



LOCAL GOVERNMENT ACT REVIEW 1995  
PHASE TWO SUBMISSION

ASSOCIATION OF MINING AND EXPLORATION COMPANIES

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## **About AMEC**

The Association of Mining and Exploration Companies (AMEC) is the leading representative body for mining and mineral exploration companies. AMEC represents over 275 companies across the country, and represents their interest to the Commonwealth, State and Territory Governments. Within AMEC membership, there are over 100 companies (most head quartered in WA) with exploration and mining projects active in Western Australia.

Exploration companies are the future of the mining industry. Without mineral exploration, there would be no further mineral discovery and consequently no future mines and the employment and economic development opportunities that they create.

## **Local Government Rating of Mining Tenements Report**

The Association of Mining and Exploration Companies and the Chamber of Minerals and Energy of Western Australia (CME) partnered to commission a report on local government rating of mining tenements for submission to the State Government's review of the Local Government Act 1995.

This report outlines the significant rate burden being placed on exploration and mining companies, and the significance difference in rating between the mining industry and all other industries.

The Report makes a wide range of recommendations and findings for consideration by government and was completed in March 2018 and provided to the WA Government and the Department of Local Government, Sport and Cultural Industries during the consultation process in Phase One of the Review.

AMEC supports all of the Report's recommendations. Our submission refers frequently to greater detail provided in this Report.

*Local Government Rating of Mining Tenements* (The Report), is attached to this submission in Attachment 1.

## **Review of the Local Government Act 1995 Phase Two Working Group**

AMEC has participated as a member of the Phase Two Working Group which includes consideration of local government rating.

The AMEC Chief Executive has made a presentation to the Working Group outlining the concerns of the industry, the impact of a heavy rate burden on exploration companies, and the need for reform.

The Presentation made to the Working Group is also attached to this submission in Attachment 2.

## State of the Mining and Mineral Exploration Industry

Industry and investor confidence are slowly starting to recover from record low performance indicators over the last few years. However, the Western Australian mining and mineral exploration industry has a number of ongoing generic and high-level challenges.

These are mainly centred around the following areas:

- Difficulty in attracting equity capital in an internationally competitive market,
- **High cost operating environment (of which local government rating forms a significant part);**
- Confidence in stable long-term public policy settings;
- Costly delays in obtaining land access and approvals;
- Excessive red tape in approvals and compliance;
- Low discovery rates, poor grades and deeper deposits;
- Interaction between policies, legislation and processes of the Commonwealth and State / Territory Governments;
- Increased community expectation and social licence to operate;
- Access to cost effective infrastructure; and
- Ready access to a skilled workforce.

The industry continues to experience financial and economic pressures, fluctuating commodity prices, structural adjustment, significant international competitiveness, tight capital markets, and investment being allocated to offshore and competing projects.

Exploration companies (which hold rateable exploration tenements) rely on the ability to raise private investment capital. These companies do not have a revenue or income stream, and do not operate working mines providing revenue or profit. These companies must convince investors to commit money to support exploration and drilling programs in the hope of discovering a commercially viable resource or economic deposit that can be developed.

To place this in perspective *'the probability of finding an economic deposit on any piece of ground is 1/100, whereas finding one that is of 'world class' is 1/1000.'*<sup>1</sup>

Until such time as a company is able to get a project developed into an operating mine, only then does a revenue stream begin to flow. This follows lengthy and expensive exploration program, hundreds of millions of dollars in capital investment to build and commission the mine, all before any opportunity to receive a return on its investment.

The average time between discovery and production (an operating mine) in Australia is thirteen years.

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<sup>1</sup> Gold and Minerals Gazette – August 2008 edition – Editorial page 4

Through this lengthy period, exploration companies continue to pay a significant amount of fees and charges and other holding costs, of which local government rates are a substantial and growing part.

These companies are currently being battered by a challenging investment environment.

