



## eNews of the



Representing Prospectors  
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### DO

Remember safety in the bush is paramount, make sure your radio, GPS and PLB are working correctly before venturing out.

There has already been a search for one prospector and APLA has received a number of calls from people seeking contact with family members detecting in WA that have not contacted relatives for long periods of time.

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The Department of Mines, Industry Regulation and Safety (DMIRS) is seeking feedback from industry on proposed amendments to the *Mining Act 1978*.

The Streamlining (Mining Amendment) Bill 2021 aims to make legislative changes to improve efficiencies for the application and assessment of environmental approvals and support economic recovery following COVID-19.

The Streamlining (Mining Amendment) Bill 2021 is now available for public comment until Friday 25 June 2021

**SEE PAGE 8 FOR FURTHER DETAILS**

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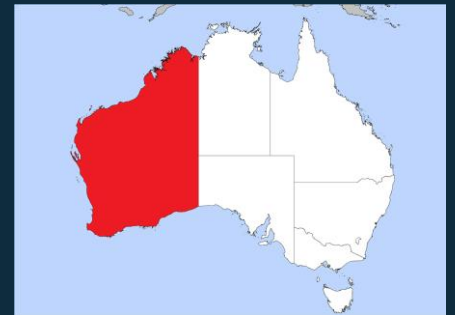
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There are a lot of tourists travelling on WA roads at the moment.

Take care travelling and book into caravan parks prior to travelling.

# **From the President's Desk, May 2021**

The season is once again in full swing (pardon the pun?) and APLA continues its work behind the scenes. The big-ticket items are:

## **The Streamlining Bill 2021.**

The Bill contains what promises to be the reward for years of talks and rumours about “Low Impact Notification” or the much-used acronym, “The LIN”. This news is right smack bang up to date with APLA attending the latest public level meeting only last week. We’ve already had our own private briefing from DMIRS back in April and placed the outcomes from that onto our APLA website and onto our Facebook page. There will be more to come when I get time to write up the meeting of last week. Suffice to say, the expected time frame for the Bill and its Regulations to become actual law will be around two years from now. Meanwhile the Bill is open for public comment and details can be found on these links or cut n paste as necessary: Consultation Summary - Streamlining (Mining Amendment) Bill 2021 ([dmp.wa.gov.au](http://dmp.wa.gov.au)) [www.dmp.wa.gov.au/Documents/Environment/Consultation\\_Draft\\_D08\\_Streamlining-Mining\\_Amendment-Bill-2021.pdf](http://www.dmp.wa.gov.au/Documents/Environment/Consultation_Draft_D08_Streamlining-Mining_Amendment-Bill-2021.pdf) Template feedback form.

(Control Click to access these or email us and we’ll send you a copy)

We have some reservations about the proposed “Approvals Statement” that will be required for a Mining Lease, as included in this Bill. We’re still working with DMIRS on that aspect of it. More soon?

Next big issue?

## **The Aboriginal Heritage Bill 2020.**

Under the care of the now departed Ben Wyatt as Aboriginal Affairs Minister, this legislation was given a very high priority and unprecedented exposure and publicity. All of which seems to have fallen away after Wyatt’s departure from politics. The Aboriginal Affairs baton has been picked up by former Environment Minister, Steve Dawson. We expect this Minister to be as equally challenging as Ben Wyatt. Having said that, we see that this Bill is not on the list of priority legislation for this term of McGowan’s government. That has taken some of the heat out of the timeline for getting the Bill through to assent but make no mistake, it hasn’t gone away. This will once again return to the top of the list if big mining companies don’t stop blowing things up with apparent disdain and disregard of the consequences of their actions. There may be many out there in “prospector land” that disagree with the care and legislation given to protect Aboriginal Heritage. Alternatively, there may be others that agree and support such protective measures. Regardless of those polar differences, be assured that it will never get any easier for us as “the little guys” as long as “the big guys” and their corporate attitudes continue to swim against the tide of State and Federal Government’s support for the Traditional Owners. The more the corporates ignore it the more onerous the legislation will become.

## Heard on the grapevine? Rumours and gossip?

I'd like to think that this next matter came about as a result of APLA persistent whinging and whining to DMIRS about its business systems failures. Maybe it didn't, but we certainly did enough complaining about it. It is now strongly rumoured that DMIRS will spend an unprecedented amount (in the millions is what I heard) on totally overhauling the current digital systems of DMIRS business. I made the point that APLA must be involved in such a venture because we'll be the end users, the clients and the customers of the changes. It won't happen overnight but I'm sure it will happen.

## Helping our members.

APLA continues to assist members with technical issues and legal matters. But it will be a slightly different "assistance model" in the future. We will no longer be using Regulation 169 of the Mining Act to represent our members in the Warden's Court and to the opposing lawyers. The concept has been thoroughly tested by myself in several cases and we've had some great feedback and some winning outcome from those. Unfortunately, the workload is just too much for one person when placed on top of everything else. So, we will still be giving advice on anything and everything you throw at us but from now on, instead of doing it for you, we'll tell you how to do it yourself. As Confucius said, "Tell me how to do something and I'll remember 50% of it, show me how to do it and I'll remember 60% of it. But let me do it for myself and I'll remember all of it"! ( I have another version of it that I apply only to myself because it contains some choice French!)

On this topic, I'd like to thank those whom we assisted for the generous cash donations to APLA for the work we did for them. The money will be well spent on improving APLA and what we can do for members. So, huge thanks from the APLA Team.

## The near future for the APLA Team,

There will be big changes to the team as some of us are at last heading out to pasture. We'll soon be revealing who is going, who is staying and who is just moving sideways. Me? I'll be moving out, backwards and downwards! But I'll still be here! I don't let go that easily.

