

Our Ref: 2.1

14 August 2007

Mining Legislation Review
Mining and Petroleum
Department of Mines and Energy
PO Box 15216
City East Qld 4002

minlegreview@dme.qld.gov.au

Dear Sir/Madam,

Re: Review of Queensland's Mining Legislation

Emerald Shire Council writes to make the following submission in respect of the Queensland Department of Mines and Energy's review of the Mineral Resources Act 1989 and the Fossicking Act 1994.

Emerald Shire contains, with the exception of the Tomahawk Creek designated fossicking area, the sapphire mining and fossicking area known as the Central Queensland Gemfields, including: Rubyvale; Sapphire; Anakie; Glenalva; and, The Willows. As a consequence, Council has a strong interest in both the fossicking and small scale mining which occurs in this area. Council acknowledges the economic importance of "the Gemfields" to the Shire in terms of the income generated by tourism and the production and processing of sapphires (and other gems such as zircons etc.). Further, Emerald Shire Council has a statutory interest beyond just being the local authority as Council is "*the controller*" of the "*Rubyvale, Sapphire and Scrub Lead Miners Common*" as per section 28 of the Fossicking Regulation 1994.

Council is aware of several problems with respect to the hand mining claims at the Gemfields and therefore proposes the following changes as part of the Department's review of the mining legislation.

Largely as a consequence of the recent decrease in housing affordability in the town of Emerald, caused by the current "coal boom" in the surrounding Bowen Basin, many persons are obtaining 900sqm hand mining claims in the Gemfields with the intent of building a residence rather than for hand mining sapphires. This is because a claim holder can build a "temporary residence", which upon surrender, termination, or expiry, of the claim must be removed. However, many persons on claims are building very solid dwellings of a permanent nature, without any Council Building or Plumbing approvals etc. As the term "temporary" is not defined in the legislation then "temporary" is defined by the intent of the owner/occupant(s) rather than the physical nature of the dwelling itself. To clarify the requirements upon claim holders Council would like the legislation to define exactly what constitutes a temporary dwelling. Council believes that this definition should be such as to restrict the permissible size and type of building materials allowed and ensure ease of future removal. To this end, Council considers tents and caravans to be temporary dwellings, but does not consider houses of concrete, timber, masonry, steel sheeting or other such durable materials which are physically and permanently attached to the ground to be temporary. Council can not regulate these temporary dwellings on hand mining claims in terms of

building or plumbing approvals etc. as the land owner, i.e. the Department of Natural Resources and Water, will not give landowner's permission (as is required by the Integrated Planning Act) for a development application to be made over the site of a claim.

Temporary dwellings on hand mining claims are being traded like ordinary real property, principally for housing use and not for mining purposes. The principal value of the traded claims appears to be the "temporary dwelling" and other "improvements" such as sheds etc. rather than the sapphire bearing mineral resource. It is proposed that the Act be amended so that the holders of mining claims must demonstrate satisfactory progress with respect to bona fide mining activity. There should be no automatic renewal by the Department of expiring claims. The Department of Mines and Energy should increase the amount of the monetary bonds held for the rehabilitation of mining claim sites after a claim has expired or been surrendered or abandoned etc. The amount of money held by the Department should reflect the expected actual cost of full site rehabilitation including: removal of all of the "temporary" structures; removal of all waste and litter; making tunnels and other excavations safe; and, the stabilization of the site soils against erosion.

The soils of the Gemfields are not very suitable for on-site disposal of sewerage effluent and consequently Council insists that the minimum lot size for new freehold residential development on the Gemfields is 2,000sqm. Therefore, from a public health and hygiene perspective, Council believes that the minimum size of hand mining claims should be increased to 2,000sqm from the current minimum of 900sqm. This is especially important given the potential for the improper on-claim disposal of human wastes to contaminate ground and surface waters and increase the risk of transmission of infectious diseases.

Council does not support the proposed 1m depth limit for digging by fossickers and supports the current 2m limit. This is because Council has been advised by the Gemfields community that fossickers need to be able to dig to a depth of 2m (as is currently allowed) in order to have a reasonable chance of accessing sapphire bearing "wash". If fossickers can not dig to a depth of 2m they may avoid visiting the Gemfields and this in turn would impact adversely on the local tourism industry.

Please contact Council's Executive Manager Environment and Development, Mr. James Durmisov should you have any queries in respect of Emerald Shire Council's submission.

Yours Faithfully,



G J Durmisov
(Executive Manger of Environment and Development)
On behalf of
Bryan Ottone
Chief Executive Officer