitment.

If an EL holder’s financial resources are less than their total annual commitments, they must provide a statement outlining the means for funding exploration and why this is reasonable. The department will consider the applicant’s track record of meeting exploration commitments in South Australia and previous fund-raising performance when making an assessment.

**Table 8** Environmental and stakeholder aspects

Environmental aspects related to licence area addressed/to be addressed	eg Pureba Conservation Park, vegetation heritage agreement areas
Stakeholders related to licence area engaged/to be engaged	eg pastoralists, native title groups, Department of Defence, Department for Environment, district ranger, local government councils, petroleum or geothermal licence holders
Approvals or agreements to be managed/obtained for proposed forward program	eg landholders/pastoralists – contact prior to commencing exploration and provide statutory notices. Abide by <i>departmental guidelines MG4 and MG22</i> . eg Native title groups – Kokatha, Arabana. Follow procedures in <i>departmental guideline MG30 (in prep)</i> . eg WPA – access deed to be obtained, and procedures followed as per departmental information sheet M32 eg Pureba Conservation Park – separate PEPR approved by the department for operations within the park (low impact PEPR does not apply).



### (e) Material noncompliance within the last five years

Provide a statement outlining the applicant’s history of material noncompliance, if any, under any of the following Acts in the last five years:

- *Aboriginal Heritage Act 1988*
- *Aboriginal Lands Trust Act 2013*
- *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*
- *Environment Protection Act 1993*
- *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*
- *Landscape South Australia Act 2019*
- *Maralinga Tjarutja Land Rights Act 1984*
- *National Parks and Wildlife Act 1972*
- *Native Title Act 1993 (Cth)*
- *Native Vegetation Act 1991*
- *Offshore Minerals Act 2000*
- *Planning, Development and Infrastructure Act 2016*
- *Radiation Protection and Control Act 1982*
- *Work Health and Safety Act 2012*
- An Act of another state or territory that contains provisions that substantially correspond with the *Mining Act 1971* or the Acts listed above.

The applicant must disclose all material noncompliances that could inform the decision to approve or refuse the EL renewal application and add or vary licence conditions. This includes any breaches of the above Acts, and other state or territory equivalents, that result in:

- the revocation or suspension of any authority to carry out authorised operations – eg loss of a lease/licence or operational approval

- a prosecution for an offence
- the imposition of a penalty by the Court
- the issuing of a notice, direction or order that requires the suspension or discontinuance of any authorised operations
- the issuing of a notice, direction or order to rectify any harm to the environment or to rehabilitate any land, place or other aspect of the environment.

Disclosure of the loss or suspension of an authority to carry out operations will include any breach that leads to the loss or suspension of a mining or exploration lease or licence under Australian mining legislation. Exploration or mining operations around Australia routinely require complimentary authorisations such as native title, Aboriginal heritage, environmental, work health and safety, and/or other land access authorisations. Disclosure of the loss or suspension of an authority extends to these matters – eg EPA licences, water affecting permits, safe work approvals, native vegetation clearances.

## TARGET TIMEFRAMES

There are no statutory timeframes for processing an EL renewal application. However, the department has set its own target timeframes (see Table 9).

Certain state legislation requires the department to consult with or seek approval from other Ministers or state government departments when assessing some EL renewal applications, such as those located in a specially protected area (see Other legislative provisions relating to ELs, p33). These additional steps fall outside the department’s control and add to the application processing timeframe, as reflected in Table 9.

**Table 9** EL Renewal application processing target timeframes

Application type	Target timeframe (time with SA government) - from lodgement of EL renewal application to notification of decision*
EL renewal application	3 months
EL renewal application requiring additional approvals – eg within a specially protected area	5 months

\*The targets exclude time where additional information is sought from the applicant or their application is with other government agencies for advice or approval, both of which fall outside the department’s control.

# Licence area

## EL SURRENDER

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An EL holder may apply to surrender all or part of a tenement at any time during its term using *Form 14 Lease or licence: surrender or partial surrender*. Ground cannot be approved for surrender until the EL holder has met all outstanding regulatory obligations, including rehabilitation, and all outstanding reports are submitted. An application for surrender or partial surrender of an EL must include:

- a statement accompanied by supporting evidence confirming that any applicable PEPR outcomes have been achieved and all required rehabilitation has been completed. If this is not the case, provide reasons and proposed actions to achieve these outcomes
- in the case of a partial surrender, a map showing the area(s) to be surrendered and retained, delineated in accordance with section 56E
- a final compliance report, if relevant
- a statutory declaration declaring:
  - that authorised operations have ceased
  - that there are no outstanding liabilities or unpaid fees/penalties under the Act or the Regulations
  - details of any legal proceedings in respect of the EL that involve the EL holder
  - if relevant, that a management plan is in place for the transfer of any outstanding matters or liabilities
- details of engagement with landowners about the EL's surrender, rehabilitation or other work to be completed, as well as any issues raised by the landowner and how these have been or will be addressed.

The final technical report or partial surrender report if relevant and, in the case of a full surrender a final expenditure return, are due within two months following the date of surrender.

Until a surrender application is approved, tenement fees must continue to be paid to the department. It is therefore in the EL holder's interest to ensure that any outstanding compliance issues are promptly finalised. Annual fees for the area being surrendered, paid one year in advance, may be eligible for a refund or credit.

