



Government of **Western Australia**
Department of **Mines and Petroleum**
Environment

PROPOSED LOW IMPACT ACTIVITY FRAMEWORK PROSPECTING AND EXPLORATION

DRAFT POLICY POSITION PAPER
DECEMBER 2015

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DEFINITIONS

Clearing	as defined in section 51A of the <i>Environmental Protection Act 1986</i> .
Confined Aquifer	an aquifer that is separated by an impermeable layer from any other aquifer.
Disturbance	using machinery to disturb the surface of the land
Future Act	an act done after 1 January 1994 that may affect native title rights or interests e.g. by extinguishment or by creating interests that are inconsistent with the existence or exercise of native title rights and interests. See https://www.dpc.wa.gov.au/lantu/FutureActs/Pages/Default.aspx for more information.
LIA	Low-Impact Activity
Native vegetation	as defined in section 51A of the <i>Environmental Protection Act 1986</i> .

BACKGROUND

The Reforming Environmental Regulation (RER) program has been underway at the Department of Mines and Petroleum (DMP) since 2012. A key component of the RER program is to revise the *Mining Act 1978* (the Act) and the Mining Regulations 1981 to implement the principles of best-practice environmental regulation for the mining industry, including the principles of risk-based regulation.

Consistently with a risk-based approach, proposed amendments to the Act being considered by the Western Australian Parliament will enable some activities to be exempt from the requirement for assessment and approval by staff at DMP. Instead, activities that are considered to be of low impact to the environment will be authorised by way of an automated system.

A discussion paper titled “Proposed low impact authorised activities framework for prospecting and exploration under amendments to the *Mining Act 1978*” was published in April 2015. The paper outlined suggested definitions of Low-Impact Activities and proposed environmental standards to be applied to the activities.

Many detailed and varied submissions on the discussion paper were received by DMP. These were considered and discussed further with key stakeholders, resulting in a revised suite of criteria. The proposed size of area to be authorised as a Low-Impact Activity attracted varied opinions from stakeholders. Most stakeholders supported a threshold of up to five hectares, however some industry sectors remain of the view that up to ten hectares is appropriate. This will be considered further as we continue stakeholder engagement during development of regulations.

Much of the stakeholder feedback has sought information on the detail of what will be in regulations. Therefore DMP will commence drafting regulations based on the information contained in this draft policy paper. There will be ongoing stakeholder engagement during this process, including a public comment period on the drafted regulations.

DMP’s objective is to develop a system to implement the Low-Impact Activities framework. The system will ensure:

- Criteria for low-impact prospecting and exploration activities are clearly defined;
- Tools are in place to support the online system; and
- Prospecting and exploration activities that are authorised under the Low-Impact Activity framework are managed so as to avoid ongoing impacts to the environment.

PURPOSE

There are three main purposes of this document:

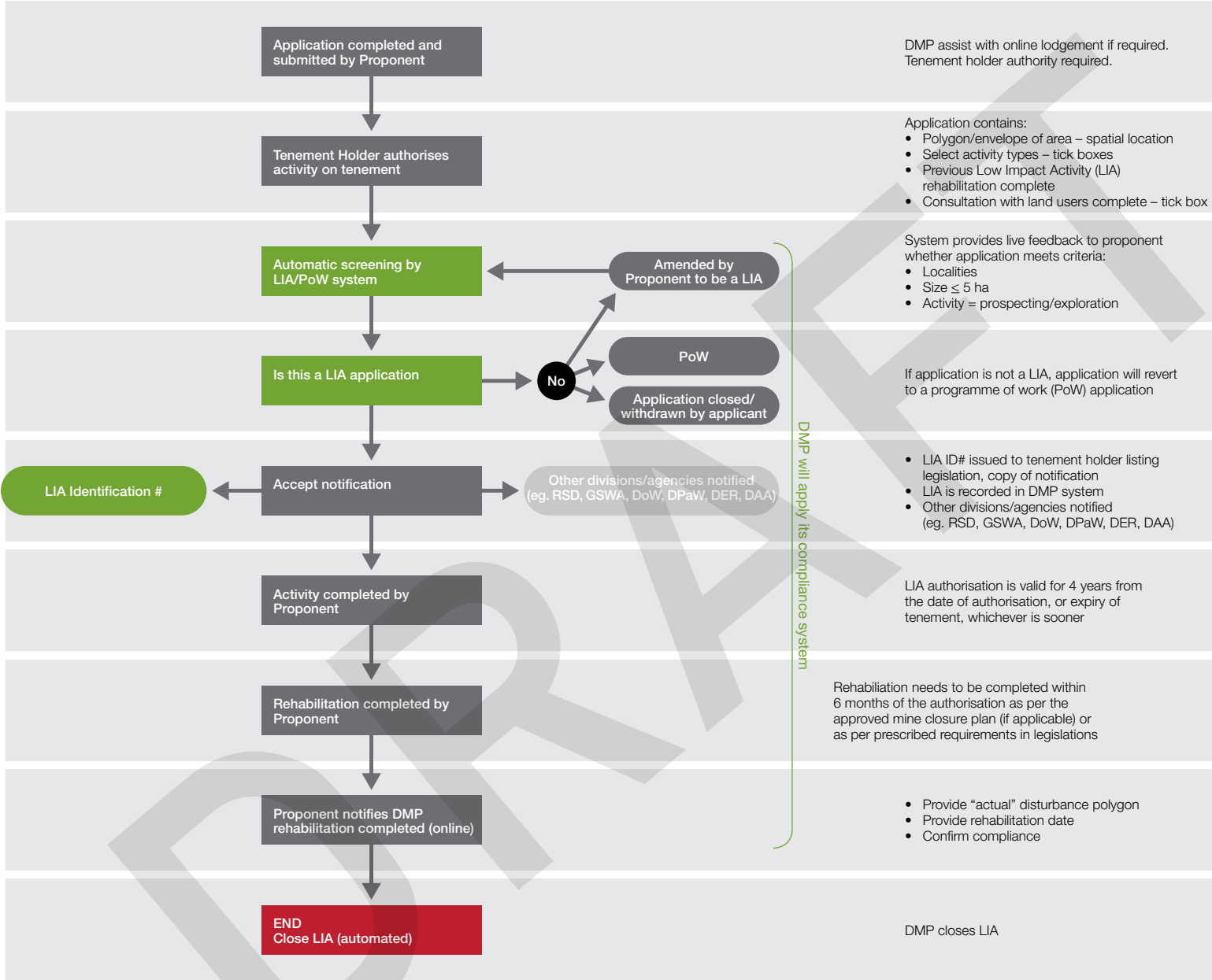
1. to present DMP’s policy position on the framework for Low-Impact Activities for prospecting and exploration as at December 2015. Regulations will be drafted on this basis, supported by effective stakeholder engagement.
2. to introduce the steps involved for proponents to use the Low-Impact Activity framework for prospecting and exploration activities; and
3. list the criteria proposed to apply to Low-Impact Activities and explain why the criteria were chosen.

