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Please find my Submission for the Shire of Toodyay relating to:

“Proposed Policy No. M.6 Engagement with Mining Proposals”

I strongly oppose the implementation of such a policy as mining for the purpose of extracting minerals is an activity solely administered and licenced by the Department of Mines and Petroleum. Accordingly, at present the Shire does not have (and does not need) a formal mining policy.

You will find other comments specific to the proposed Mining Policy below

Regards

Brian Dale
Morangup

PROPOSED POLICY NO	M.6
PROCEDURE SUBJECT	Engagement With Mining Proposals

OBJECTIVES

To ensure that Council staff and the Community have an understanding of Councils role in mining approvals;

The CEO and the Shire President have always maintained that Council have no role to play in mining approvals and given that is a correct statement, then an Engagement with Mining Proposals policy is not required for the Toodyay Council.

I have searched online to find another LGA in WA that has a mining policy and I have not been able to find one, in fact the only policies that I have been able to find relate to extractive industries, but there is nothing that deals with mining. I believe there is a good reason for that and that is council can neither approve nor reject a mining proposal and therefore does not require a policy on mining.

To provide an agreed policy position for Council’s advocacy with mining proponents and approval agencies.

What is advocacy?

Advocacy in all its forms seeks to ensure that people, particularly those who are most vulnerable in society, are able to:

- *Have their voice heard on issues that are important to them.*
- *Defend and safeguard their rights.*
- *Have their views and wishes genuinely considered when decisions are being made about their lives.*

Advocacy is a process of supporting and enabling people to:

- *Express their views and concerns.*
- *Access information and services.*
- *Defend and promote their rights and responsibilities.*

If council wish to maintain their stance on advocacy in regard to mining, then they need to hold a referendum to once and for all gauge what percentage of their constituents are for or against mining in the Toodyay Shire, only then can they truly advocate.

BACKGROUND

In dealing with mining proposals Council acknowledges that:

- **There will be no universal community view on mining projects and that some people will support and some people will oppose any mining proposal;**

In order to gauge the community views Council should hold a referendum on mining for the whole of the shire rather than make personal assumptions on what the community view is.

- **When a project is in close proximity to people's homes or to rural residential communities there is likely to be strong opposition from affected people;**

This is a very true statement, but it is extremely frustrating to read given the Officer acknowledges the issues and division that the prospect of open cut bauxite mining is causing within our community, but he will not recommend council hold a referendum.

- **Toodyay has many community members with a very strong interest in and commitment to preserving Toodyay's environment; and**

Given council are aware that many community members have very strong views and commitment to preserving Toodyay's environment, why would Council not wish to do the same. Toodyay does not exist because of mining, but it may well lose its lustre to all who visit our beautiful town because of it. Council should hold a referendum on

mining rather than make personal assumptions on what the Community view is.

- **Council's does not have the power to approve or reject mining projects and Council's role will generally be one of advocacy**

Advocacy for whom? The mining project or the ratepayers? Definition of Advocacy is a political process by an individual or group which aims to influence decisions within political, economic, and social systems and institutions. Council should be clear on whom they are to be advocating for. Is it supporting what the majority of their constituents want or being an advocate for the mining project proponents.

Council's role in approvals for mineral projects is summarised at Attachment A. Council can be heard, influence and advocate but cannot approve or veto projects.

POLICY POSITION

Council supports citizens' rights to participate in the political debate including strong advocacy for their own position, so long as they respect the rights of others to hold contrary views.

Council performs a quasi-judicial role in relation to statutory planning matters and will perform that role in accordance with its legal obligations and adopted planning instruments.

A quasi-judicial body is obligated to objectively determine facts and draw conclusions from them so as to provide the basis of an official action, its time the Council completed a referendum to find out what its constituents want and become informed before they can complete their legal obligations.

Council will do all in its power to ensure for any proposed mining project that:

- **All reports, investigations and assessments are thorough and complete;**

Is this not the role of Council anyway? Why would Council need a mining policy to ensure it does all in its power to certify all reports, investigations and assessments are thorough and complete, please do not insult our intelligence, just so that Council can adopt a mining policy that allows engagement activities with the project proponents and co funding from mining proponents.