Many of these companies will need to undertake further raisings in 2019, and whether they are able to attract this investment (and on what terms) will be a significant factor for the growth of our sector and the Western Australian economy. The investment climate has been soft since the middle of 2018, and retail investors have been slow to re-enter the market in 2019.

## The Need for Greater Mineral Exploration

The long-term outlook for the industry, and key commodity groups, is the subject of close analysis by MinEx Consulting.

A Report<sup>2</sup> sponsored by a number of Government, academic and industry bodies (including AMEC) and released in October 2017 has initially closely analysed the gold sector and forecast the number of gold mines, production revenue and employment over the next 40 years.

The Report highlighted a number of disturbing findings, including:

- *For the Australian gold industry to maintain production at current levels in the longer term, it will either need to double the amount spent on exploration or double its discovery performance;*
- *By 2032 half of Australia's gold production will come from mines that are yet to be discovered;*
- *The weighted average delay between discovery and development for a new discovery is 13 years;*
- *Discovery costs have been increasing to the point that they are 50% higher than they were in the last decade; and*
- *In 40 years-time almost all of Australia's future gold production will come from exploration successes.*

The research is now being undertaken into other commodities.

Despite the upward trend over the last few years in total exploration expenditure in WA, primarily resulting from an increase in brownfield exploration, more still needs to be done to increase greenfield expenditure. The level of annual greenfield expenditure has still not exceeded that achieved a decade ago.

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<sup>2</sup>[https://www.amec.org.au/Public/Media/AMEC\\_Publications/Long\\_term\\_forecast\\_of\\_Australia%E2%80%99s\\_mineral\\_production\\_and\\_revenue.aspx](https://www.amec.org.au/Public/Media/AMEC_Publications/Long_term_forecast_of_Australia%E2%80%99s_mineral_production_and_revenue.aspx)

This research clearly shows the importance of, and need for, further mineral exploration. To support this occurring, governments need to prevent and remove cost barriers to exploration in Western Australia.

## **Local Government Services and “The Benefit Principle”**

Mining companies, exploration companies and prospectors use very few (if any in many cases) Local Government services associated with mineral exploration and mining. Mining companies often maintain their own private roads, airport, electricity, water and waste services and consequently do not use existing or require additional local government services.

When there is significant road use by resource companies, Local Governments frequently seek additional funding from these companies for road improvements in addition to setting a higher differential rate.

Exploration or prospecting activity has little if any impact on land use, community infrastructure or services. Often, these tenements have no on-ground activity for years at a time while companies are awaiting access or raising capital to support future exploration programs.

Exploration companies typically operate in remote areas, away from communities. They carry their own equipment and provisions. Similarly, mining tenements have very limited impact on local community infrastructure and services provided by Local Governments.

Despite this, mining and exploration companies are usually the highest rate payers in regional local governments.

Putting the benefits or services received aside, the mining and exploration industry are rated at consistently higher levels than other industries, notably the pastoral and agricultural industries. This is at best unfair and unreasonable.

By reinstating the Benefit Principle in rating policies, the actual impact of prospecting, exploration and mining activities on Local Government services could be fairly assessed, and rates set accordingly. Application of the Benefit Principle during the rate setting process would ensure actual use of local services and infrastructure by the resources sector is fairly assessed.

## **Mining Rental Fees and Local Government Rates**

In 1994, an updated methodology was included in the Valuation Act, as below:

1. Exploration licence - 2.5 times the rent payable for an exploration licence under the Mining Act
2. Mining and any other Licenses or Leases - 5 times the annual rent per hectare for the first 1,000 hectares or part thereof, 2.5 times the annual rent per hectare for the next 9,000 hectares or part thereof and 0.25 times the annual rent per hectare for each hectare more than 10,000 hectares

The multipliers used (2.5 and 5) appear to be arbitrary and not evidence based (although were delivered through consultation with industry and local government).