## EL COMPULSORY RELINQUISHMENT

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Compulsory relinquishment refers to a reduction in the area of an EL that occurs as a result of any of the following:

- Area reduction for expenditure noncompliance.
- Area reduction for AEA noncompliance.
- Mandatory 50% area reduction at 12 years.
- EL cancellation or forfeiture.
- Retention status expiry/EL excision as a result of section 33B(15).

The following items must be submitted for compulsory relinquishments:

- In the case of a partial relinquishment, a map showing the area(s) to be relinquished and retained, delineated in accordance with section 56E.
- A statement accompanied by supporting evidence confirming that any applicable PEPR outcomes have been achieved and all required rehabilitation has been completed. If this is not the case, reasons and proposed actions to achieve these outcomes must be provided.
- Details of engagement with landowners about the relinquishment, rehabilitation, or other work to be completed, as well as any issues raised by the landowner and how these have been or will be addressed.

The following items must be submitted to the department within two months following the date of relinquishment (with the exception of a final technical report following EL cancellation or forfeiture, which is required within three months):

- A final compliance report, if relevant.
- A final technical report.
- A final expenditure return (full EL relinquishment only).

## EL EXPIRY

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In the case of an EL expiry, the following items are due before the expiry date of the EL:

- A statement accompanied by supporting evidence confirming that any applicable PEPR outcomes have been achieved and all required rehabilitation has been completed. If this is not the case, reasons and proposed actions to achieve these outcomes must be provided.
- A final compliance report, if relevant.
- Details of engagement with landowners about the EL's expiry, rehabilitation or other work to be completed, as well as any issues raised by the landowner and how these have been or will be addressed.

The final technical report and final expenditure return are required within two months following EL expiry.

In the event of outstanding noncompliance in relation to the rehabilitation of land or undue damage to the environment, the department can reinstate the tenement (including continued invoicing of fees) to enable such issues to be rectified to the satisfaction of the department.

## EL DIVISION

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An EL holder can make an agreement with a third party, known as the designated party, to conditionally surrender part of their EL so that it may be preferentially granted to the third party as a separate, new EL.

EL division is intended to provide an alternative to farm-in arrangements or the sale/transfer of an entire EL – eg where part of an EL is of interest to a third party with a different commodity focus to the EL holder or where a mineral deposit/prospect is dissected by an EL boundary, which may be constraining its exploration or development potential.

A division application cannot be made if the EL expires within two years of making the application, or if the designated party is a related body corporate or has held the ground in the last two years.

Submit an *Form 29DIV: Mineral exploration licence (EL) – Division application* with:

- the prescribed fee
- a map showing the area to be divided and granted to the designated party
- information from the designated party as required under EL applications (page 6)
- a statutory declaration from the designated party stating that they are not a related body corporate of the EL holder and have not held an EL over the ground in the last two years
- a statement confirming that there are no outstanding obligations or liabilities over the application area or if there are, a commitment from the designated party to assume responsibility for them
- a final compliance report from the EL holder, where on-ground work under an approved PEPR has occurred on the application area
- a statement outlining engagement with landowners to inform them of the sale and the results of that engagement.

If the department advises the parties of its support for a division application, the designated party has six months, or a longer period as approved, to obtain an EL over the land. If an EL is not granted in this period, the surrender will be considered rejected and the land will remain with the EL holder.

The EL holder will continue to be subject to all Mining Act and Regulations requirements until a new EL is granted to the designated party.

The EL holder may withdraw the application at any time by providing notice in writing to the department, at which time the potential transaction will cease and an EL will not be granted to the designated party.

## EL AMALGAMATION

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Two or more ELs may be amalgamated if the EL holder makes an application to do so or the department initiates the process with the agreement of the EL holder. This allows for the consolidation of small tenements that are difficult or unreasonable to explore independently. A tenement amalgamation is not a new grant but the terms, conditions and duration of the tenements may change to facilitate the amalgamation.

Departmental policy on EL amalgamation is:

- The total combined area of the ELs requested to be amalgamated cannot exceed the maximum size of an EL – 1000km<sup>2</sup> (s30AA).
- All ELs proposed to be amalgamated:
  - must be in good standing
  - must be adjoining.
- On the resulting amalgamated EL:
  - the EL number will be determined by the EL holder’s nomination of the primary EL
  - if more than one EL holder has an interest, their respective interests in the amalgamated EL will be determined according to an agreement between the parties
  - the EL age and term will be set by the department according to the circumstances – eg the relative sizes and ages of the tenements to be combined
  - the department will set the expenditure commitment according to factors such as EL age, expenditure policy, existing approved expenditure variations or deferrals and any retention status
  - the department will set licence conditions according to [standard EL conditions](#) and any location-specific aspects for the resulting EL area
  - adjustment of the annual fee will be made as part of the amalgamation.

It is important to give careful consideration to the decision to amalgamate ELs and which EL number to retain as the primary one, because these decisions may have implications for existing agreements, including native title, dealings, statutory notices and approved PEPRs. Seek independent advice on these matters if relevant.

Amalgamation applications will be assessed on a case-by-case basis. The department’s assessment of the age, term, expenditure commitment, conditions and annual fee will be provided to the applicant before the final decision on the application is made.

