



Submission

An Enhanced Regulatory Framework for Mining Claims Discussion Paper – November 2022, Department of Resources

Executive Summary

AgForce members impacted by small-holder mining activities have endured long-term issues in respect to the broader implications of multiple proponents accessing, and in many cases permanently dwelling on mining claims. The impacts of small-holder mining enterprises are manifold, concerned with a range of issues relating to agricultural production, biosecurity, environmental protection, housing standards, waste management, social services, human hygiene, and indeed human safety.

AgForce is highly supportive of the Queensland Government's efforts in supporting reform in the small-holder mining sector through the Queensland Resource Industry Development Plan (QRIDP). The commentary from AgForce members and the many recommendations included in this submission relate to the strong support of the changes proposed in the discussion paper. In summary AgForce seeks to enable improved co-existence between small-holder miners and with agricultural producers through the embedded recommendations. AgForce believes that for true reform to take place, a broader whole-systems review of the sector is required in a collaborative cross-agency and multi-stakeholder process, emphasis involvement of small-holder mining and agricultural sector representatives alongside Government.

AgForce appreciates the support shown by DoR staff in progressing the discussion paper and in participating in the small-holder mining workshop in Emerald on 31 January and the field visit to the Gem Fields on 1 February 2023. AgForce would also like to thank the landowners that attended these two events and provided considerable feedback through discussions. We also recognise the contributions and patience of landowners who previously provided their views and experience in earlier meetings in 2017 and 2018.

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Introduction

AgForce is a peak organisation representing Queensland's cane, cattle, grain and sheep, wool & goat producers. The cane, beef, broadacre cropping and sheep, wool & goat industries in Queensland generated around \$10.4 billion in on-farm value of production in 2021-22. AgForce's purpose is to advance sustainable agribusiness and strives to ensure the long-term growth, viability, competitiveness and profitability of these industries. Over 6,500 farmers, individuals and businesses provide support to AgForce through membership. Our members own and manage around 55 million hectares, or a third of the state's land area. Queensland producers provide high-quality food and fibre to Australian and overseas consumers, contribute significantly to the social fabric of regional, rural and remote communities, as well as deliver stewardship of the state's natural environment.

Like the resource sector, agriculture in Queensland would itself benefit from the development by the government of an ambitious 30-year vision for a resilient and sustainable sector, with clear action steps by which industry growth can be supported. Effective and respectful relationships with those who seek to also use agricultural land and water assets is a key part of that vision. AgForce's Land Use Protection Principles (see Appendix 1) endeavour to reflect the expectations of agricultural industry in co-existence with competing interests.

Representing owners of significant land and water assets within the state, AgForce welcomes the government's recognition of the rights and interests of landowners in relation to resource sector activities that seek to co-exist with them. This co-existence must operate effectively at the single paddock, to property, to regional, to sector and state levels. It is essential that mutually beneficial relationships between landowners and resource sector participants are sought, and that agricultural land and water assets are protected, with impacts avoided, or minimised if unavoidable, wherever possible.

AgForce acknowledges the response of the Queensland Government to long-term advocacy on behalf of members impacted by small-holder mining activities and welcomes the opportunity to provide comment on the discussion paper. This includes AgForce representation to the Department's Rachael Cronin in 2017 following consultation with concerned members in central Queensland. The follow-up workshop in Emerald later in 2018 provided clarity to Queensland Government's existing regulatory framework and enabled landowners to articulate particular concerns about ongoing and legacy small holder mining co-existence issues.

AgForce would like to acknowledge the Queensland Government's proactive, albeit belated, response to the concerns raised by AgForce in 2017, 2018 and subsequently, and the preparation of the discussion paper in November 2022 "An enhanced regulatory framework for mining claims" and a demonstrated willingness to consider co-existence issues. AgForce would also like to thank participation of Department of Resources (DoR) in a workshop in Emerald on 31 January this year and field trip in the Gem Fields on 1 February with AgForce members. The webinar held on 15 February with AgForce members provided further opportunity to discuss proposed changes in the discussion paper and to enable Q&A around particular concerns. Marcus Rees and his team deserve recognition for these engagements and encouragement to further consider the issues raised at those events.

In the following sections, responses are made to the discussion paper generally, as a component activity of the Queensland Resources Industry Development Plan (QRIDP) and the embedded questions contained in each section. Recommendations are provided.

Whole Systems Reform

As introduced above, AgForce members impacted by small-holder mining activities have endured long-term issues in respect to the broader implications of multiple proponents accessing, and in many cases permanently dwelling on mining claims. The impacts of small-holder mining enterprises are manifold, concerned with a range of issues relating to agricultural production, biosecurity, environmental protection, housing standards, waste management, social services, human hygiene, and indeed human safety. AgForce members with mining claims on their properties advise that the range of issues are systemic and reform in the sector requires a whole-systems review of the broader regulatory framework, across multiple pieces of legislation and Government Departments that administer aspects of small-holder mining.

The opportunity to visit sites in the Central Queensland Gem Fields with Departmental (DoR) staff provided tangible examples of the multiple aspects of small-holder mining that create issues for co-existence with agricultural properties.

Recommendation 1: Queensland Government undertake a whole-systems review of small-holder mining and co-existence with agriculture, including the major regulatory frameworks and Departments that are concerned with their administration.

Related to the need for whole-systems review, AgForce is particularly concerned that biosecurity is considered to be out of scope for the discussion paper and the small-holder mining component of the QRIDP. While small-holder miners are bound by the general biosecurity obligation (GBO) under *Queensland's Biosecurity Act 2014*, the field visit conducted with DoR staff on 1 February 2023 indicated that potential weed infestations existed on numerous mining and dwelling sites. At a pragmatic level, the network of tracks and freedom of movement of numerous permanent and visiting vehicles sees that the risk for weed seeds to be imported into the area, as well as transported within it, is very high. Biosecurity is a large concern for agriculture producers in the area and many that are affected by small-holder mining activities have needed to control weed outbreaks in the mining areas not of their own making.

Contamination caused by potential leaks from chemicals, fuels and accumulated waste on mining claim sites is also of grave concern for in-situ and neighbouring landowners. The issue in point is that many agricultural producers seek to attain and maintain accreditation related to provision of weed-free and contaminant-free status – of both market and social license value. This requires referral of small-holder miners to their obligations *The Environmental Protection Act 2014* and its enforcement.

Recommendation 2: Queensland Government pay particular attention to biosecurity and contamination of land when undertaking (the abovementioned) whole-systems review of small-holder mining and co-existence with agriculture.

While AgForce members appreciate that temporary dwellings on mining claims require less administrative oversight by Local and State Government, the fact that numerous (a mixture of permanent or temporary) dwellings exist on the small-holder mining areas in Queensland invokes the question of compliance of these structures with legislation such as *The Building Act 1975* or the Local Planning Scheme of LGAs, such as Central Highlands Regional Council.

