

Amalgamated
Prospectors and
Leaseholders
Association of W.A. Inc.

PO Box 2570 Boulder WA 6432.



Representing Prospectors
Since 1904

APLA is a volunteer unfunded association whose constitution demands the protection, fostering and furtherance of the rights of prospectors, miners and leaseholders across the State of Western Australia.

**Amalgamated Prospectors and
Leaseholders (APLA) Submission to the
Parliamentary Review Committee on the
Mining Legislation Amendment Act 2015,
for Upper House members.**

Document date: 22/3/2016

Acronyms.

AMEC – Association of Mining and Exploration Companies
APLA - Amalgamated Prospectors and Leaseholders
CME-Chamber of Minerals and Energy
EMS – Environmental Management System
LIN – Low Impact Notification
LIMO - Low Impact Mining Operation
ML – Mining Lease
MLAB 2015 - Mining Act Legislation Amendment Bill 2015
MCP – Mine Closure Plan
MP – Mining Proposal
MRF – Mining Rehabilitation Fund
PL – Prospecting Licence
POW - Programme Of Works
SMP – Small Mining Proposal
SPL – Special Prospecting Licence

Synopsis

It has been accepted by APLA and the industry generally that the Mining Amendments Bill 2015 favours the bigger, corporate miners represented by AMEC & the CME. The transfer of some parts of Environmental Legislation into the Mining Act is actually an improvement on the current system that the corporate miners use for their scale of mining and activities. It allows for the streamlining of applications for ground disturbances connected with mining and exploration in Western Australia. That transfer has benefits for them. At the other end of the scale is the small environmental footprint operator that benefits from the inclusion of LIN in the MLAB 2015. However, there is a demographic caught in the middle of this for whom the opposite is true. These are the small scale miners who need to use larger areas to recover the remaining amounts of surface accessible reef and alluvial gold in economically viable quantities. It is these smaller, non-corporate miners that will have to comply with the catch-all system within MLAB 2015. However, these professional small scale miners do not have the administration resources to comply with the increased administration. The small-scale miners are running small businesses as sole operators, with the same pressures as any other small business operators. They are being faced with a new business model and a new operating environment that is inappropriate for their scale, type and methods of operation, into which they have had no effective input. They fear this will price them out of the industry.

Environmental Impact Comparison

The small scale miners and prospectors operate using far smaller surface disturbance footprints than the large corporate miners. Despite the economic necessity of mining to Western Australia, the large mines that the public often criticise or find offensive create a more visible and refractory environmental footprint on a far larger scale that can last for decades. Besides leaving the environment of Western Australia with an overhang of environmental impact, it also leaves the State of Western Australia with an overhang of financial liability in the event of a default of the mining company. An example here would be the recent Ellendale diamond mine default that has a potential rehabilitation cost of approximately \$30,000,000. More examples are listed in a DMP publication at Attachment A. As such it is understandable that stringent environmental management should be applied to such possibilities. To meet this demand for management, corporate miners employ Environmental Officers and a suitable administration section to support them. Their internal systems are already in place to cope, so the Mining Legislation Amendment Bill 2015 (MLAB 2015) actually gives the corporate miner even greater assistance to meet environmental regulation.

At the other end of the industry spectrum is the small footprint operator who welcomes the addition of “Low Impact Notification” (LIN) that is embedded in the MLAB 2015. Here, very little administration is required as it involves a DMP provided system that is based on minimal risk combined with self-regulation. However, it is recognised by APLA that without the Head Powers of the MLAB 2015, implementation of LIN is unlikely to occur.

It is apparent to all in the industry that large environmental impact operations can lead to a lasting damage and taxpayer debt due to the abandonment by the large companies. However, the DMP can find not one instance of abandonment or lasting environmental damage where small scale mining can be similarly implicated. Yet those same small scale miners are now expected to cope with legislation that is only relevant to larger operations.

Ironically, most small miners are residents of regional towns and operate in recognized legacy mining districts. Examples would be Kalgoorlie, Coolgardie, Leonora, Meekatharra etc. These areas have been mined and impacted for over 100 years and display extensive legacy environmental damage. These areas are uneconomic to big mining companies but hold sufficient gold to make a small scale operation viable. Under the soon to become redundant but “grandfathered” Low Impact Mining Operation (LIMO) these areas are being progressively worked and rehabilitated without any impositions of increased environmental scrutiny and the consequent costs. Furthermore, new POW and SMP/MP applications under the current system, that replaces LIMO, are being worked and rehabilitated without any additional environmental oversight such as that contained in MLAB 2015. APLA asks whether it is the intention of MLAB 2015 to put an end to this clean up of legacy operations that contribute to the economic well being of WA whilst simultaneously improving environmental outcomes.

An example of legacy environmental impact that will be rehabilitated during the course of small scale mining operations is displayed at Attachment C. In this example many small shafts and open costean workings dating back to the 1890s are being exploited for rich shoots of gold ore. It is a very viable operation for an entrepreneurial individual but of no interest to a corporate mining company. Despite the rich nature of the deposit it is insufficient and unsustainable as bankable mining proposition. The small miner will work this and rehabilitate the ground when the ore is finally depleted. There are many similar examples across Western Australia.

Economic and Social Justification

Consequently, we are now left with the mid-sector, the small scale miners. APLA estimates that within its membership and non-members, these operators provide an estimated gold output of approximately 90,000 to 95,000 ounces of gold to the economy of Western Australia. This equates to approximately 3.0 tonnes of gold. At current prices this gold is worth \$116,000,000. It is how this gold is recovered, why it is recovered and how the profit is spent combined with how the outgoings are sourced from regional economies that is so important at this point. The following points are made:

- Corporate gold production profits, whilst far larger, are transferred and spent outside regions from which they are sourced. In most cases these larger corporate mines operate almost independently of any significant input from or to the local community. This is mainly due to capacity and supply line constraints in small towns.
 - Professional small miners' profits are spent locally on goods & services provided from local sources in regional areas where they reside.
 - Corporate environmental impact is large scale and the impact lasts longer. Similar in many ways to long term broadacre farming.
 - Professional small miners environmental impact is short lived & easily rehabilitated. The locations are numerous, widespread & smaller operations where the environment recovers quickly.
 - Corporate gold mining requires large capital outlay, longer project lead times and cash flow to continue
 - Professional small mining are of short duration with low capital outlay and smaller profit margins to remain viable.
 - Corporate gold mining requires large ore bodies that a small miner couldn't contemplate. Large mine equals large impact.
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- Professional small mining locates and exploits smaller alluvial and reef gold deposits that are of no commercial interest to corporate miners. If not exploited by the professional small miner these small but valuable deposits will never contribute to the economic well being of Western Australia. Small mine equals small impact.

- These small mines often lead to larger discoveries and are often followed by the corporate miners. Examples include Regis Resources, Moolart Well operation north of Laverton, Wattle Dam and Kanowna Belle near Kalgoorlie, King of the Hills north of Lenora and many others.

So the differences are clear and yet the commercial and economic benefits of the small miner are far too important to the regions and the State to ignore or jeopardise. What's needed in the MLAB 2015 are ways of supporting these independent entrepreneurs without saddling them with increased compliance demands. Such demands provide no downstream financial benefit and serve to operate very effectively as an extra imposition or tax on their profit. From this imposition there is no quantifiable benefit to the State, the environment or the operator. The DMP assures APLA that the professional small miner demographic has a 97% compliance rate and not one major environmental incident in its database emanating from this group, so why is the MLAB 2015 placing unnecessary hurdles in the way? With only a 3% margin for improvement, the Law of Diminishing Returns dictates that the final percentage of improvement requires an excessive cost and effort for the least improvement. Professional small miners, if you're not helping them then you're hindering them. They need help and not hindrance.

The effect on tourism across WA.

Furthermore, the word "prospecting" covers many aspects of ground investigation in the search for minerals and metals deposits. It can be passive. But when included as a generic term in this clause the work of a prospector, whilst passive, becomes subject to conditions and permits. Examples would be metal detecting, using a panning dish, sample collection. This section alone will have a major impact on tourism across the WA Goldfields. The term prospecting has many interpretations. These are listed below in order of impact:

1. Simply walking the ground observing the nature and form of the ground, outcrops, topsoil composition and fault lines.
2. Sampling topsoil for gold concentration using a gold pan or eyeglass
3. Metal detecting.
4. Small scale dryblowing involving only kilograms of gravels.
5. Large scale dryblowing involving quantities of hundreds of tonnes of topsoil and gravels.
6. Large scale "scrape & detect" operations at relatively shallow depths of a metre.
7. Large scale prospecting operations that may use an excavator to trace and locate gold enrichments that are hidden by overburden topsoils.

