



COMMITTEE OF INQUIRY INTO MINING ACT  
SUBMISSION BY THE CONSERVATOR OF FORESTS

- Topics 1(a) the various classes of mining tenements, rights and licences and whether any should be eliminated;
- (b) whether any new forms of mining tenements, rights and licences are necessary;
- (c) the temporary reservation of Crown land and the grant of rights of occupancy thereover

The following submissions are summarized at this point as they more properly relate to and will be treated in greater detail within the submissions to be made relating to topics (c), (g) and (1).

It is submitted that the concept that mining activity may take place over any part of Western Australia is outdated and, if it were allowed to continue, could result in serious and far reaching consequences to this State. In particular, it is felt that present and intended mining activity in State forests and timber reserves has reached such proportions as to be of considerable concern to the Forests Department and those engaged in forest industries.

It is therefore submitted that State forests and timber reserves should no longer be considered as "Crown land" as presently defined in the Mining Act, and that proposed mining activities of any kind on State forests and timber reserves should only be dealt with in the following manner:

1. Prospecting on State Forests and Timber Reserves

Open access for prospecting should not automatically apply to these areas. Prior to prospecting of any kind being undertaken it should be necessary for a prospector to apply in

writing to the Mines Department for an Authority To Enter and Prospect on a State forest or timber reserve. A copy of such Application should also be served within 48 hours on the Conservator of Forests, Perth. The Application should contain particulars of:

- (a) the technical qualifications of the applicant, and of his employees and the technical advice available to the applicant;
- (b) a detailed programme of the proposed prospecting operations. Each such programme shall:
  - (i) provide for a geological, geophysical, geochemical or other similar survey
  - (ii) outline the methods by which the applicant will be able to preserve the ecological balance and the silvicultural requirements of the area.
- (c) the financial resources available to the applicant and the amounts of money the applicant proposes to expend in fulfilling the above programme;
- (d) any other matter relevant to the ability of the applicant to carry out the above programme effectively and with particular reference to his ability to comply with the requirements necessary for the preservation of the ecological balance and the silvicultural requirements of the area.

The Application should also be advertised in manner to be outlined in the submission to be made under topic (i). Objections to the Application could be lodged by any person within a reasonable time after publication of the advertisement and proof of the date of such advertisement should be required before the Application could proceed further.

The Application should then be considered by a Tribunal consisting of the following:

- (a) A Chairman - who shall be a District Court Judge and who shall make any recommendations. He shall be assisted by,
- (b) An expert on mining matters nominated by the Minister for Mines
- (c) An expert on Forestry matters, nominated by the Minister for Forests.

Such Tribunal should consider the Application no sooner than three months after the date of application, and should adopt the procedures presently used by the Warden's Court. Upon hearing the application and the objection, if any, as well as the submissions of the Conservator of Forests, the Tribunal should then make its recommendation to the Minister for Mines. Such recommendation would either be to grant, refuse, or grant subject to any conditions and restrictions as it might think fit, or to adjourn the application. The Minister for Mines would then make his recommendation in like manner to the Executive Council which would make the final decision on the application.

At the hearing by the Tribunal of an Application for Authority to Enter and Prospect on State forest or timber reserve, the onus would at all times be upon the applicant to establish that it would be in the public interest to permit mining activity of any kind on the area in question and that the operations would not interfere with the normal management of the area for the purposes for which it was dedicated.

As well as any other conditions and restrictions, the Tribunal, the Minister for Mines, or the Executive Council, would also have the power to require the applicant to provide a suitable bond and in certain cases sureties thereto to cover the expenses likely to be involved in rehabilitation and restoration wherever

possible of the affected areas. (This aspect will be dealt with in the submission on topic 1(c)).

An Application finally granted by the Executive Council would be for a period of 12 months, and within 2 months of the expiration of such period the holder of the Authority would be required to furnish to both the Under Secretary for Mines and the Conservator of Forests a report in writing setting out full particulars of the operations conducted during that period.

Without going into detail at this stage, further considerations regarding the Authority to Prospector suggested above are :-

- (a) Control of the movement of machinery to ensure that mining interests are subject to the same hygienic requirements and forest regulations as other forest users.
- (b) High value areas such as sample plots, research plots in hardwood forests and soft-wood plantations generally can be provided adequate protection.
- (c) The management practices employed by the Prospector could be modified to accommodate approved prospectors.

## 2. ~~Control Mining in State Forests and State Reserves~~

This would refer to all mining other than deep shaft mining below the level of 200 feet beneath the surface of the land.

