



MINING LEASES



MINING LEASES UNDER THE CURRENT MINING ACT

A decision to grant or refuse a mining lease under section 34 of the *Mining Act 1971 (SA)* is made on the basis of a comprehensive Environmental Impact Assessment (EIA) and community consultation undertaken in accordance with the Act.

Mining lease terms and conditions are established for the particular site by considering the environmental 'outcomes' that need to be achieved. These outcomes (i.e. statements of the appropriate impact on the environment) are determined during lease assessment by the Regulator and are based on information received during community consultation rather than being prescribed in the Act. This is a best practice approach to regulation, and consistent with all other States and the approach of all modern environmental agencies.

Operators must achieve their environmental outcomes under their lease, but leases do not set out any 'prescribed activities' that need to occur to achieve those outcomes. An example of an outcome that can be included in a lease is: *"There will be no permanent loss of native flora/fauna abundance or diversity within the licence areas and adjacent areas caused by mining operations and vegetation clearing."* Once outcomes are set, the Regulator can only approve operations that will achieve those outcomes.

A mining lease can be either a 'mineral lease' (metal or metalliferous ore, precious stones, copper, iron ore, gold, silver, graphite etc) or an 'extractive minerals lease' (sand, gravel, stone, shell, shale and clay, but no minerals used for 'prescribed purposes' or fire clay, bentonite or kaolin). A mining operator granted a lease cannot commence operations on that lease until they have all other approvals in place, including operations approvals from the Regulator (Mine Operating Plans/PEPRs), all environmental (eg. water) licences, and land access rights.

WHAT YOU SAID

Most submissions covered the regulation of mining leases, and made comment on the grant of mining leases, community engagement during the lease assessment, timing for public comment, and access to information throughout the process.

FUTURE DIRECTIONS BEING CONSIDERED

There was minimal support in the submissions for a 'generic' lease that would allow both mineral and extractive mineral extraction. However, we need to retain our post-commencement 'endorsement' process for access to extractives and minerals because some 'extractives' are deemed to be 'minerals' mid-operation (or vice versa) and it is unreasonable to require an operator to seek further approval in those circumstances if there are no changes to their operations.

There was general support for tenure being granted commensurate with the mine life, as this then provides certainty to operators, the community and landowners. The Review Team is considering amendments that will allow for the amalgamation of leases, as in some cases there are artificial divisions across one mine site merely due to historical factors. Where possible, there should be able to be one lease for one site so that the Regulator can manage the entire landscape through one set of documents.

The Review Team is also considering amendments that implement clearer public consultation processes, and the publication of important reports - such as project assessment reports.

Leading Practice Mining Acts Review — June 2017