It is numbers 1 to 3 that are relevant here as they are the reason that many tourists come to WA from the Eastern States and often from the rest of the world. By using the generic term "prospecting" without definition it endangers the "tourist dollar" that brings many thousands of dollars in revenue and support to regional towns. Its

use also precludes Section 40e of the WA Mining Act which allows the use of low impact metal detectors by recreational operators as a prospecting tool on Exploration Licences. Sect 40e is part extracted here:

40E Permit to prospect on Crown land or conservation land subject of exploration licence

- (1) The mining registrar or the holder of a prescribed office in the Department may issue a permit to prospect for minerals on Crown land or conservation land that is the subject of an exploration licence to:
 - (a) a natural person who is the holder of a miner's right; or
 - (b) 2 or 3 natural persons, each of whom is the holder of a miner's right, as joint holders of the permit.

At this point a full POW-E will be required by the tenement holder before permission can be granted by the DMP to allow the recreational prospector to enter the tenement. This makes a mockery of the intent of Sect 40e applications.

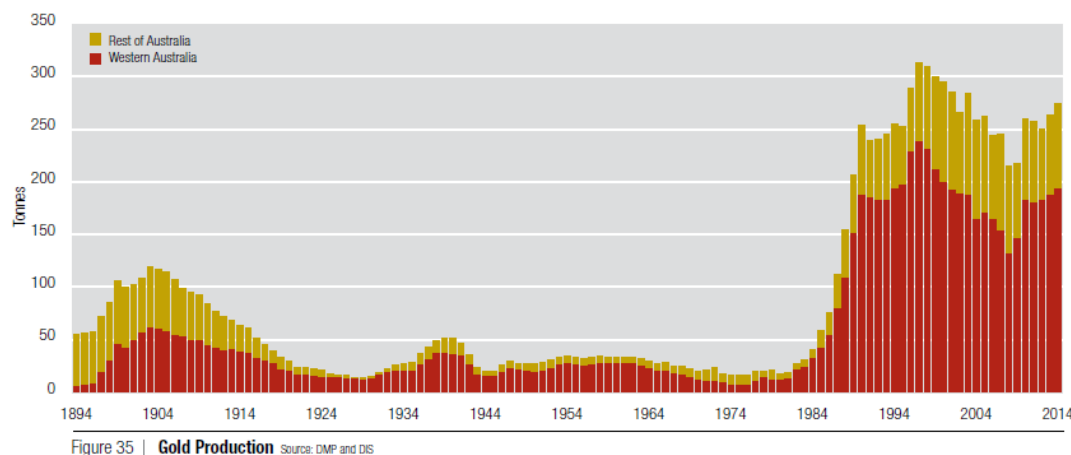
Similarly, when permission is requested by a recreational prospector to search for gold on a Prospecting Licence the tenement holder will need to prepare a full POW-P. It is without doubt that the tenement holder will refuse permission due to excessive paperwork involved. So it can be seen that Section 103AE of MLAB 2015 will seriously compromise recreational operators and hence tourism across the WA Goldfields.

The relevant section of MLAB 2015 is described in page 12 at Section 103AE. Just this one section of MLAB 2015 has the potential to wipe out the tourist revenue that is essential to the Goldfields towns across WA.

Gold output comparison.

For comparison, gold production figures are provided below.

The importance of the gold industry to Western Australia:



At 70% of the total, it can clearly be seen that WA is by far the biggest contributor to the gold produced within Australia. What is also evident that whilst gold production has increased markedly since its initial discovery, environmental impact has reduced. Anyone who travels in the bush can witness “the old ways and the new ways”. This effect is caused not simply by increased regulation but also by a greatly enhanced sense of social responsibility by the mining industry and more so by those that rely on a good reputation to ensure continuance of business.

By way of comparison, we can see below how the low impact, professional small miners collectively produce as much economic output as that of some well known corporate miners, represented below as the top 56% of producers:

Boddington Gold = 23.6 tonnes of gold
KCGM (Superpit) = 18.2 tonnes
Newcrest (Telfer) = 16.2 tonnes
Tropicana (Eastern Desert) = 15.3 tonnes
St Ives (Kalgoorlie) = 11 tonnes
Granny Smith (Laverton) = 5 tonnes
Sons of Gwalia (Leonora) = 4.1 tonnes
Sunrise Dam (Laverton) = 3.6 tonnes
*Professional small miners = 3 tonnes

(Source - WESTERN AUSTRALIAN MINERAL AND PETROLEUM STATISTICS DIGEST 2014–15, a DMP Publication)

* APLA Estimate based on historical data and current member information.

Clearly, self funded, professional small miners, risk takers, self employed entrepreneurs actually make the “Top Ten” gold producers. At around 500 in number across WA they are also a significant employer group in the mining

industry. They are “stand alone” operators with no “safety net” such as that enjoyed by the corporate. They have done little or no harm to the environment and yet will now be subject to an identical regulatory regime as operators that have a far greater potential for environmental impact. It’s a proposed regime that will strangle them and lead to resources remaining in the ground, unemployment and a loss of regional economic sustainability.

The issue

There are some 64 pages contained in the pending MLAB 2015, this being the head power to the proposed Mining Act Regulations. However, the Mining Regulations that would accompany the above legislation that will prescribe the detailed mechanics of practical on ground operation have not yet been formulated. It is felt by APLA that many of its members will be trapped in an unacceptable, unknown and threatening situation over which they no input or control; a trap that could end their future business activities. APLA stresses that without the Regulations accompanying the actual Bill, the total impact on their livelihoods and wellbeing cannot be assessed, either positively or negatively. APLA maintains the two documents should be read in conjunction. Over the past 18 months such an occurrence has been described to APLA as unconventional and thus, impossible to achieve. However this situation, affecting people as it does, demands a change to such convention. Indeed, the current approach is often considered to be that “lazy” legislation is being introduced and simply “repaired” at the stage of Regulation formulation. APLA’s concern is that the Mining Act protects, through the legislative process, long fought for conditions. On the other hand, whilst the Regulations do allow for flexibility they are less well secured and can be changed readily without public awareness or consultation, they can be lacking in knowledge and technical practicality and don’t undergo the full scrutiny of the Parliamentary process.

Assurances from both DMP and the Minister that fulltime small to medium professional prospectors should have no reason for concern about the new legislation have been unconvincing. Professional small miners that don't fall into the smaller scale of operators that may use LIN automatically fall into the same category as BHP, Rio Tinto, Minara Nickel etc. These small business operators have several hundreds of thousands of dollars invested in plant, equipment and mining tenements. They have now read the full version of what is proposed, are now much more conversant with how it is likely to affect them and are still very concerned.

APLA acknowledges that a start has been made on the LIN discussions having worked closely with the DMP on this. The LIN will no doubt form part of the accompanying Regulations. This combined with assurances from the Minister of the removal fees structure has been an encouraging start toward mitigating some of the Bill’s impact on miners and prospectors. But not all will gain these benefits. A large portion of the Bill includes a new expanded environmental compliance and management system that in financial and practical terms discriminates against small miners that become caught in the net. It will cripple many of the small to

medium small business operators. The big mining companies have the resources, expertise, time, and personnel to address and accommodate these new provisions. The sole operator at the small to medium end has none of these advantages and cannot afford to employ the very expensive expertise required by larger operations. e.g . Section 103AZC and Section 103AM which make reference to the implementation of an EMS. APLA has to ask here why small miners are being encumbered with this when they have a second to none record in environmental management and compliance already. It is in their own best interests to display effective environmental management because they reside in the area of their own operations and their reputation is crucial to continuation of their business model.

Timeline of MLAB 2015 introduction.

| The DMP has indicated it gave the APLA President of the time Mr. Mike Lucas the opportunity to contribute in the early days of drafting of the legislation. However due to the lack of legislative detail over the 5 year period of formulation of the final release of the actual contents of the Bill, very little time was available to scrutinize the final product. MLAB 2015 was introduced to The Lower House of WA State Parliament on 22nd April 2015.

However, it wasn't until mid-May 2015 that the DMP finally realized that they had inadvertently excluded a large and very concerned demographic of the industry, that of the small businessman, entrepreneurial small scale miner. Refer to Attachment B for evidence of this. By that time, MLAB was already in the Lower House of the WA Parliament.

March 2015 – the drafting of MLAB was still in progress according to DMP statement on 11/3/2015 in “Page 7 of 10, Item 2 Legislation Report for MILC 120”. (Enclosed as a PDF document)

14/3/2015 – Preliminary meeting between APLA members and DMP staff members in Kalgoorlie. Meeting revolved solely around the introduction of fees for environmental reform. No mention of MLAB 2015.

