



The Mineral Rights Aquisition Process for Landowners

What are minerals?

Minerals are things like gold, silver, copper and nickel. Minerals are part of the earth and they form naturally in the ground over millions of years. They can be worth a lot of money.

Who owns minerals?

Minerals are owned by the people and the government of Solomon Islands. Landowners control the right to access land, and all customary Landowners have a right to have a say in how their land is used.

Who can give rights to access and develop minerals?

The Landowner controls access rights to the land. The government can issue permits to develop the extraction (removal) of minerals from the land. The permits the government can give out are known as Building Materials Permit, Gold Dealers Licence, Alluvial Miners Permit, Reconnaissance Permits, Prospecting Licences and Mining Leases.

What is mining?

Mining is the extraction (removal) and processing minerals such as gold, nickel from the ground.

If a mine is developed it can last for a very long time and can be very disruptive to land. Mining can also have a big impact on the environment. It is very important for you to get technical advice (from the Ministry of Mines) legal advice if any company is talking to you about prospecting or mining on your land.



**LANDOWNERS' ADVOCACY AND
LEGAL SUPPORT UNIT
PUBLIC SOLICITOR'S OFFICE**



SPREP
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What is a mining company?

A company that has experience in searching for or extracting minerals from the ground. Mining companies operating in Solomon Islands are registered in the Solomon Islands and usually foreign owned.

Which ministries are responsible for mining?

- Ministry of Mines, Energy and Rural Electrification (MEDCM).

This ministry gives out rights to mine or explore for minerals under the Mines and Minerals Act. Before the Ministry can give out these rights, the mining company and Landowners must have reached agreement about surface access rights known as a 'Surface Access Agreement'.

- MEDCM

This ministry is responsible for making sure the mining company does not cause environmental damage. It does this by requiring the mining company to do an Environmental Impact Assessment (EIA) before it is allowed to start any work.



What is a Surface Access Agreement?

Landowners have the right to determine who may access their land. Before any mining company can enter any customary land the mining company and the customary Landowners must reach agreement about what things the company must do and must not do, before it is allowed on to that land. This document is known as a Surface Access Agreement.

Are tambu sites and villages protected from mining?

Yes, mining is prohibited in tambu sites and villages. No one is allowed to do any prospecting or mining in either of these areas. Also, prospecting and mining are prohibited within 25m of any burial site, house, garden or crops, towns, or state forest.

Can I see copies of mining documents?

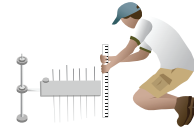
Yes. You have a right to know about any mining activity that might affect your land. If a mining company is interested in your land, the mining company and the Ministry of Mines must give you information about the area the mining company is interested in and what the mining company wants to do.

-If a mining company is already doing work in your area and you are not sure about whether the company is allowed to be there or what it is allowed to do, you can ask to see a copy of any Reconnaissance Permit, Prospecting Licence or Mining Lease that the government granted over your land.

-You can also ask to see a copy of any Surface Access Agreement covering your land. The Provincial Secretary and the Director of Mines should have copies of these documents, as well as the mining company itself. You can also contact the Registrar of Titles if you have any questions about a Mining Lease.

Processes under the Mines and Minerals Act

Reconnaissance is the first stage in the mining process. If a company wants to do reconnaissance it must get a Reconnaissance Permit from the government.



Reconnaissance is more straight forward than prospecting and mining. A company with a Reconnaissance Permit is only allowed to take photos and small samples from rocks on the surface of the ground. A Reconnaissance Permit does not allow the use of machinery to drill holes or dig trenches in the ground.

Reconnaissance Permits can cover very large areas of land. If a company has a Reconnaissance Permit, this does not mean that it will definitely go ahead to the mining stage – it just means the company wants to look around and see if it can find any minerals worth examining further. A Reconnaissance Permit lasts for one year and can be renewed for one additional year.

A company with a Reconnaissance Permit can only enter customary land after the landowners have given their consent to the company to enter the land.

Prospecting is the second stage in the mining process. If a company wants to do prospecting it must get a Prospecting Licence from the government.



Prospecting can be more intensive than reconnaissance. A company with a Prospecting Licence is allowed to use machinery to drill holes and dig trenches. Prospecting may involve clearing large areas of vegetation to allow vehicles and drilling rigs onto the land. A Prospecting Licence can cover an area of up to 600 square kilometres, and is valid for 3 years. It can be renewed for another 4 years.

Companies do prospecting to learn about the amount and type of minerals in the area. If they find what they are looking for they may proceed to the next phase (mining). If they do not find what they are looking for, they will not do any further work. The government will only give a Prospecting Licence to a company after the company and the landowners reach agreement about surface access.

