



Position Statement no.12: Extraction of basic raw materials on lands vested in the Conservation and Parks Commission

September 2023

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Version	2.0	Replaces	Position Statement No. 12: Basic Raw Materials – December 2015.
Officer responsible	Executive Officer, CPC		

The Commission's Position

The position of the Conservation and Parks Commission (the Commission) is as follows:

1. Protection of values and uses of lands and waters vested in the Commission under the *Conservation and Land Management Act 1984*, comprising Western Australia's conservation reserve system, is of very high importance.. Extraction of basic raw materials (BRM), other than for sustainable use and management of the conservation reserve system in line with their purpose, should generally be avoided unless there are no feasible alternatives. BRM are generally more widely distributed than other mineral materials and should generally be sourced from previously cleared or heavily degraded areas on private or other land, rather than intact natural areas within the conservation reserve system. Sustainable alternatives such as recycled materials or waste products should be explored before disturbance of natural areas is considered.
2. The Commission accepts that the extraction of BRM on selected areas of the conservation reserve system will occasionally occur for uses relating to the management and sustainable use of these lands in accordance with the CALM Act and applicable management plans. Any extraction and use of BRM in this manner must be subject to comprehensive impact evaluation, rigorous site selection (including an options analysis and investigation of alternate sources), best practice environmental management and impact mitigation where appropriate.
3. The Commission will not support BRM extraction in national parks, class A nature reserves and class A conservation parks, other than for carefully considered and prudent use related to the statutory purpose and sustainable use and management of the affected reserve. BRM exploration and extraction in old-growth forests is also not supported.
4. Noting the applicable statutory provisions, the Commission accepts that the extraction of BRM from other CALM Act lands (including other than class A reserves, State forests and timber reserves) may occasionally occur for purposes that are not related to the purpose and/or management of the affected reserve land. This should only occur in exceptional circumstances, such as for uses that relate to key public infrastructure with a very high public benefit, where there is minimal impact on reserve values and no feasible alternative. To be considered, proposals of this nature should incorporate a rigorous and well documented evaluation of impacts and alternatives, site selection and prescribed management. Proponents must endeavour to demonstrate that siting, project planning, materials extraction and rehabilitation of BRM extraction areas will be undertaken using best practice and will not lead to significant adverse impacts on the values and uses of the affected reserve.
5. There must be effective consultation with (and in appropriate circumstances, agreement from) traditional owners and/or key stakeholders during planning and approvals processes for proposed BRM extraction in accordance with relevant legislation, policies and guidelines. Proponents should aim to demonstrate that impacts on reserve values and uses including outcomes following extraction and rehabilitation are acceptable to vesting and joint management bodies.
6. When proposed BRM extraction is for private or commercial purposes unrelated to the affected reserve purpose and/or management, support from the Commission is unlikely. Noting that legislation such as the Mining Act requires proposals to be

considered by Government, proponents must aim to demonstrate a net benefit to the affected reserve through clear information on impacts and explicit commitments to counterbalancing measures that benefit the affected reserve/s. Proposals that cannot be demonstrated, on balance, to be in the public interest, are unlikely to be supported.

7. Approved BRM operations on vested lands should be subject to rigorous audit and compliance processes to ensure adherence to approval conditions and appropriate outcomes for the affected land.

Background and context

Section 19(1)(c)(iii) of the CALM Act provides that it is a function of the Commission to advise the Minister on the development of policies to achieve or promote the objectives in management plans prepared under section 56(1) of the Act. In providing advice under the Act the Commission is aware of relevant legislation and policy that is applicable at the time of writing of this position statement as outlined below.

Control of basic raw material extraction in reserves under the CALM Act

Subject to applicable requirements under the CALM Act and other State and Commonwealth legislation and policy, BRM may be taken by or on behalf of the Department of Biodiversity, Conservation and Attractions (DBCA) for operations on CALM Act lands that are consistent with the purpose and management of those lands. These operations must be consistent with applicable area management plans or otherwise fall within the definition of necessary or compatible operations under the CALM Act. Key stakeholders including the Commission and joint vestees and/or joint managers of the reserve need to be consulted in cases where a national park or class A nature reserve will be affected or where there is potential for significant impacts on reserve values, public use or amenity.

The Commission's consent for extraction of BRM, provided jointly with the consent of any joint vestees for the reserve, may be required in some cases, particularly where extraction is proposed for approval under legislation administered by agencies other than DBCA.

Basic raw materials for public works

Extraction of BRM from CALM Act lands may occasionally be sought for the construction or maintenance of roads, bridges, culverts or other essential State or local government projects. BRM may be taken in these circumstances by local governments or Main Roads under public works related legislation, or by other parties for provision to these entities under the applicable tenures and authorities of the Mining Act.

