



NOTICE OF ENTRY ON LAND

USE THIS FORM TO: Advise an owner of land of an intention to enter their land, under section 58A of the Act

Section A: For the attention of the Owner of Land¹ -

Owner of land name/s			ⓘ 'Owner of land' has several definitions – see notes below.
Address line 1			
Address line 2			
Suburb/Locality	State	Postcode	
Type of owner			

¹ Under the *Mining Act 1971*, **owner of land** includes (but is not limited to) –

- a freehold landowner; or
- a native title holder; or
- a person who controls or manages the land; or
- a person who is lawfully in occupation of the land.

Refer to Part 1, section 6 of the Act for the full definition of **owner of land**.

A Notice of Entry must also be served on –

- native title claimants registered under law; and
- SA Native Title Services (in the case of native title land as per section 58A(2) of the Act); and
- the holder of a current licence under the *Petroleum and Geothermal Energy Act 2000*.

Section B: I give notice of an intention to enter the land described in Section C below, after the expiry of 21 days from the date of service of this notice.

Client type	<input type="checkbox"/> Individual <input type="checkbox"/> Company		ⓘ Provide a postal address that the owner of land can use to contact you. If 'Company', provide ABN/ACN.
Name			
Postal address line 1			
Postal address line 2			
Suburb/Locality	State	Postcode	
ABN	ACN		
Contact name			
Email			ⓘ A contact person must be nominated, and may be an agent.
Telephone	Fax		

Section C: Location of land


Location			ⓘ Clearly define the area of the land with as much detail as possible. Complete as many fields as you have information for.
Section number			
Hundred			
Pastoral block			
Other			

Section D: Purpose of entry on land

Describe in detail the activities proposed to be carried out on the land.

AND

Describe the process by which the owner of land will be kept informed about the activities.

 Address both requirements.


Information may be attached, clearly marked as 'Section D'.

Section E: Location and duration of activities on land

Identify the place/s where activities are to be carried out on the land, and indicate the proposed timing and duration of the activities.

OR

Describe the process by which the owner of land will be kept informed about these matters.

 Address one requirement.

Information (including a plan) may be attached, clearly marked as 'Section E'.


Section F: Management of activities on land

Identify the proposed events and their consequences on the land, and the proposed actions to manage and address them.

This includes strategies to minimise and rehabilitate the impacts of mining operations (including exploration).

OR

Describe the process by which the owner of land will be kept informed about these matters.

 Address one requirement.

Information may be attached, clearly marked as 'Section F'.

Section G: Authorisations under the Act

Where applicable, provide the details of any current mining tenements (incl. exploration licences) or other authority which authorises the proposed activities.

<p>(i) The operations and activities to which this notice relates are conducted under the <i>Mining Act 1971</i>. Any concerns or issues associated with the conduct of those operations may be raised with the department.</p>

Section H: Certification

<input type="checkbox"/> This notice is complete and correct	<p>(i) Check that these items are complete.</p>
<input type="checkbox"/> Appendix A (Further information for the Owner of Land) is attached, including Part 9 of the Act	
<input type="checkbox"/> The party serving the notice has kept a duplicate copy of this completed notice, and completed the 'Proof of Service' information on their copy only (Appendix B)	

	COMPANY REPRESENTATIVE OR INDIVIDUAL		COMPANY REPRESENTATIVE OR INDIVIDUAL'S WITNESS		<p>(i) COMPANY: must be signed by appropriate representative/s or an agent.</p> <p>INDIVIDUAL: witness certifies that the individual named above is the person whose signature appears here.</p>
Print Name	1.		2.		
Role	1.		2.		
Date Signed	1.		2.		
Signature	1.		2.		
Applications in an individual's name must be witnessed by a person who is not a beneficiary of the application (e.g. not a joint applicant).					



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APPENDIX A: FURTHER INFORMATION FOR THE OWNER OF LAND

Ⓢ The following information is provided as a guide only. You may wish to seek further advice on this notice.