A conceptual flow diagram for the process of notification, conducting Low-Impact Activities and closing out those activities is shown in Figure 1.

Please note that this framework does not remove the Prospecting License and Exploration License holder’s requirement to seek excess tonnage approval, under sections 48(c) and 66(c) of the Act.

FIGURE 1. CONCEPTUAL FLOW DIAGRAM

Low Impact Activity Authorisation Framework for Prospecting and Exploration



RSD – Resources Safety Division (Department of Mines and Petroleum)
 GSWA – Geological Survey of Western Australia (Department of Mines and Petroleum)
 DoW – Department of Water
 DPaW – Department of Parks and Wildlife
 DER – Department of Environmental Regulation
 DAA – Department of Aboriginal Affairs

PROJECT SAFETY

Authorisation of a Low-Impact Activity under the Act will not affect the proponent's obligation to comply with any other applicable legislation.

The Low-Impact Activity framework under the Act will recognise the low risk of **environmental** harm from certain prospecting and exploration activities. Safety and health risks in the resources industry are regulated by DMP's Resources Safety Division under the *Mines Safety Inspection Act 1994*.

Even if a Low-Impact Activity authorisation has been obtained for an activity, it may still require assessment under the *Mines Safety Inspection Act 1994*. For example, the *Mines Safety Inspection Act 1994* requires a project management plan for any development work involving underground operations. Therefore working an historic shaft may be authorised (from an environmental impact perspective) as a Low-Impact Activity, but will require assessment for safety management.

EXCESS PRESCRIBED LIMIT APPROVALS (EXCESS TONNAGE)

DMP considers prospecting and exploration to be low risk future acts and assesses exploration and prospecting tenure applications under the expedited future act procedure which is outlined in the *Native Title Act 1993*.

The *Mining Act 1978* (sections 48(c) and 66(c)) authorises the holder of a Prospecting Licence and Exploration Licence, respectively, to

“excavate, extract or remove, subject to any conditions imposed under section 24, 24A or 25, from such land, earth, soil, rock, stone, fluid or mineral bearing substances in such amount, in total during the period for which the licence remains in force, as does not exceed the prescribed limit, or in such greater amount as the Minister may, in any case, approve in writing.”

The Mining Regulations 1981 prescribe the limit of material that may be removed from a Prospecting Licence to be 500 tonnes and Exploration Licence 1,000 tonnes.

DMP is currently reviewing its policy regarding prescribed limits as a component of the overarching risk-based regulatory framework. Several projects that are underway to implement DMP's Reforming Environmental Regulation Program are influenced by DMP's excess tonnage policies and processes. The Low-Impact Activity framework for prospecting and exploration is one such project.

The criteria contained in this draft policy position paper do not consider excess tonnage. As such, Prospecting Licence and Exploration Licence holders will still require an approval to exceed the prescribed tonnage limits.

COMPLIANCE ACTIVITIES

The Low-Impact Activities framework is designed to be fully automated and does not involve formal assessment of activities by DMP officers. Therefore, to ensure that environmental impacts are minimised, there will be a strong emphasis by DMP on compliance activities.

The Environment Division of DMP conducts audits and inspections of mining activities throughout the State, including prospecting and exploration activities. This compliance activity will be enhanced to incorporate checks of activities that are authorised through Low-Impact notifications. Therefore it is important that tenement holders and persons operating with Low-Impact authorisations keep records to demonstrate that activities are compliant with the low impact obligations and commitments.

PENALTIES

Obligations related to Low-Impact Activities will be written into Mining Regulations, becoming prescribed requirements. It will be a deemed condition of all mining tenements that Low-Impact Activities are carried out in accordance with those requirements. Non-compliance with that condition may lead to tenement forfeiture or penalties in lieu of forfeiture.

LOW-IMPACT ACTIVITIES CRITERIA

Following consideration of the submissions that were received on the April 2015 discussion paper, DMP revised the criteria proposed to be applied to Low-Impact activities.

Criteria are in three groups: localities, activities and obligations on how the activities must be conducted. DMPs revision of the criteria and the outcomes of that review, are provided in Table 1 to Table 3.