As identified in the *State Gravel Strategy* (1998), extraction of BRM in reserves and other Crown lands for Government purposes may be permitted under circumstances specified in other legislation. This includes the *Public Works Act 1902* and the *Land Administration Act 1997*. However, in the case of public reserve land it is generally expected that the support of the responsible public body (i.e. the Commission and Aboriginal bodies corporate in the case of vested/jointly vested lands) or management agency will be obtained.

The State Gravel Strategy was developed to identify and address requirements for basic raw materials for public and other purposes and also proposes strategies to address strategic challenges faced by State authorities in obtaining access to these materials.

Commercial extraction of BRM (as minerals) under the Mining Act

Under the Mining Act 1978 (Mining Act), the primary definition of minerals includes any “*naturally occurring substances obtained or obtainable from any land by mining operations carried out on or under the surface of the land*”. This definition is inclusive of most common basic raw materials. However, the definition clause within the Act contains a further statement indicating that specific materials falling within the above description, including limestone, rock, gravel, shale, clay and sand, are not to be treated as minerals (and therefore are not regulated under the Mining Act) where they occur on private land.

This means that approval and control of most private or commercial basic raw material extraction on crown land and public reserves is generally regulated under the Mining Act whereas for private land, this activity generally falls under the control of local government and other planning authorities (see ‘Planning and development approvals’ below).

Where mining is proposed to occur under the Mining Act on land within a public reserve (which includes all land vested in the Commission), all activities are subject to the requirement for a mining tenement and the prior consent of the Minister for Mines and Petroleum. Additionally, either the prior agreement (concurrence) or a prior recommendation from the Minister responsible for the affected reserve is required.

In the case of lands and waters managed under the CALM Act, the Minister responsible for the land (reserve) is the Minister for Environment. For some types of reserves (for example national parks and nature reserves of class A), the agreement of the Minister for Environment is required before consent for mining may be provided and the Commission (and any other vesting bodies) may be consulted for information and advice. In other cases, only the Environment Minister’s recommendations and the recommendations of the public body responsible for the reserve are required. For most CALM Act managed reserves, the responsible public body is generally the Commission, however for reserves that are jointly vested with the Commission and other entity or entities (such as Aboriginal bodies corporate), the joint recommendations of the Commission and any other vested entities must be obtained.

Planning and development approvals

Commercial basic raw material extraction on public land is primarily regulated under the Mining Act, with local government and planning authorities responsible for regulation of extraction on private land.

The extraction of BRM from freehold (private) land is recognised as an extractive industry under the Planning and Development (Local Planning Schemes) Regulations 2015. Extractive industry proposals for freehold land require statutory development approval from the relevant local government under the *Planning and Development Act 2005*.

To support and encourage logical and orderly land use planning decisions and responsible development, the Western Australian Planning Commission issues policies to guide private and public sector in planning their activities. One of these is State Planning Policy 2.4: Planning for Basic Raw Materials (SPP 2.4; July 2021).

The definition of basic raw materials in State Planning Policy 2.4 includes the following:

- sand (including silica sand)
- clay
- hard rock (including dimension stone)
- limestone (including metallurgical limestone)
- agricultural lime

- gravel
- gypsum
- other construction and road building materials
- materials which may substitute BRM.

SPP 2.4 recognises a number of site categories for BRM, including Significant Geological Supplies and extraction sites, some of which are located on land vested in the Commission and managed under the CALM Act. SPP 2.4 states that identification of BRM under these site categories does not obligate the landowner to extract these resources, nor that government approvals for extraction are guaranteed.

Other policy and guidance

The WA Local Government Association's *Local Government Guidelines for Road Gravel Supplies in Western Australia (2021)* (Local Government guidelines) provide information and guidance material to local government personnel and the wider community on sourcing and utilising basic raw materials for local government purposes. This document identifies that national parks, conservation parks, nature reserves, and CALM Act section 5(1)(g) and 5(1)(h) reserves are natural areas reserved for the protection of their unique landscape, cultural and/or natural values. The document recognises that although these reserves may hold deposits of gravel that are viewed as a potentially economic alternative to commercial pits or freehold lands, it is not appropriate to develop gravel pits on these lands when a feasible alternative source exists. As indicated, priority should be given to extracting gravel from pits on freehold, leasehold or unallocated Crown land, with land reserved for conservation only considered as a last resort. The Local Government guidelines provide useful guidance on the applicable legislation, policies, approvals, investigations and information, management and mitigation requirements for BRM extraction on various lands. It identifies that once all of these factors are taken into account, sourcing gravel and other BRM from CALM Act reserves for unrelated external use is unlikely to be as economically viable as sourcing these materials from other sources.