



Your Ref           Petition 143  
Our Ref:            **26-11978**

Hon Brian Ellis MLC  
Chair  
Standing Committee on Environment and Public Affairs  
Parliament House  
PERTH WA 6000

Dear Mr Ellis

#### **PETITION NO. 143 - ENVIRONMENTAL LEGACY OF MINING**

Thank you for your letter dated 1 December 2011 seeking comment as part of the preliminary inquiries undertaken by the Standing Committee on Environment and Public Affairs into the above petition.

#### **BACKGROUND**

Before addressing each of the particulars of the petition, it is worth providing context on the progress that this Government has made over the last few years to minimise any long term adverse environmental impacts arising from mining in the State.

While resource development has provided Western Australia with considerable economic benefit over the last few years, there are environmental risks posed by mineral extraction and processing. These environmental risks can be immediate, or may take many years to appear. These longer-term environmental risks are those which are the focus of Petition No. 143.

However, over the last few years, this Government has prioritised reforms which are specifically targeted to ensure that these longer-term environmental risks are adequately managed and mitigated. The majority of these reforms have been championed by the Department of Mines and Petroleum (DMP), although many have involved collaboration with other relevant government agencies.

Collectively, these initiatives have strengthened the regulatory framework for addressing potential long term environmental risks posed by mining activity. Those initiatives most relevant to the matters raised in the petition are:

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- **Introducing statutory requirements for mine closure planning**

In November 2009, the Government introduced into the State Parliament, the *Approvals and Related Reforms (No. 2) (Mining) Bill*. This Bill sought to, among other things, amend the *Mining Act 1978* to specifically require that every mine site was to have a Mine Closure Plan. The objective of this amendment was to raise the level of compliance with mine closure planning requirements and reduce the State's financial risk associated with operators not adequately providing for their mine rehabilitation and closure obligations. The amendments were passed by Parliament in 2010. Up until then, while progressive and planned mine closure was being promoted by DMP, there had not been a statutory basis for enforcing such planning.

- **Publication of Mine Closure Plan Guidelines**

Following the passage of these amendments to the *Mining Act 1978*, and after extensive consultation, DMP together with the Western Australian Environmental Protection Authority, published the first detailed guidelines for the preparation of Mine Closure Plans. The amendments to the *Mining Act 1978* require all sites to prepare their Mine Closure Plan in accordance with these guidelines. These guidelines are now considered the most contemporary and comprehensive mine closure plan guidelines of any jurisdiction in Australia. From 1 July 2011, all new mining proposals were required to submit a mine closure plan in accordance with these guidelines, and from 1 January 2012, existing sites have been required to submit mine closure plans. All approved Mine Closure Plans will be made publicly available on the DMP website at no charge.

- **Review of mining securities framework**

Since 2010, DMP has been undertaking a major review into the adequacy of the current securities systems for mine sites in Western Australia. The current system relies upon a bank-guaranteed unconditional performance bond. This bond-based system is commonly used throughout Australia. However the bond system has problems which are magnified where the sector is as large as it is in Western Australia. This includes that the bond system does not allow funds to be used for historic abandoned mines. DMP undertook two rounds of public consultation on options for improving the mining securities system:

1. *Policy Options for Mining Securities in Western Australia, Preliminary Discussion Paper*, December 2010-February 2011.
2. *Preferred Options Paper for Mining Securities in Western Australia*: March 2011-May 2011.

The review of the mining securities is now completed, and I expect to receive the final results of the review and the consultation by stakeholders from DMP in January 2012. I will then be reviewing the recommendations in order to allow a decision to be made on the future mining securities arrangements for Western Australia. Given the extensive work already undertaken by DMP throughout the review (as demonstrated in its consultation papers), I am confident that a mining securities model will be possible which addresses the financial and environmental risk that can arise from abandoned mines.