A person seeking to mine on State forests and timber reserves would be required to apply in writing for an Authority in accordance outlined in (1) above would apply same and accept that the Minister for Mines would make his recommendation to both Houses of Parliament, the granting of the application or otherwise requiring resolution of both Houses. This requirement is contained

possible of the affected areas. (This aspect will be dealt with in the submission on topic 1(S)).

An application finally granted by the Executive Council would be for a period of 12 months, and within 2 months of the expiration of such period the holder of the Authority would be required to furnish to both the Under Secretary for Mines and the Conservator of Forests a report in writing setting out full particulars of the operations conducted during that period.

Without going into detail at this stage, further considerations regarding the Authority to Prospect suggested above are :-

- (a) Control of the movement of machinery to ensure that mining interests are subject to the same hygiene requirements and forest regulations as other forest users.
- (b) High value areas such as sample plots, research plots in hardwood forests and soft-wood plantations generally can be provided adequate protection.
- (c) The management practices employed by the Department could be modified to accommodate approved prospectors.

2. Open Cut Mining on State Forests and Timber Reserves

This would refer to all mining other than deep shaft mining below the level of 200 feet beneath the surface of the land.

A person seeking to mine on State forests and timber reserves would be required to apply in writing for an Authority to Mine on State forests and timber reserves and the procedures and requirements outlined in (1) above would apply save and except that the Minister for Mines would make his recommendation to both Houses of Parliament, the granting of the application or otherwise requiring resolution of both Houses. This requirement is in

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by virtue of the provision in the Forest Act whereby State forests may only be revoked in whole or in part by a resolution passed by both Houses of Parliament.

In regard to Temporary Reserves, the submission above has been that State forests and timber reserves be no longer included in the definition of "Crown Land" in the Mining Act. This would have the effect of removing the power of creating such Temporary Reserves over the State forests and timber reserves. Rights of occupancy of Temporary Reserves presently allow the companies concerned to carry out extensive drilling and other exploratory work before the question of the impact of mining has been considered. It is a fact of life that once a company has been permitted to expend considerable sums of money on exploration this outlay will strongly influence a decision to permit mining. Under the current procedure it is not possible to assess fairly whether or not the area should be reserved from mining in the public interest.

The current procedure of allowing detailed investigations to be undertaken over large areas of State forest under temporary reserves and the later submission of an agreement to Parliament for ratification does not permit a full, balanced appraisal of the need for the State forests against the mining development thereon.

ACQUISITION OF KNOWLEDGE INTO MINING AND

SUSTAINABLE FORESTRY AND CONSERVATION OF FORESTS

Topic 1 (e) mining in relation to conservation, ecology, preservation of the balance of nature and preservation of the environment.

The dedicated State Forests of Western Australia cover an area of 4,460,117 acres and are located in the extreme south-west of the State. The area dedicated as State Forest comprises less than 0.7% of the total area of the State. The south-west is the only region which can sustain proven commercial timber crops and for this reason the State Forests are concentrated in this area. Apart from timber production these forests fulfill a multiplicity of functions beneficial to the State. These include the protection of soil and water resources, the conservation of native flora and fauna, recreational, aesthetic and social values.

*When demand is still inadequate to replace forest from forest*

Timber still retains its position amongst the most important primary products of Western Australia, but on a world basis, Western Australia's timber resources are very limited in extent. Private property once provided 25% of the total timber output. By 1968/69 this figure had been reduced to 12.3% and the contribution from this source is a decreasing one. Western Australia is at present a net exporter of timber, but with the reduced availability of a private property resource and the demands of an increasing population this situation is expected to be reversed within the next decade.

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It is predicted by an eminent authority on forestry and timber matters that by 1972 imports of timber and timber products into Australia will replace petroleum products as the main draw on Australia's foreign exchange. The Commonwealth Government has recognized the need for an accelerated development of forest resources and the Softwood Forestry Agreement is a tangible step in this direction. To meet the anticipated timber needs of Australia, the Commonwealth has made funds available for the establishment of exotic softwood plantations. The States have been asked to submit claims for assistance in hardwood management with the view to increasing the productivity of our indigenous native forests. The current level of mining activity in Western Australia's forest areas could result in this State being excluded from any grants of funds for a long term project such as hardwood forest improvement work.