Glossary of terms used in this document

The Act –	the current version of the <i>Mining Act 1971</i>
Mining operator –	the party who served the notice to you. They may already hold, or be applying for, a mining tenement under the Act (including exploration licence or mineral claim)
Mining operations –	any operations carried out in the course of prospecting, exploring or mining for minerals
Owner of Land –	see Section A of this form for a definition

Purpose of this form

You have received Form 21 (Notice of Entry) because the mining operator intends to enter your land to undertake the mining operations described in Section D of the notice.

The notice is intended to provide you with sufficient information about the proposed mining operations, to ensure that you as the owner of land can make informed decisions regarding entry on land.

After receiving this notice, you have a number of options-

- If you are agreeable to the mining operations described on the notice, no action is required. The mining operator must wait 21 days after the date of service before entering your land. Retain this notice for your records.
- If you require further information about the mining operations, contact the mining operator via the person named in Section B to discuss this notice.
- You may negotiate specific conditions to entry on the land (such as the timing or location of mining operations) by entering into an agreement with the mining operator.
- Some owners of land may have the right to object to entry on the land under section 58A of the Act (see 'Rights of objection' below).
- If you feel that the mining operations may cause you loss, hardship or inconvenience, you may be entitled to seek compensation from the mining operator under section 61 of the Act (see 'Rights of compensation' below).

Some land is exempt from mining operations under section 9 of the Act (see 'Land exempt from mining operations' and 'Waiver of exemption' below).

Rights of objection – holders of exclusive possession of the land

If you hold the land under freehold title, or hold a native title determination that provides exclusive possession, you have the right to object to entry on the land under section 58A of the Act, by lodging a notice of objection.

Within 3 months after service of the notice of entry, you may lodge a notice of objection with the Warden's Court, the Environment, Resources and Development (ERD) Court or the Supreme Court objecting–

- to entry on the land by the mining operator; or
- to the use, or the unconditional use, of the land, or a portion of the land, for mining operations.

Further information about lodging an objection is available from the relevant court.

If the court is satisfied that the conduct of the mining operations on the land would be likely to result in substantial hardship or substantial damage to the land, the court may–

- determine that the land, or a particular part of the land, should not be used by the mining operator for the purpose of mining operations; or
- determine conditions on which operations may be carried out on the land by the mining operator with least detriment to the interest of the owner and least damage to the land.

Rights of compensation

Under section 61 of the Act, as the owner of land (including a pastoral lease holder) you may have the right to compensation for any economic loss, hardship and inconvenience suffered as a result of mining operations.

In determining the compensation payable, the following matters are considered:

- any damage caused to the land by the mining operator; and
- any loss of productivity or profits as a result of the mining operations; and
- any other relevant matters.

The compensation may include an additional component to cover costs reasonably incurred by the owner of land in connection with negotiations or dispute related to –

- the licensee gaining access to the land
- the activities to be carried out on the land
- the compensation to be paid

The compensation can be negotiated between the owner of land and the mining operator, or determined by the appropriate court (upon application by the owner of land or the mining operator).

In determining compensation, the court will take the rehabilitation of the land into consideration. The court may order a mining operator to carry out any work to rehabilitate the land that the court thinks fit.

In assessing compensation for costs in connection with any negotiation or dispute, the court will not consider costs that arise during a period where a reasonable offer of compensation is open to the owner of land.

Land exempt from mining operations

Under section 9 of the Act the following land is exempt from mining operations-

- (a) land that is lawfully and genuinely used –
 - (i) as a yard, garden, cultivated field, plantation, orchard or vineyard;
 - (ii) as an airfield, railway or tramway;
 - (iii) as the grounds of a church, chapel, school, hospital or institution; or
- (b) land that constitutes any parklands or recreation grounds under the control of a council; or
- (ba) land –
 - (i) that is dedicated or reserved, pursuant to statute, for the purpose of waterworks; or
 - (ii) that is vested in the Minister of Public Works for the purpose of waterworks; or
 - (iii) that is comprised within an easement in favour of the Minister of Public Works;or
- (bb) land that constitutes a forest reserve under the Forestry Act 1950; or
- (c) any separate parcel of land of less than 2 000 square metres within any city, town or township; or
- (d) land that is situated –
 - (i) within 400 metres of a building or structure used as a place of residence (except a building or structure of a class excluded by regulation from the ambit of this paragraph); or
 - (ii) within 150 metres of –
 - (A) a building or structure, with a value of \$200 or more, used for an industrial or commercial purpose; or
 - (B) a spring, well, reservoir or dam,

The land is not exempt land if a mining tenement (claim, lease or licence) is pegged or granted before the land falls into one of the above categories. For example, land will not be classed as exempt land if a dwelling or structure is built after a mining tenement is pegged or granted.

