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Legislative Council, Parliament of Western Australia

Legislation Committee – Inquiry Into Mining Legislation Amendment Bill 2015

Committee Submission

Focus Metals believes that the proposed Mining Legislation Amendment Bill needs to be amended to differentiate large scale, corporate mining from Small Scale Miners (SSM).

The reasons for the proposed differentiation are:

- SSM make a significant contribution to the Western Australian economy and the Gold Sector as a whole
- The increased costs and compliance burden, along with the new inspection regimes together will make the vast majority of SSM operations non-viable and destroy the sector. This will cost jobs, harm communities and deprive the State of revenue
- Loss of the SSM sector will create an adverse effect on businesses and communities in the WA Goldfields – including Focus Metals

Focus Metals has been a refiner and trader of gold and other precious metals since 1979. The business commenced operations in Kalgoorlie in early-2015, purchasing and extensively renovating premises just off Hannan St. We have employed a local person on a full time basis and invested significantly in local advertising, services and business associations.

The key client base for Focus Metals in Kalgoorlie is the SSM sector and our business in WA is unlikely to be economically viable if that sector is significantly diminished or disappears altogether – an outcome we consider to be highly likely if the Mining Legislation Amendment Bill 2015 is promulgated as proposed.

Focus Metals calls on the Committee to exempt the SSM sector – for areas under 50ha and with fewer than 10 full time employees - from the Mining Legislation Amendment Bill 2015 all together and return to the simple and proven Low Impact Mining Operations (LIMO) pro-forma process.

Contribution of the Small Scale Mining sector

Small Scale Mining contributes directly and indirectly to the Western Australian economy and to the Gold sector as a whole.

Direct Contribution

The SSM sector has a long and proud tradition in Western Australia, dating back some 150 years. Many participants in the have made their full time livelihood from small scale mining for 20, 30 or even 40 years plus. Participants typically live on site and operations may be carried out by an individual or a small group – generally less than 5 full time participants. The SSM operators generally operate areas under 50ha and have operated for over 150 years in Western Australia.

Overall, the sector comprises over 3,200 tenement holders and is believed to directly employ in the order of 5,000 people, The sector produced in the order of 2-5 tonnes of gold per year, with an approximate value in the order of \$50,000,000 - \$200,000,000 per year. The sector pays royalties and taxes, contributing to State and Federal coffers.

History has shown that, when large gold miners face difficult times and shed staff, many of these people turn to the SSM sector and begin operating their own small leases. SSM operators continue to mine and work their tenements even when gold prices are down because they rely on these activities for their entire income. They cannot generally afford to put their operations on “care and maintenance” and wait out a market downturn for several years – they must, and do, continue to produce as best they can.

According to DMP figures, the SSM sector already achieves over 97% compliance with environmental requirements. As such, it is difficult to understand why additional environmental compliance costs and regulations, coupled with very stringent enforcement and financial penalty provisions, are required.

SSM operators have faced an increasing regulatory compliance burden, with DMP requirements growing steadily from the mid-1970s onwards.

Indirect Contribution

Indirectly, the SSM sector purchases significant amounts of fuel, equipment, geological and other services, refining and general supplies. It is estimated that the sector supports at least 12 different regional communities and most likely supports in the order of another 3,000-5,000 jobs and over \$50,000,000 - \$80,000,000 of economic activity into these communities.

Several businesses that we have spoken to in these communities believe that their businesses are likely to close, or at least reduce employment levels, if the SSM sector is significantly curtailed.

As indicated above, if the SSM sector disappears, Focus Metals operations in Western Australia are unlikely to remain viable and we would have to seriously consider shutting our doors.

Gold Eco-System Contribution

Significantly, SSM makes a very important contribution to the broader gold mining ecosystem. Indicatively, corporate miners estimate that some 75-85% of mines currently operated by listed, corporate miners were initially developed and worked by SSMs and then on-sold to larger miners who can expand and develop them.

This is analogous to the pharmaceutical industry, where small start-up companies do much of the basic research and successful companies sell their innovations to Big-Pharma to conduct clinical trials and commercialisation.

