



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

PROPOSED LOW IMPACT AUTHORISED ACTIVITIES FRAMEWORK FOR PROSPECTING AND EXPLORATION UNDER AMENDMENTS TO THE *MINING ACT 1978*

RESPONSE TO SUBMISSIONS
DECEMBER 2015

Response to Submissions

PROPOSED LOW IMPACT AUTHORISED ACTIVITIES FRAMEWORK FOR PROSPECTING AND EXPLORATION UNDER AMENDMENTS TO THE MINING ACT 1978 - For stakeholder comment

1. Introduction

On 2 April 2015 the Department of Mines and Petroleum (DMP) released a discussion paper titled “Proposed Low Impact Authorised Activities Framework for Prospecting and Exploration Under Amendments to the Mining Act 1978” for an eight week public comment period. The initiative is part of a suite of regulatory reforms that DMP is developing, under proposed amendments to the *Mining Act 1978*.

The Department received submissions from stakeholders including businesses, industry representatives, regulatory agencies, professionals and other interested parties. This document is a summary of the comments received and DMP’s response to those comments.

There were a variety of issues raised through the consultation process, often with several varying viewpoints. There were three common topics that warrant specific mention.

Excluded Localities

In the discussion paper, the proposed localities to be excluded from the Low-Impact Activity framework included lands in which disturbance activities are currently afforded a level of protection through government policy and/or legislation. These included gazetted Environmentally Sensitive Areas and non-permitted areas as described in Schedule 1 of the Environmental Protection (Clearing of Native Vegetation Regulations) 2004 (Schedule 1 areas).

Submissions generally supported exclusion of these areas, however there were questions raised as to what is considered a ‘conservation area’, which is defined very broadly in clause 2 of Schedule 5 of the *Environmental Protection Act 1986*. DMP reviewed the sub-categories of non-permitted areas described in Schedule 1 to assess their appropriateness for Low-Impact Activities and whether spatial data can be sourced to support the online lodgement system. As a result, the proposed localities in which Low-Impact Activities may be authorised have been revised.

In addition to the formally protected areas, the discussion paper also proposed a list of areas of environmental significance to be excluded from the Low-Impact Activities framework. These included areas that, although not legislatively protected, warrant assessment of potential environmental impacts associated with mining-related activities by an environmental officer. This category was the subject of many and varied opinions. Some submissions suggested additions to the list, such as old-growth forest and beds and banks of watercourses. Other submissions recommended that areas proposed in the discussion paper be removed, such as groundwater dependent ecosystems and banded iron formation ranges. DMP will continue to liaise with the lead agencies and custodians of the spatial mapping data for areas of environmental significance to consider their relevance to Low-Impact Activities.

The Low-Impact Activity criteria will be revised accordingly, with the objective of balancing risk-based regulation without compromising important environmental values. The revised list of excluded areas will form the basis of regulations to be made following passage of the Mining Legislation Amendment Bill 2015 through Parliament.

Size of Clearing Area to be authorised

The discussion paper nominated two hectares as the size of disturbance that could be authorised under the *Mining Act 1978* by way of Low-Impact Activity notification. There was strong support for the principle of recognising that small areas of disturbance can be conducted with no significant environmental impact, however opinions varied on what is small enough to be of low-impact. Suggestions ranged from 1 hectare to 25 hectares, and 'as much as the operator thinks he can manage'. Through consideration of feedback, DMP proposes that five hectares may be an appropriate threshold. Some sectors of industry remain of the view that the threshold should be ten hectares. This will be considered further as we continue stakeholder engagement during development of regulations.

DMP acknowledges that, depending on the receiving environment, disturbance sizes that are likely to result in environmental impact vary greatly. For example, in a broad, continuous and uniform habitat, larger areas of clearing may have minimal environmental impact if they are managed appropriately. However the effects of the same size of disturbance in a restricted, sensitive habitat may be much more significant. In order to implement a simple, user-friendly notification process that can be applied across the State, the Low-Impact Activity criteria need to reflect a balance.

Cumulative Disturbance

The discussion paper focussed on the definition of low impact and did not go into detail on the notification system processes, such as duration of validity, rehabilitation timeframes or cumulative impacts and multiple notifications. These issues were queried in the submissions that were received. DMP has conducted further stakeholder consultation since the publication of the discussion paper and has considered the points raised. As a result, DMP has developed a process map to show the proposed steps involved in the Low-Impact Activity notification system, including the ability for subsequent Low-Impact Activities to be authorised on completion of rehabilitation of a previous Low-Impact Activity. As stated above, each individual Low-Impact Activity notification is proposed to be limited to five hectares. However some industry stakeholders maintain that ten hectares of disturbance is considered low-impact. This is yet to be resolved.

2. Next Steps

The Low-Impact Activity criteria have been revised following stakeholder submissions and additional consultation. Much of the stakeholder feedback has sought information on the detail of what will be in regulations. Therefore, DMP is publishing a draft interim policy position paper which contains the proposed criteria as at December 2015. This will inform ongoing consultation as we draft regulations after the Mining Legislation Amendment Bill 2015 is passed through the Legislative Council. There will be a further public comment period on the drafted regulations.

In parallel with development of regulations, DMP is developing an online IT system and supporting resources, including user guides and staff training. Extensive stakeholder engagement is planned to ensure that the Low-Impact Activities framework can be implemented in 2016.

If you have any queries regarding DMP's regulatory reform implementation, including the Low-Impact Activity framework, please contact Ms Kate Buckley, Policy Officer on (08) 9222 3231 or Ms Karen Caple, General Manager Administration and Reform on (08) 9222 3447, or email reform@dmp.wa.gov.au.

3. Response to Submissions

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
PROPOSED DEFINITION OF LOW IMPACT ACTIVITIES		
Chamber of Minerals and Energy WA	CME welcomes the move towards a risk based approach to environmental regulation, however CME recommends DMP to develop a LIAA (Low Impact Authorised Activities) Framework for Mining Proposals as there may a number of Mining Proposal activities that could meet a 'low impact' definition.	<p>The Mining Legislation Amendment Bill 2015 (the Bill) includes provisions for a Low-Impact Activity framework to be applied to relevant prospecting, exploration and mining activities on all mining tenement types, on the proviso that certain criteria are met. The criteria are currently being developed for prospecting and exploration activities as a priority.</p> <p>The criteria for low impact mining activities will be defined following the passage of the Bill and subsequent regulations.</p>
IN CONFIDENCE	A risk-based approach should be implemented and the framework should be based on the impact of the activities to the environment, rather than the purpose of the activity. Low impact activities that are for the purposes of mining should not be excluded from the framework.	<p>Agreed. This is the principle behind DMP's initiative to introduce the low-impact activities framework. As a result of stakeholder consultation, including submissions received on the April 2015 discussion paper, DMP has broadened the criteria for low impact activities to encompass any activity related to prospecting and/or exploration.</p> <p>The criteria are currently being developed for prospecting and exploration activities as a priority. The criteria for low impact mining activities will be developed in the future, following passage of the Mining Legislation Amendment Bill 2015.</p>
Robert Fagan	Why change what has worked well for many years, what/where are the existing problems that require changes? You have not made a case for change.	As a government agency, DMP's policies and services need to evolve in line with the broader community's expectations. The low-impact activities framework is one of several initiatives proposed under the Reforming Environmental Regulation (RER) program that has been underway since 2012. Key objectives of the reform program are to reduce regulatory duplication and focus regulation activities based on the risk to the environment.
Robert Fagan	Low impact as described in the mine closure plan for small miners has worked well for many years and seems more than adequate. Any change is disruptive to long-established business and work plans and may make many small operations uneconomic.	<p>DMP's intention is to reduce prescriptive regulation of environmental management in the mining industry. To this end, DMP has consulted with stakeholders during the reform program, and more specifically regarding the low-impact activities framework. Consultation has included industry briefings, regular meetings with stakeholders such as the Mining Industry Liaison Committee and RER Advisory Panel, regional briefings on legislation amendments, and publishing discussion papers for comment.</p>
Amalgamated Prospectors and Leaseholders Association	We enter the "Low Impact" discussion on the proviso that the supportive legislative amendments currently in the WA Parliament and having been read for the first time are suspended from any further readings. We insist that the industry has sufficient time to study the legislation in detail.	<p>Consultation on the draft legislation amendments has been underway since 2013, including provision of the draft Bill to APLA for review and comment in November 2014.</p> <p>DMP notes that after the second-reading into Parliament, debate of the Bill was postponed until September 2015.</p>

IN CONFIDENCE – the author of this submission requested to remain anonymous.

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PROPOSED LOCALITIES WHERE LOW IMPACT ACTIVITIES WILL BE AUTHORISED		
Clark Lindbeck & Associates	It is suggested that a special exemption for activities on cleared farmland within the southwest land division (part Clause 4 of Schedule 1 of Clearing Regulations) should be included for disturbance <1 ha. Soil sampling and costeans should be separated with no limit on the closeness of soil sample points.	Agreed. DMP considers that prospecting and exploration activities conducted on mining tenements on agricultural land that do not involve clearing of native vegetation will be eligible for Low-Impact Activity authorisation.
Amalgamated Prospectors and Leaseholders Association	We seek reassurance that areas outside of the areas stated in i), ii) and iii) automatically satisfy the "location of activities" condition with no further exceptions.	DMP notes that the document upon which APLA's submission was received is a public consultation paper. Based on submissions that DMP received on the paper, and further stakeholder engagement, amendments to the Mining Regulations 1981 will be developed which will define the criteria for a Low-Impact Activity system. DMP welcomes APLA's ongoing involvement in the development of practicable legislation.
Department of Water	DoW recommends that point 1, in Section 2 'Issues of primary concern', 'Bed and banks of watercourses and wetlands' be added to the exception locations where low impact activities will not be authorised.	The <i>Rights in Water and Irrigation Act 1914</i> exempts activities that are authorised by other legislation (e.g. <i>Mining Act 1978</i>) from the requirement for a bed and banks permit if they do not involve the taking or diversion of water (with the exception of activities on general purpose leases). The potential environmental impacts of prospecting and exploration activities that coincide with watercourses are therefore largely regulated by DMP by way of Programmes of Work (PoW). For low-impact activities, where PoWs are not required, regulations will require Low-Impact Activities to be conducted in a way that avoids direct or indirect disturbance to riparian vegetation and does not affect water quality or flows.
Conservation Commission Western Australia	It is recommended that the term 'special' be removed in reference to 'other areas of special environmental significance' as it poses an additional layer of difficulty in determining environmental significance.	Agreed. This has been removed in the definition of Low-Impact Activity.
Department of Parks and Wildlife	DPaW wishes to discuss whether the definition will be interpreted as being inclusive of areas that both the Department and State Cabinet have recognised as being future conservation reserves (page 5)	DMP has consulted with stakeholders, including DPaW, on the appropriateness of "reserve" lands to be excluded from the Low-Impact Activity framework. As a result of these discussions, DMP proposes that the regulations will stipulate that low-impact activities will not be authorised in the following: <ul style="list-style-type: none"> • lands that 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, and/or • lands registered on Tengraph that have been endorsed by Government to be reserved for purposes including nature conservation.