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- **Adoption of a specific transparency strategy for environmental regulatory decisions in DMP**

Delivering an appropriate level of transparency of the regulatory decisions of Government is a matter which DMP has pursued with vigour over the past few years. DMP now has an extensive website with access to data and approvals (for instance all mining leases, and their conditions, can be viewed on the website by the public at no charge). However DMP has announced its intention to expand its level of transparency and in 2011 published the *Strategy Paper: Transparency in Environmental Regulatory Decision Making*. This document was developed following public consultation on earlier drafts and specifically addresses the issues raised in the Conservation Council of Western Australia's letter accompanying the Petition (i.e. it sets out the objectives and process for developing transparency measures into the future).

- **Additional resourcing of expanded role**

In recognition of the expanded regulatory efforts related to monitoring compliance with the strengthened mine closure provisions, the Government announced an additional \$5.2 million budget allocation to DMP in the 2011-12 State Budget (commencing 2011-12). This allocation substantially increases the capacity within DMP to assess mine closure performance of industry and reflects the commitment of the Government in this area.

- **Supporting the development of a national strategic framework for managing abandoned mines**

Experts from DMP were part of the national working group for the development of the *Strategic Framework for Managing Abandoned Mines in the Mineral Industry*. In 2010, the Western Australian Government supported the publication of this strategic framework document by the Ministerial Council on Mineral and Petroleum Resources (MCMPR). At that time, the MCMPR consisted of the Australian Government Minister for Resources and Energy and State and Territory Ministers with responsibility for minerals and petroleum. This strategic framework sets out the broad strategies for the consistent management of the risks posed by abandoned mines across Australia.

- **Enhancement of an abandoned mines database**

Over the last few years, DMP has expanded its database that it maintains on the location and details of abandoned mines within the State. The entire database is able to be interrogated online by the public (or the data can be downloaded) at the DMP website at no charge.

## **SPECIFIC MATTERS RAISED IN THE PETITION**

I now provide specific response to the five issues/points raised in the petition from Mr Piers Verstegen, the principal petitioner:

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**Point 1: The level of transparency with respect to the environmental outcomes of mining on public lands**

As I have noted earlier, DMP has published a specific strategy on implementing enhanced transparency for its environmental regulatory decisions. This strategy is available on the DMP website<sup>1</sup>.

In addition however, it is the practice within DMP that approved proposals for mining, and approved Mine Closure Plans (which must detail the mitigation strategies to minimise any residual environmental impact) are made publicly available on the DMP website at no charge. Section 2.10 of the Mine Closure Plan Guidelines (available on the DMP website<sup>2</sup>) specifically highlights that approved Mine Closure Plans will be made publicly available.

It is therefore considered that there are sufficient transparency arrangements already in place for these documents.

**Point 2: The adequacy of the environmental standards being set for mine rehabilitation and remediation**

It is recognised that environmental standards are continually being advanced to ensure appropriate mine rehabilitation. The new Mine Closure Plan Guidelines now require mine site operators to define mine closure standards in a way which is adequate and measurable; the term used for these standards is 'closure criteria'.

The Mine Closure Plan Guidelines have a considerable focus on the proper development of these closure criteria. For instance these criteria must be aligned to the end land use for the mine site, be developed through appropriate consultation with stakeholders, be measurable, specific and have a timeframe. As these closure criteria are part of the Mine Closure Plan and the approved Mine Closure Plans are publicly available, it is not considered that an inquiry by the Standing Committee on Environment and Public Affairs is warranted on this point, as the level of transparency already allows this public scrutiny to occur.

**Point 3: The environmental outcomes of mine closures to date**

As explained above, the Government has substantially strengthened the regulatory framework for the management of mine closure for currently operating mine sites. The reasons for pursuing the changes implemented by this Government included that there was disappointment with the timeliness and quality of some historical mine site rehabilitation.