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TABLE 1. LOCALITIES FOR LOW-IMPACT ACTIVITIES

1. Locality as published in April 2015 Discussion Paper	2. Discussion	3. Revised Locality	4. GIS Layer Exists
Any granted tenements under the <i>Mining Act 1978</i> with the following exclusions:		Any granted tenements under the <i>Mining Act 1978</i> with the following exclusions:	
EXCLUDED AREAS – ENVIRONMENTALLY SENSITIVE AREAS			
Where the proposed activities ¹ are wholly or partially within Environmentally Sensitive Areas as declared by the Minister for Environment under section 51B of the <i>Environmental Protection Act 1986</i> and referred to in Regulation 6 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.	<p>Regulation 6 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 expired on 8 April 2005 by operation of the <i>Environmental Protection Amendment Act 2003</i> s.110(4) (b). Environmentally Sensitive Areas (ESA) are described in Western Australian Government Gazette No.55 Environmental Protection (Environmentally Sensitive Areas) Notice 2005.</p> <p>Mineral exploration activities are not currently exempt from the requirement for a clearing permit in an ESA (refer to section 51C of the <i>Environmental Protection Act 1986</i>). It is appropriate that potential impacts associated with disturbance in ESA continue to be assessed by way of Programmes of Work.</p> <p>DMP notes that mapping of rare flora as described in clause 4(1) (d) of Environmental Protection (Environmentally Sensitive Areas) Notice 2005 is not complete, as it is impracticable to survey the entire State to locate rare flora. This is recognised under clause 5 of the same Notice. For the purposes of Low-Impact Activities, DMP will use ESA mapping (as provided by Department of Environment Regulation).</p>	Where the proposed activities are wholly or partially within Environmentally Sensitive Areas as declared by the Minister for Environment under section 51B of the <i>Environmental Protection Act 1986</i> , regardless of whether the activity involves clearing of native vegetation or not.	Yes
EXCLUDED AREAS – SCHEDULE 1 NON-PERMITTED AREAS			
Where the proposed activities are wholly or partially within non-permitted areas as described in Clause 4 of Schedule 1 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004. Sub-clauses under clause 4(1) are listed below.	DMP assessed the categories of non-permitted areas to determine whether they align with current Government positions and policies and to determine whether spatial data are available.	Where the proposed activities are wholly or partially within:	

1. this refers to the specific area in which the Low-Impact Activity is proposed, not the tenement boundary (unless the two are one and the same)

TABLE 1. LOCALITIES FOR LOW-IMPACT ACTIVITIES (cont.)

1. Locality as published in April 2015 Discussion Paper	2. Discussion	3. Revised Locality	4. GIS Layer Exists
<p>(a) one of the following bioregions or part bioregions:</p> <ul style="list-style-type: none"> (i) Avon Wheatbelt; (ii) Esperance; (iii) Geraldton Sandplains; (iv) Jarrah Forest; (v) Mallee; (vi) Swan Coastal Plain; (vii) Warren; (viii) Yalgoo (to the extent of the intensive land use zone); 	<p>Esperance bioregion has been corrected to Esperance Plains. The terms “bioregion” and “intensive land use zone” are as per the definitions in regulation 3 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.</p> <p>These bioregions are consistent with the south-west botanical province, which supports biodiversity hot spots. Native vegetation clearing within these areas warrants environmental impact assessment by an environmental officer.</p>	<p>(a) One of the following bioregions or part bioregions:</p> <ul style="list-style-type: none"> (i) Avon Wheatbelt; (ii) Esperance Plains; (iii) Geraldton Sandplains; (iv) Jarrah Forest; (v) Mallee; (vi) Swan Coastal Plain; (vii) Warren; (viii) Yalgoo (to the extent of the intensive land use zone); <p>if the activity involves clearing of native vegetation.</p>	Yes
<p>(b) alienated land as defined in section 3(1) of the <i>Land Administration Act 1997</i>;</p>	<p>Water and Rivers Commission (WRC) Estate is comprised of freehold land held by the Department of Water (or its predecessor) and lands reserved under the <i>Land Administration Act 1997</i>. In order to safeguard water resources and related infrastructure, it is appropriate that activities in these areas continue to be assessed through Programmes of Work.</p> <p>On freehold land other than that held by Department of Water (or its predecessor), Low-Impact Activities will be authorised if the activities do not require clearing of native vegetation. The risk of environmental impacts resulting from prospecting and exploration activities on freehold land that is devoid of native vegetation, such as in the agricultural districts, is considered extremely low.</p>	<ul style="list-style-type: none"> • Alienated land as defined in section 3(1) of the <i>Land Administration Act 1997</i> and held by Department of Water, whether the activity involves clearing of native vegetation or not. • Alienated land as defined in section 3(1) of the <i>Land Administration Act 1997</i> if the activity involves clearing of native vegetation. 	Yes
<p>(c) a townsite as defined in section 3(1) of the <i>Land Administration Act 1997</i> that is occupied;</p>	<p>Prospecting or exploration activities involving machinery to disturb the surface of the land pose a risk of damage to town infrastructure and potential environmental impacts if not assessed.</p>	<p>A townsite as defined in section 3(1) of the <i>Land Administration Act 1997</i> that is occupied, whether the activity involves clearing of native vegetation or not.</p>	Partial*
<p>(d) a conservation area as defined in Schedule 5 clause 2 to the Act;</p>	<p>The definition of conservation area in Schedule 5 of the <i>Environmental Protection Act 1986</i> is open to interpretation, and as a result is potentially broad. It includes reserves (as per the meaning in the <i>Conservation and Land Management Act 1984</i>) as well as “any other land or waters reserved, protected or managed for the purpose of, or purposes including, nature conservation;”</p> <p>To overcome the potential for ambiguity, DMP has defined conservation areas for the purpose of Low-Impact Activities.</p>	<p>If the activity involves clearing of native vegetation, conservation areas that:</p> <ul style="list-style-type: none"> • are managed under the <i>Conservation and Land Management Act 1984</i> and vested in the Conservation Commission of Western Australia or the Marine Parks and Reserves Authority; or • have been endorsed by Government to be reserved for purposes including nature conservation, and registered as such on Tengraph. 	Partial*

TABLE 1. LOCALITIES FOR LOW-IMPACT ACTIVITIES (cont.)