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Department of Parks and Wildlife	Regarding proposed localities (ii) (page 5); DPaW seeks clarification of DMP’s interpretation of the term ‘conservation areas’ contained in Schedule 5 of the EPA Act. Additionally confirmation is sought regarding whether DMP will be treating all lands and waters vested with the Conservation Commission Western Australia or the MPRA (Marine Parks and Reserves Authority) as conservation areas	See previous. The definition of conservation area in Schedule 5 of the <i>Environmental Protection Act 1986</i> is very broad. In addition to lands managed under the <i>Conservation and Land Management Act 1984</i> , it includes any other lands managed for the purpose of, or purposes including, nature conservation. This could be interpreted to cover any area of the state, regardless of whether the areas are planned for inclusion in formal reserves. To overcome this ambiguity, the Low-Impact Activity criteria will use the definition outlined in the response above.
Conservation Commission Western Australia	The framework should include clearer reference to all lands vested in the Commission as well as proposed additions to the Commission in the future.	DMP proposes that the regulations will stipulate that Low-Impact Activities will not be authorised on lands that 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 those lands that have been described on Tengraph as endorsed by Government to be reserved for purposes including nature conservation.
Department of Parks and Wildlife	DPaW seeks further dialogue toward DMP's agreement that the following lands will also not be subject to the low impact activities notification process: Proposed marine parks where the indicative management plans have been released for public comment, crown lands including former pastoral lease lands, that the State Cabinet has previously agreed will be reserved or excluded from pastoral leases for management by DPaW, land that is identified as proposed for reservation in statutory area and regional management plans approved by the Government under the CALM Act and land held under conservation covenants with DPaW and other recognised conservation covenanting bodies	See also previous regarding conservation areas to be excluded from Low-Impact Activities. Conservation covenants under the <i>Conservation and Land Management Act 1984</i> are entered into between the landholder and the Department of Parks and Wildlife. DMP understands that they do not affect the operation of other legislation, for example the <i>Mining Act 1978</i> . Hence, it is not intended to exclude lands held under conservation covenants from the Low-Impact Activity framework where appropriate mining tenure exists.

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<p>Conservation Commission Western Australia</p>	<p>It is recommended that areas such as old-growth forests, habitat for conservation of significant fauna and watercourses be added to the list of environmentally sensitive areas.</p>	<p>Old growth forests in WA are restricted to the south-west of the state and are within the bioregions listed in clause 4(1)(a) of Schedule 1 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004. Low-Impact Activities that involve clearing of native vegetation will be excluded from these bioregions.</p> <p>Habitat used by fauna of conservation significance can cover vast areas, for example spinifex sandplains. Habitat types that are restricted and of recognised conservation significance are protected as threatened ecological communities or other categories of environmentally sensitive areas. Both of these are proposed to be excluded from the Low-Impact Activity framework.</p> <p>The Low-Impact Activity framework heeds disturbance to watercourses in three main ways:</p> <ol style="list-style-type: none"> 1. Firstly, clearing of native vegetation in the bioregions listed in clause 4(1)(a) of Schedule 1 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 will not be authorised as Low-Impact Activity. 2. Secondly, significant watercourses as described in clause 4(1)(j) of Schedule 1 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 will be excluded from the Low-Impact Activities framework, regardless of whether or not they involve clearing of native vegetation. 3. Lastly, prescribed requirements in regulations will require low-impact activities to be conducted in a way that avoids direct and indirect disturbance to riparian vegetation and does not affect water quality or flows.
<p>Chamber of Minerals and Energy WA</p>	<p>CME considers “Ground water dependent ecosystems (GDE) as described in the national Atlas of Groundwater dependent ecosystems” should not be included as an excluded area for LIAA (Low Impact Authorised Activities), the risk of GDE being affected from such activities is extremely low and the framework does not include water extraction from aquifers.</p>	<p>After consultation with the Department of Water, DMP has removed groundwater dependent ecosystems from the Low-Impact Activity criteria. The spatial dataset was not appropriate as an indication of environmental sensitivity.</p>
<p>MBS Environmental</p>	<p>MBS views the inclusion of Priority Ecological Communities (PECs) and Groundwater Dependent Ecosystems (GDEs) as environmentally sensitive lands in Attachment 2 as inappropriate. If these areas are not currently protected under other environmental legislation in the way that Environmentally Sensitive Areas (ESAs) and non-permitted areas are, why should they be included under a separate category?</p>	<p>The environmental impact of disturbance in PECs should be assessed by an environmental officer to ensure that the proposal does not pose a risk of elevating the conservation status to Threatened Ecological Community (TEC). Therefore it would be inappropriate to apply an automated assessment 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.</p> <p>See previous response regarding Groundwater Dependiant Ecosystems.</p>

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Chamber of Minerals and Energy WA	CME recommends “Priority Ecological Communities (PEC) as recognised by the Department of Parks and Wildlife” should be removed from Schedule 1. PECs do not have legislative protection and are not environmentally sensitive as TECs.	See previous.
Chamber of Minerals and Energy WA	Regarding locality of activities, CME considers the wording of v) and ix) unclear whether the two hectare limitation is applicable to a discrete area, or multiple areas not totalling more than two hectares. Additionally, CME recommends vi) and ix) to be clarified to state “area or areas of no more than two hectares”.	The disturbance size limitation is intended to apply to single or multiple areas, as long as the cumulative area disturbed is no more than the disturbance limit.
IN CONFIDENCE	The locality of activities should be amended so that it only applies to native vegetated areas within the listed locations.	Agreed. The Low-Impact Activity criteria will clarify that low-impact activities associated with prospecting and exploration that do not require clearing of native vegetation (e.g. activities on farmland) may be conducted in some areas that would otherwise be excluded from the Low-Impact Activity framework. Compliance with tenement conditions and provisions in the <i>Mining Act 1978</i> regarding activities on reserves will continue to apply. The Low-Impact Activity obligations is planned to require relevant land managers to be consulted prior to commencement of the proposed activity.
Lindsay Stockdale	Regarding the locality of activities, native vegetation clearing should be permitted as a Low Impact Activity as their exclusion will seriously restrict Greenfield discoveries.	Native vegetation clearing will be permitted under the Low-Impact Activity framework, providing the proposal meets the criteria of a low-impact activity.
Chamber of Minerals and Energy WA	CME does not support the decision to include identified Banded Iron Formation (BIF) Ranges of the Midwest and Goldfields from being areas where LIAA (Low Impact Authorised Activities) cannot be undertaken. Additionally CME is concerned the wording 'identified banded iron formations' is subjective and open to interpretation.	BIF ranges have been identified as supporting high species diversity. DMP recognises that not all BIF ranges are of conservation significance. However, there is a lack of baseline survey data to determine the potential for impacts to conservation-significant species. Therefore, DMP considers that activities that involve machinery to disturb the surface of the land in BIF ranges require individual environmental impact assessment. It is agreed that the localities of BIF ranges must be clearly defined, and therefore BIF ranges that are to be excluded from the Low-Impact Activity framework will be spatially mapped on DMPs website, thus removing the potential for ambiguity.

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Chamber of Minerals and Energy WA	CME recommends DMP consider adopting a two tiered approach to assessing Environmentally Sensitive Areas which may have been previously cleared where DMP would complete a one-off assessment of a PoW to demonstrate the area proposed could support LIAA (Low Impact Authorised Activities) without further environmental harm occurring. Any subsequent approvals over this area could be considered under the LIAA.	The suggested approach has been trialled by DMP through programmes of work. DMP is supportive of applying this approach in environmentally sensitive areas where the risk of environmental harm can be reduced to low by appropriate levels of baseline environmental survey.
Department of Parks and Wildlife	DPaW recommends that proponents in unsurveyed areas undertake a risk based assessment based on available information of the types of flora and fauna likely to occur on their land.	<p>As outlined in the Background section of the April 2015 discussion paper, “The tenement holder would still be required to undertake appropriate environmental appraisal and maintain records and evidence that the exploration activity is low-risk and does not adversely impact on sensitive flora, fauna, etc”.</p> <p>On this basis, in a risk-based regulatory framework, DMP considers that there is a low risk of long-term environmental impact if small areas of disturbance are authorised via an automated environmental assessment. The proposal encompasses only activities that are by nature low-impact, and which will not be able to be carried out in areas of known environmental significance without formal assessment. Other activities will require formal environmental impact assessment.</p>
Wildflower Society	The Society notes that there is an element of risk as many parts of the State are unsurveyed. The Society recommends the tenement holder to undertake some form of likelihood assessment or survey as to whether their tenement contains or is likely to contain significant species. The Society also have concerns that the Coolgardie Biographic Region - which is especially high risk as it unsurveyed, is not included as a non-permitted area.	See previous.
Department of Parks and Wildlife	DPaW recommends that a reference to Attachment 1 'List of other proposed environmentally sensitive lands' to ensure a more detailed assessment of proposals that could impact upon highly endangered and rare flora and fauna.	<p>See previous.</p> <p>DMP notes that the reference to Attachment 1 should be to Attachment 2 of the April 2015 published version of the discussion paper.</p>

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Department of Water	There is the potential that irrigation channels, which are privately owned, may be compromised by exploration works. It is recommended that tenement holders undertake consultation with irrigation district Water Service Providers, prior to exploration activities being undertaken.	DMP applies endorsements on tenements recommending consultation with the Department of Water for such matters. It should also be noted that authorisation of a Low-Impact Activity does not preclude the tenement holder from compliance with other applicable legislation.
Department of Parks and Wildlife	If tenement holders are permitted to commence new low impact exploration activities in close proximity to previously notified areas immediately after initial rehabilitation earthworks, there is potential for this to result in larger or more intensely disturbed areas within a relatively short timeframe.	DMP will continue to consult with stakeholders on the requirement for an upper limit on the cumulative amount of disturbance that can be conducted under the Low-Impact Activity framework.
Department of Water	There needs to be consideration of scale of the activity on a project basis. There is potential for multiple low impact activities to be authorised in an area, which if considered on a cumulative basis may require a greater degree of risk assessment.	See previous.