The clearest anomaly is the multiple applied to Retention Licences, which were only later introduced into the Mining Act in 2006. Retention Licences are caught under “other leases” which means they attract the valuation multiple of 5. Given active projects or mining activities cannot occur under a Retention Licence, this type of tenure should be valued using the 2.5 multiple.

The current method of valuation means the indexation applied to mining tenement rentals by the Department of Mines, Industry Regulation and Safety (DMIRS) is automatically reflected in tenement valuations.

In recent years, the State Government has applied increases above CPI, reflecting changes in policy and a desire for greater cost recovery from industry. Local Governments have then applied further inflation adjustments to the UV rates thus meaning a double inflation impacting resources sector rates.

For each increase in the mining tenement rental fee, companies are automatically exposed to an increase in local government rating, without local government deciding to increase rates, which usually occurs as well. This should not happen and needs to be addressed.

## **Significance of Local Government Rating**

Using differential rating, local governments are rating Mining categories at significantly higher rates than other industries. When compared with pastoral or agricultural rating categories the difference is staggering and unjustified – see 4.2.2. Figure 1 in the attached Report.

In many regional local governments, mining companies contribute the overwhelming majority of rate revenue, and in some cases half of the entire revenue of the local government.

For example, in 2016/17 mining companies provided, 92% of total rate revenue for Wiluna, 92% for Cue, 94% for Laverton, 72% for Coolgardie, 91% for Menzies, 95% Sandstone and 89% for Murchison - see 4.2.4. Table 3 in the attached Report.

These figures underscore the reliance and burden local governments are placing on the mining and mineral exploration industry. This burden is continuing to increase with each year and is neither sustainable for local governments or industry.

These types of numbers and percentages are hard to justify, and local governments rarely undertake the effort to respond to the concerns of mining companies, or to explain the justification behind their rating strategies.

The current legislation system is not providing an equitable outcome for the mining industry, in comparison to other rate payer groups and industries.

## **Exemptions & Rate-capping**

Western Australia is the only State's that does not have an exemption from rates for exploration tenements or some form of rate-capping in place. See Section 5 of the Report. These policies exist to promote the development of the resources sector, through actively encouraging exploration.

Without these policies in place in Western Australia, the mining industry has still flourished, however times are changing. Significant new challenges are facing our industry, and growing cost

barriers such as quickly growing local government rating requirements, are becoming a real barrier to exploration in our State.

If local government is not prepared to treat the mining and mineral exploration industry equitably, then the State Government should look to intervene. This could be done, through either implement an exemption for exploration and prospecting licences, or by introducing a rate-capping approach that limits that amount a local government can increase rates.

Regrettably, some local governments have publicly indicated their desire to massively increase rating of the mining industry. Recently, the Mayor of the Town of Port Hedland, foreshadowing his local government announcing further major increases to the rating of mining projects, and calling for tenements to be rated based on the mineral value in the ground.

Such calls are incredibly frustrating for an industry attempting to open up major economic and regional development opportunities, and which already contribute heavily to the employment and development of regional communities.

## **Administrative efficiencies & Sustainability**

AMEC and our member companies supports local government looking to implement efficiencies in the provision of administration and service delivery. This will assist in keeping down local government cost and hopefully containing rate increases.

It is recognised that under the current provisions of the *Local Government Act*, local governments are required to undertake a wide range of compliance activities that provide little if any benefit to rate payers. Compliance is important, but is should not come at the expense of performance.

AMEC supports a new Local Government Act that recognises a “one size fits all” approach is not practical or effective for local government in Western Australia, and that administrative requirements should be appropriate for the size and scale of a local government.

It should also be noted, that with 139 local governments in Western Australia, there remains a clear need for structural reform. Local government should be encouraged to look at administrative efficiencies, and to consider how they can best provide services for their community even if that means their amalgamation with other local governments.