1. Locality as published in April 2015 Discussion Paper	2. Discussion	3. Revised Locality	4. GIS Layer Exists
(e) Crown land reserved under the <i>Land Administration Act 1997</i> the care and control of which is placed with the Water and Rivers Commission under that Act or section 32 of the <i>Waterways Conservation Act 1976</i> ;	These areas make up part of the lands colloquially known as Water and Rivers Commission (WRC) Estate and are managed by the Department of Water for the purposes of protecting significant water sources. The other part of WRC Estate is freehold land held by the Department of Water.	Crown land reserved under the <i>Land Administration Act 1997</i> the care and control of which is placed with the Water and Rivers Commission under that Act or section 32 of the <i>Waterways Conservation Act 1976</i> , whether the activity involves clearing of native vegetation or not.	Yes
(f) a water supply area;	These are defined in clause 1 of Schedule 1 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 and referred to as public drinking water source areas (PDWSA) in the Schedule 1 non- permitted areas GIS layer published by Department of Environment Regulation. PDWSA are made up of three priority classifications: P1 to P3, with P1 being the highest sensitivity. There are further protection zones within PDWSA to protect wellheads and reservoirs. The potential risk to critical water infrastructure and/ or water quality requires assessment via Programmes of Work.	A water supply area as mapped by Department of Water, whether the activity involves clearing of native vegetation or not.	Yes
(g) an area covered by the riparian vegetation of a wetland or watercourse;	<p>This has been removed from the “Locality” criteria for the following reasons:</p> <ul style="list-style-type: none"> • Consultation with stakeholders has highlighted that disturbance to wetlands and watercourses can result in environmental impacts regardless of whether it involves clearing of native vegetation or not. For example, environmental factors such as water quality, sediment structure and biota can be detrimentally affected by ground disturbance such as excavation and mechanised drilling. This will be addressed via prescribed requirements controlling the way in which a Low-Impact Activity can be conducted (refer to Table 3). • Riparian vegetation, wetlands and watercourses spatial mapping across Western Australia is incomplete/ inaccurate, hence it cannot be used for automatic screening for Low-Impact Activities. Prescribed requirements in regulations will prohibit disturbance to riparian vegetation, with the definition of “riparian vegetation” as per regulation 3 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004. 	Removed. See Table 3. Prescribed requirements in regulations for Low-Impact Activities will prohibit directly or indirectly disturbing riparian vegetation. Riparian vegetation is as defined in regulation 3 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.	Wetlands - Yes Watercourse - No

TABLE 1. LOCALITIES FOR LOW-IMPACT ACTIVITIES (cont.)

1. Locality as published in April 2015 Discussion Paper	2. Discussion	3. Revised Locality	4. GIS Layer Exists
(h) the area extending 2 km inland from the high water mark of the coastline of Western Australia;	The coastal zone often supports high biodiversity and hence is sensitive to disturbance. Assessment of prospecting and exploration activities should occur by way of Programmes of Work, hence it will be excluded from the Low-Impact Activity framework.	The area extending 2 km inland from the high water mark of the coastline of Western Australia, whether the activity involves clearing of native vegetation or not.	Yes
(i) an environmentally sensitive area;	Removed duplication.	See Excluded areas - Environmentally Sensitive Areas	
(j) an area known as a “priority one area” as described in “Wild Rivers of Western Australia” (1999) published by the Water and Rivers Commission, Perth;	<p>Priority 1 and Priority 2 Wild Rivers areas are considered as high value water dependent ecosystems. Assessment of prospecting and exploration activities should occur by way of Programmes of Work, hence these localities will be excluded from the Low-Impact Activities framework.</p> <p>Department of Water (DoW) advise that Water Note 37 is a suitable published reference for these localities, and advised that the Upper Yule has been downgraded and is no longer a Wild River.</p>	An area known as a “Priority 1” or “Priority 2” area as described in “Wild Rivers of Western Australia” Water Note 37 (2009) published by the Department of Water, Perth, whether the activity involves clearing of native vegetation or not.	Yes
<p>(k) an area known as a “Red Book area” as described in –</p> <p>(i) “Conservation Reserves for Western Australia. Systems 4, 8, 9, 10, 11, 12.” (1975);</p> <p>(ii) “Conservation Reserves for Western Australia. Systems 1, 2, 3, 5.” (1976);</p> <p>(iii) “Conservation Reserves for Western Australia. System 7.” (1980); or</p> <p>(iv) “Conservation Reserves for Western Australia. The Darling System — System 6. Part I: General Principles and Recommendations and Part II: Recommendations for Specific Localities. Report 13.” (1983),</p> <p>published by the Department of Conservation and Environment, Perth and the “Red Book Status Report. On the implementation of Conservation Reserves for WA as recommended by the Environmental Protection Authority. Report 15” (1993) published by the Environmental Protection Authority, Perth.</p>	<p>Although the recommendations of the Red Books were accepted by Governments of the time, some Red Book Areas have become formal reserves, while others have not. The Department of Parks and Wildlife are responsible for administering the Red Book recommendations.</p> <p>Red Book areas cover approximately 17% of WA, equating to around 42 M ha. Over 21 M ha of Red Book areas do not overlap with other categories of Schedule 1 non-permitted areas i.e. they are not reserves (formal or informal) or ESAs.</p> <p>The risk of environmental impacts from activities that meet the criteria of Low-Impact is considered very low. The tenement holder will continue to be required to comply with tenement conditions, which can address environmental management requirements that are specific to the environmental sensitivity of the area.</p>	Removed.	Yes

TABLE 1. LOCALITIES FOR LOW-IMPACT ACTIVITIES (cont.)