In either case, if the small feeder organisations disappear, then new corporate ventures will not be incubated and overall industry growth will falter. In the case of mining, this is important because each large mine only has a limited mine-life, so if new mines are not being developed by SSM then, over a decade or so, the industry itself will begin to contract.

Note, large corporate mining operations currently do not do much in the way of initial exploration. Small sites generally do not provide the return on capital or meet the IRR requirements required by large, listed corporations. As such, they cannot usually afford to explore new sites unless those sites are very large – which is rare – or already proven – which is what SSM operations can do.

Negative Impacts of the Proposed Act

DMP carried out consultation with the large-scale, corporate miners in anticipation of creating the Mining Amendments Act, 2015. It appears that there was very little, or no, consultation with the SSM sector.

The result was an Act that imposes significant additional costs, compliance and regulatory burden. It seems that corporate miners have indicated that these burdens and costs be absorbed by large corporations – that already have big compliance departments.

SSM operators, with very small staff who are basically operational, have indicated that the additional compliance burden and costs will almost certainly drive the vast majority (if not all) of the SSM operators out of business.

Direct Costs

Direct costs will be increased significantly by Section 8 (1), 103 AY (1) (a)(b)(C), 74 and 103AM. Increased regulatory burden (which must be shouldered by individuals within an SSM or achieved by engaging expensive consultants) are increased in Section 103 AZC (1) (2), 103 AE and 103 AM.

Extended Regulatory Burden

There are also powers provided to the DMP that seem draconian and with minimal viable recourse by business operators. These sections include Section 162 (2) (vii), and (xi), 103 AD, 103 AE and 162.

Note, that the sections listed above are merely among the most burdensome provisions. Many other provisions will also make business operating conditions more difficult and expensive, stretching the very limited resources of SSM operators.

What is most difficult to understand is the benefits that these increased regulation are intended to provide in return for a huge increase in cost, regulatory burden and arbitrary powers of DMP officers. Given that the SSM sector already achieves 97% environmental compliance (according to DMPs own figures) and the areas worked by SSM operations are small and largely rehabilitate themselves when SSM operations cease, it is unclear how the new Bill will improve environmental outcomes.

On the other hand, the cumulative effect of the provisions in the proposed Bill make small scale mining non-viable in Western Australia. There is a very real possibility that the entire SSM sector will disappear if the Act is implemented as proposed, creating significant disruption, not just to the SSM operators themselves but also to the communities and businesses they support across the Goldfields.

Economic and Social Impacts of Diminution of the Small Scale Mining sector

The towns of Norseman, Higginsville, Widgiemooltha, Kambalda, Coolgardie, Ora Banda, Menzies, Leonora, Laverton, Wiluna, Meekatharra, Mount Magnet and a number of others have a heavy reliance on the goods and services generated by the SSM operations in their area, not to mention the effect on already-struggling Kalgoorlie-Boulder.

Moreover, the growth of the corporate mining sector will be curtailed in the absence of the SSM sector.

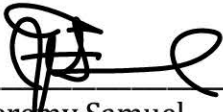
From our own perspective, it is likely that Focus Metals would find our operations in Kalgoorlie difficult to sustain. This could result in the loss of 1 job directly in our organisation and reduced spending with a range of businesses in Kalgoorlie.

It seems unreasonable to expect small (1-5 person) operations to comply with the same cost and regulatory burdens as are expected from major, listed corporations. Clearly these expenses are not viable for very small operations already saddled with a significant regulatory burden, (a burden that has increased significantly in the last 20 years).

We call on the Committee to exemption the small scale mining sector from the Mining Legislation Amendment Bill 2015 all together and return to the simple and proven Low Impact Mining Operations (LIMO) pro-forma process. The exemptions should apply to mining operations covering under 50ha and employing fewer than 10 full time employees.

Proving such exemption and returning to the LIMO system will provide certainty for the SSM sector and reduce unnecessary red-tape and green-tape that does not improve environmental outcomes. This will sure-up employment and economic activity in a wide range of communities that are currently under significant pressure.

Focus Metals are available to present to the Committee in Kalgoorlie on April 9, 2016 if required. Please contact Jeremy Samuel on jeremy.samuel@focusmetals.com.au or (0414) 532 751 to arrange an appearance if needed.

Signed 
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Date 23 March, 2016

Position: Business Development