21- 22/4/2015 – Meeting in Kalgoorlie regarding Low Impact Operations. No mention of MLAB 2015.

22/4/2015 - MLAB 2015 was introduced to The Lower House of WA State Parliament on 22nd April 2015.

5/5/2015 – A marked up version of MALB 2015 was provided to APLA by the DMP.

21/5/2015 – Meeting in Kalgoorlie to do a “line by line” analysis of MALB 2015.

It can be seen that neither APLA nor anyone else had any time, never mind “sufficient time” to scrutinize MALB 2015. So the contentions of the DMP regarding consultation are invalid.

The complexity of the legislation was such that the full impact of what was being proposed was not understood until the amendments were in the Lower House of Parliament. This occurred on May 5, 2015 when a marked up version of the legislation was provided by DMP and circulated to APLA as well as a much broader spectrum of prospectors and professional miners who were not members of APLA. APLA then spent two days with the DMP, going through the Bill line by line. Each objection was noted by APLA and the DMP. At one point during the meeting the DMP stance became a total refusal to change anything. It was hoped that changes would be made after all the effort that was put in. APLA waited approximately 5 months but heard nothing from the DMP regarding any ameliorative changes to the Bill. No changes were made.

Thorough digestion and analysis is the only acceptable way forward. APLA was not given that time. Political imperatives and legislation implementation took preference.

Summary

The economic, employment and social flow-on to the wider regional community from any downturn in effectiveness or profitability of this important small mining sector will have serious consequence for whole regional communities already facing difficult economic circumstances. This is exemplified in less money being spent in the community, less economic activity into relevant businesses, through to mining tenements being surrendered. At present larger mining companies are surrendering large areas of tenement holdings due the downturn in mining commodities. The impact here is already being felt in lower rate incomes for Councils and Shires, lower regional employment and a gradual population drift from regions to the city. Despite that, the professional small scale miner and his prospector brother continue to work and contribute.

There is an obvious case that changes are necessary to accommodate what these small to medium miners need to continue operating their current business model. If changes to the Bill are not taken onboard to separate these people from corporate miners, then there will be no viable business model at this level. The industry demographic will collapse and the people with it. This category separation has to be made, changes need to be implemented if they are to survive and continue to contribute to benefit of Western Australia. A new division inserted into the head powers of the mining act is required to protect and further the interests of this overlooked and forgotten but very important sector .

Procedural Fairness

There is no dispute in any judgement until a point is reached where an adverse decision is made. When such a decision is reached and disputed, and only at that point can the question of Procedural Fairness be introduced. In essence “procedural fairness” is the duty cast on administrative decision-makers to act fairly when making decisions which may affect people’s rights, interests and legitimate expectations and requires a decision-maker to inform a person of the case against them or their interests and give them an opportunity to be heard.

APLA copies directly here from the West Australian Government Ombudsman publication:

“The type of hearing should be proportional to the nature of the decision. For instance, if the consequences of the proposed decision are highly significant, a formal hearing process may be warranted. In contrast, if the matter is relatively straightforward, a simple exchange of letters may be all that is needed. Generally, in any oral (or face-to-face) hearing, it is reasonable to bring a friend or lawyer as an observer, so you may wish to consider this.”

APLA maintains that whilst a review was conducted at a two-day workshop in Kalgoorlie in May 2015, the review was not conducted as per Procedural Fairness guidelines. It was conducted by two opposing parties in a dispute over the Bill. APLA waited approximately 5 months but heard nothing from the DMP regarding any ameliorative changes to the Bill.

And further:

“The rules of procedural fairness require:

- ☐ *a hearing appropriate to the circumstances;*
- ☐ *lack of bias;*
- ☐ *evidence to support a decision; and*
- ☐ *inquiry into matters in dispute.”*

Only after a public relations campaign was any clarification or explanation offered by the DMP and The Minister on certain points of contention. Again, the clarifications, judgements or explanations did not come from an unbiased third party.

For more background:

<http://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Procedural-fairness-guidelines.pdf>

Likewise, the matter of Procedural Fairness leads directly into Natural Justice where the concerns of the poorly resourced individual cannot compete against the endlessly resourced bureaucracy or company. From that point stems the rights of the individual to be heard fairly and his liberty to work be continued.

The small miners are being forced, by virtue of these legislated conditions, to compete as grossly under matched entities against vastly better equipped and resourced competitors, i.e the big end of the mining industry, in the same competitive market place, but according to a set of rules contributed to, and agreed to by only one of the parties. This grossly discriminates against the lesser party.

In reality the two parties are not in direct competition, but the lesser party still has to perform according to the same ground rules even if they are not relevant to their circumstances.

Details of the Mining Act 1978 and MALB 2015 that will be detrimental.

Mining Act 1978

Section 8(1) – the definition of “earthmoving equipment” has been deleted and replaced by an open spectrum catch all that can be applied in any restrictive manner that the DMP sees fit. APLA wishes this to be removed and existing definitions should remain. Alternatively, deletion of the definition of ‘ground disturbing equipment’ from Section 8 ‘*Terms Used*’. However this has been redefined in new Part IVAA Division 2, under ‘Programme of work’ and also ‘Mining proposals’ Division 3

This now restricts the term ‘*using machinery*’ to ‘*the surface of the land*’ whereas previously it was not defined. Underground activities would seem to rely on the term ‘*prospecting*’ or ‘*exploring for minerals*’ to continue to operate.

To be deleted from the current Mining Act Act;

ground disturbing equipment means —

- (a) mechanical drilling equipment; or
- (b) a backhoe, bulldozer, grader or scraper; or
- (c) any other machinery of a kind prescribed for the purposes of this definition;

As a comparison, proposed 103AE(1)(b) for prospecting licences states:

relevant activity, done on land the subject of a licence, means any of the following —

- (a) clearing on the land for the purposes of, or in preparation for, prospecting or exploring for minerals;
- (b) using machinery to disturb the surface of the land for the purposes of, or in preparation for, prospecting or exploring for minerals;
- (c) prospecting;
- (d) exploring for minerals

It is recommended to secure the rights of prospectors who require to sample and test underground by deleting the words “the surface of” from the proposed 103AE(1)(b). Or otherwise by seeking to allow the use of machinery *underground* as a “relevant activity” wherever the term occurs.

“using hand held machinery beneath the surface of the land for the purposes of, or in preparation for, prospecting or exploring for minerals;”

Referring to hand held machinery should keep the worry of large mechanised equipment underground in check.

Further comments are made at comment 7 with regard to Section 103AE and Relevant Activity

Section 40D(2) – the removal of the phrase “likely to” and replaced with “may”. The connotations here are obvious. Many things “may” happen but the question is, are those things “likely” to happen? This is a dangerous part of the amendment bill in one single change of phrase. More stringent terminology has been placed on a Miners Right holder; “...*may*” is now used instead of “...*likely to*”.

“...and may ~~which are likely to~~ endanger the safety of any person or animal;

The term ‘may’ is far too broad. It is creating the opportunity for frivolous objection to Miners Right holders. It should be obvious that any prospecting activity ‘may’ endanger. This change appears throughout the Amendment Bill in various places.

Recommended that the amendment is removed and the Act stay as is.

Section 46

As per comments in Section 8 – removal of term *ground disturbing equipment* etc. Protection must be given to allow Prospectors to operate underground as a Condition of Grant (including Exploration Licences, Mining Leases)

Also, as per comments in Sec 40D - ‘may’ vs ‘likely to...’

Section 74

Currently, a Mining Proposal is needed for every Mining Lease application which may attract an additional lodgement fees in the future. A ML application should be allowed if you already have an active Low Impact or POW in place on your PL (similar to what we now enjoy). APLA questions why all the extra trouble and documentation is required simply to re-approve what you are already allowed to do whilst being controlled and overseen by the MRF “ground open” system.

Recommended that a new clause to be inserted allowing for an existing Prospecting Licence with an approved Low Impact or POW in place to be converted to a Mining Lease pursuant to section 49, without the requirement to lodge a new mining proposal.

Section 103 AC

Low Impact Activities.

Here the Regulations amendments are required in order to comment. It is very significant that ‘Low Impact’ is being wholly dealt with within the Mining Regulations rather than treating such activities here within the Act as is the case with *programme of works* and *mining proposals*. Removing such activities to the Regulations could take away the stability that would otherwise be given within the Act. It gives the potential for easier and continual future amendment – possibly causing disruption to ‘the norm’ for prospectors.