Submit an amalgamation application in electronic form including:

- the EL numbers, areas, holder names and percentage interests held
- nomination of the primary EL ie EL number to be retained for the resulting amalgamated EL
- a map showing the EL locations and their spatial relationship
- where multiple ownership applies to the ELs, an agreement between the parties that nominates the desired ownership of the final amalgamated EL. Depending on the nature of the ownership change, the department may require additional information similar to that required at EL transfer
- information on how native title will be dealt with for any current Part 9B or ILUA agreements. Applicants should seek independent advice on these matters, such as the potential to trigger native title rights and interests over a ‘new’ area
- a list of statutory notices served - eg notice of entry, waivers, PEPRs approved, and dealings in place for each of the ELs to be amalgamated, with details on how these are intended to be managed following amalgamation.

## OVERLAPPING TENEMENTS

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A further tenement of a different type may be granted over land that is already the subject of a mineral tenement, subject to section 80 of the Act and/or with the approval of the tenement holder or Warden’s Court. Typically this would occur for a ML, RL or MPL application over part of an EL. Because ownership of the two tenements could be independently transferred in the future, any overlap requires an agreement under section 80 even if the overlapping and existing tenements have the same owner.

The existing tenement holder must give consent if their rights need to be modified to allow the two tenements to coexist. This agreement must indicate how each tenement holder’s respective rights will be modified and interactions between the tenements managed.



If the existing tenement holder's consent cannot be obtained, it is necessary to get Warden's Court approval. The Warden's Court cannot approve the grant of an overlapping tenement unless it is satisfied that existing tenement holder's rights will not be materially diminished.

## RETENTION STATUS

Retention status is a reprieve that may be granted to an EL holder who is unable to progress exploration on part or all of an EL due to circumstances outside their control. It can provide for a reduction in exploration expenditure commitments, EL fees and/or the compulsory 50% reduction at year 12 of an EL.

Retention status may be granted for up to six years and can be extended if the reasons for eligibility still apply. It has no effect on licence term and cannot extend an EL past the maximum 18-year life.

Retention status can be applied for in the following circumstances:

- If the explorer has been unable to get one or more approvals that are required under other Acts before they can start or continue exploration operations over the application area.
- If a mineral resource has been identified but it is unreasonable to expect a ML or RL application to be made because it is not viable to spend time and money on developing or progressing the resource at this time – but it is reasonably likely that the project will become commercially viable in the next six years.
- If other relevant circumstances exist that may justify the granting of retention status.

All applications for retention status must be made in electronic form and accompanied by:

- a map and coordinates, in accordance with the determination under section 56E of the Act, outlining the proposed retention status area
- the retention status term sought.

The application must also contain supporting documents relating to the reason for applying (see Table 10).

A work program submitted with a retention status application or required by the department at a subsequent time may be made a condition of licence. The department may defer, vary or cancel the work program if the EL holder has provided sufficient justification and supporting evidence about why it could not be implemented.

During the retention status term, the department may issue a written notice to the EL holder to explain, or show cause, why the required approvals have not been obtained, or why a ML or RL should not be applied for. Retention status will expire if the EL holder fails to satisfactorily show cause or a subsequent ML or RL application is unsuccessful. The land subject to the retention status will then be excised from the EL area and become relinquished ground.

If the retention status term ends and the department has not issued any show cause notices, the land will return to its original status under the EL.

The department will consider requests for reduction of the exploration expenditure commitment, fees or mandatory 50% EL reduction at year 12 on a case-by-case basis, considering the size of the area applied for and nature of issues causing exploration delays. Note that an EL gives the holder an exclusive right to explore for minerals on that land and there is a regulatory and administrative cost to the department for any EL held in the state. These factors will also be considered when making a decision.

**Table 10** Reasons for application and supporting documents

Reason for application	Supporting documents
Delayed approvals	<p>Statement outlining the approvals that could not be obtained and details of attempts made to obtain them.</p> <p>Summary of exploration undertaken on the EL and expenditure incurred for the application area.</p> <p>Estimate of the time required for obtaining the delayed approvals.</p> <p>Phased and costed work program outlining actions proposed to obtain the required approvals in the requested term and resume exploration.</p>
An uneconomic mineral resource	<p>Statement outlining details of the mineral resource, declaring that it has been appropriately identified and estimated.</p> <p>Reasons why it is not considered viable to spend time and money on developing/ progressing the resource and therefore apply for a mining or retention lease.</p> <p>Reasons why the resource may become commercially viable in the next six years.</p> <p>A phased and costed work program outlining actions proposed for the requested term that will progress the mineral resource toward future development.</p>
Other circumstances	<p>Statement outlining a summary of exploration undertaken on the EL and expenditure incurred for the application area.</p> <p>The circumstances that justify the application and steps taken to attempt to resolve the circumstances.</p> <p>A phased and costed work program outlining actions proposed for the requested term that will resolve the circumstances and resume exploration.</p>

# Retention leases

If an EL holder has identified a mineral resource but has not been able to obtain sufficient information to support a ML application, they can apply for a retention lease (RL). A RL may be granted for up to five years and gives the tenement holder an exclusive right to prospect for minerals on the land. A RL holder may apply for renewal before the term expires.

