

# LAND COURT OF QUEENSLAND

CITATION: *Re Jackson* [2008] QLC 0025

PARTIES: **In the matter of Application for Mining Lease No 95573 by Kenneth Michael Jackson**

FILE NO/S: AML00013/2008

PROCEEDING: Application for mining lease

DELIVERED ON: 1 February 2008

DELIVERED AT: Brisbane

HEARING DATE: Heard on the papers

MEMBER: Mr FW Windridge, Judicial Registrar

ORDER/S: **1. Hearing dispensed with.**  
**2. Recommendation made that the Mining Lease be granted.**

CATCHWORDS: MINING – MINING LEASE – RECOMMENDATION  
*Mineral Resources Act 1989*, ss 245, 269(4), 270(1)

APPEARANCES: Not applicable – Heard on the Papers

- [1] **WINDRIDGE JR:** This is an application by Kenneth Michael Jackson under s.245 of the *Mineral Resources Act 1989* (the Act) for a mining lease over 1.3637ha of land in the Winton District for opal mining. The application was lodged at the office of the Mining Registrar at Winton on 8 October 2007. No objection was lodged.

## *Request to dispense with a hearing - Section 270*

- [2] I may dispense with a hearing if satisfied as to matters specified in s.270(1). There were no objections to this application. The applicant has requested that the application be dealt with by a single member on the papers. I am satisfied that the preconditions to exercising my discretion to dispense with the hearing have been fulfilled.

*Section 269(4) criteria*

- [3] In taking account of and considering the criteria specified in s.269(4), I have relied upon the Additional Information and Statutory Declaration sworn by the applicant. I have also relied upon the other material lodged by the applicant with the Department of Mines and Energy and provided by the Mining Registrar to the Court and the Mining Registrar's Report in relation to this application. Where necessary for the purposes of accuracy, I have referred to those documents.

*Section 269(4) (a) – Have the provisions of the Act been complied with?*

- [4] A Certificate of Application was issued by the Mining Registrar on 8 October 2007 which he can only do if satisfied that the applicant is eligible to apply for the mining lease and has complied with Part 7 of the act in respect to marking out, posting, advertising and service of documents.

*Section 269(4) (b) – Is the land applied for mineralised or are the other purposes for which the lease is sought appropriate?*

- [5] The application seeks the grant of a mining lease for the purpose of mining opal. The applicant has explored the area under the appropriate exploration tenure. The area is generally known for the production of opal, and I am satisfied that the area is generally mineralised.

*Section 269(4)(c) – If the land applied for is mineralised, will there be an acceptable level of development and utilisation of the mineral resources within the area applied for?*

- [6] The applicant proposes to mine the area using conventional open cut methods for this area. The applicant has the necessary infrastructure and equipment to complete the project. There is no evidence to suggest that there will not be an acceptable level of development and utilisation of the mineral resource in the area.

*Section 269(4) (d) – Is the land and the surface area of that land in respect of which the mining lease is sought of an appropriate size and shape?*

- [7] The boundaries of the lease have been determined by the area of potential mineralisation. The applicant has sought a mining lease over the whole of the surface area. There is no evidence to indicate the size and shape is not appropriate.

*Section 269(4) (e) - Is the term sought appropriate?*

[8] The applicant seeks a term of ten years. There is no evidence to suggest that a ten year term is inappropriate. The applicant has the option of surrender or abandonment if mining and rehabilitation is completed before the term expires.

*Section 269(4) (f) – Has the Applicant the necessary financial and technical capabilities to carry on mining operations under the proposed mining lease?*

[9] The applicant has sufficient assets, including the mining equipment required and cash reserves to undertake the proposed operation. I am satisfied the applicant has or has access to the necessary financial and technical resources.

*Section 269(4) (g) – Has the past performance of the Applicant been satisfactory?*

[10] There is no evidence to suggest that the past performance of the applicant has not been satisfactory. The applicant has been involved in the industry for a number of years.

*Section 269(4)(h) – Will any disadvantage result to the holders of existing exploration permits or mineral development licences or existing Applicants for exploration permits or mineral development licences?*

[11] There are no other holders or applicants for exploration tenures who would be affected by the grant.

*Section 269(4) (I) – Do the operations to be carried on under the authority of the mining lease conform to sound land use management?*

[12] The current land use is low intensity grazing if pasture was available. Opal mining is a suitable alternative land use.

*Section 269(4) (j) – Will there be any adverse environmental impacts, and if so, the extent thereof?*

[13] The draft environmental authority was issued and is effective from the date of grant of tenure.

*Section 269(4) (k) – Will the public right and interest be prejudiced?*

[14] There is no public infrastructure on the area applied for. There was no evidence before me that indicated public right and interest would be prejudiced. I take into account that there was no objection to this application on public interest grounds.

*Section 269(4) (l) – Has any good reason been shown for a refusal to grant the mining lease?*

[15] There was no evidence before me that indicated any good reason why this application should be refused.

*Section 269(4) (m) – Is the proposed mining operation an appropriate land use taking into consideration the current and prospective uses of the land?*

[16] On the basis of the evidence considered in relation to criteria (i), (j), (k) and (l), I consider the proposed activity is an appropriate land use.

*Recommendation*

[17] Taking into account all the evidence before me and, in particular, that evidence referred to above, I recommend to the Honourable the Minister for Mines and Energy that the Mining Lease be granted over the whole of the application area for the purpose and term sought by the applicant.

**FW WINDRIDGE  
JUDICIAL REGISTRAR**