Good luck out there,

Les Lowe – APLA President.

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### Cel-Fi phone boosters! Better deals

Altronics, one of our major sponsors now stocks the Cel-Fi mobile phone booster system. Our research indicates they have possibly the best price in Perth. Check out Altronics across Perth. They have branches near you and very quick mail order for those of you in the regions.

<https://www.altronics.com.au/>



## TYPES OF VOLUNTEERING

There are many types of volunteering available within APLA. With all of these choices there is something to suit everyone.

APLA is proud to work with Volunteers that are committed to contributing to the community through volunteering.

APLA tries to source volunteering job descriptions which are tailored to meet both the requirements of volunteers, and the needs of the APLA of WA Inc both at branch level and Delegate level . The two types of volunteering are one where team members help to train new members in their varying roles.

When we consider the benefits gained from volunteering, we are all winners – the impact has a ripple affect starting with the volunteer, the organisation , service and/or people benefitting from the volunteer and the impact this has on our prospecting community.

There are many reasons for volunteering, and you might identify with one listed below:

- Make a difference to the lives of others.
- Support for a cause that you are passionate about prospecting.
- Give something back.
- Help others less fortunate.
- Help the environment.
- Feel valued and part of a team.
- Spend quality time away from work or a busy lifestyle.
- Gain confidence and self-esteem.
- Gain or develop new skills, knowledge and experience.
- Improve employment prospects.
- Meet new people and make new friends.
- Contribute to maintaining the outcome of the rights of prospectors to be able to prospect in the future.

Whatever your reason we can help you find a role that's meaningful and enjoyable

**Branch President** looking to contribute your ability to run a meeting with guest speakers, yearly events, running prospecting camps within the Mining Act. Onboarded with the mentorship of past Presidents.

**Branch Treasurer** looking to contribute your ability to keep transactions on an account based cloud Saasu system. with the mentorship of past treasurers.

**Branch Secretary** looking to contribute your ability to communicate and keep up to date with the current constitution and guidelines, minutes, agendas, and emails. Training with the mentorship of past Secretaries.

**Branch Vice President** looking to contribute your ability to run a temporary meeting and support the President in the role of running events and camps for prospectors. Training by previous Vice President.

**Committee Member** looking to contribute your ability to assist in events, setting up and completing the day's events, raffles, sausage sizzle, meetings, and further training as and when necessary.

**Delegate Members** looking to become more involved in the mining tenements and law able to act as a President, or Secretary, or Treasurer/Membership, or Vice President or a Delegate representing to Government as stakeholders or as administration role.

**Datum Post Editor** looking to become involved in an editorial or article of interest withing the mining sector and put together The Datum Post APLA's flag ship Newsletter to member.

**Merchandise Officer** - Good at keeping track of stock.

**Webmaster** looking to become involved in IT have a sound background in IT. Perhaps you can manage the Webpage notices and updating of webpage via Mantis. Help with email communications database and internal email registers.

#### **APLA's Volunteer Practice**

- Define volunteer roles and develop clear job descriptions.
- Interview and nominate volunteer staff in accordance with anti-discrimination and EEO legislation and APLA of WA Inc Constitution.
- Provide volunteer staff with orientation and training.
- Provide appropriate and adequate insurance coverage.
- Provide appropriate levels of support and management.
- Provide copies of policies and procedures.
- Provide volunteer staff with information on grievance and disciplinary policies and practices available in APLA's Constitution.
- Acknowledge the rights of volunteer staff.
- Reimburse volunteers for out-of-pocket expenses incurred.
- Treat volunteers as valuable team members and advise them of the opportunities to participate in stakeholder decisions.
- Acknowledge the contributions of volunteer staff.

## Volunteers

*Act, Commit, Belong - come along and join in the APLA Team.*

Help enable Prospecting to continue to grow in WA.

### **APLA is looking to fill the Volunteer Position of Secretary/ Delegate-**

At present the election for this position is available by contacting Secretary: Marise Palmer on sec@apla.com.au or calling 0403353029 to discuss further.

Nomination Forms will be supplied to the right persons of interest via Delegate Secretary. The nominator will be a financial member.

APLA is a Volunteer based Incorporated Association who would like members with any administration skills to step forward and nominate firstly as a Delegate at their branch AGM. Secondly as Secretary at the July Delegates teleconference Meeting elections.

The Delegate Secretary as a Volunteer provides the Delegates and Executive with

1. notices of meeting times and places and requests contributions of items for the agenda.
2. The Secretary, in consultation with the President, prepares agendas for the Executive delegate meetings.
3. Prepares accurate minutes.
4. The Secretary makes themselves familiar with the Constitution and By-law. Updating the By-Laws and on occasion the Constitution at the AGM. Updating with the incorporations arm at the Department of Commerce with any Constitutional changes.
5. Proficient in MS Office
6. Good communication and negotiation abilities
7. Integrity and confidentiality

The person who does step forward will be provided with history files, and Secretary Marise Palmer offers mentoring as you grow with the position. We will be able to assist in any matters with mentoring into the position. If your passionate about Prospecting and Lease holding and would just like to put your best foot forward that's great and we welcome, you as part of APLA Team. Let us start by discussing stepping forward. If you are a member of the other branches please call and discuss before your Branch AGM.

*The latest you can apply for this depends on the various Branch AGM's . EG: Perth Branch AGM is to be held on 30th June. I require to hear from you by or before the 12th June at the latest.*

Contact Secretary: Marise Palmer on sec@apla.com.au or calling 0403353029 to discuss further.