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<sup>1</sup>[http://www.dmp.wa.gov.au/documents/DMP\\_Strategy\\_Paper\\_-\\_Environmental\\_Transparency\\_Measures.pdf](http://www.dmp.wa.gov.au/documents/DMP_Strategy_Paper_-_Environmental_Transparency_Measures.pdf)  
[http://www.dmp.wa.gov.au/documents/DMP\\_-\\_Response\\_to\\_Strategy\\_Paper\\_Submissions.pdf](http://www.dmp.wa.gov.au/documents/DMP_-_Response_to_Strategy_Paper_Submissions.pdf)

<sup>2</sup> [http://www.dmp.wa.gov.au/documents/Mine\\_Closure\(2\).pdf](http://www.dmp.wa.gov.au/documents/Mine_Closure(2).pdf)

The regulatory framework now in place is considered adequate for future mine rehabilitation and closure activities, however the sites already closed or abandoned are a separate matter. Abandoned mines have been present in Western Australia for more than 100 years, however in the last few years there has been substantial progress in establishing strategies to manage any environmental risks arising from these older sites. I have mentioned earlier this Government's support of the national strategic framework for management of abandoned mines. Yet in addition, the preferred option for mining securities for Western Australia (as defined in the DMP consultation papers of April 2011), proposed the establishment of an industry-sourced rehabilitation fund. This fund would provide Government with the resources to undertake rehabilitation of abandoned mines and better establish the environmental condition of historic abandoned mines.

I have mentioned earlier that I will shortly be provided with the final recommendations from DMP's two-year review for future mining securities for the State.

**Point 4: The adequacy of the regulatory framework for protecting the public interest with respect to this environmental legacy of mining including the bond system**

DMP has, over the last two years, undertaken a substantial review into the mining securities (bond system), including two formal public consultation processes. I am advised that while the Conservation Council of Western Australia made a submission on the Policy Options paper (released in December 2010), it did not make any submission to DMP on the specific proposal for future mining securities as outlined in the Preferred Options Paper (released for public comment in April 2011).

The consultation which has already occurred on the mining securities system, is in addition to the nearly 12 months of consultation (including public comment periods) for the development of the Mine Closure Plan Guidelines. It is therefore considered that there has been substantial recent effort by DMP to understand the public interest aspects of mine closure.

**Point 5: Current community perceptions and expectations with respect to mine closure outcomes**

The Government is well aware of the importance of maintaining community confidence in its regulatory processes, and the various initiatives referenced in this letter highlight the Government's commitment to responsible resource development in Western Australia.

It is suggested that there are community expectations at the broad (e.g. industry) scale, as well as community expectations for mine closure at the local (e.g. site specific) scale. The development of the Mine Closure Plan Guidelines is considered to have adequately addressed both of these aspects.

For example, the broader issue of community perceptions and expectations with respect to mine closure outcomes was considered through the extensive industry, stakeholder, and community consultation which was undertaken over almost 12 months for the preparation of the guidelines. The Conservation Council of Western Australia were specifically consulted through the preparation of these guidelines. This consultation was undertaken to inform the principles and approaches to mines closure as described in the guidelines. It is therefore considered that there will be little benefit in further inquiry on this matter.

In respect to community perceptions and expectations for mine closure on individual mine sites, the Mine Closure Plan Guidelines include this provision. The Guidelines set out the expectation for stakeholder consultation in the preparation of individual mine closure plans (see section 4.8). An inquiry into this issue therefore does not appear warranted as this capacity already exists for community involvement.

For the reasons described above, I consider that an inquiry by the Standing Committee on Environment and Public Affairs is not warranted. While the matters of longer-term environmental risks arising from mining operations are important, the initiatives delivered by this Government over the last few years demonstrate the Government's recognition of these issues. Further, these initiatives have strengthened the regulatory system to deliver the best possible environmental and social outcomes of resource development and ensure that community confidence in its systems is enhanced.

Again, I thank you for your enquiries on this matter and for the opportunity to clarify the above issues and concerns.

I recommend that you contact Dr Phil Gorey, Executive Director Environment within DMP on 9222 3290 for any clarification, information or assistance that may be necessary to assist with preliminary enquiries with regard to the petition.

Yours sincerely



NORMAN MOORE MLC  
MINISTER FOR MINES AND PETROLEUM

11 JAN 2012

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