- **That benefits of any project to the local community are maximised and negative impacts are eliminated or minimised;**

I have read this statement before only it was written by the mining proponents, which I find disturbing to say the least, given I am now reading it again in a proposed mining policy from Council. I would however like to know how Council propose to fulfil that aim with our community in Morangup???

- **That environmental impacts are minimised and rehabilitation is thorough and complete and offsets are appropriate.**

This is the responsibility of the EPA, however Council should already have a full understanding and the capability to follow up on areas of rehabilitation, given extractive industries have operated within the Toodyay Council for decades without a mining policy.

Council will participate in engagement activities with project proponents, subject to the proviso that it reserves the right to oppose, or advocate for changes or conditions to any development in line with the above principles.

Council cannot remain neutral whilst they participate in engagement activities with the project proponents, whether it be through the Chamber of Commerce regular meetings where the secretary is a BAJV employee, social drinks after Chamber of Commerce Meetings or by participation in a CAG or any other mining advisory Committee.

Council should only be opposing changes or conditions on submitted planning or works applications under their control. Council should however demand the proponents consult openly and honestly with the community by holding open and transparent community meetings, this would eliminate the need for CAG involvement by both individuals and council. The project proponents have not held one community meeting and continue to divide the community, yet the Officer is trying to implement a policy that provides a license for engagement with the proponents on a social level without even conducting a referendum on mining.

Council delivers many services, projects, events and facilities. There may be occasions where these services, projects, events and facilities are sponsored or co-funded by a mining proponent. Such funding or sponsorship will not dilute Council's commitments as set out in this policy.

I have previously given my opinion on this in a submission to Council on the 27th of January 2015 and I will reiterate it once more: For council to take any form of funding or sponsorship from the mining proponents prior to a mining lease being approved by all the regulatory bodies is utterly outrageous and will leave council open to exploitation by the proponents and in the eyes of the majority of anti-bauxite mining ratepayers, council will be seen to be corrupt.

Definition – Sponsorship is a cash and/or in-kind fee paid to a property (typically in sports, arts, entertainment or causes) in return for access to the exploitable commercial potential associated with that property.

Council supports the implementation of a Social Impact Assessment for any proposed mining project in line with the methodology set out in the publication ‘*Social impact assessment of resource projects*’ published by the International Mining for Development Centre, and included as Attachment B to this policy.

The social impact assessment of resource project document

I have previously given my opinion on this in a submission to Council on the 27th of January 2015. The social impact assessment of resource project document that forms part of the proposed mining policy largely relates to remote areas, indigenous communities, promotes CAG groups and in my opinion forms the view that mining will occur regardless so affected communities have to consult with the mining companies to minimise the affects mining with have in that area.

It should not be overlooked by council that we are neither remote nor indigenous and we will not be pushed around by miners or council to be part of any group that will ultimately promote mining in the Toodyay shire.

We have co –existed with extractive industries for many years and it has had little to no affect on land owners who live in close proximity to the quarries, as these operations never operate 24 hours a day 7 days a week and do not extract anywhere near the amount of ore that is proposed by BAJV / BRL with some 11,000,000 plus tonnes expected to be mined each year.

You are all aware that the proposed mines cover an area of some 62 km² and 70% of that land is productive farmland which will never recover from the affects of open cut bauxite mining.

Given the world’s massive population growth, it has been identified that food production will be the largest resource on the planet in the coming years and for governments, local, state and federal to ignore that and jeopardise agricultural land in good reliable rain fall areas would be outrageously irresponsible.

As you are all aware I was personally opposed to the implementation of the recently adopted EDP, but in conclusion the documents states that the Toodyay economy has the potential to leverage its competitiveness and comparative advantages in premium food production and experimental tourism to drive business growth and the quality of life of residents and the community.

