



# MINING REGISTER AND CAVEATS



## THE MINING REGISTER UNDER THE CURRENT MINING ACT

Mineral claims, leases, licences and 'instruments' can be registered under the *Mining Act 1971*. The term 'instruments' is not defined in the Act, but it is interpreted to mean (amongst other things) mortgages, renewals, transfers, some agreements, and caveats. The current limitations on registration causes difficulties for operators, as it is now common commercial practice to farm out an 'equitable' interest, or negotiate contractual interests such as interests payable in reference to production tonnage from a tenement. By not having a clear legislative framework for recognising these interests, explorers and operators are unable to register caveats to seek to protect their interests, or register their agreements to put others on notice of their interest in a tenement. These limitations on registration can be a barrier to commercial activity in South Australia.

## WHAT YOU SAID

Submissions recommended that the Register should be used as a tool for recording, and electronically searching the entire history of a tenement (with the exception of public submissions during public consultation processes) including mortgages, caveats, transfers of proprietary interests in a mining tenements, and compliance history. However, some submissions recommended that the full information should only be made available to tenement holders and registered operators where information is not 'commercial in confidence' or 'market sensitive.' Some submissions also recommended that the Register be linked to relevant websites such as SARIG and the Lands Titles Office.

## FUTURE DIRECTIONS BEING CONSIDERED

The Review is an opportunity to broaden the scope of documents that can be registered to allow for the registration of modern contractual agreements and other dealings that may not give rise to a 'proprietary' interest in tenements. Appropriate land access documentation, and various notices, could also be lodged on the Register where the parties were not opposed to the lodgement. A 'memorial' of a transaction or agreement could also appear on the Register where those documents were 'commercial in confidence' or 'market sensitive' (if appropriate). Depending on the nature of the document being registered, there could be appropriate requirements in relation to the content of the documents or notices, and/or an obligation on the Registrar to validate certain documents.

Amendments could also expand the use of the Mining Register to include an array of documents which demonstrate compliance with the Mining Act and Regulations. It is intended that the logging of this information will lead to better accountability, and act as a deterrent to unauthorised behavior. The Review Team is also considering better ways to make the Register easier and cheaper to access online. These changes would result in a leading practice mining Register that would allow parties and community members to see a history of dealings, instruments, transfers, tenement changes, compliance actions, caveats and mortgages over the life of the tenement and any subsequent, renewed, substituted, replacement, amalgamated or extended tenement.

*Leading Practice Mining Acts Review — June 2017*