



# Position Statement No 3: Mineral and Petroleum exploration and development on lands vested in the Conservation and Parks Commission

July 2022

<b>Current from</b>	July 2022	<b>For Review</b>	June 2024
<b>Version</b>	2.0	<b>Replaces</b>	May 2015 version 1.0
<b>Officers responsible</b>	Director, Conservation and Parks Commission	<b>File / Document No.</b>	A1509506

## **The Commission's Position**

The Conservation and Parks Commission (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 or petroleum activities.

The Commission therefore plays an essential role in providing advice and recommendations to decision-makers for applications to explore or develop for mining or petroleum within vested lands and may provide recommendations on exploration or development applications, including comment on conditions to ensure that reserve values are maintained.

In general, advice and recommendations will be transmitted through the formal advice processes facilitated by DBCA, however in exceptional circumstances where there are very high reserve values and/or potential impacts or risks, the Commission may provide advice directly to decision-makers.

Noting the importance of Western Australia's conservation reserve system as a critical element in the framework for environmental protection in Western Australia, the Commission's position is that the protection of reserve values including biodiversity, Aboriginal culture, heritage, recreation and other social values (reserve values), within the reserve system is paramount in the Government's consideration of any mineral and petroleum resource exploration, mining development and any other types of resource extraction or development within vested lands.

On that basis, the Commission holds a general expectation that mineral and petroleum exploration activities and development proposals may only be supported in cases where it can be demonstrated that the broader social benefits of such activities to the community are substantial/outstanding, and the proposed activities would not significantly compromise the conservation of important reserve values or diminish the integrity of the reserve system overall.

Noting that mineral or petroleum development activities affecting reserves may develop incrementally over time and must be considered on a cumulative basis within each reserve and across the reserve system overall. Consideration of proposed activities by the Commission will generally need to take into account the following aspects:

- The significance of reserve values affected, in the context of both the particular reserve/s involved and Western Australia's reserve system overall.
- The level, significance and potential reversibility of known and potential impacts of proposed activities on affected reserve values, taking into account consideration of risk and uncertainty.
- The capacity of the proponent and effectiveness of existing regulation to ensure adequate avoidance of impacts and management of risks to reserve values as a component of their proposal or associated approval requirements.

- The ability and intention of the Government to put in place measures to offset or compensate for impacts on the affected reserve or reserve system overall, where this is necessary and such measures are beyond the control of development proponent/s.

In consideration of these aspects, the Commission will generally take the following approach when considering proposed resource exploration activities or developments:

1. Consult, be informed and involved where appropriate in the process of reviewing applications via the Department of Biodiversity, Conservation and Attractions (DBCA) for mineral, petroleum exploration or development and the consideration of potential impacts to reserve values. The Commission will be guided by the following key principles which applicants should address:
  - Appropriate and high-quality engagement with DBCA, and where appropriate the Commission, traditional owners and key stakeholders for the affected reserve. The engagement must be specific to the proposal, current and integral to the applications and associated management and compliance assurance plans.
  - Reserve values are to be clearly identified prior to approval of proposed activities. Proposals need to ensure that heritage and cultural surveys are current and conducted by or in consultation with appropriate traditional owners.
  - Potential impacts and risks of activities and their implications for maintenance of reserve values must be identified evaluated and suitably addressed as part of proposal development, including consideration of direct and readily identifiable impacts such as clearing and ground disturbance. Potential indirect impacts and risks should also be considered and addressed such as changes to surface water or groundwater systems, fire management/preparedness, hygiene and access management, hydrocarbon, waste management, rehabilitation, and closure.
  - Environmental management of activities should be well planned and documented and where appropriate, informed by suitable research and monitoring by the proponent. Suitable and rigorous measures such as compliance assessment, communication and reporting, inspections, regulatory action, and financial assurance, must be put in place by regulatory authorities for activities or developments in reserves in order to ensure implementation of best practice environmental performance and rehabilitation.
2. Recommend appropriate conditions and restrictions on mineral or petroleum exploration or development proposals to appropriately avoid and mitigate detrimental impacts on the values within lands vested in the Commission.
3. As part of consideration of the acceptability of proposals in relation to their impacts on reserve values, identify to relevant authorities prior to proposal approval, whether there is

a need for consideration of special arrangements to maintain or restore the integrity of the reserve system overall in the event that a proposed activity or development is approved.

For example, when proposals with significant residual impacts (after all measures to avoid, mitigate and rehabilitate affected areas have been considered/implemented), it may be preferred to recommend as early as possible:

- 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.

## **Context and Background**

In general, resource development activities in Western Australia, including those that affect vested reserves managed under the *Conservation and Land Management Act 1984* (CALM Act) do not fall within the direct authority of the Commission or the management agency or responsible Minister to approve or regulate.

There are however provisions within resource development legislation such as the *Mining Act 1978* (Mining Act) and the *Petroleum and Geothermal Energy Resources Act 1967* (Petroleum Act) requiring consultation with the 'responsible Minister' prior to 'consent' to undertake activities within public reserves, and in some cases, also with the public body responsible for the reserve. These provisions provide an opportunity for the Commission to consider and provide recommendations and other advice to the Minister responsible for the CALM Act prior to activity or development approval by the Minister for Mines and Petroleum (or delegate).

### ***Mining Act consent provisions***

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 vested and managed under the CALM Act.

### ***National parks and certain Class A reserves***

The grant of a mining lease or general-purpose lease 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 districts of Esperance or Ravensthorpe) requires the consent of both Houses of Parliament. Additionally, before providing consent for exploration or mining within the above reserves, it is a requirement that the Minister for Mines and Petroleum shall first consult

and obtain the concurrence of the Minister responsible for the reserve (Minister for Environment).

### ***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 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 before providing consent for mining within these reserves. 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.

### ***Onshore Petroleum Act consent provisions***

The Petroleum Act requires that the Minister for Mines and Petroleum consults and obtains the recommendations of Ministers responsible for the reserve in relation to “*the conditions, if any, which should be included in the permit, drilling reservation, access authority, special prospecting authority, lease or licence*”, regardless of reserve class.

### ***Environmental Protection Act provisions***

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