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Hon Peter Foster MLC
Chair, Standing Committee on Environment and Public Affairs
Legislative Council Committee Office
Via email: env@parliament.wa.gov.au

Dear Chair

Petition No. 54 – Mining Act 1978

I wish to thank the committee for the opportunity to make a submission on this issue.

I fully support the petitioners' calls for a review of the *Mining Act 1978* and its subsidiary regulations and echo their criticisms of the existing state regulatory framework for exploration licences.

The existing regulatory framework establishes an inefficient system that diminishes the voices and interests of landholders and communities and fails to recognise and protect areas of significant environmental, tourist, economic or cultural value.

Members of the public only have one opportunity to raise an objection to proposed mining activities – a 35-day window following the application for an exploration licence. However, the regulatory framework does not set any effective requirements for ensuring affected landowners are communities are notified of an application in the first place and may only learn of the application after that 35-day period has passed.

Currently, the Department of Mines, Industry Regulation and Safety (DMIRS) notifies local governments of applications for exploration licences within their districts, and only notifies landholders where the exploration is intended to mine to a depth within thirty metres of the surface. The associated expenses, administrative difficulties, and time sensitivity makes it unfeasible for local governments to notify all affected residents and landholders, and applicants can circumvent the requirement to notify landholders by simply omitting any intent to mine within thirty metres of the surface from their application. Should the applicant find a valuable commodity within thirty metres of the surface, they can then simply apply directly for a mining lease, to which no opportunity is afforded to members of the public to object.

The regulatory framework also curtails the right of landholders to object to mining activities, as landholder consent is not required for tenements over private land which are limited to an area more than 30 metres below the land. The landholder's permission may not be required for the tenement holder to access the sub-surface resources, as the framework allows access to be gained via neighbouring crown land.

In addition to curtailing the rights of landholders, the regulation of tenements for sub-surface resources provides a backdoor for surface mining in areas (including towns) despite vehement community opposition. Should the tenement holder gain the consent of one or more landowners, the sub-surface rights can be

transferred to surface rights. As mentioned previously, this process affords no opportunity for members of the public to formally object.

Should a member of the public be lucky enough to be aware of an application for an exploration licence, the process for lodging obligations presents another hurdle. The process for lodging objections online is far from use-friendly – individuals are required to first create an account on DMIRS' website and must then navigate a complex and time-consuming system to lodge their objections. The website also clearly states that by lodging the objection, the objector is obliged to attend a court hearing and that costs may be awarded against them. Once lodged, the objection be stamped as received by DMIRS and then formally served on the applicant, and confirmation of the service must be forwarded to DMIRS in the form of an affidavit witnessed by a Justice of the peace.

This system clearly preferences the interests of mining companies over those of the communities who are at risk of being adversely affected by mining activities. Individuals have a right to be informed of any proposed mining activities that may adversely affect them and their communities, and to be able to object accordingly. Instead, this system acts overwhelmingly as a rubber stamp on mining activities and disregards community will.

These shortcomings of the regulatory framework are further compounded by the lack of protection over areas of significant conservation and economic value. Whilst exclusion areas do exist for certain areas, they do not extend to cover agricultural land uses, tourist ventures, high conservation value forests and wetlands, or other areas vulnerable to serious environmental impacts of adverse effects toward the existing land use should mining activities occur. There is a reasonable expectation within many communities that the hearts of their towns and industries aren't vulnerable to mining activities, yet no such assurance is afforded by the regulatory framework. As for the communities that are aware of this issue, the knowledge is a source of ongoing angst, The lack of protection over so many of Western Australia's iconic and vital sites is almost unfathomable. it is time for the areas over which exploration and mining licences may be awarded to be expanded to protect the sites that are vital to the identity, economy, and conservation of our communities.

It should also be noted that whilst "A" class reserves are recognised as excluded areas, the *Mining Act 1978* allows for their exploration with the approval of Minister for Environment. This is entirely at odds with the intent of an area being classified as an "A" class reserve.

I support the petitioner and ask the Committee to call on the State Government to review the *Mining Act 1978* and its subsidiary regulations with regard to:

- extending notice of mineral exploration licences to all landholders and relevant stakeholders, irrespective of depth;
- reducing the complexity of the process for lodging objections to applications; and
- creating exclusion zones to protect existing environmental, social and economic activities

Thank you for reviewing this petition and ensuring that the voices of the signatories are heard and considered in this process.

Kind regards

Hon Dr Brad Pettitt MLC
Member for South Metropolitan