Of the 4,460,117 acres of State forest there were no at 16.3.70 1,659,000 acres held under mineral leases, 172,000 acres held as mineral claims, and 754,000 acres held as temporary reserves under the Mining Act. Further pressure on the area of State Forest is anticipated in future. Approximately 1,000 acres per year is lost to public utilities for power lines, water storage reservoirs and main rock widening, etc. Mining for bauxite, coal, tin and mineral claims is already taking place on State Forest. An increase in the level of operations of those existing mining activities must be expected if the pattern that has been evident over the past 10 years is to be repeated. Examples of the increase can be seen in bauxite which has risen from a predicted figure of 35 acres in 1960 to 300 acres in 1970 and is expected to be more than doubled with the addition of the Pinjarra plant.

The increase in the claims lodged can be judged from



the fact that in the 12 months to June 1969 the total was 42 whereas in the 12 months to June 1970 this had jumped to 415 claims.

It is submitted that the level of mining activity now encountered is undoing the good work of over 50 years standing. In 1918 it was decided that there was a real need to provide for the dedication, protection and management of our available forest resource. The problems created by a reduction or the excessively heavy cutting of forests can be seen in Great Britain where this situation has arisen during the 1914/1918 and 1939/1945 wars. Apart from the drain on foreign exchange because of imports, the strategic value of timber supplies has been recognised by the British Government and in this country with a limited land area, a vigorous afforestation programme has been implemented.

The objections to open-cast mining on State Forest

are -

- (1) The loss of permanently productive forest land due to the mining activities.
- (2) The loss to the State of timber not saleable at the present time.
- (3) The serious threat posed to other areas of forest due to the likely spread of pathogens such as Phytophthora cinnamomi due to mining operations.
- (4) The threat to the continued operation of existing mills, townships and associated farming areas in the south-west of the State.
- (5) The destruction of recreational and aesthetic values, the likely pollution of streams and domestic water supplies, the possibility of soil erosion, salt formation, the loss of native flora and the likely deleterious effect on native fauna.

Topic 1 (2) prospecting and mining on private

land;

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The Conservator of Forests holds certain lands under the powers provided in Section 9 of the Forests Act and within the terms of the Mining Act this is regarded as private land.

This land has been purchased and held in fee simple and is generally intended for exotic softwood establishment. There are very limited areas available in Western Australia which are suitable for successful establishment of the fast-growing and widely sought-after *Pinus radiata*. The land so held is generally confined to the relatively steep river valleys and the soil is derived from basic rocks. Any open cut mining operations would be a threat due to severe erosion and siltation of adjoining streams apart from the loss of forest asset. As these projects are an integral part of an Australia-wide plan to reduce our timber deficit and through this the outflow of foreign exchange, it is argued that these areas should be afforded complete protection from mining. It must be borne in mind that the Commonwealth has advanced monies under the Forewood Forestry Agreement Act to purchase and develop such areas. Any loss of area would be viewed with concern and could result in a review of the present proposals for assistance.

In addition to the protection now afforded private land that is in bona fide and regular use as a plantation, it is necessary to protect the land held for development under the Forestry Department pine working plan.

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In order to give effect to the above, it is suggested that Section 140(1) of the Mining Act be amended by the addition of clause:

(f) that is the property of the Conservator of Forests and held for the expressed purposes of future plantation establishment.

Section 1 (e) the rehabilitation and restoration  
of land affected by mining activities

It is submitted that open cut, open cast or strip-mining involving the removal of the cover vegetation and/or overburden to gain access to ore bodies poses major problems to forests and associated catchments. The nature of these operations is such that it causes a complete upheaval of the vegetation and along with this the wild life habitat of the area.

While the restoration of the land to its former state is not normally possible, there is a real need for work to be undertaken to hide the scars of quarry floors and as far as possible provide a window dressing to those areas. This is necessary to reduce the detrimental effect thinning areas have on the aesthetic value of the undisturbed forests. Examples of other important aspects to be considered are the prevention of soil erosion, siltation of catchments etc.

In submissions under 1(c), 1(b) and 1(c) dealing with prospecting on State forests and timber reserves (page 2) it is proposed that an applicant provide a suitable bond and in certain cases, surties thereto to enable the expenses likely to be involved for rehabilitation and restoration wherever possible to the affected areas.

It is submitted that in all cases where Parliament agrees to open cut mining under the provisions submitted in

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1(c), 1(b) and 1(c) that

"a person seeking to mine on State forests and timber reserves would be required to apply for an Authority to Mine on State forests and timber reserves and the procedure and requirements outlined in (1) above would apply save and except that the Minister for Mines would make his recommendation to both Houses of Parliament, the granting of the application or otherwise requiring resolution of both Houses"

a condition of such mining tenement should be

(1) the operations of the company shall conform to a working plan approved by the Conservator of Forests; such plans to be drawn up for a 15 year period and revised and extended each 5 years. The working plan shall -

(a) stipulate the maximum area to be mined each year;

(b) state the acceptable ore grades for economic mining operations;

(c) include a plan showing location of crusher sites, roads and railway lines;

(d) state the areas to be excluded from mining because of their special significance.