A RL application is required to:

- provide detailed evidence and information on the resource

- demonstrate there is a reasonable prospect of economically mining the identified resource within five years and that the RL location, area and shape is appropriate for the resource's future development
- provide a detailed exploration operations work plan that will support a future ML application, setting out an environmental impact assessment, measures to manage those impacts, expected environmental outcomes and measurement criteria, as well as the results of stakeholder consultation.

If activities proposed for a RL directly support progress to a ML application, and are limited to advanced exploration operations – eg resource definition drilling, bulk sampling, metallurgical studies, geotechnical studies, environmental surveys etc – the annual administration and regulation fee for the initial five-year term will be equivalent to a Fee Zone 3 EL.



# Other legislative provisions relating to ELs

## DEALINGS ON AN EL

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'Dealings' are commercial arrangements that create an interest in or security over a licence. They commonly include the creation and transfer of proprietary, equitable or contractual interest in a licence, and the creation and withdrawal of a security interest over a licence. These interests are recorded on the Mining Register as transfers, mortgages and caveats.

Any acquisition of a proprietary or legal interest in an EL by other parties requires Ministerial consent. Transfer of a proprietary or legal interest in an EL will result in a change of the registered EL holder. Use the Form 13 [Dealing - Lease, licence or private mine transfer](#) to request a transfer.

When considering consent to a transfer request, the department must be assured that it is consistent with provisions of the Act and Regulations, and that the transferee has adequate technical, operational and financial capabilities and resources to carry out operations under the licence (see Application requirements, p5).

An equitable or contractual interest in an EL – eg farm-in or joint venture agreements and commodity specific agreements – may be registered on the Mining Register as 'other dealings'. Other dealings have no effect on the EL title other than to note that the equitable or contractual interest exists. Caveats and mortgages may also be registered against an EL to provide security over an interest in a tenement. The registration of a mortgage or caveat may prevent the EL's transfer or surrender.

## MINING REGISTER AND TENEMENT INFORMATION

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The Mining Register records a broad range of information about South Australian mineral tenements including tenement transactions, decisions, dealings, agreements, statutory notices and Warden's Court proceedings.

The Act requires that assessment reports be prepared on various matters. These may be added to the Mining Register to demonstrate accountability for relevant decisions and promote transparency.

The department has a policy of not disclosing commercially sensitive information or intellectual property. However, applicants should note that the *Freedom of Information Act 1991* applies.

## EL FORFEITURE

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The fundamental purpose of South Australian exploration regulation is to encourage diligent exploration activity that identifies, tests and advances targets. If this is not happening, particularly if noncompliance or land-banking-type behaviour is occurring, legitimately interested parties can apply to take over the EL's exploration rights. This type of industry self-regulation is considered an important tool for maintaining a healthy exploration environment.

Section 70 of the Act establishes a revised approach to forfeiture that reflects modern minerals industry practice and the South Australian framework. Under regulation 62(1), exploration licences are subject to forfeiture other than in the first two years from the EL's grant or transfer (r 62(2)c).

An application for EL forfeiture, supported by suitable evidence of capacity to meet EL, Act and Regulations obligations (r 62(2)), should be made to the Warden's Court. The court may recommend that the department forfeit the tenement if satisfied that one of the following has occurred and is of sufficient gravity to justify forfeiture:

- There is a breach of the Act or Regulations.
- There is a breach of a term or condition of the tenement.
- There is a breach of a PEPR.
- There is undue damage to the environment as a result of authorised operations.
- There is a failure to carry out exploration activities associated with the EL within a reasonable time or to a reasonable extent.

If the Warden's Court recommends forfeiture, the department must consider that recommendation. If a decision is made to forfeit the tenement to the Crown, the applicant is entitled to take over the tenement for the balance of its term, as long as they notify the department of their request within 14 days of the Warden's Court recommendation.

## OFFENCES, PENALTIES AND LICENCE CANCELLATION/ SUSPENSION

Offences under the Act and Regulations include illegal exploration and mining, offences by bodies corporate, provision of false or misleading information, administrative offences and expiable offences.

Apart from offences committed on a private mine, all offences in the Act and Regulations are subject to 'continuing'. This means that for each day the breach exists or the contravention remains unremedied, another offence occurs, as determined by the court (s70HG).

While all offences are criminal, the Act allows penalties to be criminal, civil, expiable or administrative. Penalties under the Act and Regulations include prosecution, orders to take an action or undertake a rectification, fines, and expiation fees for minor offences.

The department may suspend or cancel an EL if the holder contravenes or fails to comply with a tenement term or condition, or a provision of the Act or Regulations. In accordance with the department's compliance and enforcement policy framework, the noncompliances must be of sufficient gravity and seriousness for this enforcement action to be applied.

Before taking action to suspend or cancel a tenement, the department must take reasonable steps to notify the EL holder of the proposed course of action and grounds for taking action, and provide them with an opportunity to make a written submission on the alleged grounds. After notifying the EL holder and considering any submissions, the department may suspend or cancel the tenement by registering it on the Mining Register and notifying the EL holder. The EL holder has 28 days from receipt of the notice to make an appeal to the ERD Court.

For further details, refer to MPol 004 [Mining Act regulation compliance and enforcement](#).