Recommendation 3: Queensland Government pay particular attention to the building codes required by Federal, State and Local Governments for permanent dwellings when undertaking (the abovementioned) whole-systems review of small-holder mining and co-existence with agriculture.

An overarching concern for AgForce members relates to the question of rights, particularly when it comes to understanding the rights and responsibilities of small-holder miners to access land, undertake mining activities and actually dwell on mining claims.

Recommendation 4: AgForce recommends that landowners impacted by small-holder mining seek advice from legal professionals.

Introduction (pp 2-3)

The decision to retain mining claims in the *Mineral Resources Act 1989* (MRA) mentioned on p3 is not accompanied with a rationale, with only verbal reasoning in DoR presentations that the proportion of feedback seeking retention (many small-holder miners) far outweighed the feedback seeking removal (only AgForce). AgForce maintains that small-holder miners should apply for a mining lease under the MRA and the *Mineral Resources Regulation 2013*, with associated Environmental Authority requirements.

As evidenced in field trips in the Gem Fields, considerable risks to environmental values, including removal of topsoil, waste, amenity impacts, see that acceptable management approaches are required in order to protect these values. The long-term impacts of abandoned mines and the legacy of minimal-use mines sees that these environmental values are at risk of never being restored on a large number of sites, to the detriment of primary producer landholders whose pre-existing property rights are eroded by accommodating these mines and who bear the ongoing burden of post-mining legacy impacts.

Recommendation 5: Queensland Government provide a stronger rationale as to why small-holder mining activities are exempt from being required to obtain an Environmental Authority under a Mining Lease application, or reverse their current position in favour of stronger environmental impact oversight.

Objective 1: Ensuring effective regulation of mining claims (pp6-9)

Fees and Charges

AgForce supports the aims of proposed changes including addressing the administrative burden of processing mining claims, promoting the turnover of land, providing certainty of tenure and ensuring requirements encourage genuine mining activities on mining claims.

1. *Do you prefer an upfront payment model or an annual payment over the life of the tenure for the proposed administrative and regulatory activities fee? Why?*
2. *Are there alternative fee structures that could be considered?*

This upfront payment model or annual payment options are suggested in the discussion paper as “either-or” alternatives. AgForce considers that the longer-term evidence of small-holder mining demonstrates that the up-front and ongoing fee structure of mining claims is patently inadequate, both for Government administration of each claim initially and for ongoing needs, as well as for ensuring financial assurance for the rehabilitation of a surrendered site. While the security sums for a small-holder mine application are considered in Objective 2 (p12), AgForce suggests that this security sum needs to be included as an up-front consideration and calculation that is included in the Fees and Charges for all mining claim applications. This will provide applicants with a realistic threshold figure prior to consideration of the financial resources required when taking on a mining claim. Should the government wish to retain lower barriers to entry then a progressive rehabilitation approach should be applied with robust oversight and audit of rehabilitation effectiveness at each stage to enable ongoing use of the claim.

A further concern as evidenced through the experiences of the last five decades is that the up-front payment, while possibly representative of administrative costs at the time, has been rendered patently inadequate as inflation and consumer price index (CPI) effects have been realized. As a consequence, AgForce proposes that an ongoing fee, indexed to current inflationary and CPI pressures be included for ongoing administration costs in addition to the up-front payment.

AgForce suggests that, as with all rural properties, a rate charge from the Local Government Authority be included to assist upkeep of local arterial roads and community infrastructure in population centres such as in the Central Highlands, Winton, Paroo and Quilpie LGAs.

Recommendation 6: Upfront payment plus ongoing payments are required for mining claims, with the inclusion of the security sum required to ensure effective rehabilitation of the site post surrender, as well as rates charges to enable maintenance of local government controlled infrastructure being used by claimants.

3. *Should the administrative and regulatory services fee differ for hand-mining and prescribed mining to reflect their different levels of scale/intensity?*

The above recommendation where security fees are included with the mining application and administration fee underpins the rationale for charging the same upfront administrative and regulatory services fee for both hand mining and prescribed mining activities. The security fee is likely to be substantially larger for prescribed mining. The ongoing fees are a separate issue. The Queensland Government may need to consider whether additional costs of inspection of prescribed mining tunnels for ongoing compliance warrants an additional fee on top of required administrative charges. AgForce would argue that Queensland Government needs to take a cost-recovery approach to the fee structure for upfront and ongoing administration as to-date, small-holder mining has provided little, if any, contribution to the Queensland economy apart from tourism. Such cost recovery should be on an efficient service delivery basis.

Recommendation 7: Queensland Government take a cost-recovery approach to fees that reflect the (efficient) administrative requirement rather than simply reflecting levels of scale/intensity.

Application Requirements

The discussion paper indicates there are 1,893 mining claims across Queensland for extracting any mineral other than coal and uranium. Prescribed mining claims pertain to precious gemstones such as opals and sapphires and can occupy up to 20ha¹ for a 10-year period. Other mining claims can occupy up to 1ha. The application process requires an agreed compensation agreement outlining access, proposed activities, safety and compensation.

The Small-Scale Mining Code applies to areas that meet the criteria defined as “small scale mining activity” in Schedule 4 Dictionary of the *Environmental Protection Act 1994*. The Code is outdated and requires major revision. AgForce has provided recommended amendments to the Code (see Appendix 3).

4. *What key elements should be demonstrated by applicants to ensure they possess the capabilities to conduct a mining operation on a mining claim?*

To help minimise a number of the identified issues, AgForce strongly supports that an assessment of an applicant’s financial and technical capabilities be introduced for new mining claim applications and renewals, including a financial capability statement, which would require:

- details of funding for the proposed work program;
- income/bank statements or a letter of support from a bank or accountant; and/or
- an annual budget for activities proposed in additional permits under assessment or granted.

¹ Queensland Government. Mining Claim (2022) <https://www.business.qld.gov.au/industries/mining-energy-water/resources/minerals-coal/authorities-permits/applying/fossicking/mining-claim>

AgForce would suggest that thresholds be established for determining viable mining claim applications, or at least require a form of guarantee that the miner has adequate funds to enable an effectively rehabilitated site if surrender is required. One option may be to include the option of a guarantor, similar to taking out housing loans, or a credible form of insurance (if available).

AgForce strongly supports that a technical capability statement be introduced for new mining claim applications and renewals, so that applicants can demonstrate:

- evidence of previous mining experience (eg, held a mining tenure previously, undertaken relevant training, membership to relevant professional bodies);
- evidence of compliance with any conditions of previously held tenures (ie, compliance with clean up or restoration requirements); and/or
- relevant authorisations to operate explosives, equipment and machinery, particularly for prescribed mining claims.

In addition, AgForce supports the inclusion of a work program that specifies intended focus of works, timeframes and progress targets.

