

Mineral and Energy Resources and Other Legislation Amendment Bill 2024

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**Clean Economy Jobs Resources and Transport
Committee.**

MEROLA BILL AMENDMENTS.

Proposed Bill.

Mineral and Energy Resources and Other Legislation Amendment Bill, 2024. (315 pages).

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Central Highlands Regional Council and the Willows Gemfields Recreational Club, also strongly support retention of current individual fossicker legislation provisions.

AMENDMENTS.

(1). The proposed amendment definition of 'licensee', coupled with the deletion of Clause 9 (S.25(1)), reads that the proposed legislative amendments, **do not grant to an individual, a license to fossick, without being subject to Clause 8 (section 24) requirements.**

(2). Proposed amendment Clause 10 (S.27) - **licensee must get permission to fossick on unoccupied land.**

AMENDMENT (1).

Clause 7. Amendment of Section 3. (definitions).

(1). Section 3.

INSERT - Licensee.

(a). Means the holder of a license; and

(b). for Part 3. Division 2. See Section 24.

Clause 8. Replacement of Section 24.

(Meaning of Licensee in Division).

OMIT - Section 24 (in totality).

INSERT - Section 24 - Meaning of Licensee.

In this Division Licensee includes –

- (a). A member of a club that holds a license; and
- (b). A member of a commercial tour group if the commercial tour operator for the commercial tour holds a license; and
- (c). A member of an educational organization that holds a license; and
- (d). A member of the Licensee's family, other than a license mentioned in any of the paragraphs (a) to (c).

Clause 9. Amendment of Section 25.

OMIT - Section 25 (1). A person must not fossick for fossicking materials unless the person -

(a). Holds a license.

(and other non-relevant subsections).

INSERT New Section 25 (1). A person must not fossick for fossicking materials **unless the person is a licensee.**

Our Legislative interpretation.

Clause 7 infers by definition that a **LICENSEE** means that you are the holder of a license. Clause 8, Section 24, provides that a licensee being the holder of a license vide Clause 7, includes any club, commercial tour operator, educational organization or licensee's family. Clause 9, Section 25, confirms that all fossickers are subject to Clause 8, Section 24, licensee provisions and therefore, individual fossickers, not members under Clause 8, are excluded.

Should our interpretation of these proposed amendments be proved correct, they will have the following impact -

- . There is no provision for an individual to obtain a fossicking license outside S.24.
- . Fossickers generally, will not accept having to join a club for recreational fossicking activities.
- . Few travelling tourists will be eligible to fossick.
- . 95% of all recreational fossickers who seasonally or intermittently fossick across the Gemfields, if forced to join a club, will probably travel elsewhere, lost from the Region.
- . liaison with Statewide gem clubs over the past 4 years reveals reluctance to visit and fossick Gemfields, for reasons outlined and unacknowledged in previous QSMA submissions.
- . There will be immediate significant economic downturn of some several Million dollars seasonally across all local businesses and Emerald major stores.
- . The two caravan parks at the Willows fossicking area will close as all their clientele, for the last 18 years, have mostly come from other States, and are non-club members. It will also have the similar impact, on Gemfields caravan parks.
- . Immediate significant reduction in fossicking activities and economic business support, across all other Statewide fossicking areas would be expected.
- . Immediate significant business economic downturn across all gold prospecting General Permission areas, within the State.

AMENDMENT (2).

Clause 10 - Section 27. A licensee must get permission to fossick on unoccupied land.

INSERT. - Permission required to fossick on particular land.

Section 27(1) (b) (a). - On land the subject of an application mining lease under the Mineral Resources Act, 1989, without applicants written permission: or

Section 27(3). **INSERT.**

A person who has given permission **for a LICENSEE** to fossick on land as mentioned in Sub section (1), may by written notice given to the holder of the license, withdraw the permission.

Section 27(3A). **INSERT.**

However, the person must give a **LICENSEE**, on the land, reasonable written notice of the withdrawal.

Amendment concerns within Section 27 -

. With the concerns as outlined, we have reservations on whether the Fossicking Act, is the most appropriate Act, to pursue these access amendments.

. The central issue of these proposed amendments is permitted access to mining Leases, EMP's, landholder GHPL and mining claims applications, when unoccupied. The purpose for the entry is secondary.

. We consider the Land Access Code or Mineral Resources Act, 1989, as the proper Acts for this legislation.

. Whether a mining lease, EPM, mining claim applications, on State land or under GHPL, has the legislative right to give permission for any person to access such land, in search of gold.

. State land, GHPL or any other land, is subject to all minerals above and below the surface, being the property of the State.

. Should unlawful fossicking (gold prospecting) activity be alleged, on the said mining lease, mining claim, GHPL or mining claim application, it is our view, there is **no lawful authority to give permission or withdraw permission**, when the State ' owns ' the land and all minerals (gold) on or below the ground.

. Even if State land ' ownership ' was not a legal issue, prospecting and **finding gold, on a granted mining lease, mining claim application, EPM or GHPL, is the property of the State, which, to our mind, precludes the holder or landholder from granting any access permission to prospect for gold.**

. Retention of gold while prospecting within General Permission Areas, is both sanctioned and legislatively approved under the Fossicking Act, 1994.

. The amendment currently only covers an application for a mining lease, not an existing mining lease, mining claim application, or an EPM.

. The amendment only covers a licensee fossicker, **not unlawful entry for any other purposes.**

. Whether the definition of licensee includes individual fossickers (prospectors) not compliant with S.24.

. The status of being a club member will not prevent noncompliance across any fossicking, EPM, mining claim application, lease area, where lack of enforcement, is the contributing factor.

. No offence committed by the holder of the license, under S. 24, should a member or family member commit an offence.

STRATEGIC ENVIRONMENTAL AREA.

The definition in the Fossicking Act, 1994, relating to a strategic area is proposed to be amended to a strategic Environmental area, as defined under the Regional Planning Interests Act, 2014.

Section 11(1) states - a Strategic Environmental area is an area that -

(a). Contains 1 or more environmental attributes for the area. and

(b). Is either -

(i). Shown on a map in the regional plan as a strategic environmental area, or

(ii). Prescribed under a regulation.

An environmental attribute for an area means the environment identified as an environmental attribute for the area under a Regional plan or Regulation.

Proposal amendment concerns.

(a). Whether Strategic Environmental Areas are recorded or contemplated across any existing fossicking area.

(b). Whether existing Endangered Regional Ecosystem and Restricted Area 1, fall into the category of Strategic Environmental areas, and what further impact that would have on existing fossicking land.

Thank you for accepting and considering this submission on behalf of our supportive Committee.

Kind regards,
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QSMA Secretary.
Alan Freeman.
QSMA V/ President.
Author.

