

LEGISLATIVE COUNCIL
Question On Notice

Thursday, 24 August 2017

312. Hon Robin Chappie to the Minister for Regional Development representing the Minister for Mines and Petroleum

I refer to land, the subject of prospecting licences, not to be again marked out for a certain period of 3 months and the *Mining Act 1978*, and ask:

- (a) can the Minister explain how the State Government of Western Australia benefits from not allowing any person within a period of three months who was the holder of the prospecting licence immediately prior to the date of the surrender of the tenement from then marking out and applying for a prospecting licence or exploration licence over part of or the same area;
- (b) if no to (a), why not;
- (c) can the minister explain what is the functional purpose of section 45(2) a of the *Mining Act 1978* aimed at achieving;
- (d) if no to (c), why not;
- (e) can the Minister explain what is the definition and meaning of the word "interest" used in section 45(2) b which does not appear to be defined under the *Mining Act 1978*;
- (f) if no to (e), why not;
- (g) can the Minister explain what is the functional purpose of section 45(2)(b) of the *Mining Act 1978* aimed at achieving;
- (h) if no to (g), why not;
- (i) can the Minister explain what is the functional purpose of section 45 (2)(c) of the *Mining Act 1978* aimed at achieving;
- (j) if no to (i), why not;
- (k) can the Minister explain what is the functional purpose of section 45(2a) of the *Mining Act 1978* in relation to the holding of shares in a listed public company aimed at achieving;
- (l) if no to (k), why not;
- (m) can the Minister explain how a prospecting licence tenement holder, or person who has an "interest" or a person who is related to the holder, would benefit from not having to comply with section 45(2) parts (a) to (c) of the *Mining Act 1978*;
- (n) if no to (m), why not;
- (o) can the Minister explain the justification as to why a time period of three months has been chosen in the legislation for prospecting licences, exploration licences and mining leases as opposed to a longer time frame as being acceptable before ground can be marked again and applied for; and
- (p) if no to (o), why not?

Answer

- (a) Preventing the holder of a prospecting licence immediately prior to its relinquishment (either through surrender, forfeiture or expiry), from marking out and applying for a prospecting licence or exploration licence over part of the same area within a period of three months enables any other interested parties the opportunity to mark out and apply for the land as a prospecting licence or exploration licence. This ground turnover principle encourages ongoing prospecting or exploration for mineral resources, giving other parties the opportunity to apply different methodologies in the search for economic mineral resources within the State. The discovery and development of new economic

resources is in the State's interest. It is therefore in the State's interest to encourage ground turnover for prospecting and exploration purposes.

- (b) Not applicable
- (c) The purpose of section 45(2) of the *Mining Act 1978* is to enable other interested parties the opportunity to secure prospecting or exploration title to the ground and carry on the search for the State's mineral resources and prevent the previous holder party from hoarding ground under prospecting or exploration title.
- (d) Not applicable
- (e) The dictionary definition of an interest includes; *a share in the ownership of property, in a commercial or financial undertaking, or the like, any right of ownership in property, commercial undertakings, etc., the relation of being affected by something in respect of advantage or detriment.* I refer to section 119(2) of the *Mining Act 1978* which states: *A legal or equitable interest in or affecting a mining tenement is not capable of being created, assigned, affected or dealt with, whether directly or indirectly, except by an instrument in writing signed by the person creating, assigning or otherwise dealing with the interest.*
- (f) Not applicable
- (g) The purpose of section 45(2)(b) of the *Mining Act 1978* is to prevent a person with an interest in a relinquished prospecting licence from hoarding ground under prospecting or exploration title and enable other interested parties the opportunity to secure title to the ground and carry on the search for the State's mineral resources.
- (h) Not applicable
- (i) The purpose of section 45(2)(c) of the *Mining Act 1978* is to prevent the previous holder party or interested party from hoarding ground under prospecting or exploration title, through the use of a relation, and enable other interested parties the opportunity to secure title to the ground and carry on the search for the State's mineral resources.
- (j) Not applicable
- (k) The purpose of section 45(2a) of the *Mining Act 1978* is explicit; that the ownership/shares of a public listed company which is dispersed among the general public does not in itself mean each of those shareholders have an interest in the exploration licence. Shareholders therefore are not disqualified from applying for the ground relinquished as a prospecting licence immediately after its relinquishment merely because they hold shares in the public listed company that held the licence.
- (l) Not applicable
- (m) Non-conformance with the provisions of section 45(2) of the *Mining Act 1978* would enable the former prospecting licence holder, a person who has an "interest" or person who is "related to the holder", to pick up the ground as a prospecting or exploration licence immediately on the surrender, forfeiture or expiry of the prospecting licence thereby preventing any other party from picking up the ground so that it may be further explored or mined in terms of answer (a) above.
- (n) Not Applicable
- (o) The holder, interested party or related party of any relinquished prospecting licence, exploration licence or mining lease, is excluded from marking out or applying for a prospecting licence or exploration licence over the land previously held under the relinquished mining tenement, for three months, so to allow opportunity for new geological concepts, thinking and methods to be introduced by other parties. A period of

three months is considered reasonable time for any other party to determine whether or not they are interested in marking out and applying for any part of the relinquished ground as a prospecting licence or exploration licence.

(p) Not applicable



MINISTER FOR MINES AND PETROLEUM