AgForce does recognise the inherent challenges in making assessment of an applicant's financial and technical capabilities, particularly given that there are a wide range of skills and previous knowledge associated with small-scale mining. Equipment can range from shovel, bucket, sieves and water drum to mechanical gem processing separators and backhoes. It would be difficult for a government officer assessing the small mining application to assess, when there are no relevant authorisations to use hand equipment. There is also the issue of discrimination, which is very relevant for agriculture. There should be no departmental discrimination between an applicant with previous experience and a new person entering a small mining career. Mining is a seasonal activity due to the harsh summer weather conditions on the gem fields. Applicants most likely have diversified income from other activities. Others may receive government allowances or are retired and still want to pursue gem fossicking. The proposed financial capability statement is viewed by some members of AgForce as being unfair.

Recommendation 8: AgForce supports the proposal for assessment of an applicant's financial and technical capabilities, as proposed in the discussion paper, be included in the mining claim application process and that objective and practical thresholds be established to enable determination of suitable proponents. Also, a work program that specifies intended focus of works, timeframes and progress targets will aid assessment.

5. *Should the demonstration of capability requirements differ between hand-mining and prescribed mining claims? If so, how?*
6. *What training, skills, or qualifications should be required to hold a mining claim? Should these requirements differ for hand-mining and prescribed mining claims?*

AgForce recognises that Government, agricultural industry and other stakeholders do not require that producers possess demonstrated capability requirements for managing an agricultural enterprise, even though in many cases these businesses are highly complex undertakings with environmental management implications. Numerous frameworks exist that provide recognized benchmarks and expectations of Best Management Practice, however to-date these standards are largely provided as guidelines for voluntary uptake, increasingly with market-driven incentives for uptake. Agricultural industry peers are often the drivers of adoption against these voluntary standards, with voluntary uptake driven by successful producers seeking to raise the credentials and recognition of farmers. AgForce suggests that small-holder mining industry representative groups such as Queensland Small Miners Council (QSMC) may be driver of industry owned and led programs that support good practice, such as the Best Management Programs in agriculture.

AgForce supports recognition of that issue that the discussion paper is endeavouring to address, in terms of demonstrating capacity to undertake a mining operation, cause minimal harm and surrender the site in a 'natural' state.

However, assessing the skillsets of individuals is problematic, with issues of proof in satisfying recognized skills requirements, and of suitable new entrants without a past history. The abovementioned technical capability statement may be best regarded as an industry standard that is governed by key concerned stakeholders, including small-holder mining peers, Government and agricultural industry. Thereby, the capability requirements, training, skills, or qualifications required to hold a mining claim included in the above capability statement need to be assessed by a small-holder mining industry panel as well as by Government and agriculture.

Recommendation 9: Queensland Government convene a multi-stakeholder co-existence assessment panel to enable Government, mining and agricultural industry to develop small-holder mining Best Management Principles and provide a collaborative function in assessment of mining claim applicants against BMPs towards a continually improving co-existence outcome.

Term of Mining Claim

7. *Would reducing the initial term of the mining claim and limiting the number of renewals encourage more genuine small-scale mining operations and availability of land? If not, why?*
8. *Would different tenure periods for hand-mining and prescribed mining claims be beneficial in supporting the type of mining? How should these timeframes differ?*

AgForce members affected by small-holder mining have for decades observed and been impacted by the implications of lax tenure arrangements on mining claims. The incentive for small-holder miners to live permanently (or for large portions of the year) on long-term tenure, low rent and minimal compliance requirement sites has been enabled by the current arrangements. Thus, AgForce supports the aim of promoting active and genuine mining on claims and increasing the rotation of mining claims. However, the proposed arrangements are unlikely to significantly reduce the tendency for small-holder miners to plan their lives around living permanently on the site, particularly for prescribed mining claims. The proposal that prescribed miners can have access to two renewals and look to a 30-year term (albeit with 10-year renewal intervals) is effectively close to the physical working life of an able person in industries requiring significant physical labour. Thereby a small-holder miner who wishes to pursue a career in the industry have the possibility of structuring their life and investment of energy and finances into living on-site and progressing investments around this term.

If the aim of the term of the mining claim is to ensure mining activity does occur and dwelling on site is only temporary, AgForce would suggest that the timeframes need to be further shortened to reduce the tendency for people to live permanently on site, conduct minimal mining activity and pay no rent. Or the alternative is increased monitoring and compliance activity to ensure requirements of the Small-Scale Mining Code 2013 are being met and living arrangements are in compliance with the temporary dwelling provision. AgForce would support that increased compliance is less desirable than more frequent renewal requirements. For both hand-mining and prescribed mining claims AgForce suggests that the proposed terms for both hand-mining and prescribed mining are satisfactory as long as three year renewal requirements be introduced for each form of mining claim. The emphasis of more regular renewal is on improved communication of activities and expectation of active mining being undertaken.

It is important to indicate that AgForce members are somewhat divided on the terms issue, with some conveying that the proposed change to maximum tenure life, with renewals, is not fair for persons with long term careers in small mining. How will gem fossickers reskill into other careers if their maximum term on a claim is 15 years for hand-mining or 30 years for prescribed mining with specialised equipment? How will the specialised equipment be moved after a 30-year tenure?

In some cases, the short finite tenure will create a sense of no connection to the claim and less care as the tenure expires. Whereas, the current opportunity for no limit to ongoing renewals creates a sense of pride and care in the mining claim area.

Recommendation 10: Queensland Government ensure the following terms for hand-mining claims:

- reduce the maximum term from up to ten years to up to 3 years;
- limit holders to 5 renewals (ie, 15-year maximum term); and
- remove the ability to transfer after the last permitted renewal.

Queensland Government ensure the following terms for prescribed mining claims:

- retain the maximum term of up to 3 years;
- limit holders to 10 renewals (ie, 30-year maximum term); and
- remove the ability to transfer after the last permitted renewal.

Objective 2: Supporting genuine small-scale mining operations (pp10-15)

Clear Requirements for Mining Claim Holders

AgForce supports that the Small-Scale Mining Code and MRA be reviewed to refine and further clarify requirements, as proposed in the discussion paper.

The Small-Scale Mining Code is outdated and refers to superseded legislation (see proposed changes in Appendix 3). Biosecurity requirements need to be included. General Biosecurity Obligations GBO of small miners and fossickers need to improve while they are undertaking activities on Queensland's agricultural enterprises.

Currently the Small-Scale Mining Code 2018² and the Fossicking Regulation 2019³ do not reflect General Biosecurity Obligations GBO's affect everyone, as per *Biosecurity Act 2014*⁴. GBO's are essential to minimise risk of disease and weed seed spread. Livestock and cropping agricultural industries also operate under strict, industry-initiated, quality assurance programs for biosecurity. These programs ensure production of safe food and fibre, trace back and trace forward property visitor registers and procedures to prevent contamination from heavy metals, pesticides and other materials.