1. Locality as published in April 2015 Discussion Paper	2. Discussion	3. Revised Locality	4. GIS Layer Exists
EXCLUDED AREAS – OTHER AREAS OF ENVIRONMENTAL SIGNIFICANCE			
Priority ecological communities as recognised by the Department of Parks and Wildlife	The environmental impact of disturbance to priority ecological communities (PEC) is taken into account during assessment of Programmes of Work to ensure a proposal does not pose a risk of elevating the conservation status to Threatened Ecological Community (TEC). It would be inappropriate to apply a notification system in such areas. In the event that further information (such as biological surveys) shows that no PEC are present, or to support a PEC community being de-listed, the Low- Impact Activity framework could apply.	Priority ecological communities as recognised by the Department of Parks and Wildlife, whether the activity involves clearing of native vegetation or not.	Yes
Land held under conservation covenants as referred to in section 30B(2) of the <i>Soil and Land Conservation Act 1945</i>	Department of Parks and Wildlife advised that conservation covenants have no effect on other legislation.	Removed	
Identified Banded Iron Formation Ranges of the Midwest and Goldfields – Interim Status Report – (Department of Environment and Conservation, 2007)	DMP recognises that not all banded iron formation ranges are of conservation significance, however much of the BIF is as yet un-surveyed. Hence prospecting and exploration activities proposed on BIF ranges will continue to be assessed by way of Programmes of Work. The BIF ranges to be excluded from the Low-Impact Activity framework are currently described in Table 1 and Map 1 of the referenced report.	Identified Banded Iron Formation Ranges of the Midwest and Goldfields – Interim Status Report – (Department of Environment and Conservation, 2007), whether the activity involves clearing of native vegetation or not.	Yes
Locations of remnant rainforest in northern WA as cited in the “Kimberley Science and Conservation Strategy” (Department of Environment and Conservation, 2011).	It is appropriate that prospecting and exploration activities in these localities continue to be assessed by way of Programmes of Work.	Locations of remnant rainforest in northern WA as cited in the “Kimberley Science and Conservation Strategy” (Department of Environment and Conservation, 2011), whether the activity involves clearing of native vegetation or not.	Yes
Locations of mangrove protection areas/habitats – Environmental Protection Authority Guidance Statement No 1 “Protection of Tropical Arid Zone Mangroves across the Pilbara”, (Environmental Protection Authority, 2001).	These are likely to largely fall within the 2km of the WA coastline, which is excluded from the Low-Impact Activity system.	Locations of mangrove protection areas/habitats – Environmental Protection Authority Guidance Statement No 1 “Protection of Tropical Arid Zone Mangroves across the Pilbara”, (Environmental Protection Authority, 2001), whether the activity involves clearing of native vegetation or not.	Yes
Designated wild river catchment areas as recognised by the Department of Water.	Consolidated in the modified locality described above (see item (j) under the heading Schedule 1 non-permitted areas).	Removed.	Yes

TABLE 1. LOCALITIES FOR LOW-IMPACT ACTIVITIES (cont.)

1. Locality as published in April 2015 Discussion Paper	2. Discussion	3. Revised Locality	4. GIS Layer Exists
Designated geo-heritage sites registered in the Department of Mines and Petroleum geo-heritage database.	<p>Geoheritage sites are defined as “Geological features of the Earth that are considered to be unique and of outstanding value within Western Australia and to have significant scientific and educational values”.</p> <p>It is appropriate that prospecting and exploration activities in these localities continue to be assessed by way of Programmes of Work.</p>	Designated geo-heritage sites registered in the Department of Mines and Petroleum geo-heritage database, whether the activity involves clearing of native vegetation or not.	Yes
Ground water dependent ecosystems as described in the National Atlas of Groundwater dependent ecosystems.	The National Atlas of Groundwater Dependent Ecosystems (GDE) was developed using a combination of aerial imagery and estimated locations of known wetlands. The Department of Water advised that the dataset is therefore too coarse to be useful for automated screening for Low-Impact Activities and is not considered an indication of environmental sensitivity. Following consultation with the Department of Water, this criterion has been removed.	Removed.	Yes
Designated soil reference sites as cited in “Reference Soils of South West Australia” (2004), Australian Society of Soil Science, WA Branch. CSIRO Publishing.	<p>These sites represent a snap-shot of the condition of soils under undisturbed native vegetation. These provide an opportunity for comparison of soils in their “original” condition with similar soils under agriculture and other disturbance types.</p> <p>These localities are mapped as points. As recommended by Department of Agriculture and Food, a 100 m buffer has been applied to the data points to screen Low-Impact Activities.</p>	Designated soil reference sites as cited in “Reference Soils of South West Australia” (2004), Australian Society of Soil Science, WA Branch. CSIRO Publishing, whether the activity involves clearing of native vegetation or not.	Yes
	<p>It is inappropriate that prospecting and exploration activities that involve clearing of native vegetation be conducted without assessment by an environmental officer in areas that have been set aside under environmental approval conditions.</p> <p>DMP is liaising with the Department of Environment Regulation and Office of the Environmental Protection Authority (EPA) to include spatial data from the offsets register in the automated screening from Low-Impact Activities.</p>	<p>NEW</p> <p>Lands registered in the Western Australian Environmental Offsets Register.</p> <p>Whether the activity involves clearing of native vegetation or not.</p>	Yes
	Environmental Protection Bulletin No. 16 addresses the issue of minor or preliminary works that may be authorised while a project is under assessment by the EPA. Under section 41A(3) of the <i>Environmental Protection Act 1986</i> , prospecting and exploration activities in areas that are being assessed by the EPA under Part IV of the <i>Environmental Protection Act 1986</i> require the EPA’s consent.	<p>NEW</p> <p>Areas that comprise part of a proposal that is under assessment under Part IV of the <i>Environmental Protection Act 1986</i> whether the activity involves clearing of native vegetation or not.</p>	Yes