Section 103 AD of the – a fine of “\$20,000.00” seemingly must be applied to any breach, minor or major. The wording of the Bill provides no option for a court to apply any lesser amount, regardless of the severity of the offence. A judge presiding over any case of breach has no choice in the matter. It has to be “\$20,000.00” fine. Such a fine can amount to one third of the income of small miner.

Section 103 AE - this section requires serious further consideration as the impact on tourism could be devastating. See page 6 for analysis.

The literal interpretation of sub section (2) and (3) copied below, and also the similar sections of 103AF etc dealing with Mining Leases and other title types, is causing confusion as to what is allowable as a Relevant Activity. There is a danger that any operation on a licence (such as metal detecting or other relatively passive prospecting activities) will require a notification process. Section 103AE(1)(b) states that a relevant activity, done on land the subject of a licence, includes prospecting and exploring for minerals.

The amendment reads:

(2) It is a condition of every licence that a relevant activity that is a low-impact activity must not be done by the licensee on land the subject of the licence until —

- (a) the licensee has given a notice of low-impact activity in respect of the relevant activity; or*
- (b) the licensee has lodged a programme of work in respect of the relevant activity in accordance with Division 4, and the relevant activity is approved under this Part.*

(3) It is a condition of every licence that a relevant activity that is not a low-impact activity must not be done by the licensee on land the subject of the licence until the licensee has lodged a programme of work in respect of the relevant activity in accordance with Division 4, and the relevant activity is

approved under this Part.

So for whatever isn't defined as being a Low Impact Activity the licence holder must lodge a POW.

Low Impact Activities [LIA] are yet to be defined in the Regulations (see Sec. 103AC). Without knowing what the definition of LIA will be – how is it possible to agree on this proposed amendment?

Recommendation. Change amendment to exclude prospecting or exploring for minerals from sub section (3)

(3) It is a condition of every licence that a relevant activity that is not a low-impact activity or prospecting or exploring for minerals must not be done by the licensee on land the subject of the licence until the licensee has lodged a programme of work in respect of the relevant activity in accordance with Division 4, and the relevant activity is approved under this Part.

Recommendation. The DMP should reach agreement with industry as to what Low Impact Activities will be before proceeding with these Mining Legislation Amendments. The Regulations and the “Proposed Low Impact Authorised Activity Frame Work for Prospecting and Exploration” (currently a draft only), will need to state that other activities not defined as being a LIA notification or a POW are allowable notwithstanding 103AE(3).

(NB - Section 103AE(1) contains duplicate paragraph titles of 103AE(1)(a), (b) and (c) which should be rectified.)

Sec 103AF

Sub Section (1) ‘Prospecting’ is not included with the definition of a Relevant Activity under a Mining Lease. Surely whatever is allowed on the lesser Prospecting Licence should be permissible on a Mining Lease?

Recommendation. To include the term “prospecting” to ensure the continuous use of the term and clarity throughout the different types of tenure.

Also, the same concerns regarding “Low Impact” and passive prospecting methods as mentioned in Section 103AE above are relevant here.

Sec 103AL.

The existing system of POW and MP lodgement allows for a third party or authorised agent to lodge such programmes and proposals. This clause excludes the use of these third parties and agents.

Recommendation. that a Third Party or Authorised Agent be allowed to lodge a POWs, MPs and SMPs on the lease-holders behalf with evidence of their approval.

Sec 103AM

POW and Mining Proposals

This section allows the Director General to approve what will be onerous guidelines for environmental accountability. These rules are generally not suited for small scale activities. Again, these conditions are said to be existing within the Environmental Protection Act and that industry is required to comply with these rules already.

The requirements of this section appear too onerous for prospectors and could require the engagement of qualified personnel at some expense.

A better understanding from the DMP about the format they are proposing to introduce with these guidelines is needed.

Recommendation. To ask the DMP to provide a draft form showing how a prospector would complete these guidelines. Without seeing a practical example of this and guarantees from the DMP about the proposed methodology, APLA opposes the introduction of Section 103AM.

Section 103 AJ – Mine closure plan and review. This clause appears in a similar to that existing in the current 1978 Mining Act. However, APLA has never accepted the point made here that when a mine can have life of 50 to 60 years or more that a Mine Closure Plan review is required every three years. The intention of this Amendment Bill was to streamline a prescriptive process into a “risk based, non-prescriptive” process. This clause simply retains the prescriptive process using resources of time and money in order to comply with what is a repetitive duplication every three years. In practical terms all that may happen is ‘cut & paste’ from the previous closure plan. The Mining Rehabilitation Fund gives the DMP all the information it will ever need to form a progressive opinion of the condition of the WA Mining Industry and the States liability for any abandonment of mines by companies and small miners.

Sect 103AO (1) (b) – Despite assurances from the Minister that the proposed exorbitant fees are “off the table” this section retains the capacity to charge fees. APLA maintains that review should strike out such capacity entirely. It needs to be understood that in the event of a revised Programme of Works or Mining Proposal being required as per section 103AR, that an additional fee for each successive POW application would be required if this overarching clause was to be used to introduce fees in any accompanying regulation changes in the future.

Sec 103AO(6) and Sec 103AP(6)

States that the Director General must not approve an activity if it has an “unacceptable impact” on the environment. All mining has an impact on the environment. This terminology is ambiguous and too open to interpretation.

Recommendation. That the wording be redefined to allow for better control on what may or may not be ‘unacceptable’.

Recommendation. That any question of unacceptance be referred to the Minister by the DG rather than the decision being made by the DG himself. This will allow another avenue of protest/appeal by the applicant before going through a lengthy/expensive court process of appeal.

Section 103AV

This section highlights once again the need for prospectors to have passive prospecting activities that fall below those designated as being low impact activities and make them allowable within the Act. As per comment about Section 103AE above, any activity that is not covered by the three designated types of works: *1.Low Impact*, *2. Programme of Work* and, *3. a Mining Proposal* must be allowable without seeking approval.

Section 103AW

Conditions for preventing, reducing or remediating environmental harm and for other purposes

(1) Reasonable conditions may be imposed on a mining tenement for the following purposes —

(a) preventing, reducing or remediating environmental harm on land the subject of the mining tenement or other land

APLA asks, what are reasonable conditions? All mining (even a metal detector hole) will cause harm to the environment by some degree.

Section 103AZC and 103AZD – The APLA member demographic of the “small miner” has been pushed into the space occupied by the large corporate miner that has the in-house resources to comply with the requirements here. It is obvious that on the scale of operations that are used by corporate miners and the impact of those operations that large & complex methods such as an “Environmental Management System” would be required. However APLA asks whether it is necessary for a small miner with his comparatively low impact operation and his past excellent level of compliance is required to inhabit this same place as the corporate miner. The requirements of this section appear onerous for prospectors and could require the engagement of expensive qualified specialists. Simply put, the small miner has to be catered for in a less burdensome manner.

Recommendation. Ask the DMP to provide a report showing why a prospector needs to meet the requirements of an EMS when a perfectly good control and monitoring system exists in the form of the MRF system and the POW self regulation tick-box declaration is prescribing such a system.⁴

Recommendation. Ask the DMP to provide report or version of how a prospector could meet the requirements of an EMS.

Mining Act 1978 amended.

Section 158 (4) – amended to include a penalty of “\$10,000.00”. It does not state “up to \$10,000.00”. Thus, in the event of a minor breach or mistake, a fine that is commensurate with a more serious offence must be applied to a lesser offence. There is no option for any other level.

Section 162 – Mention is made here that amendments will allow the Regulations to be constructed or changed to give DMP Inspectors greater powers. However, APLA does not feel confident here as we have not been provided with the relevant Regulations that are driven by this Bill. DMP uses the argument that they need the increased powers to carry out effective investigations of illegal mining. However, APLA’s experience has been that the DMP lack the resources and has shown little interest to pursue these illegal miners that actually cause environmental damage, rob genuine law-abiding miners.

Furthermore, head powers given to Governor. These are in order to implement future regulation. However, once these words are in the Act the ‘argument is done’. These powers are far reaching and provide strong powers to a Departmental officer. APLA sees this as an opportunity to restrict the rights of leaseholders. However, the protection potentially granted to leaseholders by these provisions against any illegal mining must be taken into account as a positive outcome.

The opportunity for an officer to be overzealous and shut down a prospectors operation due to some small environmental misdemeanor or other oversight of failing to correctly complete forms or requirements is unwarranted. While not recommending to oppose these powers completely, the prescribed circumstances in which they might occur need to be seen.