PROPOSED TYPES OF ACTIVITIES THAT WILL BE CONSIDERED LOW IMPACT ACTIVITIES

Chamber of Minerals and Energy WA	<p>CME considers the following additional activities should be considered to be low impact:</p> <ul style="list-style-type: none"> • geotechnical test pitting; • installation of surface water quality monitoring equipment; • soil sampling; • auger sampling (by hand or mechanical means); • geophysics; • clearing for lay down area for large equipment; • drilling of historic holes; and • water exploration. 	<p>Prospecting or exploration activities that do not currently require a Programme of Work (PoW) would not require a Low-Impact Activity authorisation. Of the activities that CME has suggested, the following would not require a PoW or Low-Impact Activity authorisation: Installation of surface water quality monitoring equipment, auger sampling by hand, and some geophysical surveys. DMP has considered the remaining suggested activities in the Low-Impact Activity criteria.</p> <p>DMP understands ‘drilling of historic holes’ to mean re-drilling drill holes that were previously authorised under the <i>Mining Act 1978</i>.</p>
IN CONFIDENCE	It is suggested that the definition of iii) exploration drilling be expanded to include; that waste characterisation drilling, pilot hole drilling for soil/ groundwater characterisation and piezometer construction. In many cases, the impacts from these activities are less than those from exploration drilling.	DMP will ensure the criteria for Low-Impact Activities clarify that any activity that is considered prospecting or exploration (including those suggested in this submission) will qualify for the Low-Impact Activity, provided it meets the other criteria related to locality and manner in which the activity is conducted.

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<p>Amalgamated Prospectors and Leaseholders Association</p>	<p>For the purpose of this policy, activities that can be deemed as prospecting include:</p> <ul style="list-style-type: none"> • Scraping and detecting / shallow pushing • Costeaming / trenching • Dryblowing • Small wet alluvial plants • Some small scale operations with a small footprint (e.g. less than 5 hectares) • Small bulk sampling projects (e.g. less than 10,000 tonnes) • Small ornamental rock operations 	<p>DMP agrees that the activities suggested are considered prospecting/exploration activities and will be eligible for Low-Impact Activity. The possible exception is “small scale operations with a small footprint” which is open to misinterpretation as authorising small mining operations.</p> <p>Such activities may be considered for low-impact mining activities in the future, but currently DMP is focussing on developing the criteria for prospecting and exploration activities as a priority.</p>
<p>Amalgamated Prospectors and Leaseholders Association</p>	<p>The following list is taken from APLA submission titled “Low Impact Prospecting and Exploration - Mine Shafts, Small Open Pits, Processing Plant and Associated Infrastructure – For the “Notification Only” Procedure Requirements 2015” and is an outline of common activities that considered to be prospecting and exploration:</p> <ul style="list-style-type: none"> • Processing plant • Use of State batteries • Custom milling services • Ore storage area • Water supply and water storage dam • Crushing plant • Grinding plant • Gold recovery (including dry blowing, vat leaching, heap leaching or carbon in leach plant) • Tailings dam • Waste rock • Workshop maintenance shed • Explosive magazine • Office • Camp • Other (including laydown, topsoil stockpile etc). 	<p>DMP agrees that activities on this list are often associated with prospecting and/or exploration and could qualify for low-impact authorised activities if they met the other criteria (e.g. size and locality). Some exceptions which involve potential discharges to the environment are :</p> <ul style="list-style-type: none"> • processing plant • custom milling services • gold recovery (vat leaching, heap leaching or carbon in leach plant) • tailings dam <p>The use of State batteries is considered to be mining-related.</p> <p>Such activities may be considered for Low-Impact Activities for mining activities in the future, but currently DMP is focussing on developing the criteria for prospecting and exploration activities as a priority.</p>

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<p>Department of Water</p>	<p>DoW requests a further and clearer definition of a low impact activity is required.</p> <p>DoW recommends there is a need to provide detail and specify the types of activities (e.g. seismic surveys, soil sampling) and consider a depth limitation.</p> <p>DoW is of the view that excavating or drilling to a depth below the water table should generally not be considered a low impact activity.</p>	<p>See previous.</p> <p>There are existing precedents to support the view that drilling that has potential to intersect the water table is not automatically considered a risk to the environment. The Environmental Protection (Clearing of Native Vegetation) Regulations 2004 Schedule 1, Clause 2(d)(iii) considers drilling to be low impact if liquids are contained within a sump. DMP therefore suggests that intersection with the water table per se does not result in material environmental impact. Intersecting a confined aquifer has more potential to cause an environmental impact on a water resource. The Low-Impact Activity framework 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>DMP notes that proponents using the Low-Impact Activity framework are not exempt from compliance with other applicable legislation such as the <i>Rights in Water and Irrigation Act 1914</i>.</p>
<p>Department of Water</p>	<p>There is a need to provide criteria on types of exploration drilling that present risk to aquifers, and these criteria should be added to activity type iii. (E.g. drilling that is not managed to maintain the integrity of artesian or sub artesian aquifers, or confining layers) must be assessed.</p>	<p>See previous. DMP considers that such aspects will continue to be regulated by the Department of Water through the 26D/5C licensing system.</p> <p>The Low-Impact Activity framework will require the proponent to state that the proposed activity is not within in a known confined aquifer and link to “Guidelines for the protection of surface and groundwater resources during exploration drilling” (November 2002).</p>
<p>Department of Water</p>	<p>Excavations should be split into surficial (i.e. soil sample and investigations) and deeper excavations (i.e. costeans, shafts) to take into account the potential to impact the water table. Shafts should not be considered a low impact activity, unless they are small (need to specify size limit) and shallow.</p>	<p>Localities to be excluded from the Low-Impact Activity framework are listed in the April 2015 discussion paper and, as Department of Water pointed out in their submission, the exclusions coincide with primary water resource management areas. Low-Impact Activities will be excluded from Public Drinking Water Source Areas, Waters and Rivers Commission Estate and Wild Rivers areas, regardless of whether they involve clearing of native vegetation or not.</p> <p>Low-impact exploration activities outside these areas are considered to be unlikely to have a negative impact on water resources and therefore can be subject to the Low-Impact Activity framework.</p>

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Department of Water	DoW have concerns regarding the potential negative impacts on other water resource management areas listed in the Administrative Agreement between DMP and DoW. The Framework, as it currently reads, may allow activities to proceed, with greater risk and less confidence than is provided by current controls. DoW wishes these concerns to be addressed through including bed and banks of watercourses and wetlands and irrigations districts to other environmentally sensitive lands in Attachment 1 of the Framework.	<p>See previous.</p> <p>Declared wetlands are listed as Environmentally Sensitive Areas in Government Gazette Notice 55 (2005). Disturbance in ESAs is excluded from the Low-Impact Activity framework.</p> <p>Proclaimed water resource management areas are also excluded from the Low-Impact Activity framework regardless of whether or not clearing of native vegetation is involved.</p> <p>The Administrative Agreement between the Department of Mines and Petroleum and Department of Water states that DMP is to seek advice from DoW for any PoW that DMP considers will negatively impact a water resource. If activities meet the Low-Impact criteria, it is unlikely that they would negatively impact a water resource. Therefore in line with a risk-based approach to regulation, DMP does not consider it appropriate to require a PoW for disturbance to any bed or bank, and hence these activities may be authorised under the Low-Impact Activity framework if they meet all other criteria.</p> <p>DMP notes that the <i>Rights in Water and Irrigation Act 1914</i> requires a permit to interfere with bed and banks of watercourses for mining-related activities only where those activities involve the taking or diverting of water. DMP will advise proponents that the Low-Impact Activity framework does not exempt them from compliance with other applicable legislation such as the <i>Rights in Water and Irrigation Act 1914</i>.</p> <p>DMP notes that the reference to Attachment 1 should be to Attachment 2 of the April 2015 published version of the discussion paper.</p>
Department of Water	DoW recommends provisions be included that ensure that excavations such as costeans or shafts are not constructed across watercourses or water-dependent ecosystems.	DMP has considered these recommendations and will include obligations in the Low-Impact Activity framework to minimise soil erosion, effects on water quality and avoids disturbance to riparian vegetation.
Cement Concrete & Aggregates Australia	CCAA notes that the proposed amendments are currently limited to prospecting and exploration activities.	Agreed. The April 2015 discussion paper focussed on low impact prospecting and exploration activities. Low impact mining activities are provided for in the Mining Legislation Amendment Bill 2015. Criteria for these will be developed in the future.
Conservation Commission Western Australia	The definition of Low Impact Activities should have reference to the values, sensitivity, and quality of the environment and the (cumulative) impact of all activities and should draw reference and uniformity to relevant Environmental Acts e.g. <i>Environmental Protection Act</i> .	The proposed criteria for low impact activities have considered the issues suggested in this submission, and refer to the <i>Environmental Protection Act 1986</i> and the Environmental Protection (Clearing of Native Vegetation) Regulations 2004. It further allows for other sensitive areas to be excluded from the Low-Impact Activity framework as listed in Attachment 2 of the April 2015 discussion paper.

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
IN CONFIDENCE	The listed activities are consistent with exemptions in the Clearing Regs, however, at the same time constrained by the “low impact activities” that were defined in the Clearing Regulations. Perhaps “low impact activities” in the Clearing Regulations should be reviewed with this proposal and definition so that outcomes of the reform process are not compromised.	DMP developed the proposed framework to be consistent with the intention of the <i>Environmental Protection Act 1986</i> and the related Environmental Protection (Clearing of Native Vegetation) Regulations 2004. DMP is not able to amend those pieces of legislation. However, DMP is liaising closely with relevant agencies to ensure consistency and avoid duplication in regulation of the mining industry.
IN CONFIDENCE	i) indicates that if an activity is within a listed locality and the activities do not involve native vegetation clearing, an approval would still be required. Eg. Drilling on farmland on the Swan Coastal Plain.	A PoW is currently required if there is ground disturbance with mechanised equipment. The April 2015 discussion paper was written in line with this. However, after considering submissions and further consultation with stakeholders, DMP will amend the Low-Impact Activity criteria to include prospecting and exploration activities that do not involve clearing of native vegetation in areas that would otherwise be excluded, e.g. drilling on farmland that is located within the south-west of the State as long as it is not located in a water resource protection area.
IN CONFIDENCE	ii) it is suggested that it may be appropriate to add the word "native" before vegetation. Regarding point iv), v), vi), viii) and ix), “clearing” should be replaced with “Native Vegetation Clearing”, or otherwise provide a definition of “Clearing”.	Agreed. DMP will ensure that the Low-Impact Activity criteria clearly relate to native vegetation. The definition of clearing is as per the definition in the <i>Environmental Protection Act 1986</i> – refer to s. 51A. This will be stated in the Low-Impact Activities framework.
Lindsay Stockdale	Request for clarity and confirmation to the proposed types of Low Impact Activities ii) that driving through vegetation will be accepted as implied.	If your off-road driving will result in clearing as defined by the <i>Environmental Protection Act 1986</i> , a low-impact activity authorisation will give you authority for that clearing.
Chamber of Minerals and Energy WA	CME recommends DMP provide clarity on whether proponents are required to get a LIN every time they intend to drive light 4 wheel drive vehicles around a tenement.	See above
Cristal Mining	Given the nature of the agricultural land that we typically undertake exploration drilling on, together with the exploration drilling practices that we use, I believe that mineral sand exploration on cleared freehold agricultural land should be considered a low impact activity.	Agreed and this is consistent with activity type i in the April 2015 discussion paper which states “Exploration or prospecting activities that involve no clearing of native vegetation;”. The Low-Impact Activity criteria will clarify that Low-Impact Activities associated with prospecting and exploration that do not require clearing of native vegetation (e.g. activities on farmland) may be conducted in areas that would otherwise be excluded from the Low-Impact Activity framework. Compliance with tenement conditions and provisions in the <i>Mining Act 1978</i> will continue to apply.

