



CONSERVATION COMMISSION OF WESTERN AUSTRALIA

POSITION STATEMENT NO. 3

MAY 2015

MINING IN LANDS VESTED IN THE CONSERVATION COMMISSION OF WESTERN AUSTRALIA

Background

The definition of 'mining' under the *Mining Act 1978* (the Mining Act) includes fossicking, prospecting and exploring for minerals and mining operations.

The Mining Act also defines 'minerals' as naturally occurring substances obtained (or obtainable) from any land by mining operations (for example, iron ore, sand, gravel and rock). However, this definition does not include other substances covered by different legislation such as geothermal energy resources and other substances governed by the *Petroleum and Geothermal Energy Resources Act 1967* or the *Petroleum (Submerged Lands) Act 1982*.

Naturally occurring substances that are found on private land (e.g. limestone, rock or gravel, shale (other than oil shale), non-mineral sand and certain types of clay) are also excluded from this definition of 'minerals'.

Role of the Conservation Commission of Western Australia

The Conservation Commission has the role of providing advice to the Minister for Environment on matters relating to land vested in it or under its care, control and management, and this may include advice on proposed mining. The Commission therefore plays an essential role in providing advice and recommendations for applications to mine or explore within vested lands and may provide recommendations on mining, including comment on conditions to ensure that environmental values are maintained.

The Mining Act sets forth requirements for ministerial and in some cases parliamentary consent for mining activities within different classes of land relating to conservation reserves under the *Conservation and Land Management Act 1984* (the CALM Act).

➤ *National Parks and certain Class A reserves*

Before providing consent for mining within a national park, class A nature reserve, and certain class A reserves (those located within the South-West Division of the State or in the local government district of Esperance or Ravensthorpe), the Minister for Mines and Petroleum shall first consult and obtain the concurrence of the responsible Minister (the Minister for Environment).

The grant of a mining lease or general purpose lease within these classes of land also requires the consent of both Houses of Parliament.

➤ *Other conservation reserves*

For consent to be given to mining activities on other land reserved under Part 4 of the *Land Administration Act 1997* (including non-class A conservation parks and non-class A nature reserves) the Minister for Mines and Petroleum shall first consult and obtain the recommendations of the Minister for Environment and the Conservation Commission (as the body in which the control and management of such land is vested).

➤ *State forests and timber reserves*

Mining in State forests and timber reserves (within the South West Mineral Field) requires the Minister for Mines and Petroleum to consult the Minister for Environment and obtain concurrence for mining.

For State forests and timber reserves that are not within the South West Mineral Field, the Minister for Mines and Petroleum is to consult the Minister for Environment and obtain recommendations for mining.

The approvals process for mining activities potentially impacting on terrestrial conservation reserves may also include Environmental Protection Authority assessment under Part IV of the *Environmental Protection Act 1986*.

The Commission's position

Noting the importance of Western Australia's conservation reserve system as a significant component of the overall framework for environmental protection in Western Australia, the Conservation Commission is of the view that the protection of reserve values (including biological, heritage, cultural, and recreational) within the reserve system is the paramount consideration in assessing proposals for mining (and other types of resource extraction or development) within vested lands.

The Conservation Commission therefore considers that the way in which we can best achieve our functions in relation to the care, control and management of vested lands is to:

- Be involved in the process of reviewing applications for exploration, prospecting and mining and the consideration of potential impacts to reserve values (including biological, heritage, cultural, and recreational).
- When proposals with significant residual impacts (after all measures to avoid and mitigate) are being considered through relevant processes, it may be preferred to recommend:
 - that the land that will be affected be excised from the reserve system and exchanged for land containing comparable reserve values to achieve a net conservation benefit to the reserve system, or
 - that there is a requirement for proponents to offset significant residual impacts consistent with State policy, so that, where possible, approvals achieve a net conservation benefit to the reserve system.¹
- Recommend appropriate conditions and restrictions on mining proposals so as to appropriately avoid and mitigate detrimental impacts on the values within lands vested in the Commission.

¹ In relation to offsets, the Conservation Commission will refer to relevant offsets policies including the Department of Parks and Wildlife (December 2014) Corporate Policy Statement No. 4: Environmental Offsets.