## STATUTORY APPROVAL/ PERMISSION/ CONSULTATION UNDER OTHER LEGISLATION

### Aboriginal-owned or managed lands

The following South Australian Acts create statutory land rights that include specific requirements for entering certain land for exploration operations:

- *Aboriginal Lands Trust Act 2013 (s52)*
- *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981 (s21)*
- *Maralinga Tjarutja Land Rights Act 1984 (s23)*

The Minister cannot grant (and, in the case of the Aboriginal Lands Trust (ALT) Act, renew) an exploration authority over those lands unless the applicant has first been granted permission under the relevant land rights act. Therefore, an explorer cannot enter land vested in or held by the Aboriginal Lands Trust (ALT), the Anangu Pitjantjatjara Yankunytjatjara (APY) or the Maralinga Tjarutja (MT) for the purpose of carrying out exploration without permission under those Acts (see Table 11).



If an explorer has been granted permission under a land rights act to carry out exploration operations, they are not required to serve a notice of entry under the Mining Act on the ALT, APY or MT.

More detailed information about these land rights acts and related entry requirements is set out in M31 [Guidelines for proposed mining activities on native title land – Part 9B of the Mining Act 1971](#).

### Conservation lands

South Australia has an extensive network of conservation areas, the majority of which provide for multiple land use, including exploration and mining. Approximately one quarter of the state’s terrestrial areas are proclaimed as a reserve under the *National Parks and Wildlife Act 1972* or *Wilderness Protection Act 1992*. Other conservation areas include heritage agreements for native vegetation, the Arkaroola Protection Area and specially protected areas including marine parks, Adelaide Dolphin Sanctuary and the River Murray Protection area. More information on the interaction between the resources sector and SA’s conservation areas is available on the department’s website.

Mineral and energy resources development is of great importance to South Australia’s economic and regional development, and the government recognises the importance of balancing conservation and resource-use objectives. With a large percentage of the protected area system available for exploration and mining, there is a commitment to sensitive resource extraction within an overarching conservation framework.

In conservation areas where exploration is permitted, state legislation and policy requires consultation with and/or approval of other state government agencies or Ministers before an EL is granted, and prior to the commencement of exploration operations. This is managed by the department with well-established and streamlined processes. However, it will extend the processing time for EL grant and renewal applications as well as operational approvals in these areas.

Refer to MG22 [Conducting mineral exploration](#) and the EL applications (page 6) and EL renewal (page 28) sections of this guideline for more information. Table 11 summarises the statutory consultation and approval requirements.

**Table 11** EL statutory approval and consultation requirements

*(brackets indicate party responsible for obtaining the approval/permission)*

	APY and MT Aboriginal lands	ALT land	Regional reserve	National/ conservation park	Specially protected area
EL grant	APY or MT permission (applicant)	ALT permission (applicant)	Department for Environment and Water comment (department*)	Minister for Environment and Water approval (department*)	Minister for Environment and Water concurrence (department*)
EL renewal	—	ALT permission (applicant)	—	—	Minister for Environment and Water concurrence (department*)

\*Department for Energy and Mining, South Australia

## Defence lands

Some land in South Australia is owned and/or controlled by the Commonwealth Department of Defence for the purpose of training or testing activities – eg Woomera Prohibited Area (WPA), Cultana Training Area and Murray Bridge Training Area. These lands remain mineral land under the Mining Act (SA) and can be accessed for mineral exploration and mining subject to certain restrictions and conditions under the *Defence Act 1903* (Cth) and the Defence Regulation 2016 (Cth). See Defence land on the department's website for more information.

# Transition to the 1 January 2021 amended Mining Act

The following provides guidance on applications, commitments and rules that apply to the transition period from the previous versions of the Mining Act to the amended Mining Act.

Definitions:

- Amended Act: The version of the *Mining Act 1971* and Regulations that commenced on 1 January 2021, as amended by the *Statutes Amendment (Mineral Resources) Act 2019*.
- Amended Act EL: An EL applied for and granted on or after 1 January 2021 under provisions of the amended Act.
- Old Act: The July 2020 or earlier version of the *Mining Act 1971* and Regulations, in place before the amended Act's commencement on 1 January 2021.
- Old Act EL: An EL in existence or applied for before the amended Act commenced on 1 January 2021.

Old Act ELs are subject to all provisions of the amended Act and Regulations except for an EL renewal application.

All amended Act EL applications lodged and ELs granted on or after 01/01/2021 are subject to all provisions of the amended Act and Regulations. See Table 12 for Old Act requirements after 1 January 2021.

## UNDERSTANDING THE NEW EXPLORATION EXPENDITURE POLICY

The new departmental *exploration expenditure policy* reflects the amended Act's revised approach that aims to balance tenure certainty and exploration investment with ground turnover. It strives to reward ongoing good performance and ensure ground turnover if exploration is not being diligently carried out.

Previously this was primarily done by doubling the expenditure commitment every five years. However, the new mandatory area reductions and EL expiry after a maximum 18 year licence period in the amended Act mean there is no longer a need for substantial escalation of expenditure commitment.

The new policy under the amended Act starts with a low commitment for the low-cost, early stage of exploration during years one and two, and an escalating level of commitment over the next four years. It reaches a maximum commitment rate at the beginning of year seven. These commitments are intended to recognise and support the typical progression of mineral exploration and reflect a fair, reasonable and achievable level of ongoing diligent exploration effort.