General Biosecurity Obligation

Biosecurity Act 2014 s 23:

- A person who deals with biosecurity matter or a carrier, or carries out an activity, should know or is ought to reasonably know that the biosecurity matter is likely to pose a biosecurity risk. This person has an obligation – **a general biosecurity obligation** – to take *all* reasonable and practical measures to prevent or minimise the biosecurity risk.
- GBO applies to any biosecurity matter that has an adverse effect and does not need to be listed in Biosecurity Act's Schedules. This enables rapid response to new incursions and localised management of regional, pests, weeds and diseases.

What this means for landholders

In a general sense, according to the *Small Miners Code 2018* and the *Land Access Code 2016* both stipulate vehicles must be washed down prior to entering the property / land / area, and again when leaving. If asked for, a record must be provided to the landholder regarding wash-down procedures. Section 15 of the *Land Access Code 2016* provides vehicles are to be included as well as machinery. There is a biosecurity obligation to prevent the spread of declared pests in the course of small-scale mining. Additionally, similar to fossickers, permission must be given by landholders to those mining.

² Small Scale Mining Code 2018

https://www.resources.qld.gov.au/_data/assets/pdf_file/0006/262374/small-scale-mining-code.pdf

³ Fossicking Regulation 2019 <https://www.legislation.qld.gov.au/view/html/inforce/current/sl-2019-0172#pt.3>

⁴ *Biosecurity Act 2014* <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2014-007#ch.2-pt.1>

This permission must be written and can be conditional. Therefore, the conditions imposed upon entry are binding.

In regard to exploration permits on occupied land, the holder is obligated to take reasonable steps to ensure so reproductive material from a declared plant do not move onto, within or from the land to which the permit applies (*Minerals Resources Regulation 2013* Schedule 1 Conditions).

General waste and contaminants

General waste, as stated within the *Small Miners Code*, does not adhere to the requirements set out by Livestock Production Assurance requirements for red meat producers. Livestock must not have access to waste products such as lead, heavy metals and restricted animal material RAM such as meat products. There is also risk of internal and external injury to livestock from wire and other waste materials. However, the *Small Miners Code* implies a broad scope, and recommends disposing of waste at a waste facility rather than bury. This could be part of the conditions of entry consent.

A factsheet providing relevant information and authorities would be appropriate and is necessary for relevant landholders, so they are able to understand what their rights are, and how to utilise these rights to ensure the adherence to farm biosecurity plans and procedures by small-scale miners.

9. What other requirements would you like to see improved in the legislation or included in the Small-Scale Mining Code for mining claims?

As described in the Whole-Systems Reform section above, AgForce suggests that the broader systemic concerns about the small-holder mining sector and required regulatory frameworks for achieving effective co-existence outcomes need to be communicated more clearly to all stakeholders. Therefore, AgForce would expect that legislation and regulations and/or codes reflect linkages across the regulatory framework to ensure a more coordinated outcome. In this light, AgForce sees that the existing MRA and Small-Scale Mining Code do not clearly articulate biosecurity requirements. Nor is there adequate mention of co-existence requirements with agricultural activities such as avoiding stock disturbance, or coordination of fencing, weed management or water related infrastructure with agricultural landowners.

Additionally, the fact that fossicking is seen to be out-of-scope for the discussion paper is seen by AgForce as problematic, because for agricultural landowners the co-existence issues and requirements are quite similar and also urgently need addressing.

Recommendation 11: Queensland Government coordinate review of the MRA and Small-Scale Mining Code involving small-holder mining and agricultural representation with emphasis on:

- Authorised activities (eg, permitted structures, authorised machinery or equipment use).
- Effective co-existence (eg, minimising noise and dust, operating times for machinery and equipment, protocols concerning gates, fencing and stock management infrastructure, fire management, introducing a private landholder statement or auditor report confirming the completion of appropriate clean-up or improvement restoration).
- Appropriate maintenance of mining claims in a tidy and safe state (eg, waste management, backfilled excavations, land disturbance).
- Including reference to broader regulatory frameworks such as out-of-scope biosecurity, fossicking and building standards.

10. Should the Small-Scale Mining Code specify alternative conditions for hand-mining and prescribed mining claims? How should they differ?

AgForce does not have specific recommendation for this question but would encourage small-holder miners and the Queensland Government to refer to the AgForce Land Use Protection Principles when determining comparative practices for hand-mining and prescribed mining.

Agricultural industry would expect that small-holder mining practices for both hand and prescribed mining meet the minimum standards for ensuring natural capital is preserved and agricultural opportunities are not removed.

11. Are there any alternative mechanisms that would clarify the accommodation or storage facilities permitted on a mining claim?

AgForce strongly supports the change from ‘temporary residence’ to ‘temporary accommodation’ to maintain consistency within the MRA and reinforce alignment with the building and structural standards stipulated in the Queensland Development Code MP 3.3, prescribed under the *Building Regulation 2021*, and the *Building Act 1975*.

AgForce also supports changes to clarify that equipment storage facilities are only permitted if they do not exceed: one 3m x 3m (storage) shed; and one non-habitable 6m x 2.4m steel container.

Recommendation 12: Alternative, or additional mechanisms in addition to proposed improved accommodation and storage changes that AgForce would suggest are that the compliance function both of State and Local Governments be increased to ensure accommodation and storage facilities comply with these proposed requirements. AgForce recommends an adequately resourced Local Government to oversee above ground temporary accommodation structures and storage containers. This would ensure structures align with Planning Act and Local Law requirements, and in line with seasonal weather conditions. Local Government should also be responsible for overseeing water storage and waste treatment.

Evidence of Activity

12. How should mining claim holders demonstrate that they are actively mining? (ie, work program progress? annual production form? or logbook?). Why is this method preferred?

AgForce supports the proposed requirements to prove active mining operations are being undertaken.

Recommendation 13: Queensland Government ensure practical measures are employed for demonstrating evidence of activity including:

- updating the work program requirements to clarify the information to be included and introduce a requirement to report on work program progress; or
- introducing an annual production form to report on information such as the type and quantity of material mined and processed, and evidence of the sales made; or
- requiring a logbook to be kept of the activities undertaken on the mine and the duration of these activities (for example total number of days/weeks, detail of material moved etc).

13. Should the record keeping requirements be the same for both hand-mining and prescribed mining? If not, how should they differ? What additional information could be provided?

AgForce does not have specific recommendation for this question but would observe that excessive record keeping requirements are a burden on industries that require more physical and less office-related activity. It has long been experienced that unrealistic expectations of detailed record keeping on the broad variation of agricultural producers can be counterproductive to achieving a desired policy outcome. At a minimum, and to ensure coherency of record keeping, AgForce would suggest that records should be kept to an absolute minimum required to ensure government’s policy objectives are being achieved and include updates of the financial and technical capabilities statement recommended above.

