



Planning Schemes mining tenements

Planning Schemes mining tenements

Most mining tenements in Western Australia do not fall within the areas covered by town planning schemes. However, the requirements for both freight and residential infrastructure, to support mining projects, may result in closer scrutiny of the scope of the planning schemes. A Private Member's Bill of the Honourable Giz Watson MLC, entitled *Mining (Community Protection) Amendment Bill 2012 (Bill)*, was introduced to the Legislative Council. It proceeded to the second reading speech on 24 May 2012. The Bill seeks to amend the *Mining Act 1978 (Act)* to ensure that mining tenements are only granted where consistent with any relevant planning scheme. The success of the Bill would see a tougher climate for the grant of tenements on land situated within a planning scheme, and more power wielded by local governments.

The Act presently requires the Minister, Warden or Mining Registrar (**Decision Maker**) responsible for determination of the tenement application, to take into account the provisions of the planning scheme affecting the use of the land. However, the planning scheme shall not operate to prohibit or affect the grant of the tenement or the carrying out of mining operations under the Act. If the grant of the application would be contrary to the planning scheme, the Decision Maker must consult with the Minister for Planning (**Minister**) before making a determination.

The Bill seeks to enable the planning scheme to prohibit the grant of the tenement. It also seeks to require the Decision Maker to consult and obtain the agreement of the Minister for Planning, where an application is not supported by the planning scheme.

In addition, the Bill seeks to afford the Minister the ability to exempt land from mining, a specified mining purpose or the Act, particularly with regard to private land or land that is the subject of a mining tenement or mining tenement application.

If these amendments are incorporated into the Act this may make it more difficult to obtain an approval of an application due to the increased importance of local government and local planning considerations.

It would be prudent for mining companies with land subject to planning schemes to monitor the progress of this Bill and lobby their political contacts to ensure their interests are protected.

Please contact Margie Tannock or Rebecca McAulay if you have any queries regarding the Bill.

Contact

Margie Tannock
T +61 8 9429 7456
margie.tannock@squiresanders.com

Rebecca McAulay
T +61 8 9429 7623
rebecca.mcaulay@squiresanders.com