## Requirements for old Act ELs on or after 1 January 2021

Old Act EL aspect	Requirement on or after 1 January 2021
EL terms and conditions	On or after 1 January 2021, a term or condition of an EL that is inconsistent with the provision of the Act or regulations will be void to the extent of the inconsistency (r. Sch. 5(4)).
Renewal applications (for ELs at the end of their first, second, third or fourth year)	<p>Applications must be lodged 30 days before EL expiry and contain the same information that was required before 1 January 2021 under s30A of the Old Act, and related departmental policies.</p> <p>Refer to the <a href="#">SARIG online application</a> or <a href="#">Form 29 ELR-2020</a> for requirements.</p>
Subsequent EL applications (for ELs at the end of their 5th year)	<p>The 'subsequent EL' process of the Old Act has been replaced with the renewal process under the amended Act.</p> <p>If an Old Act EL is due to expire following its fifth year, a renewal application must be made before expiry under s30A of the amended Act (see Renewal applications, p28).</p> <p>If renewed:</p> <ul style="list-style-type: none"> <li>■ where exploration rights have been held for less than 10 years as at 31/12/2020 ie an original licence or first subsequent licence, an EL will be considered to be at the beginning of its seventh year</li> <li>■ where exploration rights have been held for 10 years or more as at 31/12/2020 ie a second or later subsequent licence, an EL will be considered to be at the beginning of its 13th year (the 50% area reduction at year 12 under the amended Act does not apply in this case).</li> </ul> <p>Once an Old Act EL has been renewed under the amended Act – at the end of its maximum 5-year term – with a new tenement “age” as defined above, the amended Act’s mandatory 50% reduction at 12 years and expiry at 18 years will be applicable. This means that ELs deemed to be commencing their 7th year will require a 50% reduction in 6 years’ time, and ELs deemed to be commencing their 13th year will expire in 6 years’ time.</p>
Expenditure commitment	Following completion of the COVID-19 Exploration Expenditure Waiver period (01/04/2020 – 31/03/2021), an EL’s exploration expenditure commitment will revert back to the amount set by the licence condition (Sch. 1, 9(1)) for the remainder of the EL term. The new <a href="#">exploration expenditure policy</a> operating under the amended Act will apply when the next renewal term begins. An application for expenditure variation to adopt the new expenditure policy earlier may be supported by the department where the EL is in good standing.
EL expenditure returns	<p>These are required for <u>all</u> ELs from 1 January 2021.</p> <p>For an Old Act EL not under an AEA, the first expenditure return is required within 60 days following the end of its current term, reporting on the last expenditure commitment period.</p> <p>From then on, the expenditure return period will be two years, unless otherwise determined. The return period for an EL commencing its 4<sup>th</sup> year will be one year to coincide with the maximum five-year term of the licence.</p> <p>The ‘Work completed’ component of an expenditure return will not be published on the Mining Register until the full return period occurs on or after 01/01/2021 ie current return period work details will not be published, only the total spend figure for the period.</p>

## Requirements for processing Old Act EL-related applications lodged before 1 January 2021

EL aspect lodged before 1 January 2021	Requirement for processing
New EL application received before 1 January 2021 and decided/granted after 1 January 2021	Will be processed and assessed in accordance with the Old Act. If successful, it will be granted, conditioned and regulated in accordance with the amended Act – eg granted for a 6-year maximum term with expenditure regulated via Expenditure Returns in accordance with the amended Act.
Subsequent EL application received before 1 January 2021 and decided/granted after 1 January 2021	Will be processed, assessed and decided/granted in accordance with the Old Act (Regulations Sch. 5(3); transitional provisions – subsequent exploration licences). If successful, it will be conditioned and regulated in accordance with the amended Act – eg Old Act EL granted for a 5-year maximum term with expenditure regulated via Expenditure Returns in accordance with the amended Act.
All other EL applications lodged before 1 January such as transfer, surrender, ministerial consent etc	Will be processed, assessed and decided in accordance with Old Act provisions, and regulated in accordance with the amended Act's provisions.

The department's expenditure policy has an increased focus on on-ground exploration work and acquiring new data, with a new requirement that at least 60% of the expenditure commitment must be spent on acquiring new data or on-ground work, after the EL's first two years. This requirement will apply from the start of the first EL/AEA expenditure return period on or after 1 January 2021.

The new expenditure commitments are expected to be met, other than in exceptional circumstances. Failure to meet expenditure commitment will result in the expenditure noncompliance policy being strictly enforced.

## NEW POLICY AND TRANSITIONAL MEASURES FOR AEA REGULATION

Considering the reforms made by the amended Act to the overall EL framework, the administration and regulation of AEAs has been reviewed and revised to include the following changes:

- Mandatory AEA reductions no longer apply.
- Ongoing AEA status applies if eligibility criteria are met.
- ELs containing active, advanced prospects are excluded.

- An agreed spatial spread of exploration expenditure is required and an area reduction penalty is applicable if not achieved.
- Regulation is consistent with that of individual ELs ie two-yearly expenditure return, expenditure noncompliance policy, minimum spend on new data acquisition/on-ground work.

## APPLYING FOR A RETENTION LEASE (RL) OR MINING LEASE (ML)

Under the amended Act, an EL holder can now apply for a RL or ML without going through the interim process of obtaining a mineral claim, which was the case before 1 January 2021.