In regard to the holder of the benefit of the exemption, the following persons shall be regarded as the 'benefit holder':

- (a) The owner of the exempt land; and
- (b) The owner of nearby land that is exempt land by reason of its proximity to the mining operations.

Waiver of exemption

The benefit of an exemption under the Act may be waived by written agreement between the mining operator and the benefit holder, or by an ERD Court order if an agreement cannot be reached.

Mining operations cannot commence until after the exemption has been waived (through an agreement or court order), however the mining operator may enter the land and/or peg a claim before the exemption has been waived.

To initiate the negotiation process, the mining operator requests that the benefit holder enters into an agreement, by serving Form 23A (Waiver of Exemption - Request) on those persons. Further information is available on that form.

Part 9—Entry upon land, compensation and restoration

57—Entry on land

Subject to this Part, a person authorised to prospect, explore or mine for minerals under this Act—

- (a) may enter any mineral land (except exempt land) for the purpose of prospecting, exploring or mining for minerals in accordance with the authorisation; and
- (b) may enter exempt land for the purpose of pegging out or otherwise identifying a claim.

58—How entry on land may be authorised

A mining operator may enter land to carry out mining operations on the land—

- (a) if the mining operator has an agreement¹ with the owner of the land authorising the mining operator to enter the land to carry out mining operations on the land; or
- (b) if the mining operator is authorised by a native title mining determination to enter the land to carry out mining operations on the land; or
- (ba) if the mining operator is authorised by an indigenous land use agreement registered under the *Native Title Act 1993* (Cwth) to enter the land to carry out mining operations on the land; or
- (c) if—
 - (i) the mining operator has given the prescribed notice of entry; and
 - (ii) the mining operations will not affect native title in the land; and
 - (iii) the mining operator complies with any determination made on objection to entry on the land, or the use or unconditional use of the land, or portion of the land, for mining operations;² or
- (d) if the land to be entered is in a precious stones field and the mining operations will not affect native title in the land; or
- (e) if the mining operator enters the land to continue mining operations that had been lawfully commenced on the land before the commencement of this section.

Explanatory note—

A mining operator's right to enter land to carry out mining operations on the land is contingent on the operator holding the relevant mining tenement.

Notes—

- 1 If the land is native title land, the agreement is to be negotiated under Part 9B.
- 2 See section 58A(5).

58A—Notice of entry

- (1) A mining operator must, at least 21 days before first entering land to carry out mining operations, serve on the owner of the land notice of intention to enter the land (the **prescribed notice of entry**) describing the nature of the operations to be carried out on the land.
- (2) The notice must be served—
 - (a) in the case of native title land—as prescribed by the *Native Title (South Australia) Act 1994*; or
 - (b) in other cases—personally or by post.
- (2a) If the land is subject to a licence under the *Petroleum and Geothermal Energy Act 2000*, a copy of the notice must also be served (within the time required under subsection (1)) on the holder of that licence.
- (3) If the land is held under a form of title (other than a pastoral lease or a licence under the *Petroleum and Geothermal Energy Act 2000*) that confers a right to exclusive possession of the land—
 - (a) the notice must contain a statement of the owner's rights of objection and compensation under this Act; and
 - (b) the owner may, within three months after service of the notice, lodge a notice of objection with the appropriate court objecting—
 - (i) to entry on the land by the mining operator; or
 - (ii) to the use, or the unconditional use, of the land, or a portion of the land, for mining operations.
- (4) The court must send a copy of a notice of objection received under subsection (3) to the mining operator.
- (5) If the court is satisfied on the hearing of an objection that the conduct of the mining operations on the land would be likely to result in substantial hardship or substantial damage to the land, the court may—
 - (a) determine that the land, or a particular part of the land, should not be used by the mining operator for the purpose of mining operations; or
 - (b) determine conditions on which operations may be carried out on the land by the mining operator with least detriment to the interests of the owner and least damage to the land.
- (6) A mining operator who contravenes or fails to comply with a determination under this section is guilty of an offence.
Maximum penalty: \$50 000.
- (7) The prescribed notice of entry is not required if—
 - (a) the land to be entered is in a precious stones field; or
 - (b) the mining operator is authorised to enter the land by agreement with the owner of the land; or
 - (c) the mining operator is authorised to enter the land under a native title mining determination; or