MALB 2015

Section 103 AY (1) (a)(b)(c) – states a requirement for Carbon Offset. APLA maintains that without the Regulations no assessment can be made of how such a requirement will affect the small miner. Therefore APLA can only assume that the small miner must be included here. Therefore without clarification we again stress that it seems that the small miner is lumped in with the corporate miner and another financial burden and administrative task.

Section 103 AZB (1) (2) – this seems to be an introduction of a security lodgement system, similar to the recently redundant Performance Bond system. That latter system was supposedly replaced by the MRF system. This is double indemnity by the DMP and yet another unnecessary, unjustified and inexplicable effect of MALB 2015.

Mining Act 1978 amended.

Section 158 amended – again, there is no availability of a measured penalty that fits the crime. This section indicates “a fine of \$10,000.00” with no option for a magistrate.

Part 5, Mining Rehabilitation Fund 2012 amended.

Section 15 amended – again, no possible variation in the punitive level. The section demands a “Penalty of \$20,000.00”. This is a drastic remedy for what may have been an administrative oversight or management error or omission upon tenement transfer.

Overall.

The aim of MLAB2015 is to integrate with the Mining Act 1978 in order to achieve its aim of reducing duplication between the many government departments that oversee mining operations in Western Australia. There is a stark difference between the Mining Act and MLAB 2015. As APLA has discovered by practical use of the existing environmental control and monitoring system this difference is becoming more prevalent and the gap is becoming wider. Since the Mining Act was introduced at the end of the 19th century as a form of control & regulation for the mining industry it has always contained an intrinsic thread of justice in resolving disputes. Throughout the Mining Act there are numerous sections and paragraphs relating to the use of the Mining Warden's Court as judicial and unbiased method of solving disputes by a process of appeal and representation in a court of law and in the administrative capacity of The Mining Warden. APLA can find no such features of appeal and justice in MLAB 2015. There seems to be no capacity to challenge decisions handed down by the DMP regarding environmental issues. APLA regards this as irregular & unacceptable.

There are many more of the above aspects that will affect APLA members and these could have been explained, addressed by the DMP. But they weren't other than by anecdotal replies and without amendment to the Bill itself. APLA feels let down by this and seeks redress here.

Solutions.

Scaled mining in existing mining precincts.

There are many areas across the WA Goldfields that have been extensively mined for over 100 years and display extensive environmental damage that has never been rehabilitated. Small scale miners make use of these areas as they still contain payable gold deposits. APLA contends that such areas should not be subject to the clauses within the MLAB 2015 that hinder mining operations with more paperwork than exists at present. In fact, it would be hard to make them look any worse. These areas should have a minimum of environmental oversight as they can be mined with no further environmental impact than presently exists. Yet these areas will be rehabilitated and improved when finished simply by using the existing monitoring and compliance condition systems within the present Mining Act. The use of the Minister's powers as used in Section 57A of the WA Mining Act could be amended and applied as a useful starting point in implementing such a practical method of gold recovery whilst rehabilitating legacy areas. An example of this is provided at Attachment C and in the descriptive emails enclosed as part of this submission.

A solution for the professional prospector and small scale miner.

Many professional prospector and small miner concerns could be rectified by the insertion of a new section within the Mining Legislation Amendment Bill 2015, specifically to cover professional prospectors and small miners. This new section would recognise the distinctive role of the professional prospector and small miner. This could be achieved by incorporating a 25 hectare threshold (or operating footprint at any one time) to differentiate the prospector and small miner from the large corporate miners. New legislative conditions more relevant and appropriate to small miner's circumstances could be agreed to following consultation and introduced specifically for this important sector and would not adversely affect other users of the Mining Act.

The SPL Legislation contained in the current Mining Act is a suitable model for the above type of restricted entry tenement.

To avoid unnecessary delays to the implementation of those parts of the amendments legislation not in dispute (those that AMEC and the CME are happy with), APLA suggests that the threshold between the present Low Impact provisions and a new threshold that defines what the professional prospectors require be established and that the review committee might confine itself to examining in detail the impacts of the amendments legislation in that sector. The remaining amendments that are not in particular dispute perhaps can continue uninterrupted for the benefit of AMEC, the Chamber and the low impact end of prospecting.

A range of other alternatives are possible, including excising professional prospectors from the MLAB2015 and leaving them to operate on the existing Mining Act and Mining Regulations.

APLA recognizes that these are major issues needing proper consultation and negotiation between all the parties.



Les Lowe

APLA President

Phone 0428679782 or 95276448

Amalgamated
Prospectors and
Leaseholders
Association of W.A. Inc.



Representing Prospectors
Since 1904

PO Box 2570, Boulder, WA 6430

Attachment A
**Abandoned corporate mines with
environmental legacies**

Extracted from the DMP website - Abandoned Mines Program update

During 2014 and 2015 the Department of Mines and Petroleum (DMP) commenced planning for the rehabilitation of four abandoned mine sites in Western Australia. These sites were selected based on their history, environmental and safety risks.

The unplanned closure of the Ellendale Diamond Mine (Ellendale) and the liquidation of its operator Kimberley Diamond Company resulted in a fifth project being added to the [Abandoned Mines Program](#).

Abandoned Mines Projects

- Ellendale Diamond Mine
Shire of Derby / West Kimberley
- Pro-Force Plant Site
Shire of Coolgardie
- Black Diamond Coal Mine
Allanson – Shire of Collie
- Bulong Nickel Tailings Storage Facility
City of Kalgoorlie-Boulder
- Elverdton Tailings
Shire of Ravensthorpe

The Abandoned Mines team have begun the preliminary engagement and planning stages for managing the Black Diamond Coal Mine and Pro-Force Gold Mine rehabilitation projects, while significant remedial action has already taken place at Ellendale to reduce the risk of environmental contamination.

Ellendale Diamond Mine



E9 open pit at Ellendale mine site is approximately 55 hectares in area

Ellendale is located approximately

100km's northwest of Fitzroy Crossing and 120km's east of Derby in the West Kimberley region of Western Australia. Kimberley Diamond Company (KDC) abandoned the mine after going into administration in July 2015. The company then went into liquidation in late July.

In October KDC issued a 'Notice of Disclaimer of Onerous Property' under the *Corporations Act 2001*, which disclaimed the 'Onerous Property' related to the *Mining Act 1978*.

DMP has subsequently commenced a process of determining the legal options available to minimise the risk to the State Government. Whilst these investigations are ongoing it has been necessary for DMP to ensure that the mine is kept safe, stable and non-polluting, making Ellendale DMPs first pilot site for the Abandoned Mines Program. The Abandoned Mines team identified a number of risk elements associated with the site that needed to be addressed promptly to prevent environmental contamination.

On ground works commenced in late December 2015 and were completed in early January 2016. The Abandoned Mines team have now moved focus on to managing access to the site, erecting appropriate signage and liaising with parties who had purchased equipment via the liquidation process. There is also a strong focus on maintaining communication with stakeholders.

Ellendale will not be fully rehabilitated or closed through the MRF as it remains a viable mineral resource project and DMP intends to ensure that Ellendale remains a sustainable development option for Western Australia and will work with interested parties that will take on ownership of the tenements.

The future tenement holder will have access to the remaining mineral diamond resource while assuming responsibility for existing and future disturbances.

An [Ellendale Diamond Mine fact sheet](#) is available on the [Abandoned Mines Project](#) webpage.

Black Diamond Mine



Proposed works planned to commence in 2016 at Black Diamond pit lake

The historical abandoned mine site

Black Diamond is located within the Allanson town site boundary in the Shire of Collie, approximately 5km west of Collie.

Black Diamond was mined between the late 1940's and early 1950's by Amalgamated Collieries Pty Ltd. The now abandoned mine void has filled with water creating a pit lake of around 700 metres in length.

The site is not recognised as a public recreation area and the community have raised a number of serious safety concerns regarding the way visitors use the area. A number of environmental issues also exist, including rubbish dumping and degraded water quality.

DMP is planning to reduce the safety and environmental risks associated with the Black Diamond mine as part of the Abandoned Mines Program.

The Abandoned Mines team have created a publication describing the Black Diamond rehabilitation project called ["Improving Community Safety at the Black Diamond Pit Lake"](#). This publication is available on the Abandoned Mines webpage and hard copies will be available at DMP's Collie regional office and the Collie Visitors Centre.

The focus of the project is to address the safety risks associated with the steep slope on the southern side of the pit.

Other works to make the site safe and stable may be undertaken and will be based on the outcomes of site assessment and stakeholder consultation.

