



**NOTICE OF ENTRY ON LAND**

**USE THIS FORM TO:** To notify the owner of land of an intention to enter land.

**Section A:** For the attention of the Owner of Land<sup>1</sup> -

Owner of land names(s)			ⓘ 'Owner of land' has several definitions – see notes below.
Address			
Suburb/Locality	State	Postcode	
Type of owner			

<sup>1</sup> 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 F below, 21 days from the date of service of this notice.

	<input type="checkbox"/> Individual <input type="checkbox"/> Company		ⓘ If 'Company', provide ABN/ACN.
Name			
Postal address			
Suburb/Locality	State	Postcode	
ABN	ACN		

**Section C:** Contact person

Contact name	Position title	ⓘ Contact person <b>must</b> be nominated for any queries.
Email		
Telephone	Mobile	

**Section D:** Reason for seeking entry on land

Please indicate why you wish to enter the land.	<input type="checkbox"/> As the holder of a tenement(s) granted under the Mining Act 1971 (tenement(s) must be listed below); and/or	ⓘ Attach further information if required.
	<input type="checkbox"/> To peg a mineral claim or miscellaneous purposes licence; and/or	
	<input type="checkbox"/> To prospect.	

## Section E: Proposed activities

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.

	<p> Address <b>both</b> requirements.</p> <p>Attach further information if required.</p>
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## Section F: Location, timing and duration of proposed activities on the land

Section, Hundred



Pastoral block

Land Title reference

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

**AND**

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

	<p> Address all requirements.</p>
	<p> Identify the land with as much detail as possible (a plan may be attached).</p>

## Section G: Management of proposed activities on the 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).

**AND**

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

	<p> Address <b>both</b> requirements.</p> <p>Attach further information if required.</p>
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 The operations and activities to which this notice relates are conducted under the *Mining Act 1971*. Any concerns or issues associated with the conduct of those operations may be raised with the Department.

## Section H: Declaration that application is complete and accurate

I, the applicant, declare:

<input type="checkbox"/> The information provided in this notice is complete and accurate and meets the requirements of section 58A of the Act and regulations 60 and 107 of the Mining Regulations 2011	ⓘ Check that these items are complete.
<input type="checkbox"/> Appendix A (Further information for the Owner of Land) is attached, including Part 9B of the Act	
<input type="checkbox"/> I have kept a duplicate copy of this completed notice and completed the 'Proof of Service' information on my copy only (Appendix B)	

APPLICANT 1	Individual or Company Representative 1		Individual's Witness or Company Representative 2		ⓘ <b>COMPANY:</b> Sign in accordance with the <i>Corporations Act 2001</i> . If agent, written authority must be provided.
Print Name	1.		2.		
Signature	1.		2.		

APPLICANT 2	Individual or Company Representative 1		Individual's Witness or Company Representative 2		ⓘ <b>INDIVIDUAL:</b> Signature must be witnessed by a person who is not a beneficiary of the application.
Print Name	1.		2.		
Signature	1.		2.		



## NOTICE OF ENTRY ON LAND

## APPENDIX A: FURTHER INFORMATION FOR THE OWNER OF LAND

② 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 *Mining Act 1971*
- Mining operator** – the party who served the notice. 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
- Tenement** - A tenement is a mining tenement granted under the Act. A mining tenement can be:
- Exploration Licence (EL)
  - Mineral Claim (MC)
  - Mining Lease (Extractive Minerals Lease – EML or Mineral Lease - ML)
  - Retention Lease (RL)
  - Miscellaneous Purposes Licence (MPL)

**Scheme of the Act**

Under the Act, all minerals in South Australia belong to the State of South Australia (the State). The Act regulates and controls exploration for minerals and their recovery by mining.

**Purpose of this form**

You have received *Form 21: Notice of Entry* (NOE) because the mining operator intends to enter your land to undertake the mining operations described in Sections E and F of the notice.

A person or a party may serve a NOE for the following reasons:

- The party has been granted a tenement under the Act, and seeks to enter the land to undertake mining operations.
- The party wishes to enter to establish (peg) a mineral claim. A registered mineral claim gives the holder the right to prospect and explore in the area of the claim and to apply for a mining lease or a retention lease over the whole or part of the land within the claim.
- The party wishes to enter to prospect for minerals. Prospecting means operations conducting in the course of exploring for minerals, but does not include the disturbance of land or water by machinery or explosives.

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 the 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 C 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), but does not prevent entry on exempt land for the purpose of pegging out or otherwise identifying a mineral claim.

**Rights of objection – holders of exclusive possession of the land**

An owner of land's rights of objection are set out in section 58A(3) of the Act. A copy of section 58A is attached. These rights may be summarised as follows:

- If you are landowner with a right of objection, you have 3 months in which to lodge your objection in the appropriate court;
- A person who holds a licence under the *Petroleum and Geothermal Energy Act 2000*, or a person who holds the land under a pastoral lease, do not have a right of objection. Excluding those two groups, all other people who hold the land under a form of title that gives them a right of exclusive possession have a right of objection.
- The appropriate court can be the Warden's Court if the proceedings do not involve a monetary claim or a claim of more than \$250,000, the Environment Resources and Development Court or the Supreme Court.

- For details of how to lodge an objection, contact the registry of the court that you have decided is the appropriate court.
- Registry contact information is available on the Courts Administration Authority website at [www.courts.sa.gov.au](http://www.courts.sa.gov.au).
- The objection right is the right to object 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.
- 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 to compensation**

Rights to compensation are set out in section 61 of the Act. A copy of section 61 is attached. The main points are:

- An owner of land has a right to compensation even if they do not have a right of objection;
- A right to compensation is based upon any economic loss, hardship and inconvenience that a landowner suffers as a result of the mining operations;
- Compensation may include an additional component to cover reasonable costs reasonably incurred by a landowner in connection with any negotiation or dispute relating to:
  - the mining operator gaining access to the land;
  - the activities to be carried out on the land;
  - the compensation paid under subsection 61(1).
- If the amount of compensation cannot be agreed between the landowner and mining operator, an appropriate court can determine it;
- A landowner may also have a right, under section 62A of the Act, to apply to the Land and Valuation Court to require the mining operator to acquire the land (applies to mining leases only).

### **Land exempt from mining operations**

A mining operator may enter exempt land to peg a mineral claim. 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.

### **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).

Refer to *Form 23: Waiver of Exemption – Request* for further information.

## 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 agreement<sup>1</sup> 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;<sup>2</sup> 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 (written authority must be provided).
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.	