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
IN CONFIDENCE	The submission questions point viii) clearing for the purpose of maintenance, if no ground disturbance activities are required, why would this trigger approval under the Mining Act?	DMP notes that the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 exempt some clearing that is to maintain existing cleared areas around infrastructure from the requirement for a clearing permit. DMP applies the same exemptions to exploration activities that meet the criteria of Clearing Regulation 5. Therefore, if no ground disturbance is involved in such clearing of existing cleared areas, no PoW or Low-Impact Activity authorisation would be required.
Chamber of Minerals and Energy WA	CME also requests further clarity on what may be considered “ancillary infrastructure activities”. CME recommends DMP provide further guidance on what is included as a LIAA (Low Impact Authorised Activities) under criteria (viii) of the discussion paper.	This is a typographical error. The sentence should read “Clearing for the purpose of maintenance of pipelines and ancillary infrastructure including around existing facilities and buildings; or”. See previous.
Chamber of Minerals and Energy WA	CME seeks further clarity around types of activities point viii) - as worded, this provision would also include clearing for the purpose of installing a pipeline.	Correct, if that pipeline is related to prospecting or exploration activities, such as from a water bore to an exploration camp.
Chamber of Minerals and Energy WA	CME recommends the wording of proposed types of criteria iv) and v) be amended to state “of no more than five metres in width” as recommended by industry for safety reasons.	Prescription of track width has been removed from the Low-Impact Activity criteria.
Wildflower Society	The Society cannot accept that the proposed types of activities to be inclusive of points ii), iv), vi) and ix) if the activity occurs in a locality that is data deficient. We recommend the tenement owner be required to undertake their own flora and fauna survey to discount the presence of conservation significant species and communities before commencing activities.	DMP acknowledges that some areas of the state are poorly surveyed for flora and fauna. Only those activities meeting criteria of “low impact” will be authorised via automated assessment, and with the requirement of rehabilitation within six months. As stated in the April 2015 discussion paper, the tenement holder will still be obliged to undertake the appropriate environmental appraisal to ensure that the exploration activity is low-risk and does not adversely impact on sensitive flora. The proposed Low-Impact Activity framework is consistent with the objectives of DMP’s RER initiative which introduces a risk based approach to environmental regulation. This was broadly supported through the consultation process.

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Amalgamated Prospectors and Leaseholders Association	Regarding proposed types of activities, it is noted that i) is contradicted by vi). i) "Low Impact is exploration and prospecting that involves no clearing of vegetation" yet vi) clearly says "scrape and detect" is a low impact activity. By definition, scrape & detect operations involve clearing of native vegetation	The wording referred to in this submission reflects the fact that prospecting and exploration activities are currently subject to a PoW for activities that involve ground disturbance with mechanised equipment, whether there is clearing of native vegetation or not. However, upon introduction of the Low-Impact Activity framework, activities that meet the Low-Impact Activity criteria, including those that involve clearing of native vegetation, will not require a PoW. Scrape and detect activities (including the clearing of native vegetation, if required) may qualify for Low-Impact Activity, dependent on size, where/how they are conducted and rehabilitated. DMP will make this clear in the Low-Impact Activity guidance.
Association of Mining and Exploration Companies	AMEC believes that clarity is required around the statement that the types of activities include 'exploration or prospecting activities that involve no clearing of native vegetation'. It would appear that a large proportion of applications involve interference with native vegetation and therefore excluded from the benefits of this proposal. In an apparent contradiction, the Paper then states that clearing for construction of temporary access tracks will be considered a Low Impact Activity.	See previous.
IN CONFIDENCE	Further consideration is required to ensure the risks and impacts associated with the listed activities are comparable as the level of impact of some activities does not seem consistent eg. vi) scraping and detecting activity of 2ha will disturb thousands of cubic meters, whereas vii) excavations for the purpose of exploration can only disturb 20m ³ .	The criteria for Low-Impact Activity are proposed to apply consistently across prospecting and exploration activities. For example, using the criteria that were proposed in the April 2015 discussion paper, any prospecting or exploration activity can qualify for the Low-Impact Activity providing that it disturbs no more than two hectares and no more than 20 m ³ per hectare and is not in a locality that is excluded. DMP is considering the appropriate disturbance size criteria. In relation to the 20m ³ , DMP agrees that this is not consistent with low impact activities and excess tonnage regulatory settings. DMP is reviewing its policy regarding prescribed tonnage limits. The outcome of this review will guide how excess tonnage will be considered in the Low-Impact Activity framework.

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
<p>Amalgamated Prospectors and Leaseholders Association</p>	<p>We note that there is no mention of the tonnage allowed in such operations and requests further discussion and clarification.</p>	<p>DMP is investigating options for excess tonnage approvals, including how these relate to Low-Impact Activities and increasing compliance activity. DMP will consult with stakeholders as part of the review. The Low-Impact Activity criteria will have regard to the outcomes of this review.</p> <p>By way of background, DMP considers exploration and prospecting to be a low risk to future acts and assesses exploration and prospecting tenure applications under the expedited future act procedure outlined in the <i>Native Title Act 1993</i> (Cth). According to section 237 of that Act, a future act is likely to attract the expedited procedure if:</p> <ul style="list-style-type: none"> • the act is not likely to interfere directly with the carrying on of the community or social activities of the persons who are the holders of native title in relation to the land or waters concerned • the act is not likely to interfere with areas or sites of particular significance, in accordance with their traditions, to the persons who are the holders of the native title in relation to the land or waters concerned • the act is not likely to involve major disturbance to any land or waters concerned or create rights whose exercise is likely to involve major disturbance to any land or waters concerned. <p>Regulations 14 and 20 of 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.</p> <p>Tonnage disturbance accumulates over the life of the tenement and is applied to a tenement as a whole (rather than the area of the tenement where the disturbance actually occurs). Tonnage amounts cannot be reduced or removed as a result of rehabilitation activities, partial tenement surrender or conversion of tenure.</p>

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Lindsay Stockdale	Request for clarification to vi) as to how the 2ha will operate. I am concerned that the 20 m ² in part vii) is fairly small and query the purpose behind the small restriction. I also question the relevance of points viii) and ix) as they are already covered in a Miscellaneous Licence or Programme of Work	<p>The small area limit for Low-Impact Activities was proposed for two main reasons:</p> <ol style="list-style-type: none"> 1. In a risk-based regulatory framework, DMP considers that there is a low risk of long-term environmental impact if five hectares are authorised to be disturbed via automated environmental assessment. This is consistent with standard practice for Programmes of Work Prospecting. Some industry stakeholders maintain that ten hectares of disturbance is low-impact. This will be considered further as we continue stakeholder engagement during development of regulations. 2. DMP data indicates that most Programmes of Work request two hectares or less of native vegetation clearing. Therefore DMP can allocate its resources to focus on assessing activities that pose a higher risk to the environment and to compliance activities such as inspections. <p>In relation to the 20m³, DMP agrees that this is not consistent with low impact activities and excess tonnage regulatory settings. On this basis, tonnage limits will not be included in the Low-Impact Activity criteria.</p>
Robert Fagan	The size of activities should be as much as the operator believes he can effectively manage. At least 5 hectares as currently exists in the Mine Closure provisions. Or as much as is acceptable/allowable for agricultural activities of similar impact under the relevant agricultural legislation for arable and pastoral land.	<p>An upper limit on the size of disturbance needs to be set so as to ensure the activities that are not assessed by DMP do not pose an unacceptable risk of significant environmental impacts.</p> <p>The Mine Closure provisions that are referred to relate to small mining operations. Low-Impact Activity criteria are currently being developed for prospecting and exploration activities as a priority. The criteria for low impact mining activities may be developed in the future, following passage of the Mining Legislation Amendment Bill 2015.</p>
Clark Lindbeck & Associates	Clark Lindbeck & Associates welcome the exemptions but believe there should be a blanket approval for low impact activities of less than 1 ha (not located within an ESA).	<p>The meaning of ‘blanket approval’ has been understood by DMP to mean authorisation of prospecting and exploration activities of less than one hectare. DMP has considered this suggestion in the revised Low-Impact Activity criteria to include any prospecting and exploration activities. However, DMP is confident that five hectares are unlikely to result in significant environmental impact. Some industry stakeholders maintain that ten hectares of disturbance is low-impact. This will be considered further during consultation as DMP develops regulations.</p> <p>Disturbance in environmentally sensitive areas (ESA) is not considered a Low-Impact Activity.</p>

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Chamber of Minerals and Energy WA	CME considers an approximate average of disturbance per PoW lodged which could support a LIAA (Low Impact Authorised Activities) is 12 hectares as it would cover enough exploration programs to be effective for industry while complying with the LIAA Framework.	<p>DMP need to consider the potential risk of significant environmental impact in setting a size limit for Low-Impact Activity criteria. Species or communities of conservation significance can be geographically restricted to relatively small areas. DMP considers that authorising five hectares of clearing via an automated assessment is acceptable. Some industry stakeholders maintain that ten hectares of disturbance is low-impact. This will be considered further as we continue stakeholder engagement during development of regulations.</p> <p>Note that this does not preclude larger areas of disturbance; they will continue to be assessed by way of Programmes of Work.</p> <p>See also previous.</p>
Amalgamated Prospectors and Leaseholders Association	We require explanation of the current and proposed restrictions on mining and prospecting in areas that are marginal for any form of pastoral or agricultural activities. We seek an increase across all aspects of small operations and Low Impact Operations to match that of the agricultural sector’s demand for 5.0 hectares as Low Impact Operations. We insist that the interim limit be increased to 2.0 hectares.	<p>DMP has delegated authority under the <i>Environmental Protection Act 1986</i> for assessing and approving native vegetation clearing for the mining industry. Under this delegation DMP is bound to consider the environmental impacts of disturbance, no matter the land use. The suggested size limit of five hectares has been considered for the Low-Impact Activity criteria.</p> <p>The assessment fee exemption threshold is beyond the scope of the April 2015 discussion paper. An interim fee-exemption threshold was nominated at a time when assessment fees were expected to be introduced by 1 July 2015, prior to the Low-Impact Activity framework being able to be implemented. As assessment fees have been put on hold, an interim limit is no longer required. DMP welcomes the continued engagement with APLA as the Low-Impact Activity framework is developed.</p>
Amalgamated Prospectors and Leaseholders Association	APLA commented on the apparent disparity between clearing allowed for pastoral lands improvement compared with small mining operations.	DMP has delegated authority under the <i>Environmental Protection Act 1986</i> for assessing and approving native vegetation clearing for the mining industry. The Department of Environment Regulation regulates other non-mining related clearing in Western Australia, including the exemptions for pastoral and agricultural activities. DMP will raise the issue of comparability between clearing regulation for different industries in the RER Advisory Panel Forum, of which APLA is a member.
Amalgamated Prospectors and Leaseholders Association	We require clarification that “scrape & detect operations” can have several successive low impact operations “allowed on a rolling basis”, free of assessment and therefore “free of fee”; providing no discrete 2.0 hectare area is open at any one time?	Correct. Sequential Low-Impact Activities are proposed to be authorised, providing that rehabilitation has been completed prior to next Low-Impact Activity authorisation. However, the size of disturbance authorised by way of Low-Impact Activity is yet to be determined.
Energia Minerals Limited	A maximum amount of disturbance for drilling/ clearing should apply which would trigger a POW process.	Agreed. The April 2015 discussion paper addressed this by proposing two hectares as the maximum amount. DMP has revised this threshold to five hectares. Some industry stakeholders maintain that ten hectares of disturbance in low-impact. This will be considered further as we continue stakeholder engagement during development of regulations.