Pro-Force Plant Site



Abandoned mine shaft near the Pro Force mine site

The Pro-Force site is approximately 2km southeast of the Coolgardie town-site on the Coolgardie-Esperance Highway. It is a former gold processing site that has been an ongoing safety concern for the local community.

The site is adjacent to Coolgardie Gorge which is the former reservoir for the old Hampton Town site and is regularly visited by tourists, particularly when it is seasonally full of water.

The Abandoned Mines team visited Coolgardie during February



The plant remaining from the Pro Force operation which was auctioned off in November 2015 will be removed by the end of March

to begin the stakeholder engagement and identification process. The visit provided an opportunity to auction mining equipment. During this trip, the site was also the focus of a revised environmental site assessment. The purpose of the assessment was to update information collected in 2014. The fresh data will assist the Abandoned Mines team with addressing all risks and identifying opportunities to maximise rehabilitation efforts.

Final two Pilot Sites

Information on the final two pilot sites, Bulong Tailings Storage Facility Project and Elverdton Project can be found in the [MRF Yearly Report](#).

Abandoned Mines Policy Published

The consultation period for the draft abandoned mines policy closed in September 2015 with a number of excellent suggestions from a range of interested parties. Overall the policy was well received and supported.

Feedback was consolidated and provided to the Mining Rehabilitation Advisory Panel (MRAP) on 18 November 2015 prior to the release of the final policy.

The final version of the policy, along with a summary of the feedback received during the consultation period, has been published on the [Abandoned Mines Program](#) webpage.

If you have any queries about the policy, please send an email to the Abandoned Mines Program Manager Sarah Bellamy or the team via abandonedmines@dmp.wa.gov.au.

More Information

DMP will be providing regular updates on the Abandoned Mines Program on the [Abandoned Mines Program](#) webpage.

Abandoned Mines Project Team

Phone: 08 9222 3162

Email: abandonedmines@dmp.wa.gov.au

Attachment B
**Lack of awareness by the DMP of the
demographic of small scale miners and
prospectors.**

Good Afternoon All,

I had Phil Gorey come and see me this morning, this is after an extensive phone conversation with Colin Edwards on Saturday evening.

The outcome of this morning's meeting were very positive.

For those who haven't seen the "Proposed Low Impact Activities" I have attached a copy. These do outline on page 6 that the size of "low impact" is 2ha.

The existing .25ha that has been a big bone of contention is still in the draft and until this is changed I advised Phil that we would have problems and that we would not budge on this issue.

He has stated that it will be asked of the Minister to amend his draft to reflect the 2ha stance.

As there are several other issues raised at present, some more realistic than others, it is imperative to have a select group from APLA and the DMP meet in Kalgoorlie to go over these things and then these issues can be taken back to our respective groups for final discussion and approval.

These include issues such as the requirement of Mining Issues – the \$6990 fee and is it applicable under the current changes, tonnage on leases, definitions, discussion with non APLA groups, the Low Impact analysis and other points in the amendments that we see needed.

These talks will be arranged in the immediate future and are supported by Phil and agreed that they need to be in place as amendments prior to the next reading in September.

We also discussed the concept of APLA having a full time CEO to help stream line communication and prevent data falling through the cracks. The DMP is very keen to work positively with APLA and to have a beneficial relationship.

We also discussed the fact that there is really three types of person/company out in the fields. There is the detectorist who is easily defined in what and how he operates (hobbyist), then there is the miner such as Barrick, Goldfields, Norton etc and again they are easily defined by large holes and infrastructure. Both of these groups are acknowledged by the DMP.

Both of these groups are acknowledged by the DMP.
The group they currently don't see is the small operator, the full time push and detect person or the small shaft operator.

We have agreed to discuss this at length and also the need for Richard Sellers and others in that pay grade to come to the goldfields to see firsthand what we do.

I am moderately optimistic that the invite may be picked up this time.

I am moderately optimistic that the invite may be picked up this time.
I will keep all informed of developments and there will be an APLA executive meeting this Wednesday evening. I will report on this and forward data to Bob for the newsletter.

I would ask that while we are working on this, all correspondence and media releases that reference APLA come through the APLA exec for approval and endorsement.

I hope you all see that we are working feverishly on this and we will get a favourable result. I will be sending a copy of the meeting notes to Phil so as there is no confusion as to what was discussed.

Best regards,

31

Attachment C

**Example of historic workings having
extensive environmental damage yet are
commercially viable for a small scale
miner whilst rehabilitating in a legacy
area**

Les Lowe

From: "Lance Fraser" <Lance.Fraser@curtin.edu.au>
Date: Sunday, 20 March 2016 4:16 PM
To: <leslowe@iinet.net.au>
Cc: "Lance Fraser" <Lance.Fraser@curtin.edu.au>
Subject: Small Miners Project Overview- Mining Amendments Act 2015 Consequences

Hi Les

I am contacting you, unfortunately at this late time(re: 24/3/16 submission closing date for review comm. submissions) to provide you with an overview of a small mining project we are conducting in Coolgardie and hopefully have some constructive input to what I fear could be the disastrous consequences to small miners if the Mining Amendments Act 2015 were to be passed as it stands.

My project partner and myself are currently the holders of 6 tenements in the Coolgardie Mineral Field approx. 11 kilometres south of Coolgardie. We are currently attempting to develop a project we have called the "Bellbird" project as it based around the well-known historic Bellbird mining leases, further the project also encompasses another deposit known as the "Devils Playground" forming part of the larger Forrest Gold deposit. The project lies on the Burbank's Shear and is directly on strike and 2 kilometres south of the Burbank's mine, currently operated by Kidman Mining the only listed company actively mining (not just exploring) in the district. Burbank's mine has been operating virtually since 1895 (with some intermittent halts to mining) and has been a consistent producer since then, in fact a record drill result showed an intersection of 10,300 grams per ton (Barra Mining approx. c.2003). 3 kilometres further south along strike from Bellbird lies the Londonderry Mine, a phenomenally rich mine from 1895 where 8,000 ounces of gold (valued today 2016 at \$13,200,000) were taken by hand tools from a small surface excavation measuring 2 metres x 2 metres x 1.5 metres deep. There are numerous large scale open pits and hundreds of shafts in the vicinity of the area. Scrape and detect scale activities are still common at the moment in the area.

I am providing this background information to give example of the historic nature and the valuable resources still existing in the district, not only valuable in minerals but also the value in terms of employment and the resulting flow on to the local community.

It is a costly, difficult and time consuming exercise to consolidate tenure in an area of such historic high gold production. In fact the only way we have seen modern large scale gold mining advance and develop in the last 30 years throughout W.A. has been through the consolidation of ground (by various means) by the larger mining entities, which has seen the economy of scale introduced required to mine large low grade deposits. However not all deposits, lodes and occurrences of gold can be so neatly defined or understood or even recovered under the one scale. Unfortunately I believe recent changes and further proposed changes to the terms, conditions and requirements for small mine operators and proponents have tipped the scale (if introduced in its current proposed form) to the point where the legislators may be themselves in breach of the Mining Act. To promote the extraction of minerals in a responsible manner to the benefit of the state and its people(the economy). And as a flow on effect of their actions if adopted unchecked, the demise and possibly the total disintegration of the small mining and professional prospecting industry and the communities they support.

Firstly I would like to provide you with some relevant information (of vital historic significance) and secondly of the mining activities we would like to pursue as part of the larger "Bellbird" project. I will list each tenement and the anticipated major activities we are considering. With an overview at the end, of consequences that I think may need to be addressed by the review committee if we are to proceed, viably and responsibly.

Mining Lease M15/1352 "The Bellbird" Encompasses an area of 5.16 Ha and was first pegged and mined in 1895. It has consequently been mined by different parties under various tenure in 1897, 1899, 1900, 1901, 1904, 1906, 1907, 1909. In 1912 Blatchford the Govt. geologist mapped the area and identified multiple acid dykes (porphyry) that converged at Bellbird that extended from Tindals a major

23/03/2016

mining area right through the Burbank's group to Bellbird. It was next mined in 1933, 1934. The extremely hard nature of the ground prevented these operators from continuing activities. I have records to show that these operators struck small extremely rich pods of gold just below the surface at different places on Bellbird (eg 70 ounces from 10 lbs/22kg block of stone). It should be noted that this was depression years and capitol and equipment was exceedingly scarce. I have records to indicate that the party mining Bellbird left it to proceed to the last great alluvial rush at Larkinsville (Golden Eagle) where only water, shakers hand tools and tucker was needed to operate, not expensive pumps explosives and so on.