## Transitional measures/policies for existing AEAS (active or pending extension as at 31/12/2020)

AEA aspect	Transitional measure/policy
ELs with active, advanced prospects	Existing AEAs with expiries up to 1 November 2021 will be offered a further one-year grace period that allows ELs with active, advanced prospects to remain in the AEA.
Spatial distribution of exploration	The 10% area reduction penalty will not be applicable but will apply to any forward AEA periods.
AEA expenditure	Expenditure commitment for existing AEAs will be in accordance with the approval terms of the arrangement. For the forward AEA commitment period, an application for expenditure variation to adopt the new expenditure policy for all ELs in the AEA may be supported by the department where the AEA is in good standing.
Minimum 60% of expenditure commitment spent on new data acquisition/on-ground work	Will only apply from the first AEA expenditure return period starting on or after 1 January 2021.
Expenditure returns	Are required for all AEAs expiring on or after 1 January 2021. An expenditure return is not required for AEAs that expired in 2020 – eg on 31 December 2020. The details of the 'Work completed' component of an AEA expenditure return will not be published on the Mining Register until the full return period occurs on or after 1 January 2021. As per individual ELs only the total spend for the return period will be published in the first instance.
AEA approval	Existing AEAs will continue to operate under their current approval arrangements. AEAs approved on or after 1 January 2021 under the amended Act will be given ongoing AEA status in accordance with the AEA section of this guideline (p21).
Area reductions/expenditure noncompliance	Mandatory or other area reduction requirements for existing AEAs will be in accordance with their AEA approval conditions and pre-2021 policies. The expenditure noncompliance policy in this guideline (p20) will apply to any forward AEA periods.

# Related resources

## FORMS

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Find forms and templates, including new electronic lodgment forms under the amended Act on the [Forms, legislation and guidance](#) section of the department's website.

## FEES AND CHARGES

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Fees associated with mineral exploration and mining activities as required under Mining Act Regulations are reviewed on an annual basis. Fee details are available on the [Fees and Calculators](#) page of department's website or by contacting [Mineral Tenements](#).

## RELEVANT ACTS

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*Mining Act 1971* as amended, in particular Part 5 (Exploration Licence), Part 9B (Native Title), and Part 7 (Exploration licences) of the Mining Regulations.

Other South Australian Acts that may affect operations include:

- *Aboriginal Heritage Act 1988*
- *Aboriginal Lands Trust Act 2013*
- *National Parks and Wildlife Act 1972*
- *Maralinga Tjarutja Land Rights Act 1984*
- *Marine Parks Act 2007*
- *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*
- *Native Title (South Australia) Act 1994*
- *Natural Resources Management Act 2004*
- *Opal Mining Act 1995*
- *River Murray Act 2003*
- *Native Vegetation Act 1991*
- *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*
- *Environment Protection Act 1993*.

These acts may be accessed through [legislation.gov.au](#).

## INFORMATION SHEETS AND GUIDELINES

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The department has produced several information sheets and guidelines to assist explorers:

### Minerals regulatory guidelines

[energymining.sa.gov.au/industry/minerals-and-mining/forms-legislation-and-guidance/regulatory-guidelines](http://energymining.sa.gov.au/industry/minerals-and-mining/forms-legislation-and-guidance/regulatory-guidelines)

- MG22 [Conducting mineral exploration](#)
- TOR 001 [Generic program for environment protection and rehabilitation – low impact mineral exploration](#)
- MG 20 [Radioactive core storage and handling – standard operating procedure](#)
- MG18 [Guidelines for submission of samples for mineral exploration drillholes](#)
- MG13 [Mineral exploration reporting guidelines for South Australia](#)
- MG4 [Land rights, access and engagement](#)
- MG27 [Community guide to early and advanced exploration activities in South Australia](#)
- MG31 [Engagement, negotiation and agreement-making](#)
- MG25 [Guidelines for explorers on Aboriginal engagement, good faith negotiation and agreement making](#)
- [Native Title and Aboriginal Heritage risk management guidelines for low impact exploration \(in prep.\)](#)

### Earth resources information sheets

[energymining.sa.gov.au/industry/minerals-and-mining/forms-legislation-and-guidance/info-sheets](http://energymining.sa.gov.au/industry/minerals-and-mining/forms-legislation-and-guidance/info-sheets)

- M06 [Prospecting and mining for minerals](#)
- M29 [Aboriginal Heritage Act 1988 and Aboriginal site avoidance guidelines](#)
- M31 [Guidelines for proposed mining activities on native title land – Part 9B of the Mining Act 1971 \(UPDATE IN PREP\)](#)

- M53 ERA releases and processing status report
- M60 EL monthly summary report
- Biosecurity for exploration and mining operations in South Australia
- M68 Notice of entry: your rights
- M69 Agreement-making and compensation: your rights
- M70 Exempt land: your rights
- M71 Exempt land: court-imposed conditions and compensation
- M72 Exempt land: supporting landowners with legal fees
- M73 Applying to the Small Business Commissioner: your rights

### Other useful information

- Understanding dryland farming: information for mineral explorers in South Australia, Department for Energy and Mining 2014, Report Book 2013/17.
- Understanding mineral exploration: information for farm businesses and the community in South Australia, Department for Energy and Mining 2013. Report Book 2013/18.
- Minerals Council of Australia (2015) Enduring Value: The Australian minerals industry framework for sustainable development
- MPOl 004 Mining Act regulation, compliance and enforcement.
- MG34 Preparing a community engagement plan
- Mining Act terms of reference and instructions
- EPA guidelines: radiation protection guidelines on mining in South Australia: mineral exploration