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Bauxite Alumina Joint Ventures	BAJV requests that the proposal to allow for a much greater grid density where the drilling does not require clearing or construction of drill pads.	<p>DMP agrees that such activities would have no direct impacts on native vegetation. However, the potential environmental impacts of excavations (such as fauna entrapment, surface water quality, erosion) also need to be considered. The size limit will apply to Low-Impact Activities, regardless of whether the activity involves clearing of native vegetation or not. However, prescription of grid density has been removed from the criteria.</p> <p>As outlined in the April 2015 discussion paper, prescribed requirements in regulations will be developed to support the Low-Impact Activity framework. These will likely address the management of excavations.</p>
Cristal Mining	My issue is with defining a drilling grid pattern of 100m x 100m. Mineral sand targets are typically linear and it is common practice to space the drilling on 200m x 100m grids then 100m x 50m grids as the exploration becomes more focussed. Even with spacing of 100m x 50m or closer, our impact on the paddock environment is minimal. I urge you to reconsider the drilling density in particular with reference to exploration drilling on agricultural properties.	<p>Prescription of grid density has been removed from the criteria.</p> <p>See also previous.</p>
Chamber of Minerals and Energy WA	CME recommends DMP amend proposed activity (iii) from “drill pads do not exceed 20 metres by 20 metres in dimension” to “the drill pad area is 400 square metres or less excluding environmental controls” for practical and safety reasons. Additionally, CME recommends a more appropriate grid pattern and grid density of no more than 80 metres x 40 metres.	DMP understands CME is suggesting that exploration drilling density should be lower (i.e. drilling further apart) to qualify for the Low-Impact Activity framework, and that the shape of drill pads should not be limited to a square 20 m x 20 m. DMP is assessing whether prescriptive dimensions/spacing for such activities is appropriate. The outcome of this will be reflected in revised criteria for Low-Impact Activities.
Cement Concrete & Aggregates Australia	CCAA requests that regulation needs to reflect that quarries are relatively small operations which are progressively mined and rehabilitated. There is also limited funding to allocate regulation compliance. Quarrying activities are different to major mining activities and we look forward to a future opportunity to explore a “Low Impact Activity Framework for BRM Extraction”.	<p>The Mining Legislation Amendment Bill 2015 includes provisions for a Low-Impact Activity framework to be applied to relevant prospecting, exploration and mining activities on appropriate mining tenement types, on the proviso that certain criteria are met. The criteria are currently being developed for prospecting and exploration activities as a priority.</p> <p>The criteria for low impact mining activities may be defined upon the passage of the Bill.</p>

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Department of Parks and Wildlife	Regarding proposed types of activities, DPaW notes that some activities may be mitigated in areas where there are known constraints e.g. "other sensitive areas" category, however there are some areas of WA that are poorly surveyed and carry a significant risk that significant species or other values occur (page 6).	<p>DMP acknowledges that some areas of the state are poorly surveyed for flora and fauna. As stated in the April 2015 discussion paper, the tenement holder would still be obliged to undertake the appropriate environmental appraisal to ensure the exploration activity is low-risk to the environment.</p> <p>The proposed Low-Impact Activity framework is consistent with the objectives of DMP's RER initiative which introduces a risk based approach to environmental regulation. This was broadly supported through the consultation process.</p>
Department of Parks and Wildlife	DPaW holds the view that there will need to be clear thresholds of intensity for low impact activities based on percentage of area affected at both the local and tenement level over specified time intervals.	DMP is considering this recommendation as part of developing the Low-Impact Activity criteria. DMP will continue to consult with stakeholders, including DPaW, on the requirement for an upper limit on the cumulative amount of disturbance that can be conducted under the Low-Impact Activity framework
Department of Parks and Wildlife	There will need to be clear guidance in relation to the amount of clearing and initial rehabilitation earthworks permitted within specialised localities at the tenement level, over specified time intervals.	<p>DMP acknowledges that using an automated assessment, as the size of disturbance increases, so too does the risk of environmental harm. Therefore DMP will continue to consult with stakeholders on the requirement for an upper limit on the cumulative amount of disturbance that can be conducted under the Low-Impact Activity framework.</p> <p>DMP will continue to liaise with relevant agencies as it develops guidelines to support the Low-Impact Activity framework.</p>

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
<p>Chamber of Minerals and Energy WA</p>	<p>CME believes there are activities which require excess tonnage approvals and still meet LIAA (Low Impact Authorised Activities) criteria e.g. drilling on a hill. CME recommends DMP state LIAA requiring an excess tonnage approval can still be authorised.</p>	<p>DMP is investigating options for excess tonnage approvals, including how these relate to Low-Impact Activities and increasing compliance activity. DMP will consult with stakeholders as part of the excess tonnage review. The Low-Impact Activity criteria will have regard to the outcomes of this review.</p> <p>By way of background, DMP considers exploration and prospecting to be a low risk to future acts and assesses exploration and prospecting tenure applications under the expedited future act procedure outlined in the <i>Native Title Act 1993</i> (Cth). According to section 237 of that Act, a future act is likely to attract the expedited procedure if:</p> <ul style="list-style-type: none"> the act is not likely to interfere directly with the carrying on of the community or social activities of the persons who are the holders of native title in relation to the land or waters concerned the act is not likely to interfere with areas or sites of particular significance, in accordance with their traditions, to the persons who are the holders of the native title in relation to the land or waters concerned the act is not likely to involve major disturbance to any land or waters concerned or create rights whose exercise is likely to involve major disturbance to any land or waters concerned. <p>Regulations 14 and 20 of 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.</p> <p>Tonnage disturbance accumulates over the life of the tenement and is applied to a tenement as a whole (rather than the area of the tenement where the disturbance actually occurs). Tonnage amounts cannot be reduced or removed as a result of rehabilitation activities, partial tenement surrender or conversion of tenure.</p>
<p>Amalgamated Prospectors and Leaseholders Association</p>	<p>The specified 20 cubic metres per hectare is too small and when combined with the “100 metres from any other excavation at the closest point”, creates a serious safety hazard.</p>	<p>In relation to the 20m³, DMP agrees that this is not consistent with low impact activities and excess tonnage regulatory settings. It is on this basis tonnage limits will not be included in the Low-Impact Activity criteria.</p> <p>DMP acknowledges this submissions assertion that ventilation shafts are required for safety. This will be addressed in the Low-Impact Activity criteria.</p>
PROPOSED WAY IN WHICH THE ACTIVITY IS CARRIED OUT		
<p>Amalgamated Prospectors and Leaseholders Association</p>	<p>Regarding the proposed way activities are carried out, we contend that 80% of any tenement area should be “the maximum land area”. This land has little intended use other than mining and the area will be rehabilitated to a natural state with a few years.</p>	<p>The average size of granted exploration licences is more than 7000 hectares and can be much larger. Therefore, having 80% of the area cleared would approximately average 5,900 hectares of clearing. This suggestion would not be environmentally acceptable, practical or equitable.</p>

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
<p>Association of Mining and Exploration Companies</p>	<p>AMEC recommends that a threshold of 10 hectares should be set as a minimum appropriate cumulative disturbance land area. This is taken from Schedule 1 Clause 2(2) of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 (NVC Regulations).</p>	<p>Schedule 1 Clause 2(2) of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 allows up to 10 hectares per tenement per financial year to be cleared without the requirement for a separate clearing permit if:</p> <p><i>“...it is carried out under an authority granted under the Mining Act 1978, the Petroleum and Geothermal Energy Resources Act 1967 3, the Petroleum Pipelines Act 1969 or the Petroleum (Submerged Lands) Act 1982...”.</i></p> <p>DMP notes that authority granted under the above-listed acts is currently in the form of an assessed PoW. DMP needs to consider the potential risk of material environmental impact in setting a size limit for Low-Impact Activities that will be assessed via an automated system. Species or communities of conservation significance can be geographically restricted to relatively small areas. DMP suggests that clearing five hectares of native vegetation via an automated assessment poses a low risk of long-term environmental impact. However some industry stakeholders maintain that ten hectares of disturbance would be low-impact. This is still to be resolved.</p> <p>Note that this does not preclude larger areas of disturbance. They will continue to be assessed by way of Programmes of Work.</p>
<p>Association of Mining and Exploration Companies</p>	<p>The Mining Rehabilitation Fund also provides a precedent in that an MRF liability does not arise if the estimated rehabilitation liability threshold is less than 25 hectares for ‘exploration’ activities.</p>	<p>The Mining Rehabilitation Fund is a pooled fund that enables abandoned mines to be rehabilitated when all other avenues to fund and complete the rehabilitation have been exhausted. The MRF liability threshold is based on the level at which the administrative costs of collecting a levy become uneconomic. It is unrelated to environmental impacts.</p> <p>This differs from the principle underlying the Low-Impact Activity framework, which is to recognise that small amounts of disturbance that are authorised through an automated environmental assessment, are unlikely to result in environmental impact. DMP considers that authorising five hectares of clearing via an automated assessment is acceptable. Some industry stakeholders maintain that ten hectares of disturbance is low-impact. This will be considered further as we continue stakeholder engagement during development of regulations.</p>
<p>Association of Mining and Exploration Companies</p>	<p>AMEC is seriously concerned over the interim low impact threshold of 1.5 hectares. It must be risk based and not influenced by budget or cost recovery aspects</p>	<p>The assessment fee exemption threshold is beyond the scope of the April 2015 discussion paper. An interim fee-exemption threshold was nominated at a time when assessment fees were expected to be introduced by 1 July 2015, prior to the Low-Impact Activity framework being able to be implemented. As assessment fees have been put on hold, an interim limit is no longer required. DMP welcomes the continued engagement with AMEC as the Low-Impact Activity framework is developed.</p>