During 1944 Western Mining Corporation held options over the entire area, they consequently furthered the geological understanding of the district and the "Bellbird" is mentioned as of significance in the annual Mines Dept. reports of 1945-46. In the 1990's drilling around Bellbird identified anomalous gold, which indicates a narrow vein gold deposit which is not suitable for open pit type mining but requires small scale underground activities. Confirming that at this point in time it is only economically viable as a small miners operation. Consequently the syndicate holding Bellbird applied for and was granted the following: Notice of Intent-Low Impact Mining Operation. Nol-1844. File 2003/95. Date Stamped 1 Aug 1994. For the development of a "100 metre decline" "removal of 1500 tonnes of material" (please see attachment of complete document). This approval appears on DMP Tenement Endorsement and Conditions Extract as condition 11-26. Start Date 31/12/ 2001. End Date. Blank. It also has an attached document from the Dept of Conservation and Land Management (dated 24Nov 1994) in which it states "The area subject to the proposal is heavily disturbed", it also states that the proponent wishes to re-activate the proposal which is somewhat confusing. Further drilling was done at Bellbird but I will elaborate in notes on M15/1255.

Bellbird M15/1352 has the following Mines Dept. appraisal on record as

Deposit x1 Bellbird

Historic Mines (shafts) x4

Historic Abandoned Mine Sites 209. A total of 211 recorded areas of ground disturbance all on an area of 5.16 Ha.

The previous information relating directly to Bellbird that I have outlined, may seem excessively comprehensive and may at first look to be overly onerous to any reasonable person as if read just generally. But below the surface it indicates an immense amount of man hours over the years in endeavours, of hard labour, examination and scrutiny as well as capitol as investment as resources or just plain sustenance. That investment still stands as a value if we hold, see and realise it as such. Potholes, costans old shafts and workings have an immense value but not if they are only considered as disturbances. Had circumstances to this point shown Bellbird as being a more significant or viable deposit it may well already have been exploited, this not the case. It stands as it is because economics and tenure and information dictates, that, it is only at this point viable as a small mining project. Present day exploration at Burbank's has resulted in worlds best practice research in the understanding of complex mineralogical and geological associations of the Burbank's- Bellbird- Londonderry line, this information bodes well for the future of the Bellbird project and its future scale. It shows a projects value has dynamics outside of its self. These relevance's I feel are completely misunderstood or unknown to those who have drafted the proposed legislation.

The proposed activities listed below are for M15/1352 Bellbird and its adjoining tenement P15/5670 which is pending conversion to M15/1818 through submission of a M.P. and M.C.P.

1: It is our intention to clear low vegetation and shallow regolith (soil) to expose the greenstone and porphyry formations present, hopefully revealing potential rich pods of ore (realising capitol) and also to survey and map geological structures to help optimise the plan for the decline. It should be noted that the area under consideration is to quote "heavily disturbed" CALM 24 Nov 1994, DMP records 100's of historic abandoned mine sites.

Points of contention. As an area that is historically completely disturbed why should approval be required to alter that disturbance. Consequence. Delays, costs.

.Resultant mapping of structures and testing assay and strength will dictate some aspects of planning and progression of decline. Large companies scale dictates complete project planning, small scale follows the gold. Consequences M.P. ,M.C.P. impossibility. The volume of material removed

23/03/2016

319500mE

320000mE

320500mE

Map Grid of Australia, 1994 - Zone 51

115/664

"Bellbird Project"

P 1

iam

Devil's
Lease
Showing existing
historical disturbances

Forest

M 15/
1255

M 15/1819
P 15/5674

Susan
P 15/5768 S

Burbanks
Welcome
Mascotte

D

121°53'0"

121°7'

Scale: 1:6,657

0 67 133 200 266 333 399 466 533 599 667

MINING INDUSTRY LIAISON COMMITTEE AGENDA

MEMBERS:

MR RICHARD SELLERS	DIRECTOR GENERAL (CHAIRMAN)
DR IVOR ROBERTS	EXECUTIVE DIRECTOR MINERAL TITLES
MS JUTTA PAGEL	SENIOR GEOLOGIST GSWA
MR DON FRAYNE	GENERAL COUNSEL
MR RAY DAWSON	PRINCIPAL POLICY OFFICER (SECRETARY)
MS NICOLE ROOCKE	[THE CHAMBER OF MINERALS AND ENERGY (CME)
MR WARREN STEWARD	
MR GRAHAM SHORT	[ASSOCIATION OF MINING AND EXPLORATION COMPANIES (AMEC)
DR BRYAN SMITH	
MR TIM KAVENAGH	[AUSTRALIAN MINING AND PETROLEUM LAW ASSOCIATION (AMPLA)
MR MARK GERUS	
MR KEVIN PRICE	[AMALGAMATED PROSPECTORS AND LEASEHOLDERS' ASSOCIATION (APLA)
MR JOHN PLUMMER	

INVITEES

Dr Phil Gorey (Director Environment Division) – Item 6.1
 Mr Warren Ormsby (Manager Resources GSWA) – Item 6.2
 Mr Graham Cobby (Senior Advisor Approvals Reform) – Item 6.4
 Ms Michelle Andrews (Deputy Director General Strategic Policy) – Items 7.2 & 8.2

**Meeting No. 120 is scheduled for
TUESDAY 11 March 2015 in
 Conference Room Level 8 Mineral House South
 commencing at 1pm**

ACTION

1. INTRODUCTION AND OPENING REMARKS

The Chairman will formally open the meeting, welcome Committee members and guests and will outline the emergency evacuation procedures.

2. APOLOGIES

3. ADOPTION OF AGENDA

The Chairman will provide members with the opportunity to change the provisional agenda, if considered necessary, and/or adopt it for the meeting.

ACTION**4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

The Chairman will ask members to confirm that the draft record of the **MILC 119** meeting as circulated is a true and accurate record of that meeting.

5. AMENDMENTS TO THE *MINING ACT 1978* AND REGULATIONS

The Executive Director Mineral Titles will report on the latest position regarding legislative amendments as outlined in the attached **MILC Information Paper 120/613**.

DMP**6. STRATEGIC ISSUES****6.1 Environmental Issues**

Relevant background information:

At MILC 119 the following items were reported on:

6.1.1 Commonwealth's National Heritage Listing for the West Kimberley – Draft Referral Guidelines

The Referral Guidelines remain in the 'draft' category and the Commonwealth have yet to formally adopt them. There has been no further progress on the draft Guidelines.

6.1.2 Reforming Environmental Regulation

DMP advised that the legislative amendments and draft mining proposal guidelines was progressing. Industry raised concerns about additional cost imposts, particularly the proposed fees for Program of Works and Mining Proposals.

6.1.3 Abandoned Mine Policy

The Abandoned Mine Policy has been developed and will probably be circulated for comment in the first quarter of 2015. At MILC 119 it was resolved that DMP would arrange meetings with CME, AMEC and APLA in the new year.

6.1.4 Mining Rehabilitation Fund

DMP advised that the Fund was progressing and there was well over half the number of Bonds being retired. There was some concern with the infringement system and DMP undertook to provide clarity on how it operates to MILC members in due course.

At MILC 120 DMP will provide an update on issues relating to environmental matters including those above where necessary.

DMP

ACTION**6.2 Conservation Estates**

Relevant background information:

At MILC 119 the following items were reported on:

6.2.1 Proposed Rangelands Lease and Renewal of Pastoral Leases

Rangelands Lease: DMP undertook to enquire with the Department of Lands (DoL) as to the status of the proposed Rangelands Lease.

Renewal of Pastoral Leases: APLA remains concerned with what rights and powers pastoralists will end up with after renewal of pastoral leases.

6.2.2 Proposed National Parks in the Kimberley

The proposed Parks are now depicted in Tengraph, and the Department of the Premier and Cabinet are progressing the proposal.

6.2.3 DPaW managed 'Pastoral Leases'

The Department of Parks and Wildlife (DPaW) has advised that it doesn't have the resources to progress the project at this time. DMP will maintain a watch on the matter however nothing further can be added.

At MILC 120 DMP will provide an update on issues relating to the Conservation Estate.

DMP

6.3 Native Title Issues

This is a standard MILC item for members to raise appropriate issues.

All members

6.4 Approvals Reform

Relevant background information:

At MILC 119 the following items were reported on:

6.4.1 The joint DMP/DIA Remapping/Scanning Projects

The two joint DMP/DIA projects, the remapping project which will release extra land for exploration and the scanning project have both been completed (funding has ended).

6.4.2 State's Environmental Offset Policy

DMP reported that the Office of EPA has established an Offsets (Extensive Land Use Area) Metric Working Group to assist in quantifying the metrics associated with the calculation of offsets.