## **APLA's Perth Branch AGM to be held 30<sup>th</sup> June 2021.**

### **- Volunteer Role - Treasurer**

Nomination forms have been emailed out to members and due by the 2<sup>nd</sup> June 2021 to Perth Branch Secretary : [persec@apla.com.au](mailto:persec@apla.com.au)

We are currently looking for a new branch treasurer and if you feel you would like to be part of the APLA team we are sure you will find it rewarding. Prospecting camps are offered to committee members, there is an honorarium payable and last but not least the reward of helping others.

**Should you be interested in this volunteer role please contact Marise Palmer, treasurer [pertres@apla.com.au](mailto:pertres@apla.com.au) or call on 0403353029 to discuss.**

This position requires someone who enjoys doing bank reconciliations and tends to know at least how to use an accounting-based system with simple double entry for transactions, considerably basic. APLA uses **Saasu which** is a cloud-based **accounting** solution for small businesses. This is an easy software programme for the person with some background in accounts. Banking, raffles, floats.

Training and mentoring is available from the past Perth Branch Treasurer along with files and a PDF instruction manual.

APLA would like to hear from you.

## EDITORIAL

Steve Palmer. Editor

Contact: **0498353232**  
aplanews@apla.com.au



## From the Editors Desk

**Hi all**

With the influx of tourists and weather in the goldfields improving, the numbers of prospectors in the fields is increasing. Caravan parks such as Cue, Mt Magnet and Kalgoorlie are filling up and bookings are essential.

This year there are fewer Mining Companies allowing access to their leases, ( Westgold sent notifications that no access will be granted except 40E's). This means many people will be accessing pending leases. APLA members should remember that in many cases these leases are small leaseholders' income and livelihood.

There will unfortunately be a few prospectors that will try to illegally access some leases in the goldfields. As a reminder, the next couple of pages include the penalties for illegal prospecting and the Seven golden rules of prospecting.

This will also put pressure on Pastoral Leases, so if camping on leases or going on leases on Pastoral Stations try to contact the station owner.( phone numbers are available either from DMIRS or the local shire or Google..) A good rapport with the Station owner can often lead to a good area to detect.

**Just a little snippet from the newspapers.. *there is always a downside, either boom or bust.***

- Some Kalgoorlie businesses are being driven to extreme lengths as the mining boom floods the city with customers but mops up workers.
- Businesses in Kalgoorlie are struggling to find staff to meet the boom-time demand.
- After advertising a \$5,000 reward one physiotherapy clinic has had no domestic applicants
- A UWA Business School Professor says some potential workers are sceptical of the boom-and-bust cycle.

He said the business could usually attract staff from around Australia but there was no interest recently.

He said without new people moving into the community, the local businesses could not offer the same wages as the mining sector.

"Small businesses aren't likely to be able to recruit unless they at least match, in some respects, the kinds of offers made by the mining companies," Professor Da Silva Rosa.

Unfortunately, this is happening in many country towns.

Remember APLA AGM's are coming up. We are always looking for volunteers.

# Penalties for illegal prospecting

The Department of Mines, Industry Regulation and Safety investigates allegations of unauthorised mining activity; reports can be made by contacting the Investigation Services Branch – Compliance Section.

The Investigation Services Branch – Compliance Section responds to all allegations of offences committed under the [Mining Act 1978 and Regulations](#). It provides support for environmental issues, breaches of tenement conditions and investigation of offences committed against other departmental legislation.

## Incident reporting

### Mine Safety and Dangerous Goods Queries

Email [minenessafety@dmirs.wa.gov.au](mailto:minenessafety@dmirs.wa.gov.au) or [dgsb@dmirs.wa.gov.au](mailto:dgsb@dmirs.wa.gov.au) for general queries or complaints relating to mine safety or dangerous goods. Do not contact the Investigations Services Branch.

## Reporting Suspected Unauthorised Activity

To report suspected unauthorised activity, contact Investigation Services Branch – Compliance Section by email: [ieb@dmirs.wa.gov.au](mailto:ieb@dmirs.wa.gov.au).

To respond effectively to complaints, it is essential to report the incident promptly (within a few hours or days of the incident occurring or being detected), and to include as many details as requested below.

## Details to Include When Reporting Unlawful Activity

- Precise location of the activity (specific GPS coordinates are preferred, or a sufficiently detailed description of the location);
- Photographs (JPG, BMP or PNG) or videos (MPG, WMV, MOV, MP4, AVI) of the activity;
- Time and date the activity occurred or at least a time and date range in which the activity occurred;
- Details of any vehicles sighted including vehicle number plates;
- Details of any persons sighted or spoken to at the time of the incident, including their names and contact details;
- Specific tenement numbers if applicable; and,
- Your name and contact details (so ISB can clarify any details relating to the complaint).

**Note:** Your name and details will not be released and will remain confidential at all times. However, it may be necessary for you to give evidence in court if charges have been laid and if you have witnessed the activity actually taking place.

## Unauthorised Mining Activity

The majority of reports received by the branch relate to allegations of unlawful mining activity. This includes activities such as (but not limited to):

- Mining outside approved tenements;
- Prospecting on tenements without approval; and
- [Prospecting](#) on crown land without a Miner's Right.

## Fines and Penalties

Unauthorised mining in accordance with Section 155 of the Mining Act 1978 and attract a penalty:

- For an individual of up to \$150,000 and a further \$15,000 for each day the offence continues.
- For a body corporate of up to \$300,000 and a further \$30,000 for each day the offence continues.

# The Seven Golden Rules of Prospecting

## 1. Put safety first

- Make sure you have enough water, fuel, maps and first aid supplies.
- Give serious consideration to taking some form of telecommunications and a global positioning system to fix locations, and a Personal Location Beacon (PLB) - it may turn out to be your most important safety device.

## 2. Obtain a Miner's Right permit

when prospecting on vacant Crown land (\$25 from any Mining Registrar's office).

