

SHIRE OF LAVERTON

9 MacPherson Place

PO Box 42  
Laverton WA 6440

P (08) 9031 1202 F (08) 9031 1340  
[www.laverton.wa.gov.au](http://www.laverton.wa.gov.au)

23 March 2016

Our File Ref: 1058

Mr D Driscoll  
Parliamentary Officer (Committees)  
Standing Committee on Legislation  
GPO Box A11  
Perth WA 6837

Email: [lc@parliament.wa.gov.au](mailto:lc@parliament.wa.gov.au)

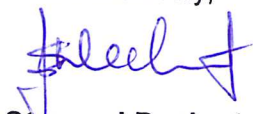
Dear Mr Driscoll,

**Submission to Legislation Committee**

Please find attached a submission from the Shire of Laverton in respect to the *Mining Legislation Amendment Bill 2015*.

I am unaware of what protocols the Legislation Committee follow after the receipt of a submission, however if the process allows for feedback, then we would of course welcome your comments.

Yours sincerely,



**Steven J Deckert**  
Chief Executive Officer

Encl:

# Submission to Legislation Committee

Re: *Mining Legislation Amendment Bill 2015*

## Introduction

The Shire of Laverton as an organisation, has had limited contact with several parties who have an active interest in the outcome of the *Mining Legislation Amendment Bill 2015* ("the Bill").

Laverton as you are no doubt well aware, is located in the NE Goldfields some 360 km (by road) north-east of Kalgoorlie. As a district, it is host to numerous large scale gold mining operations and also the significant nickel operation at Murrin Murrin. Also important from a local perspective is the continual presence of small scale prospectors and miners.

Not unsurprisingly, the prospectors and small miners have a vested interest in the passage of the Bill and they have reacted with considerable concern to what might be described as a fairly aggressive circular distributed by the Amalgamated Prospectors and Leaseholders Association of W.A. Inc. (APLA), towards the end of January 2016. Since then the Shire President has been inundated with objections from concerned miners and prospectors who have indicated they will be forced to cease their operations in this local government area should the Bill pass into law.

Local and visiting prospectors make valuable contributions to the local economy and from a community perspective, is something the Shire obviously wishes to see continue.

Consequently, the Shire on its own volition has spent time perusing the claims of the APLA and also the response to those claims on 5 February 2016 by the Department of Mines and Petroleum (DMP). We have also made ourselves aware of the content of the Second Reading Speech to aid our understanding of the intent of the draft legislation. A further document that attracted our attention was a Resources Update produced by Allion Legal on 5 November 2015. This document reviewed the proposed amendments to the *Mining Act 1978* and included useful information on low-impact activities.

The Shire's overall assessment of the Bill when interrelated to all the other commentary available to us, is that the Bill does not contain anything draconian or sinister. However that said, the Shire does side with two broad sentiments expressed by APLA and therefore makes the following Submission.

## Environmental Assessment Fees

The Bill does not introduce any fees, yet APLA made a big point regarding the following prospective fees:

- Program of Works \$590
- Mining Proposals \$6,950

Clearly, there appears to have been an original intent to amend the Regulations mid last year by inclusion of the above as from 1 July 2015. This intent was deferred to compliment the passage of the Bill. The Regulations do not presently contain any fees of this type and as aforesaid, they were not introduced. Furthermore, it is also acknowledged that Parliament does not set fees in Acts, these are prescribed in Regulations which are of course the Minister's domain.

It is also acknowledged that whether this Bill is passed or not, fees could still eventuate, or not eventuate.

To APLA and its members, the prospect of fees of this nature even though not directly part of the Bill, still loom as an issue. There is a possibility, or even a likelihood that as a result of the proposed changes to the *Mining Act 1978*, fees of the above nature will be inserted into the Regulations.

Allion Legal's Resources Update (available from the internet) does not identify any fees, however they do cover the subject regarding a "program of works" (PoW). It appears likely that the normal activities of prospectors would fall into the definition of low-impact activities and therefore not attract a fee in any event.

However, the situation is not completely free of doubt, principally because a concise definition of low-impact activity does not exist at this point of time! It is apparently intended that a definition of low-impact activities will be prescribed in Regulations.

In conclusion it is clearly established that the Legislation Committee have nothing directly on their plate regarding the imposition of fees. The scenario is nevertheless reached that with the passage of the Bill, new fees may very well eventuate. At the moment angst against the Bill is driven partly because of the fear of new fees appearing somewhere in the future. While the Bill is incorrectly being blamed for this potential outcome, it seems obvious to the Shire that a proper explanation of the fee scenario, together with the process and extent, needs to be provided as soon as possible to all interested parties. Whether such an explanation is provided by the Legislation Committee, the Minister, DMP or someone else, is indeed worthy of consideration.

### Low-Impact Activities

As mentioned above, there is a very strong relationship between the prospect of PoW fees and what will be deemed to be a low-impact activity.

Part of Allion Legal's discussion comments on "low-impact activities". The proposed amendments to the Mining Act provide that the definition of low-impact activities will be prescribed in the Regulations. In its Discussion Paper the DMP proposed the types of activities that will constitute low impact activities include clearing of native vegetation, reconnaissance in light vehicles, certain exploration drilling, clearing for construction of temporary access tracks, scrape and detect operations and detect

operations where the total area cleared per tenement for the purpose of the operation is less than 2ha. at any one time, excavation (including costeaning, soil sample, soil investigations, shafts) for the purpose of exploration sampling, clearing for the purpose of maintenance of pipelines and ancillary infrastructure activities including around existing facilities and buildings, and clearing for camp sites and storage areas, and similar incidental purposes.

Low impact activities will need to be carried out in such a manner that:

1. limits or avoids harm to the natural environment;
2. soil erosion or other similar land degradation is limited or avoided;
3. surface and subsurface water quality is not negatively affected;
4. limits impact to flora and fauna species, habitats and ecological communities;
5. limits or avoids direct or indirect harm to riparian vegetation; and
6. cumulative disturbance is limited to a maximum land area to be agreed (DMP is still seeking comment on what should be considered an appropriate maximum land area).

These criteria will need to be satisfied for an activity to be considered low impact and exempt from the requirement for a program of work (PoW) under the Mining Act.

Once again APLA's rhetoric has been directed against something that is not a part of the Bill, however will result as an outcome from the Bill. The first paragraph on page 2 of the Second Reading Speech states the following:

"The substantive matters to be dealt with in the new Part are environmental approvals, the treatment of low-impact activities, environmental and land rehabilitation conditions and approvals for native vegetation clearing."

The sad result here is that notwithstanding the apparent intent here to define low-impact activity later in Regulations, a clear message of "what, when, who, why and how" (the essential criteria of clear communications), is incomplete at this juncture. Consequently there will be little chance of APLA being a satisfied body until there is a clear communication of what the "bottom line" means to them and their members.

## Conclusion

In summary we submit –

- It is our view that the intent of the Bill should not deter small scale miners and prospectors, which could have a deleterious effect on the local economy.
- Certainty is needed in respect to the impact of prospective fees.
- Clarity (a proper definition) of low-impact activities is needed immediately.

Steven J Deckert

Chief Executive Officer  
Shire of Laverton  
21 March 2016