- (ca) the mining operator is authorised to enter the land under an indigenous land use agreement registered under the *Native Title Act 1993* (Cwth); or
 - (d) the mining operator enters the land to continue mining operations that had been lawfully commenced on the land before the commencement of this section.
- (8) A notice is not required under subsection (2a) if the holder of the licence under the *Petroleum and Geothermal Energy Act 2000* has waived the requirement for notice to be given under that subsection.
- (9) A notice under this section must be in a form determined or approved by the Minister.

59—Use of declared equipment

- (1) Subject to this section, a mining operator shall not use declared equipment in the course of mining operations under this Act except—
- (a) upon land subject to a lease or licence granted under this Act; or
 - (b) in pursuance of an authorisation granted by the Minister under a program under Part 10A; or
 - (c) in pursuance of an authorisation granted by the Director of Mines under subsection (1a).
- Maximum penalty: \$120 000.
- (1aaa) An authorisation under subsection (1)(b) may be given subject to conditions (if any) specified in the authorisation.
- (1a) The Director of Mines may, upon the application of the holder of a claim, authorise him, subject to the provisions of this section and the conditions (if any) specified in the authorisation, to use declared equipment upon land comprised in the claim.
- (1aa) If an application for an authorisation to use declared equipment relates to an area within the Murray-Darling Basin the Director of Mines must, in considering the application, take into account the objects of the *River Murray Act 2003* and the *Objectives for a Healthy River Murray* under that Act.
- (1ab) If an application for an authorisation to use declared equipment relates to an area within or adjacent to a specially protected area, the Director of Mines must, before making his or her decision on the application, refer the application to the relevant Minister and consult with the relevant Minister in relation to the matter.
- (1ac) If an application for an authorisation is referred to a relevant Minister and the Minister to whom the administration of this Act is committed and the relevant Minister cannot agree—
- (a) on whether an authorisation should be granted; or
 - (b) if an authorisation is granted, on the conditions to which the authorisation should be subject,

the Minister to whom the administration of this Act is committed and the relevant Minister must take steps to refer the matter to the Governor and the Governor will determine the matter (and any decision taken by the Governor will be taken to be a decision of the Director of Mines under this Act).

- (1b) A mining operator shall not use declared equipment in the course of mining operations upon land comprised in a registered access claim within a precious stones field unless he has first served on the Director of Mines—
- (a) notice, in a manner and form determined by the Minister, of his intention to use that equipment; and
 - (b) prescribed particulars of the equipment and where it will be used.
- Maximum penalty: \$50 000.
- (2) A mining operator shall, at least 21 days before he uses declared equipment upon land (not being land comprised in a mining lease), serve personally or by post on the owner of the land, written notice, in a manner and form determined by the Minister, of his intention to use declared equipment in the course of mining operations on the land.
- (2a) If the land is subject to a licence under the *Petroleum and Geothermal Energy Act 2000*, a copy of any notice required under subsection (2) must also be served (within the time required under that subsection) on the holder of that licence.
- (3) The owner may, at any time within 3 months after the service of a notice under subsection (2), by notice in writing lodged with the Warden's Court, object to the use, or the unconditional use, of declared equipment upon his land.
- (4) A copy of a notice of objection under subsection (3) must, within 7 days after lodgment with the Warden's Court, be served on the mining operator.
- (5) Subject to subsection (6), the Warden's Court may, upon the hearing of an objection under this section—
- (a) determine that declared equipment should not be used in the course of mining operations upon the land to which the objection relates or any part of that land; or
 - (b) determine upon what conditions declared equipment may be used upon the land with least detriment to the interests of the owner and least injury to the land.
- (6) In any proceedings under this section, the objector must establish that the use of declared equipment upon the land would be likely to result in severe or unjustified hardship or substantial damage to the land.
- (7) If a mining operator—
- (aa) fails to comply with any condition of an authorisation under this section; or
 - (a) uses declared equipment upon land without prior service of a notice as required by subsection (2); or
 - (b) fails to comply with a determination, or any condition contained in a determination, under this section,
- he shall be guilty of an offence.
- Maximum penalty: \$50 000.
- (8) Subsections (2) to (7) (other than subsection (2a)) do not apply to the use of declared equipment on land if—
- (a) the land is a precious stones field; or