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Department of Parks and Wildlife	DPaW seeks clarification as to what time period the maximum of 5ha of cumulative disturbance applies to (page 8).	<p>DMP notes that the maximum cumulative disturbance stated in the April 2015 published version of the discussion paper was two hectares, not five hectares.</p> <p>A proponent must provide evidence to the DMP that an area that was disturbed under a Low-Impact Activity has been rehabilitated prior to being able to apply for a subsequent Low-Impact Activity. This encourages progressive rehabilitation. A proposed timeframe for rehabilitation was not included in the April 2015 discussion paper, however DMP proposes that the Low-Impact Activity must be rehabilitated within 6 months of the activity. Proponents will have 4 years in which to complete the activity, which is consistent with current timeframes for Programmes of Work.</p>
Association of Mining and Exploration Companies	AMEC recommends that the prescribed manner that activities will be required to be undertaken (page 6), should be risk based, user friendly and not as highly prescriptive.	<p>DMP is striving to implement risk-based, outcomes-focussed environmental regulation for the mining industry in Western Australia, as evidenced in the RER Program. The criteria applied to the way in which the activity is carried out (pages 6 and 7 of the April 2015 discussion paper) need to balance being outcomes-focussed but also measurable and enforceable.</p> <p>In addition, DMP has developed risk-based guidelines for mining proposals which are published on the DMP website. DMP will develop risk-based guidelines for prospecting and exploration in 2016, in consultation with relevant stakeholders.</p>
Department of Parks and Wildlife	DPaW requests further explanation as to what is involved in limiting and avoiding harm to the natural environment and impacts flora and fauna - i) and iv) proposed way activity is carried out (page 8).	The proposed prescribed obligations on the way an activity is carried out were listed in the April 2015 discussion paper on pages 6 and 7. These largely reflect the requirements in clause 3 of Schedule 1 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004. Other obligations are also being considered for prescribing in regulations, including the provisions of common standard environmental tenement conditions around such issues as topsoil management, preventing harm to fauna and rehabilitation standards.
Department of Parks and Wildlife	It is requested that a precondition addressing issues identified through consultation with affected land owners have been effectively discussed should be included as part of the way activities are carried out (page 8).	The Low-Impact Activity framework is proposed to include the requirement for proponents to have notified occupiers and vested authorities. The mechanism by which this is achieved is still being investigated.
Department of Water	DoW recommends that if deeper excavations (i.e. costeans, shafts) intercept the water table, excavation should be ceased and the excavation filled to a level above the water table if exploration is to continue, or completely filled and rehabilitated. If significant quantities of water are encountered and not able to be controlled through filling, the DMP should be notified.	Consistent with the provisions of Schedule 1 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004, the Low-Impact Activity criteria will include obligations to minimise erosion and effects on water quality. DMP notes that the Low-Impact Activity framework will not exempt proponents from the requirements of other legislation, including the requirements to manage waters under the <i>Rights in Water and Irrigation Act 1914</i> .

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Department of Water	DoW asserts that exploration activities should be undertaken in a manner that maintains the integrity of artesian or sub artesian aquifers, or confining layers and in line with DMP's "Guidelines for the Protection of surface and Groundwater Resources During Exploration Drilling "Sections 4.4. and 4.5	Agreed. The Low-Impact Activity framework will link to "Guidelines for the protection of surface and groundwater resources during exploration drilling" (Nov 2002). In addition, use of the Low-Impact Activities framework will not exempt proponents from the requirements of other relevant legislation, including the <i>Rights in Water and Irrigation Act 1914</i> .
Department of Water	Specific requirements should be included for capping and filling of drilled surface holes (e.g. they should be filled with the excavated material or clean fill; wells should be decommissioned in accordance with accepted industry standards).	Requirements for rehabilitation of areas of disturbance authorised through Low-Impact Activity will be consistent with those applied to Programmes of Work e.g. plugging drill holes, backfilling costeans, which are requirements under the <i>Mining Act 1978</i> . Requirements will likely also include: <ul style="list-style-type: none"> • 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). These will be incorporated into prescribed requirements by way of regulations.
Department of Water	Specific requirements should be added for activities that inadvertently intercept the water table. These should include avoiding the use of harmful chemicals or substances and where necessary, completely filling and rehabilitating. DMP should be notified if significant quantities of water are encountered and not able to be controlled through filling.	Requirements for environmental management during activities authorised through Low-Impact Activities will be consistent with those applied to Programmes of Work e.g. appropriate storage of chemicals and hydrocarbons and rehabilitation requirements. The Low Impact Activities framework will refer proponents to the "Guidelines for the protection of surface and groundwater resources during exploration drilling" (Nov 2002).
Department of Water	DoW recommends the following advice should be given: <ul style="list-style-type: none"> • That a proponent takes measures to identify, manage and protect the following if located within or in close proximity to the area of proposed works: <ul style="list-style-type: none"> - Private and community drinking water supply sources - Groundwater monitoring bores - Surface water gauging stations - Stock watering bores - Irrigation channels (continued on next page)	Public Drinking Water Source Areas are excluded from the Low-Impact Activity framework regardless of whether or not the activity involves clearing of native vegetation. Prescribed requirements could be used to prohibit disturbance to irrigation channels. DMP will continue to liaise with DoW in regards to appropriately regulating impacts to water resources. The <i>Mining Act 1978</i> includes provisions requiring mining disturbances (this includes prospecting/exploration) to be filled in or otherwise made safe, and to prevent damage to any property. In addition, standard environmental tenement conditions require appropriate environmental management.

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
<p>Department of Water</p>	<ul style="list-style-type: none"> • No activity shall be undertaken which results in the loss of riverbank or wetland fringing vegetation. • Where possible, existing tracks are to be used. • No activity shall be undertaken that will unduly disrupt natural drainage or adversely affect the quality and quantity of water in any watercourse, dam, waterhole, spring or subterranean source of supply. • No activity shall be undertaken which prevents or restricts the access of authorised users to any existing production bore, well or surface water structure such as dams and rivers. • No activity shall be undertaken which may affect leaseholders, landholders or managers rights in respect to water quality, quantity and access. • The tenement holder is to ensure all exploratory boreholes are capped or backfilled on completion of work in accordance with industry standards. • The storage and disposal of hydrocarbons, chemicals, and potentially hazardous substances being in accordance with the DoW's, "Water Quality Protection Note 65, Toxic and Hazardous Substances". 	<p>Impacts to riparian vegetation will be avoided by way of prescribed requirements applying to Low-Impact Activities.</p> <p>Prescriptive conditions are considered unnecessary in a risk-based regulatory framework. Although DMP agrees with the principle of minimising clearing, off-track driving is unlikely to cause material environmental impacts as is currently reflected in the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.</p> <p>The listed items relating to water protection are adequately regulated by the Department of Water in its administration of the <i>Rights in Water and Irrigation Act 1914</i> and related legislation. DMP does not propose to duplicate this but notes that proponents using the Low-Impact Activities framework are not exempt from the requirements of other legislation.</p> <p>Filling in or making safe drill holes is a requirement under the <i>Mining Act 1978</i>, thus it will not be duplicated in the Low-Impact Activity framework.</p> <p>Discharges to the environment are regulated under Part V of the <i>Environmental Protection Act 1986</i> and will not be duplicated in the Low-Impact Activity framework.</p> <p>DMP will continue to apply endorsements to tenements in water resource management areas as outlined in the Administrative Agreement between the Department of Mines and Petroleum and Department of Water 2015 revision.</p>
<p>PROPOSED ENVIRONMENTAL OBLIGATIONS AND PENALTIES</p>		
<p>Association of Mining and Exploration Companies</p>	<p>AMEC remains concerned about the prescriptive nature of the environmental Regulations on page 7. It is imperative that the compliance obligations are also risk based to ensure increase efficiency.</p>	<p>DMP is striving to implement risk-based, outcomes-focussed environmental regulation for the mining industry in Western Australia, as evidenced in the RER Program and in particular the introduction of the Low-Impact Activity framework. The criteria applied to the way in which the activity is carried out and obligations need to balance being outcomes-focussed but also measurable and enforceable.</p>
<p>Robert Fagan</p>	<p>Request to further define the term "authorised activity".</p>	<p>As a result of stakeholder consultation, including submissions received on the April 2015 discussion paper, DMP has broadened the criteria for Low-Impact Activities related to prospecting and/or exploration. This includes activities that require clearing of native vegetation if they meet the other criteria of where and how the activity will be conducted.</p>

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Department of Parks and Wildlife	DPaW recommends that constraints identification and avoidance and landholder consultation should be included as part of the proposed environmental obligations and penalties (page 9).	Obligations will include the requirement for the proponent to minimise impacts to the environment and to keep records to demonstrate that they have done so. The Low-Impact Activity framework is planned to include the requirement for proponents to have consulted appropriately, including notification of occupiers and vested authorities. The mechanism by which this is achieved is still being investigated.
Department of Parks and Wildlife	Greater more detailed guidance is required to appropriately address environmental obligations in dealing with phytophthora, dieback and weeds as activities will not be subject to DMP assessment before commencement.	Low-Impact Activities that involve clearing of native vegetation will not be authorised in the bioregions described in clause 4 of Schedule 1 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004. DMP notes that Phytophthora is restricted to these bioregions. Hence the risk of dieback spread to native vegetation as a result of Low-Impact Activities is very low. In addition, prescribed requirements will require the activity to be conducted in a manner that prevents the spread and/or intensification of plant pathogens and weeds.
Lindsay Stockdale	Please remove i) weed control and dieback management from proposed environmental obligations and penalties. Prospectors are not the only ones using the land; I could never accept responsibility for the actions of other persons.	The requirement for weed and Phytophthora hygiene is a current standard condition on mining tenements and clearing permits and is considered standard practice in the mining industry in Western Australia. DMP is planning to remove many standard environmental tenement conditions and instead make them deemed conditions in regulations.
Robert Fagan	Regarding weed control and dieback management; who defines what a weed, or what an acceptable control is?	The term “weed” is routinely used in the mining industry to mean plants (not necessarily non-native) that grow in sites where they are not wanted and which have detectable adverse environmental or economic impacts. The Department of Parks and Wildlife website contains useful information standard weed management controls, for example see How to control weeds . For information on dieback management, please see Guidelines for Management of Dieback Disease in Mineral Exploration .
Amalgamated Prospectors and Leaseholders Association	We request clarification to the meaning of "deemed conditions".	Deemed conditions are conditions that are written into legislation (either Acts or regulations) that apply as a standard requirement. They are used by DMP instead of individual conditions on tenements or approvals to stipulate standard environmental management requirements.
Department of Water	DoW would like to be consulted on the environmental obligations (deemed tenement conditions) that are proposed to be included in the Mining Regulations 1981.	DoW is represented on the RER Advisory Panel in which DMP's reform initiatives are discussed. This consultation forum will continue as the reform initiatives are implemented, including the development of the amendments to Mining Regulations 1981.