Improving Co-Existence

Many aspects relevant to co-existence are recommended and discussed within this submission. As outlined in discussion paper, conduct and compensation agreements are not required for small-holder mining claims under the *Mineral and Energy Resources (Common Provisions) Act 2014* but a compensation

agreement is required under the MRA (either by agreement or by Land Court determination). AgForce supports the proposals in the discussion paper around co-existence including:

- Review and update existing compensation agreement supporting material (such as templates and guidelines) to ensure it is up-to-date, clear and relevant.
- Update the legislation to clarify that conduct conditions and in-kind compensation can form part of the compensation agreement on mining claims.
- Review and update the Small-Scale Mining Code (see '[clear requirements for operators](#)' section) and provide guidance and clarity about permitted activities and obligations such as land disturbance, waste management, keeping claims in a clean and tidy state, and requirements to minimise land use conflicts.
- Include a requirement for a private landholder statement or auditor report in the Small-Scale Mining Code to acknowledge appropriate clean-up or improvement restoration has taken place prior to surrender.

Recommendation 14: As mentioned in the Whole System Review section above, AgForce recommends that a systemic review of the small-holder mining sector be conducted that includes consideration of biosecurity, housing conditions and human safety needs.

AgForce members have conveyed for many years concerns about human safety when working with areas of their properties and transporting through areas where small-holder mining claims and activities are occurring. Some of these concerns relate to trespass onto agricultural properties outside of mining claim areas. As a core suggestion for co-existence members have often suggested that the Queensland Police need to take a more prominent role in understanding who is living within and visiting small-holder mining areas. Police Checks of mining claim applicants are put forward as an option to enable landowners to feel safer in co-existence with diverse small-holder miner proponents and their associated families and partners.

Recommendation 15: Queensland Police must take a more prominent role in understanding who is living within and visiting small-holder mining areas to promote individual and community safety.

Recommendation 16: Police Checks need to be exercised with mining claim applicants to maximise human safety in co-existence with agricultural landowners, their families and partners.

14. Could the Small-Scale Mining Code include requirements to improve co-existence issues, and if so, what requirements should be included?

AgForce supports the proposed changes relating to the Small-Scale Mining Code.

Recommendation 17: Queensland Government implement proposed changes relating to the Small-Scale Mining Code including:

- Review and update existing compensation agreement supporting material (such as templates and guidelines) to ensure it is up-to-date, clear and relevant.
- Update the legislation to clarify that conduct conditions and in-kind compensation can form part of the compensation agreement on mining claims.
- Review and update the Small-Scale Mining Code (see '[clear requirements for operators](#)' section) and provide guidance and clarity about permitted activities and obligations such as:
 - land disturbance
 - waste management
 - keeping claims in a clean and tidy state
 - requirements to minimise land use conflicts.
- Include a requirement for a private landholder statement or auditor report in the Small-Scale Mining Code to acknowledge appropriate clean-up or improvement restoration has taken place prior to surrender.

- Undertake a progressive audit of existing claims once any changes are implemented to ensure **awareness and compliance**.

Recommendation 18: In addition to these proposed changes and as mentioned above, Government needs to ensure the Small-Scale Mining Code is reviewed involving small-holder mining and agricultural representation with emphasis on seeking agreement on criteria outlined (in bullet points) in Recommendation 11 above.

15. What on-site practices can mining claim holders change to improve co-existence issues with landholders?

AgForce supports the changes proposed.

Recommendation 19: In addition to changes proposed, mining claim holders can improve actions around biosecurity, including weed prevention and management, as well as coordination of fire management and shared infrastructure such as access tracks, fences, gates and access arrangements.

These practice arrangements need to be included and updated in the compensation agreement, landholder statement and/or auditor report mentioned below. Reference to and actions aligned to the co-existence principles and framework would also promote improved outcomes.

16. What benefits and limitations would the introduction of a landholder statement or auditor report have? Would it increase voluntary compliance with undertaking improvement restoration or cleaning up on mining claims?

Enforcement is primarily the responsibility of government, but landholders must have a right to compel action. AgForce supports the introduction of a landholder statement for providing an appraisal of the condition of a small-holder mining site. In accord with the AgForce Land Use Protection Principles, it would be ideal if this landowner statement is a living document that includes consideration of prior conditions, conditions during the mining phase and the conditions of the rehabilitation on site upon surrender. The auditor report would be useful as a third-party consideration of the landowner statement, prior, during and post surrender. During the mining phase, this landowner statement may become important at the time of renewal. The benefits of this statement and audit process would be a more formal correspondence between the landowner and the mining proponent and when punctuated at three-yearly intervals with renewal, provides a regular and formal chance to address issues before they become too large and less likely to be resolved.

Recommendation 20: Queensland Government implement a landowner statement and audit process as living documents that includes consideration of prior conditions, conditions during the mining phase and the conditions of the rehabilitation on site upon surrender.

Objective 3: Addressing non-Compliance (pp16-20)

AgForce members impacted by small-holder mining have been gravely concerned about the lack of compliance and compliance enforcement in the small-holder mining industry for decades. See Appendix 2 for outline of earlier concerns which led to the 2018 Small Holder Mining Compliance Workshop held in Emerald. These issues have not changed in the past 5 years, let alone the past 5 decades and require addressing as part of the current process. Non-compliance has become common practice for many aspects of small-holder mining which can lead to significant obstacles in encouraging and enabling change. At a general level, AgForce members have experienced very poor responses from Departmental compliance staff, with calls being missed, responses not being progressed and site visits not occurring. While this is not that case for all complaints to compliance staff, AgForce member feedback strongly indicates a dysfunctional compliance function in DoR staff and offices that must be addressed as a matter of urgency.

Recommendation 21: Queensland Government urgently ensures that all agricultural landowner requests for compliance action are provided with a timely and reasonable response/action that is recorded on a compliance register.

Enhancing Compliance Functions

AgForce supports the proposal to introduce PINs for offences relating to the conditions of a mining claim including:

- failure to meet requirements of a mining claim or small-scale mining code.
- non-compliance with a work program
- failure to provide records on request and/or failure to keep records.
- conducting unauthorised activities (such as outside of the mining claim boundary)
- failure to carry out improvement restoration.
- failure to keep the mining claim area in a clean and tidy state.

However, the ability to collect funds relating to these PINs is considered problematic by AgForce members, with suggestions to include the State Penalties Enforcement Registry (SPER) as a recognised collector agency.

Recommendation 22: Queensland Government introduce PINs for offences relating to the conditions of a mining claim and engage the State Penalties Enforcement Registry (SPER) as a collection agency.

AgForce supports the proposal to develop a compliance and enforcement strategy for mining claims following enhancements to the framework, in-line with DoR's current regulatory approach. While this is a positive undertaking AgForce is eager to see increased funding and priority given to the compliance function and staff and public transparency of the strategy's effectiveness.