## 3. Obtain a 40E permit

when prospecting within an exploration tenement (if you do not have written permission from the tenement holder).

## 4. Get written permission

from the tenement holder when prospecting on:

- a mining lease
- an exploration licence (if you do not have a 40E permit)
- a prospecting licence

## 5. Comply with all legal requirements

when prospecting on a pastoral lease, this includes gaining permission from the pastoralist for access to certain areas.

## 6. Show respect when on Crown land

because it is used or set aside for many purposes, including:

- pastoral and grazing activities
- parks and forests
- the use and benefit of Aboriginal people
- mining activities

## 7. Fill any holes

that you dug and repair ground that has been disturbed.

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*\* Volume & Stockpile Surveys*

**APLA Members - Mark & Pauline Anderson - Email: [paulinea@35degreesouth.com.au](mailto:paulinea@35degreesouth.com.au)**

## When you finish prospecting

When you finish prospecting, you should:

- Remove rubbish and leave the area clean and tidy.
- Check holes have been filled to help maintain the environment and stop fauna from becoming trapped or injured.
- If on a pastoral lease, notify pastoralists and any other landowners you are leaving.
- If prospecting on a mining tenement, advise tenement holders you have finished.
- Fill in and return any reports or expense sheets for leaseholders.

## CURRENT INDUSTRY / DMIRS NEWS

The Department of Mines, Industry Regulation and Safety (DMIRS) is seeking feedback from industry on proposed amendments to the *Mining Act 1978*.

The Streamlining (Mining Amendment) Bill 2021 aims to make legislative changes to improve efficiencies for the application and assessment of environmental approvals and support economic recovery following COVID-19.

DMIRS Executive Director Resource and Environmental Compliance Karen Caple said: “Through the introduction of a low impact notification for the automated authorisation of low impact activities and the introduction of a single approvals statement for mining operations, the department hopes to modernise the regulatory framework and further reinforce a risk and outcomes-based approach to regulation.

“This approach will also allow the department to redirect its focus to higher risk matters.”

The Streamlining (Mining Amendment) Bill 2021 is now available for public comment until Friday 25 June 2021 and an information sheet with details on the proposed amendments is [available online](#).

To provide submission on the Bill, a feedback form is available [here](#) and all submissions should be emailed to [REC.Consultation@dmirs.wa.gov.au](mailto:REC.Consultation@dmirs.wa.gov.au) by Friday 25 June 2021.

### EYE ON IT

DMIRS have on the bottom of their website page a box entitled.

## Subscribe to updates.

The department provides a range of newsletters and information products to keep you up to date. Subscriptions to the latest DMIRS news services of your choice are available.

They are free to the public and cover a wide range of articles and information.

Click and keep yourself informed.

## Mining Lease Expenditure an overview ..

**The policy underlying the *Mining Act 1978* (WA) (Act) and the *Mining Regulations 1981* (WA) (Regulations) is the encouragement of economic activity. One of the benchmarks of this policy is the requirement of a tenement holder to expend money on the tenements they own. Prospecting licenses, exploration licenses and mining leases each have prescribed conditions requiring annual minimum commitments to expenditure.**

In economically trying times, compliance with expenditure conditions may take on a new impetus. The vast majority of applications for forfeiture are grounded on claims of under expenditure. Tenement holders wary of their 'jealous neighbors' are incentivized to work to exploit the mineral resources of their tenements rather than allowing them to sit idle.

Absent a certificate of exemption from expenditure, tenement or licence holders that fail to meet their expenditure commitments may find themselves facing an application for forfeiture, which may result in the imposition of a fine or, in the worst case, the forfeiture of ownership of the tenement.

This paper explores:

1. what is considered expenditure for the purposes of the Act;
2. applications for a 'certificate of exemption from expenditure'; and
3. the factors the Mining Warden may consider when dealing with an application for forfeiture arising from a failure to meet minimum expenditure conditions.

### What is 'expenditure'?

Unhelpfully, the Act does not provide any guidance as to what can be classified as 'expenditure'. Regulation 96C attempts to remedy this by providing specific examples of expenses that are or are not 'expenditure'.

The following expenses are deemed to be 'expenditure' under the Regulations:

1. the preparation of Aboriginal Heritage Surveys (Regulation 96C(1));
2. Rehabilitation Activities (Regulation 96C(2));
3. Annual Tenement Rent (Regulation 96C(2a));
4. Local Government Rates (Regulation 96C(1));
5. Administration and Land Access Costs (but only up to 20% of the minimum expenditure commitment or 20% of the total expenditure on the mining tenement, whichever is the greater) (Regulation 96C(3));
6. cost of cutting and polishing minerals for use as samples (Regulation 96C(3a)); and
7. the cost of an aerial survey (Regulation 96C(3b)).

The following expenses are not 'expenditure' under the Regulations:

1. the cost of marking out mining tenements (Regulation 96C(4)(a));
2. any cost associated with the acquisition or sale of mining tenements (Regulation 96C(4)(b));
3. research activities not directly related to a specific tenement (Regulation 96C(4)(c)); and
4. compensation payments made in respect of the mining tenement (Regulation 96C(4)(d)).

### The case laws.

Regulation 96C does not provide an exhaustive list. The courts have also treated the following expenses as 'expenditure':

1. drilling costs;
2. metal detecting, dollying, sampling and GPS gridding;
3. stationery and office equipment;
4. the costs of maps and plan printing;
5. the costs of tools and equipment acquired for the purposes of mining;
6. the costs of time spent on supervisory work – however, such work may be applied at a reduced rate;

7. the purchase cost of plant and equipment – provided it was purchased in the relevant expenditure period;
8. machinery hire costs – provided the machines are used on the tenement for purposes relating to which the tenement was granted;
9. the costs of general evaluation and assessment by geologists or mining engineers. This can include ‘desk studies’, consultation work, printing/data processing, drill core storage and tenement administration;
10. off-groundwork – it is not necessary for the work to have been physically conducted on the tenement. For example, geological reports based on photographs of previous exploration or sampling may be claimable;
11. employees’ wages if the employee is directly engaged in full time or part time work in relation the tenement. This also can apply to where the tenement holder him or herself performs work in relation to the tenement; and
12. expenditure following the cessation of mining operations.