# Contacts

## DEPARTMENT FOR ENERGY AND MINING (DEM)

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

**Information portal** - maps, application lodgement and geoscience information: [map.sarig.sa.gov.au](http://map.sarig.sa.gov.au)

**General enquiries** (including SARIG), deliveries, hardcopy information and maps:

**DEM Customer Service Centre**  
 Level 4, 11 Waymouth Street, Adelaide SA  
 GPO Box 320, Adelaide SA 5001  
 Phone: +61 8 8463 3000  
 Email: [DEM.CustomerServices@sa.gov.au](mailto:DEM.CustomerServices@sa.gov.au)

## MINERAL TENEMENTS - GENERAL ENQUIRIES AND ASSISTANCE

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**The Mining Registrar  
 Mineral Tenements**  
 Department for Energy and Mining  
 Mineral Resources Division  
 GPO Box 320  
 ADELAIDE SA 5001  
 Phone: +61 8 8463 3103  
 Email: [DEM.Tenements@sa.gov.au](mailto:DEM.Tenements@sa.gov.au)

Copies of forms, searches of the register, and schedule of charges are available on the Department for Energy and Mining website [www.energymining.sa.gov.au](http://www.energymining.sa.gov.au)

# Feedback

Please email any feedback on this guideline or suggestions for improvement to [DEM.minerals@sa.gov.au](mailto:DEM.minerals@sa.gov.au)

# Appendices

## APPENDIX A – MINING ACT 1971 AND REGULATIONS SNAPSHOT FOR EXPLORERS

Table 15 provides a quick reference guide to the main legislation relating to exploration licences and follows the order of this guideline. It is not an exhaustive list and the reader is responsible for ensuring they are fully aware of all parts of the legislation relevant to their interests. The Mining Act can be found on the South Australian [legislation website](#).

**Table 15** Key EL-related references in the Mining Act 1971 and regulations

Topic	Mining Act part or section	Mining Regulations part or clause	Terms of Reference (TOR), Mineral Policy (MP), Ministerial Determination (MD)
Nature of an EL	s29		MP001 <i>Exploration and mining regulation</i>
Application for an EL or ERA	s28, s29A	r23	TOR028, MD-GGp5896 (ERA),
Grant of an EL	s29B	r24	
Notification of EL grant and EL conditions	s29B, s30	r24	
Native title land	Part 9B		
Exploration operations	Part 10A, Part 9	Part 15, Part 18	MD-GGp5882-5884, 5897, Adopted program 001, TOR013 (PEPR), MD-GGp5997 (airborne survey), TOR029 (Tech. Expl. Report), TOR012 (Expl. Compliance Report), MD-GGp5897, p6008 (Incident Report)
EL expenditure	s30AAA, s90	r25	MD-GGp5896 (AEA), MD-GGp5880 (Expenditure return), MP002 Exploration Expenditure policy
EL renewal	s30A	r28	TOR027
Area of licence	s30AA		
Surrender	s56X	r52	MD-GGp5882
Division	s30AA	r27	MD-GGp5880
Amalgamation	s56P	r51	
Overlapping tenements	s80		
Excise of land	s30AB	r29	
Retention status	s33B	r26	MD-GGp5880
Retention lease	Part 7	Part 8	MD-GGp5944, 5984
Dealings/transfer	s15AB		TOR-GGp5878 (Dealings)
MD-GGp5998 (serving of notices), and information	Part 2A, s56ZA	Part 4, Sch. 1	
Forfeiture	s70	r62	
Offences, penalties, cancellation	s56L, s56W, Part 10B, Part 10C, s89A, s89B, s90, s91	r89, r90, R Sch. 3&4	
Transition	<i>Statutes Amendment (Mineral Resources) Act (2019), Sch. 1</i>	R Sch. 5	



## APPENDIX B – LIST OF CONDITIONS FOR EXPLORATION LICENCES

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Conditions for a mineral exploration licence granted under the *Mining Act 1971 (SA)* and *Mining Regulations 2020 (SA)*

Mineral Policy 010 *List of conditions for exploration licences* is available for download at <https://sarigbasis.pir.sa.gov.au/WebtopEw/ws/samref/sarig1/image/DDD/MPOL010.pdf>

# ACKNOWLEDGEMENT OF COUNTRY

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As guests here on Kurna land, the Department for Energy and Mining (DEM) acknowledges everything this department does impacts on Aboriginal country, the sea, the sky, its people, and the spiritual and cultural connections which have existed since the first sunrise. Our responsibility is to share our collective knowledge, recognise a difficult history, respect the relationships made over time, and create a stronger future. We are ready to walk, learn and work together.

## FURTHER INFORMATION

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**Department for Energy and Mining**  
Level 4, 11 Waymouth Street, Adelaide SA 5000  
GPO Box 320, Adelaide SA 5001  
T +61 8 8463 3000  
E [DEM.Minerals@sa.gov.au](mailto:DEM.Minerals@sa.gov.au)  
[www.energymining.sa.gov.au](http://www.energymining.sa.gov.au)