Recommendation 23: Queensland Government develop a transparent compliance and enforcement strategy for mining claims in consultation with small-holder mining and agricultural stakeholders, and increase funding and support to ensure the compliance function is able to achieve targets set in the strategy.

17. What other compliance tools could be used to encourage voluntary compliance on mining claims?

It currently appears that Queensland Government is not serious about compliance and enforcements. There are inadequate Engagement and Compliance Officer positions with the Department which are located near small mining fossicking areas such as Winton and the Gemfields in Central Queensland. For example, the opal gemfields are serviced by one officer based in Mt Isa. An avid, seasonal fossicker in the Gemfields has not seen or spoken to a Department of Resources Compliance Officer within 50 years of hand-mining (Bruce Randolph, pers.comm.). No fossicking prosecutions have occurred over the last five years and only 11 non-compliance activities were investigated in 2022 (Queensland Government response to Question on Notice No 1027, 13 Oct 2022

<https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/1027-2022.pdf>).

While some regulation is essential to ensure minimum levels/standards of compliance, the experience of agriculture with regulatory instruments, and their associated compliance, enforcement and prosecution instruments, has seen that for most landowners it has not been easy. Human nature, particularly with mature adults, is often resistant to coercive mechanisms for achieving desired outcomes, with many responding more effectively with non-coercive and supportive mechanisms, including market-based incentives, improved market access or peer recognition.

Recommendation 24: As mentioned above, AgForce recommends that Queensland Government support the development of voluntary codes-of-practice and Best Management Practices and the delivery of engagement programs with miners by representative organisations such as the QSMC.

Additionally, an incentives-based approach to compliance may enable more effective practice change and compliance outcomes, notwithstanding regulation to support minimum practice standards and outcomes.

Promoting Site Clean-Up

AgForce members have experienced catastrophic failures where site clean-up has not occurred and numerous livestock have perished in abandoned holes, particularly following drought and subsequent rains. This has resulted in some members losing thousands of dollars' worth of stock and significant time-cost, often with two or more people, attempting to rescue cattle from boggy pits. Some of these landowners have had significant contact with the DoR seeking to gain assistance, in using the small financial assurance sums provided by the original applicant to fill in abandoned pits. These sums are small and totally inadequate for repairing/filling all abandoned pits. The DoR Abandoned Mines Unity has also been engaged in the past to seek assistance, but apart from providing an estimate of the repair bill (eg, in excess of \$2 million), they have advised that these pits are not a high priority amongst the list of other abandoned mines across Queensland.

AgForce observes that such situations demonstrate a fundamental breakdown in the three-way relationship amongst miners, landowners and Government staff. The issue of legacy pits and degraded, poorly rehabilitated mining claim sites needs to be urgently addressed, if not to restore land to a usable level, at least to a condition of safety and sustained land stability.

Recommendation 25: Queensland Government develop a strategy, outlining actions and associated budget for dealing with the legacy of abandoned mining claims, pits and sites and their rehabilitation

AgForce supports the proposal to enable vastly improved Small-Scale Mining Security sums to be determined through update of the Self-assessment calculator to:

- include temporary accommodation and other infrastructure and specify particular materials to be used (eg, concrete slabs and rock or brick walls); and
- ensure the security values are up-to-date and cover the actual removal and disposal costs to the Queensland Government.

AgForce also supports the proposal to amend the legislative grounds to ensure it is clear when and for what security can be used, with emphasis on ensuring calculators include multipliers that ensure forward projections of costings are representative of clean-up and rehabilitation requirements at surrender.

Recommendation 26: Queensland Government ensure that the security calculator is regularly updated to reflect CPI and market increases in building materials and costs, as well as a multiplier so that projected costs are representative of rehabilitation and site-clean-up requirements at time of renewal or surrender.

18. What types of infrastructure and building materials should be included in the self-assessment calculator?

Recommendation 27: Queensland Government ensure that infrastructure and building materials are not potential sources of safety risk, contaminants and/or site waste.

19. Are there any other improvements that can be made to ensure sufficient clean up and improvement restoration is undertaken by mining claim holders?

Numerous mining claim sites exist on AgForce member properties where poor practice and inadequate site preparation at the beginning of exploration and mining activities have resulted in suboptimal outcomes. Many members report bare areas due to inadequate banking and separation of topsoil to be returned to the surface upon surrender.

Recommendation 28: Queensland Government provide guidelines and ensure that banking of topsoil is a requirement of effective planning for ongoing rehabilitation and site surrender.

AgForce members have long experience compliance and enforcement of different forms of legislation, for example the *Vegetation Management Act 1999*. Such examples include the prevention of use, as intended, of the resources that have been subject to enforcement for a determined period of time, often in addition to PINs. In addition to the abovementioned landowner statement and audit, such prevention of access provisions may influence miners to rehabilitate works through the process of the mining phase.

Recommendation 29: Queensland Government consider restricting access to mining claims for extracting gems through the mining phase if progressive rehabilitation targets at time of renewal are not met, improving the likelihood that final rehabilitation requirements are met upon surrender.

Transition to the New Framework (pp17-21)

20. What timeframe do you think is reasonable and fair to assist in the transition to the new framework?

Recommendation 30: Queensland Government can enable transition over a 3-year timeframe to enable alignment with the renewal process recommended above for both hand and prescribed mining claims.

21. What are the considerations the department should keep in mind when designing transitional arrangements for existing mining claim holders?

Recommendation 31: Queensland Government needs to lead and facilitate a collaborative approach to designing and implementing changes to the legislation and small mining code that includes small-holder miners, agriculture and government stakeholders.

22. What information can the department provide to mining claim holders to ensure awareness of updated requirements? What information channels are preferred (eg, webpage, guidance materials etc)?

Recommendation 32: AgForce can provide links to Queensland Government (DoR) information on transition of mining claim requirements to provide AgForce members with alternate access points.

23. Do you have any other feedback related to an enhanced regulatory framework for mining claims?

AgForce members affected by prescribed and hand mining, as well as fossicking, frequently express concerns about the ambiguity of the different co-existence requirements under the MRA, the small holder mining code and the *Fossicking Act 1994*. This ambiguity is of particular concern regarding living arrangements, with fundamental confusion prevailing around the divide between regulations and enforcement of temporary or permanent dwellings. As evidenced on field visits to different sites in the Gem Fields in February 2023, there are numerous mining claims that appear to have permanent dwellings on-site. Landowners are concerned that numerous small-holder miners appear to be living permanently on sites where they pay very small upfront costs, no ongoing rent and pay no rate charges to Local Government for upkeep of feeder roads and use of local public amenities.

