

Operational policy

Visitor Management

Fossicking on QPWS managed areas

Operational policies provide a framework for consistent application and interpretation of legislation and for the management of non-legislative matters by the Department of Environment and Science. Operational policies are not intended to be applied inflexibly in all circumstances. Individual circumstances may require a modified application of policy.

Subject

This policy addresses the administration and management of recreational or tourist fossicking for minerals, gemstones and ornamental stones on Queensland Parks and Wildlife Service (QPWS) managed areas.

Purpose

The purpose of this policy is to guide QPWS staff in the assessment, approval and maintenance of general permission areas (GPA) for the purpose of fossicking on QPWS managed areas. This policy (and related procedural guide) relates only to the hobby activity of fossicking, all other mineral collecting activities are not covered under this policy.

This policy is to be read in conjunction with the QPWS *Procedural guide: Fossicking on QPWS managed areas*.

Background

What is fossicking?

Fossicking is defined as either the systematic or unsystematic search for gemstones, ornamental stones, mineral specimens, alluvial gold or non-vertebrate fossils on the ground's surface or by digging with hand tools. Fossicking as an activity is classed as recreational and the sale of the occasional 'lucky find' of a gemstone is allowed. However, repeated removal of fossicking materials for sale through shops or businesses, or as part of making a living, is considered commercial, and requires different approvals under *the Mineral Resources Act 1989*. Royalties are payable on fossicking materials that are the property of the Crown, but threshold exemptions of \$100,000 mean that generally most fossickers are not liable.

Fossicking licences

Fossicking licences are issued and administered by the Department of Natural Resources and Mines (DNRM) and are required prior to fossicking within QPWS managed areas.

Fossicking can occur on QPWS managed areas (namely regional park and State forests) where written permission of the landowner is granted. Due to the volume of requests to fossick, and the need to assess each area for suitability prior to giving written approval, fossicking can occur only where these areas have been approved as a General Permission Area (GPA).

A GPA is an area where the landowner has given general permission for fossicking to occur. Once a GPA has been approved, fossickers do not require the landowner's written permission to fossick within these areas, but they must abide by any conditions of access and may under some situations be required to pay a fee.

Prior to a GPA being approved on any QPWS managed area, a thorough site assessment is conducted by the relevant QPWS regional office. Existing lessees' and permit holders are notified and given the opportunity to object to the proposal to declare a GPA. Other impediments to fossicking are identified and investigated including safety aspects. Some of these impediments may cross departmental responsibilities and could include apiary sites, stock grazing, mining claims, cultural heritage and native title interests.

Once all stakeholders agree, then written permission is given by the Director-General of Environment and Science (DES) to the relevant Mining Registrar within the DNRM to have the area made available for fossicking as a GPA. If problems arise or the situation changes within the QPWS managed areas, the DES Director-General can withdraw the general permission in writing to the relevant Mining Registrar and revoke the existing GPA.

The DES website provides a current list of approved GPAs on QPWS managed areas where fossicking can occur.

Policy statement

Fossicking can only occur on QPWS managed areas where these areas have been approved as a General Permission Area (GPA).

The tenures in which a GPA may be approved within QPWS managed areas are limited to State forests under the *Forestry Act 1959* and regional park (resource use area) under the *Nature Conservation Act 1992*.

QPWS supports fossicking as a recreational activity within approved GPAs on QPWS managed areas, providing that the activity is consistent with management intent for that area. Camping will not be permitted on any GPAs.

While fossicking has the potential to be destructive or detrimental, QPWS will undertake careful management and appropriate monitoring to ensure that the areas do not become degraded. All fossickers in QPWS managed areas are required to adhere to the specific QPWS conditions in addition to the standard conditions for fossicking (refer to *QPWS Procedural guide: Fossicking on QPWS managed areas*).

A fossicking licence must be obtained prior to fossicking on GPAs within QPWS managed areas.

Legislative framework

Fossicking as an activity within QPWS managed areas is governed by various pieces of legislation. The information provided below introduces some of the key points from the legislation. Further advice regarding legislative matters and interpretation of policies can be obtained from emailing: ParksPolicy@des.qld.gov.au.

Fossicking Act 1994

The *Fossicking Act 1994* (the Fossicking Act) is administered by DNRM who is responsible for the issuing of fossicking licenses.

Part 3, Division 1 of the Fossicking Act and the Fossicking Regulation 2009 contain the rules and requirements for fossicking activities in Queensland. For State forests, Section 10 of the Fossicking Act states that the Act applies to a State forest only if the chief executive of the Department administering the *Forestry Act 1959* has given general permission for fossicking to occur in the forest, reserve or area.

Under the fossicking legislation, fossicking cannot occur in protected areas, except for regional park (resource use area).

Fossicking is regarded as a hobby and section 36 of the Fossicking Act states clearly the restrictions and penalties with regard to trading and selling fossicking material collected under licence.

Mineral Resources Act 1989

Should a fossicker want to expand their recreational pursuits and regularly trade or sell their fossicking finds they will need to apply for an authorisation under the *Mineral Resources Act 1989* (Mineral Resources Act) administered by DNRM. Authorisations could be via a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease. The most common way to determine if an area is suitable for a commercial venture is via a prospecting permit. Section 6B of the Mineral Resources Act defines prospecting as the sampling and searching for mineral material, using only handheld implements. The removal of minerals for sale is not permitted, however other authorities can be used for this purpose.

Forestry Act 1959

Under Part 4, section 33 of the *Forestry Act 1959*, the cardinal principle to be observed in the management of State forests is the permanent reservation of such areas for the purpose of producing timber and associated products in perpetuity and of protecting the watershed. In providing general permission for fossicking to occur in a State forest, the chief executive must ensure the cardinal principle is not adversely impacted.

Section 46A of the *Forestry Act* describes the process for the sale of fossils and quarry materials to fossickers. If a person fossicking on a State forest, timber reserve or forest entitlement area where fossicking is permitted under the *Forestry Act* collects not more than 1m³ of fossils or quarry materials in a year, the State is taken to have sold this material to that person at no cost, and no royalty is payable for the fossils or quarry materials.

Nature Conservation Act 1992

Fossicking can only occur on regional park (resource use area) dedicated under Section 42C of the *Nature Conservation Act 1992*. A regional park (resource use area) has been declared to allow mining or exploration activities to occur with the intention of the area eventually being converted to a tenure with a higher level of protection. Activities on regional park (resource use area), including fossicking, are permitted if they are consistent with the management principles of the tenure, which are to:

- recognise and, if appropriate, protect the area's cultural and nature resources;
- provide for the controlled use of the area's cultural and natural resources; and
- ensure that the area is maintained predominately in its natural condition.

Reference materials

- *Fossicking safety guidelines* (Department of Natural Resources and Mines publication).
- *Procedural guide: Fossicking on QPWS managed areas* further details the decision making and assessment process required to select, approve and maintain new GPAs for fossicking on QPWS managed areas.

Further Information

Information on the current fossicking sites within QPWS managed areas, including information sheets and conditions can be found on DES web page: <<http://www.des.qld.gov.au/>>

Fossicking licences are issued by the Department of Natural Resources and Mines, and list of fossicking areas within Queensland (excluding some private fossicking area) can be found on the web page <<http://www.dnrm.qld.gov.au/mining/fossicking>>

Disclaimer

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment and Science should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

Approved By

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Signature

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Date

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