## **Conclusion**

The vast majority of mineral exploration is undertaken by small exploration companies reliant on raising private equity capital in order to fund exploration and drilling programs. These companies do not have a revenue stream, are not making profits and can offer no immediate dividends to pass on to investors. They, however, make a major financial investment in our State, and pay considerable fees and charges to state and local governments.



The mining industry relies on these enterprising companies to make the discoveries that will eventually be turned into working mines, which in large part the prosperity and wealth of Western Australia has been build upon.

Mining and exploration companies are being unfairly targeted by some local governments needing to increase their rate revenue. When compared with other industries this clearly unreasonable and unfair.

It is also counter-productive to long term government policies that have sought to encourage the exploration and development of our State for benefit of all West Australians. Local government rating practices have become a major cost impediment for exploration companies, and continued increases will further limit the ability of these companies to explore for mineral resources, make discoveries, and ensure the future development of the mining industry and the State.

The Review of the *Local Government Act Review 1995* provides a perfect opportunity for the State Government to reset the policy settings of the sector and ensure that it helps promote the development of Western Australia.

## Recommendations

The following 18 Recommendation were made in the *Local Government Rating of Mining Tenements Report (Attachment 2)*. AMEC considers that these 18 recommendations should be adopted by government and would lead to a fairer and more transparent local government rating approach.

### Report Recommendations:

1. Ministerial approval to limit the highest rate to less than double the lowest be retained and Department checks strengthened to ensure Local Governments do not find 'creative' ways around it.
2. The Minister reinstate the Benefit Principle as a requirement in differential rate setting to ensure that actual use of local services and infrastructure is reflected in rates.
3. Audits conducted by the Auditor General should ensure there is no "double dipping" or cross subsidizing where Local Governments justify rate increases due to local impacts (such as road use) and then levy local user charges for the same (such as road user charges).
4. Differential rates should be provided by Local Governments to the Department of Local Government, Sport and Cultural Industries (DLGSCI) for immediate upload to the MyCouncil website at the time of advertisement to enable greater transparency and easy access for all ratepayers.
5. Ratepayers should be given a minimum of 28 days to make a submission in response to rates notices.
6. Where Ministerial approval is required for differential rate increases, the Minister must be fully satisfied that the Local Government has given appropriate weighting to the Benefit Principle in the setting of its differential rates.

7. The Minister request the Auditor General undertake a performance audit of Local Governments that have approval for a mining, exploration or prospecting Differential Rate more than double the lowest rate, and Local Governments that have set minimum payments more than double the average of UV rates.
8. The *Valuation of Land Act 1978* should be amended so that retention licences are valued using the 2.5 multiplier.
9. The State Government should require Local Governments to seek Ministerial approval for increases in resource rates above the rate of inflation.
10. The Minister should ensure Local Governments adhere to the requirement set out in their Objects and Reasons and provide evidence of the steps they have taken to improve efficiency as part of any justification for an increase in rates.
11. Comprehensive Local Government financial reports and information regarding funding sources should be publicly available online through portals such as the My Council website.
12. The State Government review the viability of the small regional Local Governments that rely heavily on external grants and resources sector revenue to survive and consider options that provide long term sustainability.
13. That Western Australia phases in the exemption of prospecting, exploration and retention tenements from Local Government rating to promote investment and development of the mining industry for the benefit of all Western Australians.
14. That the State Government undertake an inter-jurisdictional review of rate capping systems in Phase 2 of the Local Government Act Review to assess the benefits of such a policy in WA.
15. When setting airport fees and charges, Local Governments should be required to make the methodologies, objectives and reasons publicly available.
16. Airport operators should consult in a meaningful way with users including resources companies and provide transparent and comprehensive justification for any changes in fees and charges.
17. The Minister for Local Government should ensure fees and charges levied by Local Governments through airports are justifiable, and that revenue is allocated and utilised in a transparent manner.
18. The setting, use and reporting of Local Government airport fees and charges should be considered in the Department of Local Government, Sport and Cultural Industries' review of the *Local Government Act 1995*.