On the site visit to the Gem Fields with DoR in February, AgForce members and staff enquired into the legal status of permanent dwellings on the respective fossicking, hand mining and prescribed mining sites. One explanation was that a larger claim exists over one area which permitted permanent dwellings on site, with numerous small 30x30m sites existing within this, many with a permanent dwelling in-situ. AgForce asked for a map of the Gem Fields area with clear demarcation of where permanent and temporary dwellings are permitted under the current arrangements.

Recommendation 33: Queensland Government provide AgForce and other interested stakeholders with maps of the small-holder mining areas in Queensland with clear demarcation of where permanent and temporary dwellings are permitted under the current arrangements.



Closing Comments

AgForce appreciates the support shown by DoR staff in progressing the discussion paper and in participating in the small-holder mining workshop in Emerald on 31 January and the field visit to the Gem Fields on 1 February 2023. AgForce would also like to thank the landowners that attended these two events and provided considerable feedback through discussions. We also recognise the contributions and patience of landowners who previously provided their views and experience in earlier meetings in 2017 and 2018.

AgForce is gravely concerned that the only communicated avenue for landowners to respond to the discussion paper is through submission or approving answers to the survey on the Have Your Say QRIDP website link. Many of the landowners who attended these events indicated that they are unable to provide submissions through the online format. DoR staff also indicated that the proportionality of responses was far less from agricultural landowners than it was from small-holder mining stakeholders. AgForce strongly suggests that data collection is better enabled using multiple channels such as interviews, phone calls, focus groups and open meetings as well as through web-based mechanisms.

Appendices

Appendix 1: AgForce Land use Protection Principles

As the body for agriculture, AgForce requires that alternative and potentially impacting land uses ensure:

1. There is recognition that natural capital has an inherent value.
2. Human health and well-being must not be sacrificed.
3. A precautionary approach that avoids negative legacy effects on natural resources including air, soil, water and biodiversity
4. There are no negative impacts on existing or future sustainable agricultural opportunities

Before:

- Recognize that resources are finite.
- All projects are assessed on environmental, social and economic criteria.
- There is a formal mechanism for agriculture to be involved in assessment.
- Projects should not be assessed in isolation and cumulative impacts assessed.
- Potential impacts need to be objectively, and accurately quantified rigorously and independently reviewed
- Agricultural landholders to have equal representation, available resources and bargaining power

During:

- All projects must have comprehensive monitoring and transparent reporting
- Non-compliance will trigger cease work.
- Enforcement is primarily the responsibility of government, but landholders must have a right to compel action
- Industry and Government must proactively identify and manage cumulative impacts, both individual project cumulative impacts and multiple projects cumulative impacts

After:

- Land needs to be rehabilitated to be the pre-existing natural conditions
- Financial assurance needs to be adequate for rehabilitation.

See: <https://www.agforceqld.org.au/knowledgebase/article/AGF-01250/>

Appendix 2: Briefing Note to Queensland Government following engagement with small holder miners in 2017

BRIEFING

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Subject: Small holder mining issues

Contact: Dr Dale Miller

Date: 15 January 2018

Background

AgForce Queensland Farmers held a member's meeting in Emerald on Tuesday 19 December to discuss ongoing issues associated with small holder mining (leases and claims), primarily in the Gemfields. Affected members have properties located in the Anakie, Rubyvale, Sapphire and Clermont areas (although similar issues may also exist in the Winton and Quilpie Shires).

AgForce is bringing these long-standing concerns to the Department of Natural Resources, Mines and Energy (DNRME) with a view to having them quickly and fully resolved. We understand from Jan Appleton that the Department has recently been proactively addressing complaints at their property 'Miclere', including appointing a case manager, John Tolhurst from Rockhampton. These positive actions have included firmer control on site tidying and rehabilitation, increasing the financial assurance on the leases and claims, and undertaking multiple site inspections.

On behalf of affected members, we would like to see similar and effective solutions implemented wherever these problems are occurring and are seeking a firm commitment from the state government to do so as a matter of urgency.

Core concerns and proposed solutions

Compensation

- Upfront compensation payments for the full term of lease to be made directly to the Department and in turn paid to affected landholders.
- Investigate industry standard templates for compensation agreements.
- Calculations of compensation using a nominated fee, not based on agistment rates, which would seek to encourage professional, well-structured mining activities.

Enforcement

- DNRME to regularly inspect leases/claims and robustly enforce the Small-Scale Mining Code

Biosecurity

- Miner's animals should be excluded from mining leases and claims.

- DNRME to monitor and enforce the temporary residence provisions and applicable activity tests to address biosecurity concerns and accusations of permanent residences
- DNRME to monitor and enforce the general and other waste provisions to address contamination concerns.

Trading

- DNRME should address the use of mining leases and claims as a tradable commodity, including where it implies the sale of a home.

Issue – Compensation

In relation to annual compensation payments for loss of use, miners are not following the terms of payment agreements which leaves the onus on landholders to be the debt collector for missed payments. This risks the quality of the relationship and makes dealing with other issues more difficult. Landholders should not be out of pocket for claims/leases enabled by Government.

Proposed Solution: Compensation payments, preferably upfront for the full term of the lease, be made to the Department, with the Department paying the landholder as scheduled and being responsible for collecting any missed payments owing.

In negotiating conduct and compensation agreements (on claims) landholders expend significant time but do not actually get compensated until an agreement is reached. If the terms of the offered agreement are not satisfactory then the recourse is to the Land Court, which is an expensive and time-consuming process.

Compensation calculations should:

- Happen within a system where the miner pays for the reasonable legal, accounting and valuation costs required for a landholder to determine compensation.
- Consider fair value of affected land, as having a claim or lease present devalues the holding, and include shadow effects of impacts on other areas of property
- Not be based on agistment rates or landholder agreements between related persons.
- Acknowledge the time and effort spent in completing initial paperwork and following up with miners as time away from farm business – eg, spending 1 to 2 hours a month doing inspections
- Be set at an amount which would seek to encourage professional, well-structured mining activities (linked to environmental impacts of activities).

There was interest from members in having AgForce negotiate an industry standard template for small mining compensation agreements, although AgForce is not currently resourced to perform this role and further discussions on this would be required.

Issue – Enforcement

Active enforcement needed

Members are all concerned that there has been an extended period (decades) of non- or slow-enforcement by the Department of compliance with existing requirements, such as the Small Scale Mining Code (and Environmental Protection Regulation 2008). It is thought that active enforcement would address many landholder issues and protect their rights. An example provided was a lack of enforcement around fossicking licenses and areas. There is a perception that the Mining Registrar is not responsive on raised compliance issues and that the Department is focussed on coal and gas activity and under-resourcing fixing small scale mining problems.

Rehabilitation enforcement

Enforcement of rehabilitation requirements upon lease expiry was also generally identified. This includes mine sites and houses being abandoned, with no or inadequate rehabilitation occurring. It

was thought that the Department was not checking expired leases and that squatters may move in (e.g. Graves Hill has 50 new people) but evicting powers are not being used. There are safety concerns about visiting such sites for both the Department and landholders.

