

Statutory Implications Relating to Mining Leases 47/256 & 47/527

Section 120(1) *Mining Act 1978*

- Requires Mining Minister, warden or mining registrar in considering any application for grant of a mining tenement, to take into account provisions of any planning scheme in force under *Planning and Development Act 2005* affecting use of land concerned
- Provisions of any such scheme shall not prohibit or affect the granting of a mining tenement or carrying out of mining authorised by *Mining Act*
- In this case, Mining Minister has taken into account provisions of TPS8 that apply

Section 120(2) *Mining Act*

- Requires Mining Minister to consult Planning Minister before disposing of a mining or general purpose lease when local government or Western Australian Planning Commission inform both Ministers in writing that lease would, if granted, authorise mining contrary to provisions of planning scheme
- In this case, Planning Minister provided comments before Mining Minister granted mining leases

Section 111A *Mining Act*

- Empowers Mining Minister to refuse applications for mining tenement if satisfied on reasonable grounds in the public interest that land should not be disturbed or application should not be granted
- Letter from DMP conveying Mining Minister's decision states Minister "considered that refusal of the two applications was not in the public interest".

Section 26 *Mining Act*

- Provides for imposition of conditions
- Holthouse report recommends Closure and Final Landform Rehabilitation Plan for existing, proposed and future mining tenements in Conservation, Recreation and Natural Landscapes reserve
- Conditions of pre-existing mining leases 47/113, 47/200 and 47/389 require such a plan to be submitted to Shire, DEP (Department of Environment Regulation) and the State Mining Engineer (DMP) within three months of decision and only following consultation with those parties
- Mining leases 47/526 and 47/527 do not include such a condition but rather require backfilling and rehabilitation no later than 6 months after excavation unless otherwise approved in writing by the DMP
- This condition doesn't need to be complied with prior to mining being undertaken, rehabilitation doesn't need to be undertaken in consultation with the Shire and the approval to mine and rehabilitate the site is not founded on any contextual analysis of the state in which the site should be left based on future plans for the area.
- Mining lease 47/389 also includes condition requiring Mine Closure Plan to be submitted to the DMP in June 2013
- Shire has recently received for comment Mine Closure Plan for mining lease 47/389

- Mining leases 47/113 and 47/200 include condition requiring the lessee to conduct progressive rehabilitation so that no more than two hectares of the two mining leases combined is covered by mining disturbance at any one time
- Mining leases 47/526 and 47/527 do not include such conditions

Section 24(5B) *Mining Act*

- Requires Mining Minister to consult responsible Minister and local government ... in which control and management of land reserved under Part 4 of the *Land Administration Act 1997* is vested
- Creating a reserve over Unallocated Crown Land between Reserve 35813 and Point Samson with a management order to the Shire would achieve same referral requirements under *Mining Act* as expanding townsite boundary
- Section 26A *Mining Act* empowers Minister to require, by written notice, mining tenement holder to surrender land in a townsite if they consider it required for community purposes