The courts have treated the following expenses as not ‘expenditure’:

1. the hire of one’s own vehicle;
2. loss of sale on fixed assets;
3. research by the tenement holder;
4. shares of minerals paid to tributers;
5. depreciation of plant and equipment (with some exceptions);
6. cooking and associated ‘housework’ performed at the tenement;
7. caretaker expenses – however, such expenses may be claimable where the caretaker is retained while mining is in progress;
8. expenses relating to the use of minerals after production such as cutting, marketing or freight;
9. work undertaken by an optionee for its own purposes to establish whether it wishes to exercise an option as such work is not undertaken or paid for by the tenement holder;
10. food and accommodation expenses – these are considered normal living expenses and do not usually relate to mining; and
11. repairs or other expenses relating to machinery where there is no connection between the machinery and the tenement.

It is important to note that ‘to expend’ does not always require that actual payment of an expense be made within the required expenditure year. For the purposes of meeting minimum expenditure, the incurring of a liability or debt in relation to the tenement may be sufficient.

### Getting an exemption from expenditure requirements

Tenement holders who are aware that they will likely not meet their minimum expenditure commitment for the requisite expenditure year may make an application for a ‘certificate of exemption from expenditure’.

#### Requirements for exemption

Conveniently, section 102 of the Act prescribes the grounds upon which a certificate of exemption may be granted. These are where:

1. the title to the mining tenement is in dispute (section 102(2)(a) of the Act);
2. time is required to evaluate work done on the mining tenement, to plan future exploration or mining or raise capital (section 102(2)(b) of the Act);
3. time is required to purchase and erect plant and machinery (section 102(2)(c) of the Act);
4. the ground the subject of the mining tenement is for any reason unworkable (section 102(2)(d) of the Act);
5. the ground the subject of the mining tenement contains a mineral deposit which is uneconomic, but which may reasonably be expected to become economic in the future, or that at the relevant time economic or marketing problems are such as to not make the mining operation viable (section 102(2)(e) of the Act);
6. the ground the subject of the mining tenement contains mineral ore which is required to sustain the future operations of an existing or proposed mining operation (section 102(2)(f) of the Act);
7. there are political, environmental or other difficulties in obtaining requisite approvals which prevent mining or restrict it in a manner that is, or make it subject to conditions that are, for the time being impracticable (section 102(2)(g) of the Act);

8. the tenement is one of two or more tenements for the purposes of filing combined mineral exploration reports and where the aggregate exploration expenditure for the combined reporting tenements would be enough to satisfy the expenditure requirements (section 102(2)(h) of the Act); and
9. there are any other reasons which the Minister deems to be sufficient to justify an exemption (section 102(3) of the Act).

Various 'other reasons' referred to in section 102(3) of the Act have been prescribed by the Regulations, which include death, bankruptcy, insanity or liquidation of the tenement holder (Regulation 102(2)).

#### Making the exemption application

Applications for exemption must be made within 60 days of the end of the relevant expenditure year (section 102(1) of the Act). Within 28 days of lodging the application for exemption, a statutory declaration must be lodged by the tenement holder setting out the reasons supporting the application (Regulation 54(3)).

If a certificate of exemption is granted, the tenement holder is deemed to be relieved of their obligations relating to expenditure on the tenement for the expenditure period (to the extent of and subject to the conditions specified in the certificate).

#### Objections to exemption applications

There is no guarantee that an exemption will be granted. It can be sometime between the lodgment of an application and the granting of an exemption.

In the interim, the 'jealous neighbor' can lodge an objection to a tenement holder's application for exemption, usually on the grounds that the tenement holder cannot satisfy the requirements in section 102 of the Act.

#### Application for forfeiture

The same 'jealous neighbor' may launch a two-pronged attack. In addition to objecting to the application for exemption, they may also lodge an 'application for forfeiture' at the same time. Though an application for forfeiture can be instigated as a stand-alone application.

#### **Forfeiture**

A tenement holder who fails to meet the minimum expenditure commitment carries the risk of facing an application for forfeiture under sections 96(1) or 98(1) of the Act.

An application for forfeiture can be commenced by 'any person'. Applications for forfeiture must be made during the relevant expenditure year in relation to which the expenditure commitment has not been met, or within 8 months thereafter.

Interestingly, an application for forfeiture will not be found to be an abuse of process simply because the applicant seeking forfeiture has commercial gain by cash settlement as their ultimate objective. Therefore, it is not unusual to see applications for forfeiture being made by those seeking purely financial gain, rather than title to the subject tenement itself.

The laissez-faire regulation of these kinds of 'shake downs' is another demonstration of the policy of encouraging economic activity on tenements.

#### Mining Warden's discretion

Where the Mining Warden finds that a tenement holder has not met the required expenditure conditions, pursuant to section 98(4A) of the Act the Mining Warden may:

1. recommend the forfeiture of the tenement;
2. impose a penalty not exceeding \$10,000 (as an alternative to forfeiture); or
3. dismiss the application for forfeiture.

Once the application for forfeiture has been heard by a Mining Warden, the Mining Warden is then required to provide the Minister with notes of the evidence presented at the hearing of the application together with a report of the Mining Warden's recommendations.