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
MBS Environmental	MBS recommends to have terms and timeframes consistent in existing legislation, for example vii) with a 6 month timeframe, Item (iii) change 'work' program to 'exploration' program. This would be more realistic as companies often need time to evaluate results before being able to confirm that they don't need to go back and do more drilling."	Rehabilitation will be required to be complete within six months, which is consistent with Programmes of Work. DMP acknowledges the term "work program" is unclear. This will be clarified in the Low-Impact Activity framework.
Department of Water	DoW recommends including a statement: "Ensuring the activity does not detrimentally affect surface, subsurface or groundwater resources" to proposed environmental obligations and penalties in reference to standard environmental management. Additionally, proposed environmental obligations should include conditions for water resource protection and address exploration drilling in confined aquifers. In line with "Guidelines for the Protection of Surface and Groundwater Resources During Exploration Drilling	Agreed. DMP will add the requirement of not altering surface or groundwater flows to the Low-Impact Activities criteria for the way the activity is to be carried out.
Department of Water	DoW strongly recommends that tenement holders seeking to undertake low impact activities should be informed of responsibilities under water legislation and policy that is directly relevant to their operations. This includes Activities in RiWI Act 1914 Proclaimed Areas Surface Water Areas, Irrigation Districts, and Rivers proclaimed and managed under the RiWI Act 1914 (refer attached Surface Water Proclamation Areas Map). That abstraction of surface water is prohibited unless a licence has been issued and that no activity is to be carried out that may obstruct or interfere with the bed and banks of a waterway and which relates to the taking or diversion of water, including diversion of the watercourse, unless a valid permit is issued by DoW.	Agreed. DMP will continue to apply endorsements to tenements in water resource management areas. The online lodgement system will allow automatic screening of applications against areas of environmental significance. DMP notes that authorisation under the Low-Impact Activity framework will not exempt proponents from the requirements of other relevant legislation including the <i>Rights in Water and Irrigation Act 1914</i> .
Lindsay Stockdale	Request to make a distinction between the Tenement Holder and the Applicant and distinguish responsibilities.	The <i>Mining Act 1978</i> establishes a legal relationship between the tenement/licence/permit holder and DMP. No such relationship exists with a third party. This will be made clear in the Low-Impact Activity framework. There may be provisions for the tenement holder to authorise another party to submit applications on their behalf, however the tenement holder is ultimately responsible for compliance with the <i>Mining Act 1978</i> .

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Lindsay Stockdale	Concerns that tenement holders will be discouraged from forming agreements with third parties to work their tenement as ultimately, the tenement holder is responsible for the Low Impact Activities occurring on their tenement. Perhaps this could be included as a condition but responsibility could be passed to the persons actually working the tenement to promote proactive work.	See previous. There is no change in this regard from the requirements of the <i>Mining Act 1978</i> .
Lindsay Stockdale	Please keep the requirements of vi) record keeping as simple as possible. The proposal references full responsibility and severe penalties on the tenement holder which will deter allowing third parties to work their land. Penalties should be place on the applicant, which can be a third party and not necessarily the tenement holder.	See previous. There is no change in this regard from the requirements of the <i>Mining Act 1978</i> .
Robert Fagan	Regarding proposed environmental obligations and penalties - previous samples and excavations are an extremely valuable resource.	Rehabilitation reduces the potential for environmental impact resulting from mining-related activities, and is standard practice in the industry. The requirement to rehabilitate exploration and prospecting activities is unchanged. This includes backfilling costeans and removing rubbish (such as sample bags).
Wildflower Society	The Society is seriously concerned that ‘protection of recorded populations of threatened and Priority flora’ is not included as an environmental obligation. The tenement holder should be able to adequately demonstrate that they have met this obligation. If the DMP cannot include this as an environmental obligation, then it should not be approving “low impact” activities.	DMP notes that protection of species of conservation significance is legislated other than in the <i>Mining Act 1978</i> . The regulatory requirements for protection of species remain unchanged and it is not appropriate to duplicate them in the <i>Mining Act 1978</i> or Mining Regulations 1981.

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Australian Assoc. Consulting Archaeologists	The Association is seriously concerned of the lack of consideration that cultural heritage sites or places may be damaged or destroyed through the proposed activities. When compared to Department of Aboriginal Affairs Due Diligence Guidelines, these activities deemed as 'moderate, significant and major disturbance'	DMP considers that where activities are regulated by another agency, DMP may accept the Low-Impact Activity notification and direct the proponent to comply with all other relevant legislation, such as the <i>Rights in Water and Irrigation Act 1914</i> and <i>Aboriginal Heritage Act 1972</i> . However, DMP's online lodgement system will allow proponents to see where such constraints are in relation to their proposed activities.
Perth Region NRM	The Association is seriously concerned of the lack of consideration that cultural heritage sites or places may be damaged or destroyed through the proposed activities. When compared to Department of Aboriginal Affairs Due Diligence Guidelines, these activities deemed as 'moderate, significant and major disturbance'.	
Perth Region NRM	NRM recommends that proponents should undertake a search of the online Aboriginal Heritage Information System (AHIS) provided by DAA to determine if there is a 'registered site' or 'other heritage place' within the area of impacts. Should a 'registered site' or 'other heritage place' be present within the activity areas DAA should be contacted.	
Perth Region NRM	NRM recommends that the Traditional Owners or representative Aboriginal Land Councils of the land of proposed activities should be notified of the activities. Notification should include location map, a list of proposed activities and anticipated start dates for activities. A period of 20 working days should be provided for the Traditional Owners to respond to the notification. This would also allow for Local Aboriginal Land Councils to identify if there are any effects to sensitive sites that are not in the public record.	This will be covered by the requirement to undertake consultation with affected landholders, which is planned to be incorporated into the Low-Impact Activity framework.
NOTIFICATION OF LOW IMPACT ACTIVITY COMMENCEMENT AND COMPLETION		
Clark Lindbeck & Associates	Clark Lindbeck & Associates do not believe notification is necessary as any disturbance will be reported in the Mining Rehabilitation Fund.	This submission relates to notifying DMP upon completion of the activity. This has been considered in the revision of the criteria. Under the Low-Impact Activity framework, rehabilitation must be completed within six months. Notification of completion will be required to avoid enforcement action for apparent 'lateness'. DMP is investigating systems to avoid duplication of reporting where possible.

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Amalgamated Prospectors and Leaseholders Association	We have an issue with the requirement of e-lodgement as not all small miners own computers or have the ability to draw "spatial shapes" on a computer. How does DMP intend to cater for such people?	Online lodgement has proven to be effective. The Mining Rehabilitation Fund is 100% online and Prospectors have demonstrated they are able to meet this requirement. As Low-Impact Activity notification will be an automated process, it needs to be online so that the automatic checks – for example that it will not intersect significant environmental areas – can be undertaken. If an application is required to be submitted in hard copy, it will be required to be assessed manually and will not be considered a Low-Impact Activity.
Lindsay Stockdale	Concerns regarding the notion of 'online notification' as not all persons have online/ computer accessibility.	
Chamber of Minerals and Energy WA	CME considers the requirement to provide spatial details of the planned activity via a shape file may not be practical in remote areas. Proponents may choose precise access routes when on ground based on factors encountered in the field. CME recommends spatial files be provided upon completion of LIAA (Low Impact Authorised Activities).	DMP will provide support to proponents for submitting spatial data, and is currently developing IT software that will allow proponents to create spatial files online. This will be available in regional areas.
Association of Mining and Exploration Companies	The suggestion of a 'set timeframe' of 6 months is too restrictive and may be impractical. AMEC recommends a timeframe of 12 months to be appropriate.	Prospecting and exploration are generally short-term, transient land uses. The Western Australian community expect them to have no lasting environmental impact. DMP applies a six month timeframe for Programmes of Work activities to be rehabilitated. This will also be applied to activities that meet the criteria of Low-Impact Activities.
Chamber of Minerals and Energy WA	CME recommends the DMP clarify how long a tenement holder will have to complete a LIAA (Low Impact Authorised Activities). CME considers an appropriate timeframe would be 4 years in line with validity for PoW.	A Low-Impact Activity authorisation is proposed to be valid for four years from the date of authorisation, consistent with Programmes of Work. The definition being applied to Low-Impact Activities is that they are small and short-term, hence are unlikely to result in adverse environmental impacts. Rehabilitation will be required to be complete within six months, which is also consistent with Programmes of Work.
Chamber of Minerals and Energy WA	CME recommends DMP confirm rehabilitation should be completed in the standard six month time frame required by tenement conditions to ensure consistency.	See previous. The Low-Impact Activity rehabilitation will be required to be complete within six months. DMP notes that as part of introducing risk-based regulation, a review of tenement conditions is currently underway and that some current conditions may be replaced with deemed conditions in regulations, or guidelines.
Chamber of Minerals and Energy WA	CME recommends DMP clarify whether a proponent can request extensions for rehabilitation consistent with tenement conditions.	See previous regarding tenement conditions. The Low-Impact Activity framework has been designed to allow for short-term, transient activities and on the basis that the small disturbances authorised by way of Low-Impact Activities will be rehabilitated promptly. The proponent will be able to request an extension to rehabilitation timeframes, however a new Low-Impact Activity will not be authorised until the previous rehabilitation is completed.

