



Nature Conservation | Margaret River Region

Post Office Box 1749 Margaret River  
Western Australia 6285  
ABN: 20103 - 363 - 831

**Telephone:** (08) 9757 2202  
**Email:** [info@natureconservation.org.au](mailto:info@natureconservation.org.au)  
**Web:** [www.natureconservation.org.au](http://www.natureconservation.org.au)

## SUBMISSION ON PROPOSED ELIGIBLE MINING ACTIVITY (EMA) REGULATIONS

Nature Conservation Margaret River Region (**Nature Conservation**) is the peak non-profit community-based environmental organisation working on the key environmental challenges facing the southwest of Western Australia. Nature Conservation has more than 2000 local supporters (including members, donors, active volunteers, businesses and project partners/participants). We advocate for best practice environmental land use and management for the natural environment in our region.

Thank you for the opportunity to comment on these proposed EMA Regulations. Our key recommendations and concerns are set out below. Although the first of our comments is focussed on the southwest region, where we are based, the remainder of our comments apply more generally. We look forward to your response to our submission.

### 1. Exclude the southwest global biodiversity hotspot region

Australia's southwest has been identified as one of 36 global biodiversity hotspots. Biodiversity hotspots are regions with exceptionally concentrations of endemic species - species found nowhere else on Earth – and are undergoing an exceptional loss of habitat. These areas are critical for global biodiversity conservation due to their unique ecological significance and the extent of loss already sustained (Mittermeier et al., 2011; Myers et al., 2000). As stated, in order to qualify as a global biodiversity hotspot, the region in question must have had significant loss of habitat and that habitat be under threat, which is a key factor in the critical importance of preserving the remaining biodiversity assets in southwest WA. The EMA regulations have significant potential impact on remaining biodiversity values.

We note from the published map of exclusions in the information document that a considerable proportion of the hotspot region is already proposed to be excluded, but not in its entirety. Instead, there is a patchwork of areas within the hotspot region where the framework might still be applied, and vegetation might be lost - on an ongoing basis - without any real consideration being given to the potential and cumulative environmental impacts. We strongly recommend that it would be significantly better and safer from an environmental perspective to simply exclude the entire southwest biodiversity hotspot region from the application of this framework.

In particular, we believe the precautionary principle (Environmental Protection Authority (WA), 2016) should be applied in considering the loss of vegetation that is likely to occur by application of the proposed EMA framework in the southwest biodiversity hotspot region:

- **Irreplaceable Loss:** Many species in our southwest biodiversity hotspot are endemic, meaning they are found nowhere else in the world. Once lost due to habitat destruction or degradation, these species cannot be recovered. There is an urgent need to prevent irreversible losses of such unique biodiversity.

- **Complexity of Ecosystems:** Biodiversity hotspots often host complex ecosystems where species interact in intricate ways. The loss of one species can have cascading effects on others and on ecosystem functioning as a whole. It is critical to avoid these potential ecosystem disruptions.
- **Unknown Impacts:** The full extent of biodiversity in many hotspots is not fully documented or understood. There may be undiscovered species or ecological relationships that could be disrupted by habitat loss. Avoiding the loss of vegetation wherever possible helps safeguard against unforeseen impacts on biodiversity.
- **Threshold Effects:** Ecosystems in biodiversity hotspots can be sensitive to changes, sometimes exhibiting threshold effects where abrupt changes in habitat can lead to rapid and dramatic loss of biodiversity. It is critically important to avoid crossing such thresholds.
- **Climate Change Impacts:** Climate change is already having a warming and drying impact on our southwest region. Given these threatening processes are already occurring, and the likelihood that the entire hotspot region will become a significant refugia in years to come, it is vital that we take all steps possible to protect and conserve the remaining vegetation and protect it from unnecessary damage.
- **Global Significance:** The southwest biodiversity hotspot is not only valuable locally, but also globally. Protecting this region aligns with global, national and state conservation goals.

Excluding the southwest biodiversity hotspot from automatic mining exploration approval will align with responsible and precautionary conservation approaches to help ensure the long-term survival of species and ecosystems in this critically important region.

## 2. Reduce minimum tree diameter required for protection

In our view the minimum tree diameter of 30cm at 1.5m high to protect trees from being lost under these proposed regulations is too large. Diameter at breast height measurements (1.5m) vary from species to species, with various mature species, having smaller diameters and thus requiring protection. In the southwest, this includes *melaleuca spp*, *banksia spp* and *acacia spp* for example. Regulations should be species specific re controls on protecting mature trees, indeed mature trees should be retained.

## 3. Reduce allowable areas

An overall allowance of 10ha per year, per tenement is simply too high. Under these proposed regulations the cumulative impact over time could be considerable and well beyond any rational allowable measure.

We consider that these allowances should not take a one-size-fits-all approach. Within the southwest region, for example, this allowance is very high relative to the land area that is not excluded. The maximum allowance should be reduced to a lower level and the timeframe extended such that the EMA allowance applies over (say) five years instead of annually - or the allowance reduced to a maximum of three EMAs. We suggest 1 ha is appropriate.

## 4. Compliance monitoring during EMA

We note there is no proposal or indication that any interim monitoring or audits are carried out. We are concerned that key aspects of the regulations such as the clearing of sensitive environmental habitat, mature trees, and other unauthorised activities may be undertaken without any appropriate means of compliance and detection. We strongly recommend a system of compliance monitoring that involves interim checks on applicants' activities, and particularly those activities stipulated under sections 58E, 58F and 58G.

All EMA activities should have an accompanying monitoring plan specifying the type, frequency and reporting requirements of the monitoring program. Monitoring details and records should be made available in the public domain.

## 5. Compliance auditing at conclusion

Regarding final rehabilitation, we note the regulations propose that ‘applicants will not need to wait for DEMIRS’ assessment of the Notice of Completion prior to submitting a new EMA notice.’ We think this could inadvertently allow irresponsible behaviour, as it could mean that poorly rehabilitated areas and under-performing applicants are not discovered until further damage is done.

We suggest instead a system that allows for a fast-tracking of a DEMIRS compliance audit (perhaps by payment of an additional fee) if an applicant wishes to submit a further application. It should also be stipulated that anything less than full compliance will not be acceptable. This will help to ensure activities are conducted and rehabilitated properly in accordance with the EMA notice and standard conditions, and that poor efforts are corrected prior to any further EMAs being allowed.

## REFERENCES

- Environmental Protection Authority (WA). (2016). *Statement of Environmental Principles, Factors and Objectives*.
- Mittermeier, R. A., Turner, W. R., Larsen, F. W., Brooks, T. M., & Gascon, C. (2011). Global Biodiversity Conservation: The Critical Role of Hotspots. In *Biodiversity Hotspots* (pp. 3–22). Springer Berlin Heidelberg. [https://doi.org/10.1007/978-3-642-20992-5\\_1](https://doi.org/10.1007/978-3-642-20992-5_1)
- Myers, N., Mittermeier, R. A., Mittermeier, C. G., da Fonseca, G. A. B., & Kent, J. (2000). Biodiversity hotspots for conservation priorities. *Nature*, 403(6772), 853–858. <https://doi.org/10.1038/35002501>