To recommend forfeiture, the Mining Warden must be satisfied that the non-compliance with the expenditure conditions is of 'sufficient gravity' to justify the forfeiture.

It is important to note that the Mining Warden does not make an order for forfeiture – that order is made by the Minister.

#### Minister's discretion

Before acting on the Mining Warden’s recommendation, the Minister may request further evidence prior to making their decision or request that the application for forfeiture be reheard.

Once the Warden’s recommendation is made to the Minister, pursuant to section 99(1) of the Act the Minister may:

1. order the forfeiture of the tenement;
2. impose a penalty not exceeding \$10,000 (as an alternative to forfeiture);
3. award the whole amount of the penalty (above) or any part thereof to the applicant who applied for forfeiture; or
4. determine not to forfeit the tenement or impose any penalty.

Penalty awarded to the applicant.

Section 98(4B) of the Act grants the Warden, and section 99(1)(c) of the Act grants the Minister, the power to award any financial penalty imposed on a defendant to the applicant for forfeiture.

This, coupled with the ‘jealous neighbor’ concept which permits any person to apply for forfeiture for any reason (even pure financial gain), speaks to policy behind the Act and the self-regulating nature of the industry.

Sufficient gravity

Pursuant to sections 96(2) and 98(5) of the Act, for a Mining Warden to recommend forfeiture they must be satisfied that non-compliance with the expenditure requirement is, *‘in the circumstances of the case, of sufficient gravity to justify the forfeiture’*.

Whether the circumstances of the non-compliance are of ‘sufficient gravity’ to justify forfeiture, is a balancing act which turns on the facts of each individual case. For this reason, there is no exhaustive list of rules or considerations as to whether a particular case warrants a recommendation for forfeiture.

However, there are certain considerations that routinely arise in the exercise of judicial discretion as to whether a tenement should be forfeited.

These include:

1. the noncompliance (and facts directly bearing on that non-compliance);
2. the events and circumstances leading up to the non-compliance;
3. the conduct of the tenement holder and applicant for forfeiture; and
4. the actual and potential consequences of the non-compliance.

The table below contains examples of the matters the Mining Warden may consider.

Consideration	Example	Interpretation
The non-compliance itself	Expenditure shortfall	Where the under expenditure is minimal, it is likely that the tenement holder will face a fine as opposed to forfeiture. However, the inverse of this is true. If the under expenditure is significant then there is an inference that the under expenditure may justify forfeiture.
	Financial capacity	Whether the tenement holder had the financial capacity to meet expenditure but simply did not do so, or conversely, whether the tenement holder had the intention to meet expenditure but was financially unable to do so, may be relevant.
The circumstances	Prior over expenditure	Significant previous over expenditure by the tenement holder on the tenement may be relevant.

Consideration	Example	Interpretation
relating to the non-compliance	Prior under expenditure	Non-compliance with prior expenditure requirements concerning previous years by a tenement holder in the life of a tenancy may be relevant.
	The state of the mining industry	The state of the mining industry at the time of non-compliance may be relevant. If the industry relating to a particular mineral is healthy, this may weigh in favour of forfeiture if expenditure isn't met.
The conduct of the defendant and applicant	Dishonesty	Filing incorrect and misleading annual expenditure reports or incorrect Form 5s may be relevant.
The consequences of the non-compliance	Future plans for the tenement	<p>As a general rule, an intention to perform work on a tenement in the future has regularly been found to carry little weight, as to do so would in essence reward the inaction of tenement holders rather than the proactivity of applicants for forfeiture, thereby somewhat undermining the self-policing intentions and policy of the Act.</p> <p>However, where future plans of tenement holders are vague, imprecise, and unlikely to eventuate, forfeiture may be recommended in those circumstances.</p> <p>Conversely, where future plans are detailed and precise, such as where a joint venture or binding heads of agreement has been entered into, there may be a case to argue against forfeiture.</p>

## Conclusion

Tenement holders should proactively take steps to progress the economic activity on their tenements and do their best to comply with expenditure requirements.

If a tenement holder is not in a position to meet the expenditure requirements, it is important that an application for exemption is made early and on a bona fide basis. Even if an application for exemption is made, there is no guarantee that the 'jealous neighbors' won't seek to be obstructive.

# Cattle out, hydrogen in as WA lawmaker's clear way for Forrest

Extract from Financial Review

*"It will be interesting to see this issue as it progresses through this current State Govt. Think - if the change are made to the status of Pastoral Leases to suit the aspirations of Forrest, will such changes impact the rights of access of other land users such as YOU.*

*Forrest has only displayed disdain for the small miner and the prospector. Could this be his final precedent setting aim to finally seal the fate of us?" Les Lowe. Pres APLA*

The West Australian government is set to push through changes to land tenure laws so Andrew Forrest and others can turn hundreds of thousands of hectares covered by cattle stations into mega solar and wind farms to support green hydrogen production.

The changes will affect pastoral leases that are home to cattle stations such as Dr Forrest's beloved Minderoo, where land use is effectively limited to the grazing of livestock and clear the way for renewables projects more than half the size of Sydney.

Dr Forrest's FMG Group has told the WA government it wants to build vast solar and wind farms on pastoral land as part of its ambitions to become a major producer and exporter of green hydrogen and green steel.

Fortescue Metals Group founder and chairman Andrew Forrest declined to answer questions on whether he intended to use his own stations for vast wind and solar farms.

Pastoral leases cover about 90 million hectares, or 36 per cent, of WA, where the Forrest family owns a string of cattle stations spread across 1.5 million hectares.

Dr Forrest and Fortescue declined to answer questions on whether he intended to use his stations – including Minderoo, which he has fought to protect from mining – for vast wind and solar farms.