ACTION**6.4.3 Amendments to the WA *Aboriginal Heritage Act 1972***

An Amendment Bill has been introduced to Parliament and it is hoped for early passage. The Aboriginal Affairs Minister expects to have further consultation with interest groups.

At MILC 120 DMP will provide an update on approvals reform issues.

DMP**7. OPERATIONAL ISSUES****7.1 Warden's Courts – Available Listing Dates**

MILC Information Paper 120/614 which outlines the next available date for listings in each Warden's Court is attached.

The statistics presented to MILC 118 were manually derived however in the future they will be electronically produced. It is expected that the required software development will be completed before June 2015.

MILC Paper 117/601 (Warden's Court Review) was updated by MILC Paper 119/612. Further updates will be presented at the June meeting of MILC.

7.2 Royalty Rate Analysis Review

This review was announced in the 2012-13 Budget Papers to be conducted over the next three years. The Departments of State Development and Mines and Petroleum are jointly conducting the review with the Department of State Development being the lead agency. Consultation has been completed and a report is due by the end of the year.

At MILC 119 DMP advised that the process was on track to be finalised by early new year and the outcome will be released as soon as possible.

At MILC 120 DMP will provide an update on the current position of the review.

DMP**7.3 Removing Iron Ore Authorisation from the *Mining Act 1978***

MILC Discussion Paper 118/607 was presented to MILC 118 with industry comments by 21 November 2014. Some comments were received and at MILC 119 DMP advised that it would meet with Rio, BHPB and FMG to discuss concerns.

ACTION

Since MILC 119, DMP has held discussions with Rio, BHPB and FMG about the future of the treatment of iron ore under the *Mining Act 1978*. The main conclusions to emerge were (1) the removal of the power of the Minister to exclude iron from mining tenements (s.111) will proceed, (2) removal of s.102A – exemption from expenditure condition based on the authorisation to explore for iron, will proceed and (3) those with Iron Ore State Agreements may negotiate with the Department of State Development (DSD) for the inclusion of tenements into their Agreement areas.

DSD accepts that special treatment of iron ore tenure is beyond the ambit of the Mining Act.

At **MILC 120 DMP** will provide an update on the current position. **DMP**

7.4 Rating of Mining Tenements

At MILC 119 AMEC raised concern at the marked increase in the calculation of some tenement rates due in main to the rent escalation provision in the Mining Act. DMP undertook to discuss the matter with the DoL and Valuer-General.

At **MILC 120 DMP** will provide an update on the matter. **DMP**

8. NEW ITEMS

8.1 Withdrawal of a Caveat

To amend the withdrawal of caveat provisions in the *Mining Act 1978* (section 122E(2)(b)) to allow an agent to sign the withdrawal of caveat form.

At **MILC 120 DMP** will be seeking the endorsement of the attached **MILC Discussion Paper 120/615**. **DMP**

8.2 Proposed Royalty related amendments

It is proposed to amend regulation 85(1) (definition of concentrate), regulation 85B (Nil royalty return), regulation 85B (royalty return within 30 days) and regulation 86 (limestone royalty rate).

At **MILC 120 DMP** will be seeking the endorsement of the attached **MILC Discussion Paper 120/616**. **DMP**

ACTION

9. OTHER BUSINESS

10. NEXT MEETING

Wednesday, 10 June 2015, **commencing at 1:00pm** sharp
in the 8th Floor Conference Room, Mineral House South.

Secretary

MINING INDUSTRY LIAISON COMMITTEE

25 February 2015

MILC INFORMATION PAPER 120/613

Legislation Report For MILC 120 – 11 March 2015

A report on the status of proposals that amend or affect the State's mining legislation, including associated regulations.

MINING ACT 1978 & Others:

1. Mining Legislation Amendment Act 2014 (Act No. 4 of 2014)

Purpose:

This Act amends the *Mining Act 1978* and the *Mining Rehabilitation Fund Act 2012*, to:

- facilitate environmental data release;
- simplify environmental approval authorisation processes;
- streamline issue of notices under the Mining Rehabilitation Fund Act; and
- enable recovery of Mining Rehabilitation Fund money in some circumstances.

Current Position:

The legislation passed through the Legislative Assembly on 5/12/13 and the Legislative Council on 8/4/14, Assent was given on 22/4/14. Part 3 of the *Mining Legislation Amendment Act 2014* commenced from 1/7/14 (Proclamation published in the *Government Gazette* on 17/6/14). Part 2 requires supporting regulations; see *Mining Amendment Regulations 2015*.

Finalisation outlook:

Commencement, along with the regulations is expected mid 2015.

2. Mining Legislation Amendment Bill 2015

Purpose:

Stage two amendments resulting from the Reforming Environmental Regulation recommendations:

- consolidate environmental regulation provisions into a separate Part of the Mining Act to separate it from the land tenure administration provisions;
- provide the legislative provisions to support the implementation of an outcomes-focused and risk-based regulatory system for environmental regulation;
- streamline environmental approvals, including native vegetation clearing assessments; and
- enhance reporting provisions and compliance powers.

Plus the following Mining Act proposals previously agreed to by MILC:

- Expenditure exemptions – remove the need to issue a certificate of exemption in sections 102, 102A and 103;

- Successive applications for exploration licences – prevent applicants from re-applying for ground that they previously held without Ministerial consent; and
- Survey – reinforce the long standing practice that the boundaries of a marked out tenement are defined by the pegs in the ground.

Current Position:

Drafting of the Bill has reached an advanced stage and introduction to Parliament is expected during the first quarter of 2015.

Finalisation outlook:

To commence middle 2015.

MINING REGULATIONS 1981 & Others:

1. Mining Amendment Regulations 2015

(Previously *Mining Amendment Regulations (No. 3) 2014*)

Purpose:

To facilitate the release of environmental data and to simplify the environmental approval authorisation process and to support the *Mining Legislation Amendment Act 2014* (Act No. 4 of 2014).

Current Position:

Draft circulated to MILC members for comment on 17 February 2015 for comment by 17 March 2015.

Finalisation outlook:

To commence when the *Mining Legislation Amendment Act 2014* Part 2 comes into operation.

AMENDMENT PROPOSALS CONSIDERED.

MINING ACT 1978 & Others: –

(i) Potential anomaly between the intent of sections 45, 69 and 85A and the effect of section 100 of the Mining Act 1978

Amend the Act to clarify that the rights afforded pursuant to section 100 do not apply where the 'cool-off' restrictions in sections 45, 69 and 85A have been breached (MILC Discussion Paper 116/596).

- Agreed at MILC 116 (11/03/14).

(ii) Service Requirements – Application for inclusion of the surface of private land into a mining tenement pursuant to Section 29(5) of the Mining Act 1978

Amend section 33(1a) of the Act to remove the un-necessary need to serve the owner and occupier for subsequent surface applications (MILC Discussion Paper 116/597).

- Agreed at MILC 116 (11/03/14).

(iii) Warden's Court issues

Amend the Act on issues arising from the deliberations of the MILC Subcommittee on Warden's Court Issues. These are (MILC Discussion Paper 117/601):

- Amend section 96(2a) to reduce the time limit for lodgement of applications for forfeiture from 8 months to 3 months,
- Amend the Mining Act to reflect that where there are multiple forfeiture applications only the first heard and determined application should be considered by the Warden,
- Agreed at MILC 117 (11/06/14).

MINING REGULATIONS 1981 & Others: –

Amend the Regulations on issues arising from the deliberations of the MILC Subcommittee on Warden's Court Issues. These are (MILC Discussion Paper 117/601):

- enhance regulation 152(k) to draw the Warden's attention to guiding principles for declining to hear an objection,
- enhance regulation 154(d) by specifying the manner a warden may adduce evidence, and
- amend regulation 167 to provide for an order for security of costs may be made against an objector to exemption and an application where the objector is also an applicant for forfeiture against the same tenement.
- Agreed at MILC 117 (11/06/14). The amendments will be included with the next available regulation amendment package.

Mineral Titles Division
25 February 2015

MILC INFORMATION PAPER 120/614

WARDEN'S COURT HEARING DATES

<i>OUTSTATION</i>	<i>NEXT AVAILABLE HEARING DATE</i>
Perth	13 March 2015
Coolgardie	16 March 2015
Karratha	12 March 2015
Kalgoorlie	17 April 2015
Leonora	4 May 2015
Marble Bar	10 April 2015
Meekatharra	21 May 2015
Mt Magnet	16 April 2015
Norseman	17 March 2015
Southern Cross	21 July 2015