TABLE 2. TYPES OF ACTIVITIES

The types of activities listed in Column 3 of Table 2, as well as the rehabilitation required, are proposed to be prescribed in regulations as Low-Impact Activities.

1. Draft Types of Activities as published in April 2015 Discussion Paper	2. Discussion	3. Revised Types of Activities
	<p>Five hectares per tenement is the disturbance limit for a Low-Impact Activity.</p> <p>The five hectares may be for the purposes of any of the prospecting and/or exploration activities listed in column 3 of this table.</p>	<p>Activities using machinery to disturb the surface of the land for the purposes of, or in preparation for prospecting or mineral exploration as listed below. Note that these must be read in conjunction with the obligations outlined in Table 3.</p>
<p>i) Exploration or prospecting activities that involve no clearing of native vegetation.</p>	<p>This wording was ambiguous. The Low-Impact Activity framework is to apply to activities that would otherwise be subject to a Programme of Work. The wording in this clause did not explain that Programmes of Work are currently required for activities that involve ground disturbance with machinery, regardless of whether they involve clearing of native vegetation.</p>	<p>Removed.</p>
<p>ii) Driving vehicles or using other mechanised equipment through vegetation that is not along existing tracks: including reconnaissance in light vehicles.</p>	<p>Unless the activities result in ground disturbance or clearing of native vegetation as defined in the <i>Environmental Protection Act 1986</i> (refer to s. 51A), they would not require authorisation under the <i>Mining Act 1978</i>.</p>	<p>Removed.</p>
<p>iii) Exploration drilling if –</p> <ul style="list-style-type: none"> • drill pads do not exceed 20 metres by 20 metres in dimension • the drilling is along lines that are in a grid pattern and density of the grid is no greater than 100 metres x 100 metres • the drilling is along lines that are not in a grid pattern and the lines are at least 100 metres apart at their closest point; 	<p>Drilling for any purpose related to prospecting or exploration will be authorised e.g. including for mineral exploration, hydrogeological studies, and waste characterisation.</p> <p>Prescription on drilling density in the original clause has been removed, as it is unlikely that drilling activities will have a long-term environmental impact in areas of low environmental sensitivity if they are conducted and rehabilitated within six months.</p> <p>The Low Impact Notification system will provide a link to “Guidelines for the protection of surface and groundwater resources during exploration drilling” (November 2002) if the activity is hydrogeological drilling or involves disturbance at depth within a sedimentary basin (high risk of confined aquifers being intersected).</p>	<p>Exploration drilling for the purposes of prospecting or exploration.</p> <p>Note that other legislative requirements may apply eg <i>Rights in Water and Irrigation Act 1914</i>.</p>
<p>iv) Clearing for construction of temporary access tracks (of no more than four metres in width) for the purpose of drilling described in (iii) above, consistent with the duration of the activity.</p>	<p>The prescription on track width in the original clause has been removed as the environmental impacts will be adequately regulated via the overarching disturbance limit on Low-Impact Activities.</p> <p>If driving through vegetation results in clearing, eg repeated use of the same off-road route, such activity is considered clearing of temporary access tracks.</p>	<p>Constructing temporary tracks, consistent with the duration of the authorised activity.</p>

TABLE 2. TYPES OF ACTIVITIES (cont.)

