

September 26, 2014 NAPFA Member Email update

EL requirement for fossickers.

NAPFA met with the NSW Minister for Resources and Energy, Anthony Roberts, on Friday 26 of September to argue for the removal of the current requirement in the Mining Act for recreational fossickers to require the permission of Exploration Lease holders prior to fossicking in areas that are not Fossicking Districts.

The Minister gave us a good hearing on the matter and we await with interest the outcome on a matter that is of relevance to all fossickers in NSW.

Predictably the mining sector, as represented by the well-funded Minerals Council of NSW, has presented a number of 'concerns' to counter our request and to maintain the current situation, but these concerns do not hold up to objective analysis.

In particular, that:

- security of active mining areas is controlled by other parts of the Act and fossickers do not pose any significant additional 'activist' risk; and
- there is no effective competition for discovery or exploitation of the resource due to the protection for miners under the Act and their focus on large and often deep ore deposits that are not of interest to fossickers.

In short, despite their protestations, this change would not cause any material risk or administrative loss to miners.

It would, however, simplify arrangements for an estimated 50,000 fossickers annually in NSW, members of the public, and others beyond the border who visit as fossicking tourists.

It would also remove redundant red-tape for both miners and fossickers.

The matter has never really come up before because there has not been effective and organised representation by fossickers about it until now.

In practical terms, some fossickers seek permission, but many don't. Mining companies are also often ignorant of the requirement or don't respond to requests.

It is also virtually impossible for many people to navigate the maze of ownership information and to track down the actual managers of ELs.

However, technically, if you fossick on an area covered by an Exploration Lease, and you are not in a fossicking district, you are breaking the law and under the Mining Act 1992 face a 50 point or \$5500 penalty. This applies even if you have permission of the land owner!

This is what we want to fix.

If you are not a NAPFA member, please take the effort to join and support the cause.

For those who are interested in all the detail, here is a short version of why we believe things need to change:

1. The current requirement can turn ordinary people into unwitting lawbreakers who under the Act face a 50 point or \$5500 penalty for undertaking an activity that has no real material impact on the EL holder.
2. NAPFA contends that removing this requirement would pose no genuine issue for the mining industry, or any reduction in the value of ELs or the security of title of those ELs.
3. It would be a tangible improvement and good news for the fossicking public.
4. It maximises the return to the State of NSW because recreational fossickers are the only ones able to economically recover small alluvial deposits for the benefit of the community (noting that very few recreational fossickers would even cover their fuel bill).
5. Fossickers target small coarse gold deposits which are not the target of EL activity, as evidenced by the lack of official reports (complying with JORC code) of such deposits.
6. Fossickers can only conduct limited short term low impact activity, so there is no competition for discovery and no ability to extract commercially viable resources.
7. EL rights prevent other parties to also lay exploration or mining claims on the same resource. So there is no effective threat to 'security of title' by having fossickers on an area. The leaseholder always owns the deposit if by some rare good fortune the fossicker discovered a commercially viable deposit.
8. It is implausible that a lucky fossicker removing a few grams of gold or mineral will somehow compromise a sophisticated exploration search or security of title.
9. There have been no apparent problems with security of title – or other concerns -- in Fossicking Districts where such permission is not required.
10. Despite the internet, practically it is very difficult for ordinary people to identify who owns ELs, what they cover and even to communicate with them.
11. A change like this would effectively extend the exemption that currently exists in dedicated Fossicking Districts. It would help redress a legislative imbalance that is consistently in favour of the large mining industry, rather than the recreational fossicking public.
12. If the relevant section of the Act is repealed, the Act still has provisions to ensure that the public are prohibited from entering sites where mining companies are undertaking active drilling and sampling on their lease.
13. This change would be of benefit to the public and help to put NSW in a leadership position when it comes to fossicking.

14. This would encourage more interstate fossicking tourism and help boost NSW regional economies.

15. It would be a red tape reduction for citizens and a gain for the economy of NSW.

Contact President@napfa.net if you have any views on this.