I would like to remind council why BAJV / BRL wish to mine here, it is not because the ore body is of high grade, it is not because this is the only area that bauxite is found, but it is because it is classed as “Cheap Mining” and that statement comes straight from the proponents own documentation.

In fact world reserves of bauxite are estimated at 29 billion tonnes with Guinea in South Africa having the largest deposit of 7.4 billion tonnes and Australia running a close second with 6 billion tonnes. In light of this it is socially irresponsible even to attempt to mine within such close proximity of around 900 residents, just because it is “Cheap Mining”.

I wonder if the CEO, the Shire President and other councillors would be maintaining a so called neutral stance on mining if they lived in Morangup and mining was going to be in their back yard.

Scheme Amendment:

I believe the Toodyay Shire should immediately initiate a Scheme Amendment to exclude mining as a permitted use (X) within the Toodyay Shire for the following reasons.

- Open Cut bauxite mining in close proximity to existing residential / rural subdivisions is Socially Unacceptable.
- Open cut bauxite mining will destroy productive farmland
- Large scale strip mining will destroy the Historical feel of Toodyay
- Strip mining will destroy organic farming enterprises
- Bauxite mining will have a devastating impact on tourism
- Productive Rural land needs to be protected against strip mining

I have contacted the Department of Planning who have informed me that. If Council resolves to initiate an amendment to the TPS, it will proceed to advertising where public submissions are invited and subsequently assessed by the planning department.

ATTACHMENTS

Attachment A – Council role in project approvals (Source – Civic Legal)

If you are to provide legal advice it should have included the full legal advice received not just the Attachment A, as this can often provide a clearer context and can differ from the attached summary.

Attachment B - ‘Social impact assessment of resource projects’, 2012, Mining for Development: Guide to Australian Practice, International Mining for Development Centre

Act	Admin. body	Function	LG role in relation to mining
<i>Mining Act 1978</i>	Department for Minerals and Petroleum (DMP)	Land tenure (tenements), rent, bonds, royalties, EIAs, inspections	Limited right to be notified and to be heard, no veto. Planning Scheme to be considered.
<i>Mines Safety and Inspection Act 1994</i>	DMP	Safety (project management plans)	Nil
<i>Environmental Protection Act 1986 (Part IV)</i>	EPA and OEPA	EIA (Ministerial Conditions)	Referral as DMA “decision making authority”, limited consultation role (environmental protection policies), officers may be able to prosecute for certain offences
<i>Environmental Protection Act 1986 (Part V)</i>	DER	Works approval to construct, pollution licence to commence operations for prescribed premises and clearing permits	Limited consultation role as “public authority”
<i>State Agreement Acts</i>	<i>DSD (Dept of State Dev)</i>	<i>Large development projects (e.g. Mineralogy State Agreement)</i>	<i>Nil</i>
<i>Wildlife Conservation Act 1950</i>	DPaW	Regulate “taking” of identified species	Conflict provision dealing with overlapping powers (requires certain consultation)
<i>Rights in Water and Irrigation Act 1914</i>	DoW	Regulate access to water s5C (taking of water) and s26D (construction of bore) licences	Certain roles but not relevant to mining projects (watercourses & wetlands)

Act	Admin. body	Function	LG role in relation to mining
<i>Various planning Acts and schemes</i>	WAPC and Local Governments	Regulate land development	Extensive role in preparing planning schemes & development approval (but only consultation role under s120 of Mining Act)
<i>Aboriginal Heritage Act 1972</i>	DAA (Dept of Aboriginal Affairs)	Protection of aboriginal sites	Nil
<i>CALM Act (Conservation and Land Management)</i>	DPaW	Manage State reserved lands	Certain roles but none relevant to mining projects (agreements to manage private land)
<i>EPBC Act 1999 (Cth)</i>	Department of the Environment (Cth)	Controlled action approvals	Nil, although possible for certain officers to be inspectors
<i>Native Title Act 1993 (Cth)</i>	NNNT (National Native Title Tribunal)	Applies registration test to new native title claims and undertakes future act mediation and arbitral functions	Right to participate