1. Draft Types of Activities as published in April 2015 Discussion Paper	2. Discussion	3. Revised Types of Activities
v) Clearing for construction of a temporary access track (of no more than four metres in width) if there is at least 100 metres between that access track and any other access track consistent with the duration of the activity;	See previous.	Removed.
vi) Scrape and detect operation where the total area cleared per tenement for the purpose of the operation is less than two hectares at any one time (excluding any area that has been rehabilitated in accordance with the requirements imposed by or under the <i>Mining Act 1978</i>);	The total disturbance authorised by way of a Low-Impact Activity for prospecting and exploration is five hectares. The potential for environmental impacts increases when disturbance involves excavation (such as in scrape and detect operations). Therefore, no more than two hectares of scrape and detect activities may be open at any one time. See also Table 3 Obligations regarding preventing harm to fauna.	Scrape and detect operation of no more than two hectares open at any one time.
vii) Excavation (including costeaning, soil sample, soil investigations, shafts) for the purpose of exploration sampling where: <ul style="list-style-type: none"> • excavation is at a rate less than 20m³ per hectare and • each excavation is at least 100 metres from any other excavation at their closest point; 	<p>Prescription on density of disturbance (i.e. 100 m from another excavation) in the original clause has been removed. The Amalgamated Prospectors and Leaseholders Association point out that ventilation shafts are required adjacent to “working shafts”, hence drill holes can’t always be spaced widely.</p> <p>The reference to tonnage rate limit in the original clause has also been removed. The use of excess tonnage is currently under review (see Excess Tonnage), the outcomes of which will be reported separate to the Low-Impact Activity framework information. The potential for environmental impacts increases when disturbance involves excavation. Therefore, no more than two hectares of excavations may be open at any one time.</p>	<p>Excavation of no more than two hectares open at any one time, including:</p> <ul style="list-style-type: none"> • costeaning • augering (by machine) • bulk sampling • underground exploration • excavation for investigative purposes eg geotechnical test pitting, soil sampling.
viii) Clearing for the purpose of maintenance of pipelines and ancillary infrastructure activities including around existing facilities and buildings; or	Maintenance (i.e. re-clearing) of areas previously authorised to be cleared will not require re-approval. The assessment of the risks to the environment resulting from vegetation clearing does not need to be repeated. This is consistent with regulation 5, item 15 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.	Removed.
ix) Clearing for camp sites and storage areas, and similar incidental purposes, necessary for the activities referred to in any of the above paragraphs of this clause.	<p>This includes processing of ore samples where that processing does not involve the use of chemicals, eg dry-blowing and water-based processing are authorised.</p> <p>The use of chemical extraction methods to recover minerals is not consistent with purposes of prospecting or exploration licences.</p>	Temporary camp sites, storage areas, and similar incidental areas, necessary for the activities referred to in any of the above types of activities, but not involving the use of chemicals to recover minerals.

OBLIGATIONS FOR LOW-IMPACT ACTIVITIES

The tenement holder is responsible for identifying and complying with legal obligations that are applicable to activities conducted on their tenement. Authorisation under the *Mining Act 1978*, including by way of Low-Impact Activity does not preclude the requirement for approvals under other relevant legislation. Relevant legislation may include:

- *Mines Safety and Inspection Act 1994*
- *Rights in Water and Irrigation Act 1914*
- *Aboriginal Heritage Act 1972*
- *Wildlife Conservation Act 1950*
- *Conservation and Land Management Act 1984*
- *Environmental Protection Act 1986*

Under provisions contained in the Mining Legislation Amendment Bill 2015, a deemed condition will require Low-Impact Activities to be conducted in accordance with requirements that will be prescribed in the Mining Regulations 1981. Table 3 outlines the environmental factors for which regulations will prescribe the obligations that will be applied to Low-Impact Activities.

TABLE 3. OBLIGATIONS FOR LOW IMPACT ACTIVITIES PROPOSED TO BE INCLUDED IN MINING REGULATIONS 1981

1. Draft Obligations as published in April 2015 Discussion Paper	2. Discussion	3. Proposed Prescribed Requirements
“WAY IN WHICH THE ACTIVITY IS CARRIED OUT”		
i) It limits or avoids harm to the natural environment	Items ii) – vi) more clearly articulate the environmental outcomes that DMP requires.	Removed.
ii) Soil erosion and other similar land degradation is limited or avoided		Soil erosion and other similar land degradation is limited or avoided.
iii) To the extent practicable, surface and subsurface water quality is not detrimentally affected	The reference to water “flows” has been inserted to clarify that activities that intersect with water resources must be managed to avoid impacts. For example, activities must not intersect confined aquifers without the appropriate consultation with/approvals from Department of Water.	To the extent practicable, surface and subsurface water quality and flows are not detrimentally affected.
iv) It limits or avoids impacts to flora and fauna species, habitats and ecological communities	This obligation is considered appropriate for prospecting and exploration activities.	It limits or avoids impacts to flora and fauna species, habitats and ecological communities.
v) It limits or avoids direct and indirect harm to riparian vegetation;	Consultation with stakeholders has highlighted that disturbance to wetlands and some watercourses can result in environmental impacts regardless of whether it involves clearing of native vegetation or not. For example, environmental factors such as water quality and flora and fauna can be detrimentally affected by ground disturbance such as excavation and mechanised drilling. This will be addressed via prescribed requirements on the way in which a Low-Impact Activity must be conducted. Prescribed requirements related to water flow and quality, and flora and fauna have been outlined above.	Prescribed requirements in regulations for Low-Impact Activities will prohibit directly or indirectly disturbing riparian vegetation. Riparian vegetation is as defined in regulation 3 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.