(2) the company should give to the Conservator not less than 12 calendar months notice in writing of the actual area of forest over which the company proposes to conduct mining operations during the period of 12 months next succeeding the date of the expiration of such notice in order to enable the Conservator to remove any merchantable timber from such area before mining operations shall commence.

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- (3) The supervision of rehabilitation measures to be controlled by the Conservator of Forests or his nominee.
  - (4) Provision of the full expense for rehabilitation and restoration measures including expenditure incurred by the Conservator and his nominee to be borne by the company.

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COMMITTEE ON MINING INTO MINING ACT  
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Topic f(h) compensation;

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It is submitted that compensation should be paid on all areas cleared as a result of mining operations on State forests and timber reserves. This payment is quite separate from the payments to be made for rehabilitation and restoration measures as set out in the submission on

Topic f(g).

The compensation must be designed to cover -

- (a) the loss of forest estate and the provision of alternative areas if such are available;
- (b) the loss to the State of raw material that is unobtainable or if extractable out prematurely due to mining requirements;
- (c) the effect of the interference to general forest management operations while mining is in progress;
- (d) the additional and recurring costs that will result from the need to vary overall forest management and protection practices as a consequence of the mining in the area and the nature of the rehabilitation and restoration measures;
- (e) the additional and recurring costs of the management and protection of the rehabilitated and restored areas which will be of a size and scope defined by mining requirements and not by planned forest management principles.

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It is further submitted that compensation rates  
— should be varied in the light of changing costs and  
provision made for a review at not less than 5 yearly  
intervals.



COMMITTEE OF ENQUIRY INTO MINING ACT

SUBMISSION BY THE CONSERVATOR OF FORESTS

(1)(1) The manner in which applications for mining tenements, rights and licences are dealt with and if so what improvements are considered necessary.

Our submission on this topic must be considered in conjunction with the proposals for forest areas made under submissions in topics (1)(a), (b), and (c).

It is submitted that where a number of claims or other tenement applications affect one area or class of country, whether private or public, the owner or body in which the area is vested, should have the right to have all applications heard at one time. The present procedure of dealing with claims singly or in small groups does not permit of a full and balanced appraisal of the likely effect of mining on certain areas.

It is submitted that the present requirement for the publication of notices of claims is inadequate. Any person applying for the right to prospect or to mine upon State Forests, Timber Reserves, or other land in the control of the Conservator of Forests, should serve a copy of the application upon the Conservator of Forests, forth within 48 hours of application with the Mines Department. It is also recommended that the Mines Department be required to publish notice of all applications for mining tenements in the Government Gazette or in a special Mineral Gazette. It is further submitted that thirty (30) clear days be given from the date of publication for the lodging of objections. Further, that these notices are to be separated into their

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(1)(1) Cont'd.

respective mineral fields and each notice to show the Lands  
litho on which the claim can be found, together with an  
accurate datum from which the claim can be located from  
such plan.

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COMMITTEE OF ENQUIRY INTO MINING ACT

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Topic (1)(1) The elimination of outmoded and obsolete provisions and the restatement or replacement of others, to conform more with modern conditions customs or usage.

It is submitted that State Forest and Timber Reserves should no longer be considered as "Crown Land" as presently defined in the Mining Act. In support of this submission it is pointed out that in the original Mining Act No. 15 of 1904, the term Crown Land included State Forest and Timber Reserves. The State Forests referred to were set aside as State Forest under Section 59 of the Land Act, 1893 or proclaimed as State Forest under the Land Act Amendment Act, 1904. The areas declared under this latter provision were mainly within a radius of Goldfield towns or town sites. These were set aside with a view to retaining vegetation cover so as to protect the towns from dust nuisance apart from aesthetic considerations and the protection of timber. These State Forests have since been revoked.

Land permanently dedicated State Forest under Section 19 of the Forest Act, 1918-1969 for the purpose of timber production in perpetuity falls in the category of Crown Land under the out-moded provisions of the Mining Act. It is strongly recommended that action be taken to afford this land similar protection from mining as from all other pursuits.

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The need for restriction of prospecting and Parliamentary approval to open-out mine on State Forest and Timber Reserves have been set out in submissions under (1)(a), (b), and (c).