There were also calls for the current financial assurance system to be reviewed to provide greater up-front confidence the capacity to remediate post-activity is there, including of permits to disturb areas under 20 ha. The Department should also take a more active role in inspecting areas and ensuring they are fully rehabilitated before a miner moves to the next area. It should not require a written complaint by a landholder to effect action as this often results in significant arguments with miners, again making it difficult to resolve other issues.

Personal safety

There are also significant concerns about personal and family safety associated with criminal activity that is, and suspected of, occurring (eg, drugs, trespass, property damage etc.) and a need for more Queensland Police Service activity. This could occur concurrently with Departmental action and potentially include mandatory character assessments and policy checks for those applying for mining permits, particularly near family dwellings.

Proposed solution: DNRME to regularly inspect leases/claims and robustly enforce the Small-Scale Mining Code

Issue – Biosecurity

Animals

Members were also very concerned about the biosecurity implications of the presence of animals held by miners on leases and claims. It has been observed that a range of animals including sheep, goats, chickens, geese, dogs, and cats are present and not contained or restrained. This has implications for landholders; with dogs harassing cattle and horses during mustering operations and also preventing baiting to control wild dogs due to council restrictions and proximity to miner's 'residences'. There are other biosecurity risks associated with livestock being held on lease and claim areas, particularly under the state's new biosecurity provisions.

Proposed solution: Animals should be excluded from being held mining leases and claims.

Weeds

Weed risks are also problematic with lease and claim holders introducing garden and ornamental species, including declared weeds such as cacti, and not washing down vehicles to control weed spread. All members reported concerns with this issue.

Residential problems

Members also reported problems with waste disposal associated with mining claims and leases. Residential waste (rubbish, garden clippings, fridges, fencing wire, asbestos, batteries, car bodies, etc.) is not being disposed of properly (eg, left uncontained, dumped on roads and roadsides, dumped outside of lease areas). Human waste and greywater has also been observed not being properly disposed of, particularly in fossicking areas.

Such practices are unacceptable and pose a health risk and fire hazard and lead and other contamination risks for landholder's livestock.

Proposed solution: DNRME and other applicable Departments should monitor and enforce the general and other waste provisions to address contamination concerns.

Further, the permanency of some miner's residences appears to be significantly out of line with the actual requirements to work claims and leases. There is a perception that people are using the small mining system mainly to find cheap places to live, apparently even on freehold land, without a genuine intention to mine.

Proposed solution: DNRME should monitor and enforce the temporary residence provisions and activity tests applicable to small-scale mining to address biosecurity concerns and any permanent residences.

Issue – Trading

Transferring or trading of mining leases is problematic for all members. If an applicant is approved for a lease and enters into agreements with a landholder, that person can then on-sell the lease with no requirement for a new approval or a new compensation agreement to be developed. The character of the approved applicant is a consideration in compensation agreement negotiations.

The members support leases being non-transferable (possibly for future applications) and surrendered at expiry, or alternatively regulated to require a new compensation agreement to be negotiated.

There is also a concern with the length of terms of leases, where decades (10 years plus 10 years) are provided for small areas (under 20 ha) which could be professionally worked in only weeks or months. Maximum terms should be aligned to a reasonable period (eg, 3 years) required to actively mine the area with a requirement to actually mine the site (the activity test raised previously) or for it to be surrendered. This would help ensure that mining claims or leases are used for their real purpose, not as a cheap residential option.

Proposed solution: DNRME should address the use of mining leases and claims as a tradable commodity, including where it implies the sale of a home.

Issues – Other

There are a range of other issues that were raised at the meeting and, while of a lower priority, should also be addressed as resources permit.

These include:

Access

- Fossickers using firebreaks as ‘graded tracks’ under the Code (which discourages fire control efforts) or just going off-road and making a new track to access areas. This causes significant erosion as are not fit for purpose or maintained.
- Road maintenance issues – chopped up tracks during wet periods a common problem.
- Cutting of landholder padlocks, fences or chains to gain access.
- A land access code should be complied with
- Vehicle wash downs are needed to prevent weed contamination.

Landholder notifications

- More specific notification requirements are needed for all permits, licenses and leases – where and when miners are coming, where they are going and then for miners to work around landholder’s management activities not the other way round as now occurs.
- Currently there are no landholder rights to control access under a prospecting permit (to be confirmed) - 5 days’ notice only and not always provided in an accessible manner
- Landholder rights under lease and claim notifications are not being enforced.

Royalties

- Need more transparency on obligations and payments – show real activity not just on profit.
- Royalties should fund compliance activities but currently over \$100,000 required before obligation applies.

Environmental levy

- Understating the area of disturbance is used to avoid obligations
- No monitoring of what’s happening on the ground



- Inadequate as the environmental levy is the only way to ensure rehabilitation can be properly funded.

Public liability insurance

- Who is liable and who should pay for the premiums?

Appendix 3: Proposed Amendments to the Small-Scale Mining Code

The Small-Scale Mining Code (the Code) is the product of allowing eligible small scale miners, that are low risk operations, to be exempt from environmental authorities. The guidelines found within the Code include advice on how to act in an environmentally responsible way, to ensure land management and rehabilitation, minimise conflicts regarding land use, and impose on the mining claim or exploration permit mandatory conditions concerning the conduct authorised on the land. The Code does not replace current relevant regulations; it acts only as a guideline for small scale miners and landholders.

The latest version of the Code was released in November of 2018. Relevant legislation and regulations referred to include: the *Mineral Resource Act 1989* (Qld); the *Mineral Resources Regulation 2003* (Qld); the *Environmental Protection Act 1994* (Qld); and the *Environmental Protection Regulation 2008* (Qld).

The regulations referred to within the Code have since been amended, and thus the Code needs to reflect this change for the benefit of small-scale miners and landholders to understand the current guidelines and conditions needed to be adhered to.

Proposed Amendments

1. Change all references to the *Environmental Protection Regulation 2008*, to read as: *The Environmental Protection Regulation 2019*.
 2. Change all reference to the *Mineral Resource Regulation 2003*, to read as: *The Mineral Resource Regulation 2013*.
 3. Change Part 2, Clause: Machinery and Equipment Use, point 2, to read:
All machinery leaving the area should be washed down to prevent spread of weeds. Note that it is a condition of a mining claim under schedule 1 of the *Mineral Resource Regulation 2013* to prevent the spread of noxious weeds.
 4. Change Part 3, Clause: Roads and Tracks, point 3 to read as:
All machinery should be washed down to prevent the spread of weeds. Note that it is a condition of an exploration permit under schedule 1 of the *Mineral Resources Regulation 2013* to prevent the spread of noxious weeds and a requirement of the *Land Access Code*.
 5. Change Part 4, Section 4(3) to read:
Regulated waste see the *Environmental Protection Regulation 2019*, section 42.
-