

Operational policy

Rock for building or monumental purposes

MIN/2020/5231

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Version 1.02

1. Purpose

The purpose of this policy is to clarify when and under what circumstances a mining tenement is required for the extraction of rock and a royalty is payable.

The information contained in this policy does not override legislative requirements and reflects current practices within the department. These practices may change from time to time with changes to be published through a revised version of this policy.

The department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. To the extent an act or decision under this document may engage human rights under the *Human Rights Act 2019*, regard will be had to that Act in undertaking the act or making the decision.

2. Background

Where rock is to be extracted, the *Mineral Resources Act 1989* (MRA) does not clearly define “*building purposes*” (as opposed to landscaping purposes which only require an extractive industry permit or licence) resulting in some confusion as to when and under what circumstances, a mining tenement is required and a royalty is payable.

Under section 6 of the MRA, rock mined in block or slab form is defined as a “*mineral*” when used for building purposes. Rock mined and used for monumental purposes was added to the definition of “*mineral*” in the *Mineral Resources Amendment Act 1995*.

“*Building*” means a ‘fixed, roofed structure that is completely or partly enclosed by walls’.¹

3. Policy Determination

The department will use the following criteria to determine when rock, which is mined in block or slab form for building or monumental purposes constitutes a “*mineral*” as defined under section 6 of the MRA.

¹ *Mineral Resources Act 1989*, sch 2 Dictionary.

3.1 Building purposes

Rock mined in block or slab form and used for building purposes constitutes a “*mineral*” as defined by the MRA when that rock is used on or in a “*building*” as defined in the MRA. It can be dimension stone or thinner slabs for facings and decorative work. Rock of whatever thickness used as internal and external cladding, bench tops and floor tiles within the building or extending outwards into a forecourt of the building, including stairs, constitutes a “*mineral*”.

3.2 Monumental purposes

Rock mined in block or slab form for monumental purposes is a “*mineral*” when used for headstones.

3.3 When rock is not considered to be a “*mineral*” under section 6 of the MRA

Section 6(3)(d)(i) of the MRA provides that rock is not a “*mineral*”:

- if it is to be used or to be supplied for use, as rock, whether intact or in broken form;² or
- if it is to be used for landscaping purposes, including, but not limited to:
 - outdoor paving (other than those areas mentioned above)
 - retaining walls
 - pool surrounds
 - barbecues
 - barbecue surrounds
 - garden edging.

3.4 Entitlement to use sand, gravel and rock

Generally, rock extracted and supplied intact or broken form (including, but not limited to aggregates, crushed rock and roadbase) is considered to be quarrying material and requires an extractive industry permit issued by a local government authority, or a licence from other government agencies, and is not subject to this policy.

However, a mining lease (ML) holder, or a person with the consent of the ML holder may utilise rock, sand or gravel extracted on the ML for any purpose permitted under the ML without a licence or other authority required under any other Act, other than the *Environmental Protection Act 1994*. This is subject to compliance with conditions and payment of prescribed royalty.³

² *Mineral Resources Act 1989*, s6(3)(d)(i).

³ *Ibid*, s236.

Document information

Availability: External

Location: Business Industry Portal

Owner and approver: Deputy Director-General, Georesources Division

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Contacts: For help and information about this policy, please contact the Mineral Assessment Hub on (07) 4447 9230 or email mineralhub@resources.qld.gov.au.

Disclaimer

The purpose of this policy is to provide a framework for consistent application and interpretation of the legislation administered by the department. Policies may be applied flexibly where individual circumstances require an alternative application of policy. Where this policy, or part of this policy, is inconsistent with relevant legislation, the legislation will prevail to the extent of the inconsistency. 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 Queensland Government should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

Keywords

MIN/2020/5231; Resources; rock; building; monuments; slab;