



**NOTICE OF USE OF DECLARED EQUIPMENT**

**USE THIS FORM TO:** Advise an owner of land of an intention to use specific equipment on their land.

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

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			

<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 must also be served on the holder of a current licence under the *Petroleum and Geothermal Energy Act 2000*; unless an agreement has been reached between all parties.

**Section B:** I give notice of an intention, after the expiry of 21 days from the service of this notice, to use **declared equipment<sup>2</sup>** on the tenements listed in Section C below.

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			
Address Line 1			
Address Line 2			
Suburb/Locality	State	Postcode	
ABN	ACN		
Contact Name			ⓘ A contact person <b>must</b> be nominated.
Email			
Telephone	Mobile		
Provide details of the type of declared equipment that is intended to be used.			ⓘ Refer to the definitions below.

<sup>2</sup> **Declared equipment** includes –

- a trench digger or excavator; or
- mechanically driven machinery that is capable of drilling to depths greater than 2.5 metres below the ground; or
- mechanically driven equipment, equipped with a blade or bucket of a width exceeding 750mm; or

- equipment that is capable of digging, boring or tunnelling underground, with a cross sectional dimension greater than 750mm.

Refer to Part 1, section 6 of the Act for the definition of declared equipment.

## Section C: Tenements

Provide the details of the current tenements (and their locations) that relate to this notice.

Tenements include:  
 EL – exploration licence  
 MC – mineral claim  
 RL – retention lease

	ⓘ Detail specific locations within the land, using directions, coordinates etc. <b>and/or</b> A plan may be attached.

## Section D: Declaration that notice is complete and accurate

I declare the information provided in this application is complete and accurate, and *Appendix A: Further information for the owner of land* is attached.

APPLICANT 1	Individual or Company Representative 1		Individual's Witness or Company Representative 2		ⓘ Ensure that applicants sign in the correct order, as listed in Section A.
Print Name	1.		2.		
Signature	1.		2.		
APPLICANT 2	Individual or Company Representative 1		Individual's Witness or Company Representative 2		
Print Name	1.		2.		
Signature	1.		2.		

**COMPANY:** Sign in accordance with the *Corporations Act 2001*. If agent, written authority must be provided.

**INDIVIDUAL:** Signature must be witnessed by a person who is not a beneficiary of the application (e.g. not a joint applicant).



## NOTICE OF USE OF DECLARED EQUIPMENT

## 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 matter.

**Glossary of terms used in this document**

**The Act** – the current version of the *Mining Act 1971*

**Declared equipment** – see Section B of this form for a definition

**Mining operator** – the proponent who served the notice to you. They may already hold, or be applying for, a tenement (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 22 (Notice of Use of Declared Equipment) because the mining operator intends to use equipment on your land that is classed as *declared equipment* under the Act.

The notice is intended to provide you with sufficient information about the proposed use of declared equipment, to ensure that you as the owner of land can make informed decisions about operations conducted on your land.

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

- If you are agreeable to the use of declared equipment described on the notice, no action is required. The mining operator must wait 21 days after the date of service before using the equipment. Retain this notice for your records.
- If you require further information about the use of declared equipment, contact the mining operator via the person named in Section B to discuss this notice.
- You may negotiate specific conditions to the use of declared equipment (such as the timing or location of use) by entering into an agreement with the mining operator.
- Some owners of land may have the right to object to use of declared equipment under section 59 of the Act (see 'Rights of objection' below).
- If you feel that the use of declared equipment may cause you loss, hardship or damage to land, you may be entitled to seek compensation from the mining operator under section 61 of the Act (see 'Rights of compensation' below).

**Rights of objection – all owners of land**

You as the owner of land (including the holder of a pastoral lease, or a licence under the *Petroleum and Geothermal Energy Act 2000*) have the right to object to the use of declared equipment on the land under section 59 of the Act, by lodging a notice of objection.

You must establish to the court that the use of declared equipment on the land would be likely to result in substantial hardship or substantial damage to the land.

Within 3 months after service of the notice, you may lodge a notice of objection with the Warden's Court objecting–

- to the use of declared equipment by the mining operator; or
- to the unconditional use of declared equipment by the mining operator.

Further information about lodging an objection is available from the Warden's Court.

If the court is satisfied that the use of declared equipment on the land would be likely to result in substantial hardship or substantial damage to the land, the court may–

- determine that declared equipment should not be used by the mining operator in the course of mining operations; or
- determine conditions upon which declared equipment may be used 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 mining operator 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.