Mining is the third and most important stage. A company will want to go ahead with mining if the prospecting phase shows that there are enough minerals in the ground to make mining worthwhile.



If a company wants to do mining it must get a Mining Lease from the government. Mining Leases cover a smaller area of land than Reconnaissance Permits and Prospecting Licences, but a company with a Mining Lease is likely to do much more extensive work than during the other phases. This work includes construction of roads and site clearing, extraction of ore from the ground, disposal of unwanted waste rock and soil ('overburden'), processing the ore and disposing of the processing waste ('tailings').

A Mining Lease lasts for 25 years, with unlimited additional renewals for 10 years at a time. The government will only give a Mining Lease to a company after the company and the Landowners have reached agreement about surface access, or if the government has taken the land by 'compulsory acquisition'.

Rehabilitation and mine closure occurs when a company finishes prospecting, it must fill up any holes it has made, pull down camps, remove any machinery it has brought in and repair any damage it has caused.



Where a company has built a mine, the last stage of the process is to close down the mine, known as 'mine closure'. Even though the Mines and Minerals Act does not say much about it, mine closure is very important and there should be a clear understanding between the mining company, the government and the Landowners about what will happen when the mine closes. Things to think about include how the environment will be rehabilitated, how locals who were working in the mine can find other jobs after the mine is closed, and how any chemicals and physical impacts such as pits and shafts will be cleaned up and made safe, among many other things. The Landowners, the mining company and the government should reach agreement on all of these things before mining starts.

Land access, fees and compensation

Negotiating Surface Access Agreements

First approach to Landowners

After the mining company applies to the government for a Prospecting License or Mining Lease, it must start negotiating with the Landowners about surface access. The mining company (with the help of the government) must identify all of the landowners for the area, and make sure they are all involved with the negotiations. Sometimes the company or the government may not be aware of all of the different Landowners in an area. Therefore, it is very important for the Landowners to discuss the proposal with everyone in their community and make sure that the company and government are aware of all of the Landowners in the area.

At these negotiations the company and the government will tell the Landowners what they want to do. The company will tell the Landowners how much money they are prepared to pay the Landowners to access the land, and what compensation they will pay for the different types of damage they may cause, such as, damage to trees, buildings, rivers, and crops, stock or other food or income sources among other things.



All Landowners have a say in the decision

At this point it is up to all of the Landowners as a group to say whether or not they agree with the company's proposal, or what they would like to change about the proposal.

If no agreement?

If the Landowners are not happy with the proposal they can tell the company they do not agree. In this case the company can either take more time to negotiate, or walk away. If the company takes more time to negotiate and the Landowners still do not agree, the company may still decide to walk away, or the government may decide to take the land by compulsory acquisition.

If some Landowners agree but not others?

If only some of the Landowners agree to allow the company to access their land, the company can change its application so that it only covers land owned by people who agree to the company accessing their land. If this happens, the company cannot access the land owned by the people who did not agree.

The company and the Landowners who agree to let the company access their land then need to put together a Surface Access Agreement. This is a written agreement with information about each of the Landowners and the payments and other arrangements between the company and the Landowners.

If everyone agrees?

If all of the landowners are happy with the proposal, the company and the Landowners need to put together a Surface Access Agreement. As stated above, this is a written agreement with information about each of the Landowners and the payments and other arrangements between the company and the Landowners. A Mining Development Agreement between Government and the company must also be agreed upon.

Government grants Licence or Lease after agreement reached

A Prospecting Licence or Mining Lease will only be issued after a written agreement has been made, or after a compulsory acquisition. This must include a Development Consent. It is very important for Landowners to keep copies of any agreement with a mining company so they can keep track of the company's rights and obligations as well as their own.

Fees and compensation

Once an agreement is in place, the Landowners and the mining company need to set up a bank account (in the form of a trust account) for the Landowners. Any payments from the company to the Landowners will then be paid into this account for the benefit of all of the Landowners.

Important note on mining for Landowners

- Mining is a complex process. It can last for a long time and have a big impact on your land. It is very important that you seek technical and legal advice as soon as possible if there is any proposal to do mining in your area, and especially before entering into any written agreement.
- You have the right to be fully informed about any proposed mining development on your land.
- You also have the right to object to any proposed mining development on your land. Your objection can be lodged under the Development Consent Process.



For more information, see factsheet entitled 'Environmental Impact Assessment for Landowners'



For further information or advice, please contact:

**Ministry of Environment, Climate Change
Disaster Management and Meteorology**

PO Box 12
Honiara
Phone: +677 23032/23031

Or the **Land owners Advocacy and Legal Support Unit**

PO Box 553
1st Floor, Place Makers Building
Honiara,
Phone: +677 28404/22348

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