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Department of Parks and Wildlife	DPaW recommends that persons be obligated at the time of lodging the low impact activities, to report on the nature of consultation with affected stakeholders e.g. land manger, the issues raised and evidence that each was addressed.	Agreed. As outlined previously, the Low-Impact Activity framework is planned to require landholder consultation consistent with that required for Programmes of Work.
Department of Parks and Wildlife	DPaW questions whether land holder/ manager consultation should be included as part of the low impact authorised activity requirements (page 10).	See previous.
Department of Parks and Wildlife	DPaW strongly recommends that the owner or manager of the affected land is notified by the applicant at the time of the low impact activities being submitted to DMP so that they are able to address any irregularities before commencement	See previous. The Low-Impact Activity framework will automate interagency notifications related to Low-Impact Activities.
Department of Parks and Wildlife	DPaW is concerned that potential limitations of the tenement holders' environmental constraints analysis, landholder consultation and on ground planning and management will not become evident until after the impacts of these limitations have occurred.	In a risk-based regulatory framework, DMP considers that there is a low risk of material environmental impact when small, low-impact activities are authorised via an automated environmental assessment. The Low-Impact Activity framework will include compliance activities by DMP to ensure the system is being implemented appropriately. DMP notes that Low-Impact Activity criteria will exclude clearing and/or disturbance in areas of environmental significance. Activities in such areas will require assessment via a PoW.
Department of Water	DoW requests written notification of any activities that may go beyond those identified as proposed type of activities that will be considered low impact activities under the framework.	DMP will continue to engage with stakeholders as the Low-Impact Activity regulations are developed. The Department of Water is a member of the RER Advisory Panel in which reform initiatives are discussed.
Energia Minerals Limited	If the proposed self-approval framework is approved, Energia Minerals expects rigorous guidelines, check sheets, information briefs and some form of departmental check to keep holders from making a serious mistake or abuse the system.	DMP is developing clear policy, supporting guidance material for the Low-Impact Activity framework and will provide briefing sessions. The Low-Impact Activity framework will include compliance activities by DMP to ensure the system is being implemented appropriately.
Lindsay Stockdale	Perhaps a simple 'tick the box' type form could be adopted to cover the identified criteria of the proposed definition of Low Impact Activities.	The Low-Impact Activity framework will rely on spatial lodgement of proposed activities. The online system will automatically verify that the proposed activities meet the Low-Impact Activity criteria.

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Chamber of Minerals and Energy WA	CME recommends details of LIAA (Low Impact Authorised Activities) are not made publically available as the information contained within is commercially sensitive.	DMP is currently consulting with stakeholders on the issue of transparency in Programmes of Work. The outcome of this consultation will be reflected in the Low-Impact Activity framework to protect commercially sensitive information.
Lindsay Stockdale	Request that records should not be made publically available (at least not immediately) as online notification will provide public notification to the actions of each tenement which is subject to abuse. Perhaps records could be release after a period of 5 years.	See previous.
Energia Minerals Limited	Energia Minerals is concerned of the potential abuse of its commercially sensitive information through the recording of notifications received by DMP and its proposal to make all records publically available.	See previous.
Energia Minerals Limited	It is unacceptable to be obligated to publish information relating to activities as exploration in WA is incredibly competitive as this would give competitors an advantage in viewing what was recently explored and what is planned in the future.	See previous.
Robert Fagan	Ultimately DMP should record all notifications received in a database and make all records publically available - but not immediately.	See previous.
Energia Minerals Limited	Energia Minerals feels that it is unacceptable to be obligated to publish the location of their exploration activities and incur liability for persons being attracted to and entering their site.	See previous.
COMPLIANCE MONITORING		
Amalgamated Prospectors and Leaseholders Association	We have the view that an increase in compliance is well overdue. However, far more effort is required to apprehend and prosecute the increasing number of rogue operators in the WA Goldfields.	Currently, inspectors are limited in what they are authorised to do to gather evidence which can make it difficult to determine whether unauthorised mining activities have occurred. The Mining Legislation Amendment Bill 2015 recently introduced into Parliament includes provisions to address inspector powers. Under this proposal, inspectors can have a broader range of powers which are comparable with the powers of inspectors appointed under other legislation, for example the <i>Mines Safety and Inspection Act 1994</i> . This initiative is being progressed separately from the Low-Impact Activity framework.
Amalgamated Prospectors and Leaseholders Association	DMP will not take action against illegal mining unless specific information can be supplied. There is a huge discrepancy in the DMP's view of what is worth investigating.	

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Chamber of Minerals and Energy WA	CME notes that the Paper does not outline the compliance process DMP will undertake against companies in breach of deemed conditions. CME recommends companies who breach deemed conditions be issued a warning for first offences and the proposed maximum penalty of \$150,000 be reserved for offences of the highest gravity.	Breach of prescribed requirements related to the Low-Impact Activity framework will be a breach of a tenement condition, and will attract the same compliance activities as breaches of the current conditions under the <i>Mining Act 1978</i> .
Chamber of Minerals and Energy WA	CME recommends further guidance on the proposed LIAA (Low Impact Authorised Activities) framework on how to comply with obligations with particular respect to reporting requirements. CME cautions that it would be best to review current reporting requirements together with industry and other government agencies to avoid unnecessary duplication.	DMP will develop risk-based PoW guidelines outlining the expectation of leading practice environmental management in the prospecting and exploration industry and including guidance on the Low-Impact Activity framework. DMP will continue to liaise with relevant stakeholders, including CME, in developing these guidelines.

ATTACHMENT 2 – LIST OF OTHER ENVIRONMENTALLY SENSITIVE LANDS

Association of Mining and Exploration Companies	The proposed list of environmentally sensitive lands requires further discussion and consultation.	Agreed. Stakeholder consultation has continued since publication of the April 2015 discussion paper and will continue as DMP develops draft amendments to the Mining Regulations 1981 to implement the Low-Impact Activity framework.
Association of Mining and Exploration Companies	AMEC does not agree with the proposal of listing the identified Banded Iron Formation Ranges of the Midwest and Goldfields Status Report as environmentally sensitive lands and unaware are of any robust science supporting this view.	BIF ranges have been identified as supporting high species diversity. DMP recognises that not all BIF ranges are of conservation significance. However, there is a lack of baseline survey data to determine the potential for impacts to conservation-significant species. Therefore, DMP considers that activities that involve machinery to disturb the surface of the land in BIF ranges require environmental impact assessment by way of Programmes of Work. It is agreed that the localities of BIF ranges must be clearly defined, and therefore BIF ranges that are to be excluded from the Low-Impact Activity framework will be spatially mapped on DMPs website, thus removing the potential for ambiguity.
Association of Mining and Exploration Companies	AMEC also seeks clarity around the rationale for the proposed listing of ground water dependent ecosystems and designated soil reference sites.	Upon consultation with the Department of Water, DMP has removed groundwater dependent ecosystems from the Low-Impact Activity criteria. The spatial dataset was not appropriate as an indication of environmental sensitivity. Soil Reference sites were established across a range of soil types in uncleared locations in the South-West Province of WA. The objective of preserving the sites is to provide a comparison of what has happened to soil characteristics over time and also how they compare with soils under agriculture. The sites are administered by the Department of Food and Agriculture WA.

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Clark Lindbeck & Associates	DMP and DPaW must finalise PEC boundaries or remove those no longer considered to be acceptable as PEC.	Agreed. Areas to be excluded from the Low-Impact Activity framework will be required to be agreed Government policy. To allow the Low-Impact Activity framework to be fully automated, areas in which Low-Impact Activity are not authorised (e.g. reserves), will also be required to be digitally mapped by Government.
Department of Water	To achieve consistency between the Framework and the Agreement, it is suggested that the "Bed and banks of watercourses and wetlands" should be included in Attachment 1 of the Framework as environmentally sensitive lands. Therefore low impact activities would not be authorised for any part of the bed and banks of a watercourse or wetland and not just those with vegetation.	<p>DMP notes that the <i>Rights in Water and Irrigation Act 1914</i> (RIWI Act) requires a permit to interfere with bed and banks of watercourses for mining-related activities only where those activities involve the taking or diverting of water. The Low-Impact Activities criteria will not include taking or diverting of water, and will advise proponents that compliance with other legislation continues to apply, such as the RIWI Act.</p> <p>The Low-Impact Activity framework considers disturbance to watercourses/wetlands in three main ways:</p> <ol style="list-style-type: none"> 1. Firstly, Low-Impact Activities that involve clearing of native vegetation will not be authorised in the bioregions described in clause 4 of Schedule 1 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004. 2. Secondly, significant watercourses in Wild Rivers areas will be excluded from the Low-Impact Activity framework, regardless of whether the activity involves clearing of native vegetation or not. 3. Lastly, prescribed requirements will require low-impact activities to be conducted in a way that avoids or minimises direct or indirect disturbance to riparian vegetation and does not affect water quality or flows.
Wildflower Society	<p>The Society recommends the following categories also be included in the List of Environmentally Sensitive Lands:</p> <ul style="list-style-type: none"> • Lands containing recorded populations of threatened and priority flora and fauna recognised by the DPaW; • Tenements that have been relinquished for their recognised conservation significance; and • Pastoral leases purchased by DPaW for conservation but are yet to be vested in conservation estate. 	<p>DMP has consulted with stakeholders, including DPaW, on the appropriateness of "reserve" lands to be excluded from the Low-Impact Activity framework. As a result of these discussions, DMP proposes that the regulations will stipulate that low-impact activities will not be authorised in the following:</p> <ul style="list-style-type: none"> • lands that 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, and/or • lands registered on Tengraph that have been endorsed by Government to be reserved for purposes including nature conservation. <p>Records of species of conservation significance will be able to be viewed on the Low-Impact Activity online lodgement system so that proponents can ensure that their activities do not impact them. DMP will ensure the online lodgement system also advises proponents that Low-Impact Activity authorisation does not exempt them from compliance with other relevant legislative requirements, such as protection of conservation significant species.</p>

SUBMISSION	CONTENT OF SUBMISSION	RESPONSE
Association of Mining and Exploration Companies	It would be more convenient if all the information and criteria to comply with low impact activities was in a central portal for ease of reference as the various listings in Attachment 2 add a further layer of complication.	Agreed. DMP is developing an online system to support the Low-Impact Activities framework. This will provide GIS mapping and analysis functions to assist proponents to submit notifications and assist DMP officers to conduct compliance activities.
<p>FEES</p> <p>The introduction of assessment fees was outside the scope of the April 2015 discussion paper. However, some submissions raised concerns with fees. These are captured below.</p>		
Association of Mining and Exploration Companies	AMEC recommends that any such (above noted) notification of Exploration Activity is exempt from any assessment fee effective from 1 July 2015	It has been recently announced that consideration of introducing assessment fees for Programmes of Work and Mining Proposals has been deferred until passage of the Mining Legislation Amendment Bill 2015.
Amalgamated Prospectors and Leaseholders Association	We enter the “Low Impact” discussion on the basis and understanding from its members that no fees be applied to any type of prospecting or mining environmental application or assessment process	The assessment fees interim exemption is beyond the scope of the April 2015 discussion paper and does not affect the development of the Low-Impact Activity criteria.
Amalgamated Prospectors and Leaseholders Association	“Low Impact Definitions” should have been formulated in tandem with the framework to introduce a “user pays” fee structure and not simply left until that was finalised.	See previous.
Amalgamated Prospectors and Leaseholders Association	We insist that the section of Mining Act which stipulates “payment of the prescribed fee” for environmental assessment be removed from the WA Mining Regulations and the WA Mining Act, as the introduction of this wording was introduced without oversight by industry bodies	See previous.

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