- (b) there is an agreement between the mining operator and the owner of the land about the use of declared equipment on the land and the mining operator complies with the terms of the agreement; or
 - (c) the Warden's Court or the ERD Court has determined conditions on which declared equipment may be used on the land and the mining operator complies with the terms of the determination.
- (9) A notice is not required under subsection (2a) if the holder of the licence under the *Petroleum and Geothermal Energy Act 2000* has waived the requirement for notice to be given under that subsection.

61—Compensation

- (1) The owner of any land upon which mining operations are carried out in pursuance of this Act shall be entitled to receive compensation for any economic loss, hardship and inconvenience suffered by him in consequence of mining operations.
- (2) In determining the compensation payable under this section, the following matters shall be considered:
 - (a) any damage caused to the land by the person carrying out the mining operations; and
 - (b) any loss of productivity or profits as a result of the mining operations; and
 - (c) any other relevant matters.
- (2a) The compensation may include an additional component to cover reasonable costs reasonably incurred by an owner of land in connection with any negotiation or dispute related to—
 - (a) the licensee gaining access to the land; and
 - (b) the activities to be carried out on the land; and
 - (c) the compensation to be paid under subsection (1).
- (3) The amount of the compensation shall be an amount determined by agreement between the owner and the mining operator or, in default of agreement, an amount determined, upon application by an interested party, by the appropriate court.
- (4) The appropriate court, in determining compensation under this section, shall take into consideration any work that the mining operator has carried out, or undertakes to carry out, to rehabilitate the land.
- (5) Upon the hearing of an application for compensation under this section, the appropriate court may order a mining operator to carry out such work to rehabilitate the land as the Court thinks fit.
- (5a) In assessing compensation under subsection (2a), costs in connection with any negotiation or dispute will not be taken to be reasonably incurred if they arise during any period when a reasonable offer of compensation is open to be accepted by the relevant owner of land.
- (6) For the purposes of this section—
 - (a) a reference to mining operations will be taken to include a reference to any investigation or survey under section 15; and

- (b) a reference to a mining operator will be taken to include a reference to the Director (in relation to any investigation or survey under section 15).

62—Bond and security

- (1) The Minister may, by notice in writing served on an applicant for, or the holder of, a mining tenement, require him to enter into a bond in such sum and subject to such terms and conditions as ensure, in the opinion of the Minister, that—
 - (a) any civil or statutory liability likely to be incurred by that person in the course of carrying out mining operations; and
 - (b) the present and future obligations of that person in relation to the rehabilitation of land disturbed by mining operations,
 will be satisfied.
- (2) The Minister may require such security for the satisfaction of the bond as the Minister thinks fit.
- (3) If the holder of a mining tenement fails to comply with a requirement under this section—
 - (a) the Minister may, if the requirement has not been complied with at the expiration of one month from the end of the time allowed for compliance, prohibit mining operations in the area of the tenement; and
 - (b) the Minister may, if the requirement has not been complied with at the expiration of three months from the end of the time allowed for compliance, cancel the tenement.
- (4) If a person conducts mining operations in contravention of a prohibition under subsection (3), he shall be guilty of an offence.
Maximum penalty: \$120 000.
- (5) Where the Minister holds, or is entitled to, any money under a bond entered into by a mining operator, the Minister may, in his discretion, expend any portion of that money in compensating any person who has suffered, or is likely to suffer, financial loss as a result of mining operations carried out by that mining operator or in rehabilitating any land disturbed by any such operations.
- (6) No action shall lie against the Minister in respect of the expenditure of money under this section.