In addition to Minderoo Station, Dr Forrest owns Urala Station on the Pilbara coast as well as Uaroo and Natutarra stations further inland. He also owns Brickhouse and Minilya stations on the Gascoyne coast.

Most of the WA pastoral estate is covered by native title determinations and any changes in tenure to clear the way for renewable energy projects will require Dr Forrest and others to strike Indigenous land use agreements with the traditional owners.

WA's Labor government, re-elected this month with a massive majority in both houses of Parliament, will also consider legislating that all gas pipelines and networks in the state must carry 10 per cent of renewable hydrogen by 2030.

The \$US36 billion Asian Renewable Energy Hub project, aimed at producing green hydrogen and ammonia on the WA coast between Port Hedland and Broome, covers almost 670,000 hectares. Its international backers plan to use more than 1700 giant wind turbines and a sea of solar panels to generate some 26 gigawatts of power.

WA hydrogen industry minister Alannah MacTiernan said Dr Forrest and Fortescue had aspirations for projects around the same size, if not larger, and had been in talks with the government about land tenure changes.

“We’ve had discussions with Andrew on that and we have on-going discussions on that and on what would be the appropriate land tenure arrangements,” she said.

“There are other people that have got interest in pastoral assets as well that are having similar conversations.

“Part of our thinking at the moment is it may be we need to legislate a mechanism whereby land can be taken out of the pastoral estate and put into a tenure that is appropriate for large-scale hydrogen production.”

There have been several failed attempts to re-write land tenure laws around WA pastoral leases over the years, but Ms MacTiernan indicated the government would have no trouble making changes after its landslide election win.

The pastoral leases being targeted by the backers of big green hydrogen projects are generally close to the coast because their production plants include desalination capability.

In addition to the Fortescue and Asian Renewable Energy Hub projects, WA has received 65 expressions of interest in hydrogen production at Oakajee – once touted as home to a \$9 billion deep water iron ore port on the Mid-West coast.

The government said about a dozen expressions of interest had come from international energy “super majors”.

The WA government wants Oakajee, where native title issues have been resolved, developed sooner rather than later, but calculates that even using a 4000-hectare buffer for wind turbines and solar panels there is only enough land to generate about 1.75 gigawatts. Oakajee is surrounded by valuable freehold farmland.



24 grammar  
found on Perth  
Training Camp,  
Cue

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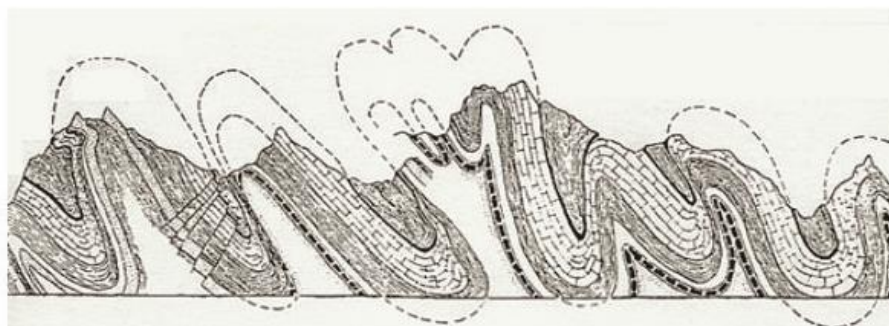
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# BRANCH NEWS

## ALBANY BRANCH

Meetings held 3rd Saturday of every second month.  
Each meeting consists of general Branch business and a guest speaker to assist members. Meetings are held at the Albany Men's Shed behind 77 Sanford Rd, Albany at 4pm.

**AGM 19/6/2021**

## GOLDFIELDS BRANCH UPDATE

Meetings are held at the Regency Room at the Tower Hotel Crn Maritana and Bourke st Kalgoorlie meetings on the **last Thursday of every second month.**



**Kalgoorlie Finders Keepers for all your prospecting gear**

## MANDURAH BRANCH

Meetings held at, 2 Leslie st Mandurah. See APLA website for date

Mandurah branch meeting



## SOUTHWEST BRANCH UPDATE

### 2021 Field Day Report

The SW Branch APLA held their 2021 Field Day on 28 March, 2021 at Dardanup Aero Modelers Club, Panizza Road Dardanup.

We had a good turnout but with a hot day numbers were probably a bit down on previous years. Businesses with displays included: The Prospector's Pick, ARB, Whitey's Tackle, Battery World BluePrint Industries and Lithium Valley Rocks.



Minelab dealers, The Prospector's Pick gave us a pre-view of the 6000.

Brad Fowler gave a fantastic talk and display on finding big gold at depth.

Kurk Brandstater attended and provided much assistance for people needing help with programs used to assist with the finding of gold and enrolling new members.

APLA's State President and Technical Delegate Les Lowe, and James Allison, Vice President attended.

Les Lowe donated a BBQ base with plate to be auctioned.

The **Detecting Competition** provided old and new prospectors the challenge of identifying various targets by the sound they made. Only John Bargiev managed to identify 4 targets, six others identified 1.

John Bargiev won the Minelab Pro-find Pinpointer.

The six other contestant's names went into a draw to allocate the three minor prizes. Thank you to our sponsors for the donation of prizes for this Competition and the Raffle.

**Catering** was provided by DAMS. Sausages in a bun, hot-dogs and yummy hamburgers kept everyone fed.

## RAFFLE

The Raffle 1<sup>st</sup> Prize of a Minelab Equinox 800, Rob Atkins.

2<sup>nd</sup> Prize, ARB Recovery Pack, Ian Ramsdale.

3<sup>rd</sup> Prize, Battery World, Jump Starter, James Allison .

4<sup>th</sup> Prize, Whitey's, Hat and knife set, Rob Atkins.

5<sup>th</sup> Prize, from Alan Branchi, one of his fabulous Picks, Lee Powel.

