

MT7: Fossicking

Purpose

To outline the proposed changes to fossicking activities under the *Mineral Titles Act 2010* (the Act) and *Mineral Titles Regulations 2011* (the Regulations).

Overview

Fossicking is a popular recreational activity involving the small scale exploration, extraction and removal of rocks, minerals and crystals. It is a lawful activity in the Northern Territory and is permitted on all land under the Act, provided that the necessary notices or permissions are obtained before commencing.

Expanding our mineral leases for fossicking

To better facilitate the growing interest and tourist potential of fossicking in the Northern Territory, two new mineral lease categories for tourist fossicking and general fossicking are proposed to be created.

Mineral lease for tourist fossicking	Mineral lease for fossicking
<p>A new ML for tourist fossicking (MLTF) is proposed to allow a title holder to conduct general fossicking activities for tourists who pay a fee to participate in those activities.</p> <p>The new MLTF would allow title holders to:</p> <ul style="list-style-type: none"> • conduct commercial fossicking tours on a title area no greater than 40 hectares • use mechanical tools to push back topsoil to a maximum depth of 1 metre to facilitate fossicking • apply for a MLTF for a maximum grant period of five years which can be renewed more than once • have exclusive right to apply for a mineral lease for small scale mines (MLSSM) should a mineral resource of economic interest be discovered. <p>The Minister would retain the discretion to limit the number of MLTFs that can be granted in any particular area at any one time.</p>	<p>A new ML for fossicking (MLF) is proposed to allow a title holder to conduct general fossicking activities outside the scope of Part 8 of the Act, but not to the extent permitted under the proposed MLTF, in relation to commercial fossicking tours.</p> <p>The new MLF would allow title holders to:</p> <ul style="list-style-type: none"> • conduct fossicking activities on a title area no greater than 20 hectares • use mechanical tools to push back topsoil to a maximum depth of 1 metre to facilitate fossicking (this is not permitted under Part 8 of the Act) • apply for a MLF for a maximum grant period of five years which can be renewed more than once. <p>The Minister would retain the discretion to limit the number of MLFs that can be granted in any particular area at any one time, with the requirement to notify the Minister should a mineral resource of economic interest be discovered.</p>

The two new mineral leases MLTF and MLF are specifically designed to provide for tourist fossicking and independent fossicking activities. These activities would be administered outside of the existing fossicking provisions under Part 8 of the Act.

Introduction of a new permit for fossicking

A new fossicking permit is proposed to be introduced that would be available to individuals, family groups, clubs and commercial fossicking tour operators for a small annual fee. A financial penalty would be implemented for those conducting fossicking activities without a permit.

It is proposed that when applying for a permit, the Minister would consider all available information about the applicant, including whether the applicant has been or is the subject of complaints and/or legal proceedings relating to alleged fossicking offences before issuing the permit.

A holder of a MLTF or any person attending a tour conducted on a granted MLTF would be excluded from obtaining a permit.

It is proposed the following fossicking permit fees are introduced:

Fossicking permit	Proposed fossicking permit fees (per year)
<u>NT residents</u>	
<ul style="list-style-type: none"> Individual permit Family permit 	30 revenue units 50 revenue units
<u>Non-NT residents</u>	
<ul style="list-style-type: none"> Individual permit Family permit 	50 revenue units 70 revenue units
<u>Other fossicking permits</u>	
<ul style="list-style-type: none"> Club permit Commercial tour operator permit (excludes MLTFs) 	100 revenue units 250 revenue units

Growing our fossicking potential

Current arrangements	Proposed arrangements
<p><u>Fossicking area</u> The Act allows the Minister to gazette a declared fossicking area.</p> <p>A declared fossicking area typically does not contain any granted mineral titles. However, over the years a number of mineral titles have been granted within the area, which has led to issues for fossickers who then require the consent of a mineral title holder to fossick in their title area.</p>	<p>To mitigate this issue, it is proposed to prohibit the grant of any mineral title within a declared fossicking area.</p>

