



NSW & ACT Prospectors and Fossickers Association Inc.

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"Fights for fairer access to land in NSW and represents the interests of prospectors and fossickers"

WARNING TO FOSSICKERS ABOUT NSW SLUICING DEVELOPMENTS

The NSW Department of Planning, Environment, Resources and Energy (PERE) (new department that incorporates the old Resources and Energy group) has decided to commence an enforcement campaign from September to November 2017 particularly targeting 'highbanking' equipment as per below:

Illegal fossicking

Recreational fossickers utilising a device known as a 'highbanker' to enhance their fossicking capabilities to search for scheduled minerals has been identified as an emerging issue. The use of a highbanker, which is a petrol or electric powered device, in fossicking, is prohibited by the Mining Regulation 2016. These products are being commercially produced by multiple manufacturers to meet market demand. This unlawful activity results in a number of environmental issues.

A compliance campaign will be carried out focusing on suppliers and end users of the equipment.

The full compliance document can be found here:

http://www.resourcesandenergy.nsw.gov.au/_data/assets/pdf_file/0020/731117/Compliance-priorities-July-December-2017.pdf

The sluicing issue has been at the forefront of NAPFA's lobbying with the department, and is currently the single most important issue to Prospectors and Fossickers in NSW.

This surprising new development is extremely unwelcome and is a breach of extensive good faith negotiations we have been having with the department on this matter.

Since the issue came to notice in 2014, NAPFA has engaged with the department through meetings and submissions to negotiate a position to amend the 2010 regulation change that is relied upon in the Department's declaration that the equipment is not allowed under the 2016 regulations.

Unfortunately to date, despite a lot of detailed work on our side, the department has not properly engaged with us to resolve the matter.

In the last few days we have escalated this issue to the highest level within the department and will keep members informed of significant developments.

The bottom line is we will continue to fight for the right to use highbankers because we can see no good reason for them to be 'banned'; in fact, there is good argument that they should be encouraged.

So, if you highbank you need to be aware of this planned action by the PERE and modify your actions as you consider necessary. There is a potential for prosecutions if you are deemed to be breaching the regulations.

Regards,

Sean Ashcroft



NAPFA Public Officer

BACKGROUND

In 2010, without effective consultation with the stakeholders most affected, the Mining Regulation 2010 amendments added the word "processing" to Clause 12(2)(c) which states *"A person must not ... carry out the following activities for the purpose of fossicking: ... (c) the use of power-operated equipment for the purpose of surface disturbance, excavation or **processing** on any land, ..."*

The Regulation change was never advertised or enforced regarding current sluicing or high banking activities, or for other small scale powered recreational equipment affected. This led fossickers to believe it referred to mechanically driven equipment such as crushers, vibratory screens, portable processing plants and the machinery to feed them.

Fossickers, and many others, including regulatory officers, considered pumps simply delivering water to small hand fed equipment not to be 'power-operated processing', especially as fossicking has legislated water rights and the only action is the transfer of water to a sluice.

NAPFA raised this with the PERE for their input and was asked to provide a detailed a report which was submitted in June of 2015.

Despite requests by NAPFA for reasons why the 2010 change was made, we have not received a satisfactory response. The PERE has since supported this literal interpretation of "power-operated equipment" applying to highbankers that NAPFA consider is unjustified and unfairly restricts all other powered recreational equipment.

NAPFA has worked with the PERE to justify the use of highbankers and mitigate environmental concerns, especially to prevent water pumps being used for dredging operations, and to impose size limits on equipment so as not to be seen to be “semi-industrious”.

Unfortunately, despite NAPFA solving concerns satisfactorily with the PERE, which are included in our final report submitted in May 2017, we have not had a reply, or formal acknowledgement of the report.

Now, out of the blue, the PERE have decided to commence an enforcement campaign from September to November 2017 particularly targeting highbanking equipment.

NAPFA was not consulted nor informed about this impending action, which has been set despite the fact that we have been having ongoing communication to reach a suitable compromise on the matter.

The prohibitive interpretation based on the 2010 Regulations also restricts all other power operated equipment including 12v and solar operated gold wheels, small concentrators and other recreational equipment used for fossicking.

In doing so the PERE has unduly restricted the use of pumps and other very small, almost no impact equipment, and rendered ‘inoperative’ equipment owned by recreational fossickers that would be worth millions of dollars.

We have expressed our total disappointment about the way the matter has been handled by the department to date. The lack of communication, consultation, and progress have simply been appalling.

We have been told that the compliance section operates completely independently, however given the timeframes, meetings, work and outcomes to date, this action is not acceptable to the Prospectors and Fossickers of NSW.

The compliance priorities notice, NAPFA’s 2015 & 2017 reports, and a copy of this notice to members can be found at: www.napfa.net under the section “Sluicing – Highbanking”

Previous interpretation allowing the use of pumps and other small-scale powered recreational equipment not being used for excavation, that has been accepted in the field by various government authorities, shire councils, prospectors, fossickers, and the general public will no longer be allowed. Any breach of the PERE interpretation can be enforced. This includes all power operated equipment.

NAPFA ask that members take the time to read the objects and purposes at the beginning of the PERE compliance priorities notice.

Please read NAPFA’s 2017 sluicing report in its entirety, as this report details the history of dealings with the PERE on the issues, and direct all queries to NAPFA (President@napfa.net).

We will stay in touch as we progress this urgent matter.