6<sup>th</sup> Prize, from Kurk, GPS and adaptor, Dave Waller.

7<sup>th</sup> Prize, from Robyn Uren, a Lucky Penny cutting board, Alan Warner



1<sup>st</sup> prize of a **Minelab Equinox 800**  
Rob Aitkins



3<sup>rd</sup> prize of **Battery World, Jump Starter,**  
James Allison

Field day APLA Tent



Some of the Field day attendees



Lithium Valley Rocks display



Prospectors Pick display



Raffle prizes on the day





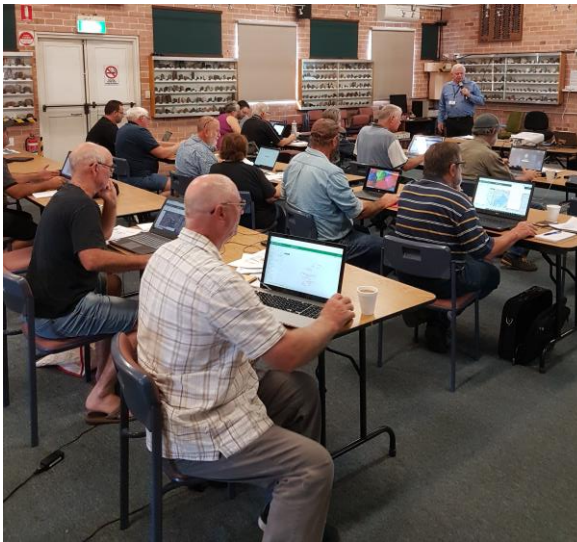
## PERTH BRANCH UPDATE

Over the past few months training courses for Tengraph Web , Geoview and GPS Training have been run for all APLA members in conjunction with DMIRS staff. A great thank you to Greg Young and Sue McKenna for organising these courses.

Perth branch organised the annual newbie camp for 2021 at Cue. APLA members learnt how to prospect, use safety equipment, GPS locations. Geologist and Reeds owner Aaron Raddock attended and was onsite. explaining bedrock, possible gold locations and more. Very knowledgeable course for beginners. Best gold test pit and line. Combined with training sessions in Perth. New techniques for grounding Minelab 2300. Co-ordinated by Perth President G Young and Perth Branch committee. Cyclone unfortunately cut the trip short. A number of finds were made in the short period including a 24 grammar.

**AGM 30/6/2021**

One of the training sessions for APLA members



Training session



Training at the Newbie camp.





Lachlan Ruddock flying a drone



Big damper night



# Interesting sub grammars

## **How to clean a well contaminated by a dead animal.:( extract Mindat)**

The Hawkes Nest and Red Flag Mines also share the fate of having their drinking water well polluted by a dead horse, although Red Flag was much later in 1948. As a public service exercise, we would like to detail what can be done when one finds themselves with this situation ie.find another water source.

First the dead horse at the bottom of the well is blown to pieces by gelignite. The well is then baled dry and treated with chloride of lime (a mixture of calcium hypochlorite and alkaline calcium chloride) as a disinfectant. The well was baled dry again and the procedure repeated twice more. The authorities recommended boiling the water for several months after this. (surprise , surprise)

## **Coolgardie 1898.**

At its peak around 1898 Coolgardie boasted

Over 15,000 residents ( with reputedly another 10,000 in the immediate vicinity) making it the third largest town in W.A. after Perth and Fremantle.

Sixty shops, twenty-six hotels ( with 16 in the main street) four clubs and three breweries.

Seven newspapers, six banks, two stock exchanges and twenty-five stockbrokers.

Four schools, two theatres, seven churches and a racecourse.

And regrettably two cemeteries with over 1100 graves.

It was not unusual to see Afghans crying “Hoostah” with strings of 135 camels or more, with numerous baby camels, bringing goods into the town.

## **Mount Burges**

At 553 metres Mt Burges is one of the highest points in the Goldfields.

In 1893 a beacon was kept burning on the summit in the hope that those prospectors lost on the ill-fated rush to Siberia might find their way back to town.



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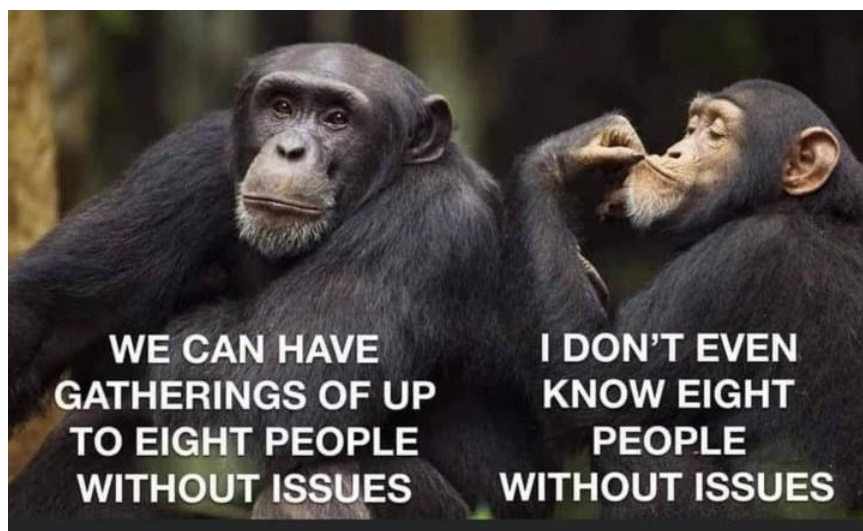
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x 130cm.*

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NEXT ISSUE OF THE DATUM POST is July 28<sup>th</sup>, 2021  
Cut-off date for advertising , articles, members photos 18<sup>th</sup> July..

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