Current arrangements	Proposed arrangements
<p><u>Authorised fossicking</u> The Act currently does not allow for a person to conduct fossicking for extractive minerals¹.</p>	<p>To provide greater clarity on what constitutes as fossicking, it is proposed to:</p> <ul style="list-style-type: none"> allow for the legal fossicking of extractive minerals such as zebra rock broaden the definition in the Act to include what is not considered fossicking. For example, picking up a specimen of minerals or extractive mineral by chance while engaged in other activities does not qualify as fossicking.
<p><u>Fossicking area declaration</u> Under the Act, the current inclusion of the word 'vacant' with 'Crown land' had led to difficulties with declaring new fossicking areas as access to Crown land does not require written consent.</p>	<p>When there is an interest in Crown land such as a pastoral lease, a notification and consultation process should be undertaken instead.</p> <p>It is proposed to:</p> <ul style="list-style-type: none"> remove the word 'vacant' from 'vacant Crown land' clarify that the Minister must give a pastoral landowner written notice of their intention to declare a fossicking area. Any comments submitted by the pastoral landowner to the Minister within 30 days of receiving the notice must be considered.
<p><u>When consent is required</u> Currently, the Act is unclear as to whether fossickers seeking to enter Aboriginal land must go through the <i>Aboriginal Land Rights (Northern Territory) Act 1976</i> (ALRA) consent process to enter and fossick on Aboriginal land.</p> <p>ALRA currently allows for agreements with Traditional Owners to provide access to land for fossicking without the need for written consent. This is done by applying to the relevant land council for a permit to access the land.</p>	<p>To provide greater clarity, it is proposed to clarify that consent in relation to Aboriginal land does not include consent for the purposes of Section 41 of ALRA.</p> <p>Instead, consent to enter and remain on Aboriginal land would relate to Part II of the <i>Aboriginal Land Act 1978</i>.</p>
<p><u>Consent requirements for exploration licence in retention (ELR) mineral title</u> The Act currently does not outline the consent requirements for fossickers who intend to conduct fossicking activities on an ELR.</p>	<p>For safety reasons, it is proposed to require fossickers obtain the consent of an ELR holder before fossicking in the title area.</p>

¹ Extractive minerals include soil, sand, gravel, rock or peat. Most notably, zebra rock has become a popular extractive mineral for fossicking.

Current arrangements	Proposed arrangements
<p><u>Fossicking notices</u></p> <p>The Regulations currently do not require a person to provide vehicle details or the number of people that intend to fossick on relevant land.</p> <p>It also does not require the fossicker to disclose measures they will take to minimise the spread of weeds before entering the land.</p>	<p>It is proposed the following matters are included in a fossicking notice:</p> <ul style="list-style-type: none"> • registration details of any vehicles including caravans, trailers, motorbikes • the number of people in the fossicking party • the length of time proposed to remain on the property • details of measures that would be taken to minimise the spread of weeds.
<p><u>Offences relating to entering land requiring consent</u></p> <p>The Act currently has no offence for entering land requiring consent where no request for consent has been sent to the landowner.</p>	<p>It is proposed to include a maximum penalty of 80 penalty units for entering land requiring consent, when the landowner has not been sent a request for consent.</p>
<p><u>Fossicking consent</u></p> <p>The current term 'fossicking request' has caused some confusion among fossickers.</p>	<p>It is proposed to change the wording from 'request' to 'consent'.</p>
<p><u>Maximum amount that can be extracted</u></p> <p>The Regulations prescribe the amount of mineral a person can fossick in the Territory, however it does not specify the maximum amount that can be extracted at any one time (i.e. whether the maximum amount is daily, per trip or per person).</p>	<p>For the benefit of fossickers and to make fossicking activities attractive to tourists and visitors visiting the Territory, it is proposed to allow a fossicker to extract and remove the daily prescribed amount of mineral specified under Regulation 109.</p> <p>This would clarify to fossickers that they can extract and remove more than the prescribed amount over the course of their trip to the Territory.</p>
<p><u>Obligations to occupier or landowner</u></p> <p>The Regulations currently do not provide for an agreement between the fossicker and landowner or occupier. It also does not provide a specific timeframe in which a fossicker is allowed to remain on the land.</p>	<p>To provide greater clarity, it is proposed to:</p> <ul style="list-style-type: none"> • establish a reasonable period in which a fossicker can remain on the land • allow a fossicker to remain on the land if the landowner or occupier consents to the request to remain for a longer period • allow a landowner or occupier to direct a person to leave should they: <ul style="list-style-type: none"> ○ refuse to leave or ○ camp in areas not approved by the landowner or occupier.