62A—Right to require acquisition of land

- (1) If the activities of a mining operator on land substantially impair the owner's use and enjoyment of the land, the owner may apply to the Land and Valuation Court for an order under this section.
- (2) The Court may, on an application under this section, if the Court considers it to be just and appropriate in the circumstances of the particular case—
 - (a) make an order transferring the owner's land to the holder of the relevant mining tenement; and

- (b) order the holder of the relevant mining tenement to pay to the owner, by way of compensation, after taking into account (to such extent as the Court considers appropriate) any compensation or other amounts that have been paid to the owner under the other provisions of this Act—
 - (i) an amount equivalent to the market value of the land; and
 - (ii) a further amount the Court considers just by way of compensation for disturbance; and
 - (c) make such other ancillary or related orders as the Court thinks fit.
- (3) This section does not apply in relation to an exploration licence.

63—Extractive Areas Rehabilitation Fund

- (1) The Minister shall establish a fund entitled the "Extractive Areas Rehabilitation Fund".
- (2) From the royalty received or recovered by the Minister on extractive minerals, the Minister will pay the prescribed rate into the fund.
- (3) Subject to subsection (4), the Minister may expend any portion of the fund for any of the following purposes:
 - (a) the rehabilitation of land disturbed by mining operations for the recovery of extractive minerals (or any costs associated with ensuring that such land is rehabilitated in accordance with the requirements under this Act); and
 - (b) the implementation of measures designed to prevent, or limit, damage to or impairment of, any aspect of the environment by mining operations for the recovery of extractive minerals (or any costs associated with ensuring that such measures are implemented or with monitoring such measures); and
 - (c) the promotion of research into methods of mining engineering and practice by which environmental damage or impairment resulting from mining operations for the recovery of extractive minerals may be reduced.
- (4) The total expenditure in a single financial year of costs associated with ensuring that—
 - (a) the land referred to in subsection (3)(a) is rehabilitated in accordance with the requirements under this Act;

must not exceed an amount equal to 4 cents per tonne for each tonne of extractive minerals on which royalty is payable into the fund for the financial year preceding that year.

- (5) In this section—
prescribed rate means 25 cents per tonne of extractive minerals, or such lesser amount as may be prescribed by the regulations.



NOTICE OF ENTRY ON LAND

APPENDIX B: PROOF OF SERVICE – MINING OPERATOR TO RETAIN THIS PAGE

Name/s of owner of land			ⓘ Record this information on your duplicate copy of the Notice of Entry. Do not provide this page to the owner of land. Notice must be served in a method that complies with regulation 106 of the <i>Mining Regulations 2011</i> . Notices in a company name must be signed by appropriate representative/s. Signatory may be an agent of the party named in Section B.
Date original notice served on owner of land			
Person responsible for service of notice			
Method of service			
Print Name	1.	2.	
Role	1.	2.	
Date Signed	1.	2.	
Signature	1.	2.	

APPENDIX C: NATIVE TITLE LAND – MINING OPERATOR TO NOTE

Service of Notice of Entry for Native Title Land

'Native Title Land' means land where native title exists or might exist, but does not include land where native title has been extinguished (as found or declared by an appropriate court). Land held under certain titles (including freehold title and some perpetual lease titles) is not native title land.

In accordance with section 58A of the Act, Notice of Entry must be served on the **owner of land**. Where the land is native title land, the notice is required to be served as prescribed by the *Native Title (South Australia) Act 1994*.

To meet the requirements of the *Native Title (South Australia) Act 1994*, Notice of Entry must be served on–

- a) Where there is a native title declaration or registered claim group in the area–
 - *The relevant native title holders or registered native title claimants, and the registered Aboriginal representative body in South Australia (currently South Australia Native Title Services); or*
- b) Where there is **not** a native title declaration or registered native title claim group in the area–
 - *The registered Aboriginal representative body in South Australia (currently South Australia Native Title Services).*

The service of this notice does not satisfy the requirements under Part 9B of the Act in relation to authorisation to conduct mining operations on native title land.

Persons who hold native title in land that specifies exclusive possession of the land have the right to object to entry on land under section 58A of the Act.

To find out if there is a native title holder or claim group in your area of interest and/or obtain the contact the details of a native title holder or claim group please contact the National Native Title Tribunal on free call 1800 640 501 or visit www.nntt.gov.au.