**TABLE 3. OBLIGATIONS FOR LOW IMPACT ACTIVITIES
PROPOSED TO BE INCLUDED IN MINING REGULATIONS 1981 (cont.)**

1. Draft Obligations as published in April 2015 Discussion Paper	2. Discussion	3. Proposed Prescribed Requirements
vi) Cumulative disturbance (the disturbance footprint, excluding any area that has been rehabilitated in accordance with the requirements imposed by or under the <i>Mining Act 1978</i>) is limited to a maximum land area to be agreed.	Five hectares is nominated as the maximum land area to be cleared by way of a single Low-Impact Activity. When the disturbance of a Low-Impact Activity has been rehabilitated (see Rehabilitation), a subsequent Low-Impact Activity can be authorised.	Disturbance authorised by way of a Low-Impact Activity (the disturbance footprint), is limited to five hectares. Successive Low-Impact Activities may be authorised provided that the previous Low-Impact Activity areas have been rehabilitated.
Tenement holder will be required to conduct appropriate environmental appraisal and maintain records and evidence that the exploration activity is low-risk and does not adversely impact on flora or fauna.	This information was included in the Background section of the April 2015 Discussion Paper. The IT system that is being developed to support a Low-Impact Activity framework will automatically assess the proposal against spatial data and will create records verifying that the activity was authorised. DMP's compliance activity program will include assessments of whether adverse impacts have occurred. Therefore, no additional obligations are proposed in this regard.	No prescribed obligations for environmental appraisal or records are considered necessary.
OBLIGATIONS		
i) Weed control and dieback management measures	This is consistent with current standard tenement conditions, which are planned to be relocated into outcomes-focused prescribed requirements in the Mining Regulations.	Prevent the spread and/or intensification of plant pathogens and weeds.
	This is consistent with current standard tenement conditions and is considered standard industry practice,	NEW If the activity involves the disturbance to topsoil and/or vegetation, topsoil and vegetation is to be removed ahead of the activity to be stockpiled for later respreading or immediately respread as rehabilitation progresses.
	Condition to apply during the activity and upon rehabilitation.	NEW Prevent harm to fauna/persons caused by drill holes and/or excavations (including but not restricted to structures associated with the abstraction, storage and disposal of water).

**TABLE 3. OBLIGATIONS FOR LOW IMPACT ACTIVITIES
PROPOSED TO BE INCLUDED IN MINING REGULATIONS 1981 (cont.)**

1. Draft Obligations as published in April 2015 Discussion Paper	2. Discussion	3. Proposed Prescribed Requirements
	<p>Low-Impact Activity areas must be rehabilitated appropriately in order to minimise or avoid long-term environmental impacts. The standard of rehabilitation will be prescribed requirements in the Mining Regulations and reflect current rehabilitation standards that are applied to Programmes of Work, tenement conditions, and/or are industry standards.</p>	<p>NEW</p> <p>Rehabilitation to be completed as described by the approved Mine Closure Plan or where the <i>Mining Act 1978</i> does not require a Mine Closure Plan, the rehabilitated area:</p> <ul style="list-style-type: none"> • is landscaped to avoid erosion • compaction has been relieved • all waste materials, rubbish, equipment, temporary infrastructure being disposed of or removed from the tenement • prevent harm to fauna/persons caused by drill holes and/or excavations (including but not restricted to structures associated with the abstraction, storage and disposal of water). • vegetation propagative material (topsoil and/or cleared vegetation) returned or applied.
	<p>As per Programmes of Work, a Low-Impact Activity authorisation will be valid for four years from the date of authorisation.</p>	<p>NEW</p> <p>An area of disturbance for an activity, including the rehabilitation thereof, that has been authorised by way of a Low-Impact Activity must be completed within four years* of the day that the activity was authorised.</p> <p>* or the tenement expiry date, whichever is the sooner.</p>
	<p>Stakeholders have varying views on appropriate timeframes for rehabilitation to be completed. DMP recognises that completion of rehabilitation can be constrained by seasons. However, consistent with rehabilitation timeframes for Programmes of Work (which require sample bags to be removed and works to be rehabilitated), Low-Impact Activities must be rehabilitated within six months of the completion of the activity.</p>	<p>NEW</p> <p>Low-Impact Activities must be rehabilitated within six months of completion of the activity. A subsequent Low-Impact Activity may be authorised upon rehabilitation of all disturbance authorised by previous Low-Impact Activities.</p>
<p>ii) Making safe drilled surface holes by capping or filling, and rehabilitating within a set timeframe following completion of the work program;</p>	<p>Replaced with NEW above.</p>	<p>Removed.</p>

TABLE 3. OBLIGATIONS FOR LOW IMPACT ACTIVITIES PROPOSED TO BE INCLUDED IN MINING REGULATIONS 1981 (cont.)

1. Draft Obligations as published in April 2015 Discussion Paper	2. Discussion	3. Proposed Prescribed Requirements
iii) Removing waste materials, rubbish, sample bags, equipment and any temporary infrastructure prior to or upon completion of the work program;	Replaced with NEW above.	Removed.
iv) Minimising soil erosion potential;	This obligation applies while the activity is being conducted and upon rehabilitation (see previous).	Minimising soil erosion potential.
v) Controlling any intercepted or discharged waters;	<p>This obligation applies while the activity is being conducted and upon rehabilitation (see rehabilitation obligation, this table). It has been re-worded to be outcomes-focussed.</p> <p>In order to minimise the risk to water resources, the Low-Impact Activities framework will also refer proponents to have regard to the Guidelines for the protection of Surface and Groundwater Resources During Exploration Drilling.</p>	Intercepted/discharged water must not cause erosion.
<p>vi) Records to be kept relating to the authorised activity including where applicable:</p> <ul style="list-style-type: none"> • location details of where ground disturbance associated with the activity occurred, • date the area was disturbed and size (ha), and • purpose for which the disturbance was conducted; and 	<p>The online IT system that is being developed to support a Low-Impact Activity framework will create and manage the appropriate records.</p> <p>A deemed condition in the <i>Mining Act 1978</i> allows DMP to prescribe the form in which notice of completion of a Low-Impact Activity shall be made.</p>	<p>The form in which notice of completion of a Low-Impact Activity is to be given will include:</p> <ul style="list-style-type: none"> • purpose for which the disturbance was conducted. • location details of where ground disturbance associated with the activity occurred • date the area was disturbed and size (ha) • details on the rehabilitation methods.
vii) Rehabilitating any excavations or operating areas disturbed through the activity.	Replaced with NEW rehabilitation obligation above.	Removed.

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