Report and recommendations of the Environmental Protection Authority

Yilgarn Operations, Koolyanobbing Range F Deposit – inquiry under section 46 of the Environmental Protection Act 1986 to amend Ministerial Statement 1054

Yilgarn Iron Pty Ltd

Report 1660
December 2019
Inquiry under section 46 of the *Environmental Protection Act 1986*

The Minister for Environment has requested that the Environmental Protection Authority (EPA) inquire into and report on the matter of changing the implementation conditions 8 (Stage 1 offsets), 9 (Access to Stage 2 mining area) and 10 (Stage 2 offsets) relating to the Yilgarn Operations, Koolyanobbing Range F Deposit (Ministerial Statement 1054).

Section 46(6) of the *Environmental Protection Act 1986* requires the EPA Report to include:

1. a recommendation on whether or not the implementation conditions to which the inquiry relates, or any of them, should be changed
2. any other recommendations that it thinks appropriate.

The following is the EPA’s Report and Recommendations to the Minister pursuant to s. 46(6) of the *Environmental Protection Act 1986*.

Dr Tom Hatton  
Chairman  
10 December 2019  

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1. The proposal

Yilgarn Iron Pty Ltd currently operates the Yilgarn Operations, Koolyanobbing Range F Deposit proposal, to mine iron ore and construct mine infrastructure at the F Deposit area, located on the southern Koolyanobbing Range, approximately 50 kilometres north-east of Southern Cross.

The proposal aims to mine nine million tonnes of ore over three years by developing mine pits, waste rock dumps, roads and supporting infrastructure at the F Deposit area.

The Environmental Protection Authority (EPA) assessed the proposal at the level of Public Environmental Review (PER), and released its report and recommendations (Report 1581) in September 2016. In that report, the EPA identified the following key environmental factors relevant to the proposal:

- Flora and Vegetation
- Rehabilitation and Decommissioning (integrating factor)
- Offsets (integrating factor).

In applying the Statement of Environmental Principles, Factors and Objectives (EPA 2018a) these factors are now represented by:

- Flora and Vegetation.

The EPA concluded in Report 1581 that the proposal may be implemented to meet the EPA’s objectives, provided implementation is carried out in accordance with the EPA’s recommended conditions.

The then Minister for Environment approved the proposal for implementation, subject to the implementation conditions of Ministerial Statement 1054 (25 January 2017).
2. Requested changes to conditions

In February 2019, Mineral Resources Limited (MRL), on behalf of the proponent Yilgarn Iron Pty Ltd, requested changes to the implementation conditions of Ministerial Statement 1054 to:

- amend condition 8 (Stage 1 Offsets) to reduce the mature individuals of *Tetratheca erubescens* to be established in the new self-sustaining population from 313 to 261
- remove condition 9 (Access to Stage 2 Mining Area) to allow access to the Stage 2 mining area and to disturb the additional *T. erubescens* plants
- amend condition 10 (Stage 2 Offsets) to allow Stage 2 mining to commence prior to submitting a Stage 2 offset plan and to provide for an additional indirect offset in the form of a minimum $500,000 contribution to a strategic fund for research on *Tetratheca*.

MRL requested the change to condition 8 on the basis of a reduced direct impact to *T. erubescens* individuals from Stage 1 mining. The basis of the other changes is an increased confidence of the direct and indirect impacts to *T. erubescens*, therefore, decreasing the level of risk to the plants.

In March 2019, the Minister for Environment requested the EPA inquire into and report on the matter of changing the implementation conditions of Ministerial Statement 1054 for the proposal. This report satisfies the requirements of the EPA’s inquiry. The EPA inquiry has considered:

- the currency of its original assessment (EPA Report 1581)
- Ministerial Statement 1054
- information provided by the proponent
- advice from relevant decision-making authorities
- information gathered through a site visit by the EPA in August 2019
- any new information regarding the proposal's potential impacts on the environment.

These documents are instructive in determining the extent and nature of the inquiry under s. 46 of the *Environmental Protection Act 1986* (EP Act).

EPA policy and procedures


The EPA had particular regard to *Environmental Factor Guideline: Flora and Vegetation* (EPA 2016b) and *WA Environmental Offsets Policy* (Government of WA 2011).
3. Inquiry findings

The EPA considered that Flora and Vegetation is the key environmental factor relevant to the change to conditions.

3.1 Flora and Vegetation

The EPA’s environmental objective for this factor is to protect flora and vegetation so that biological diversity and ecological integrity are maintained.

EPA Report 1581

The 203 hectare development envelope included approximately 189 hectares of native vegetation. The Koolyanobbing Range is a banded iron formation range with high biodiversity values, containing unique flora and vegetation. Flora and vegetation surveys recorded one Priority Ecological Community (PEC) ‘Koolyanobbing Vegetation Complexes (Banded Iron Formation)’, one threatened flora species and six Priority flora species within the development envelope.

The EPA noted that although the Koolyanobbing PEC would be impacted, it also occurs outside the proposal area. The Koolyanobbing PEC occurs across the Koolyanobbing Range including areas not subject to mining. The EPA also noted the Priority flora species recorded within the proposal area had populations located in other areas on the southern Koolyanobbing Range and regionally. The EPA considered the impacts to the PEC, vegetation units and Priority flora to be acceptable and able to meet the objective for the factor.

The threatened flora is *Tetratheca erubescens*, a low shrub that is endemic to the Koolyanobbing Range. Distribution is limited to the southern section of the range, and with its specific habitat preferences the area of occupancy is estimated at 3.5 hectares. The plants grow on cliffs and rocky slopes and the population is estimated at 6333 from a census in 2013 and opportunistic sightings.

The proposal was originally designed to directly impact up to 22 per cent of the *T. erubescens* population, which was reduced to 20 per cent during the assessment. The EPA advised the proponent at the time this impact may not be acceptable due to the uncertainty of indirect impacts, primarily from dust and wall slumping, with the proposal unlikely to meet the EPA’s objective for ‘Flora and Vegetation.’ The EPA’s preliminary view was that there was potential for serious impacts on the species and the indirect impacts were uncertain. A peer review was commissioned which noted that, although there was potential for restoring *T. erubescens*, continued restoration work was required.

Following the EPA’s preliminary view and the peer review, the proponent further modified its proposal to reduce the impact to *T. erubescens*. The disturbance envelope was reduced to 15 per cent of the population. To address the uncertainty in the proposed offset and management measures, the proponent proposed a staged approach with 5 per cent of the population impacted in Stage 1 and 10 per cent in Stage 2.
The EPA noted the proponent had reduced the impact to flora and vegetation by changing the proposal design, staging the proposal, developing appropriate corridors for pollinators and preparing a mine closure plan. This reduced the risk to *T. erubescens* to an acceptable level whereby an offset could be applied.

To manage these impacts, the EPA recommended the following conditions:

- **Condition 6** – ‘Flora and Vegetation Management’ to prepare and implement an Environmental Management Plan to demonstrate specific environmental outcomes. These outcomes are to limit the adverse impacts to native flora and vegetation to the development envelope, and limit the adverse impacts to *T. erubescens* to no greater than 313 plants during Stage 1 and 652 plants within Stage 2.

- **Condition 7** – ‘F3 Pit Wall Stability and Abandonment Bunding’ to ensure the stability of the southern wall and avoid slumping of F3 pit to protect *T. erubescens* plants adjacent to the pit.

- **Condition 8** – ‘Stage 1 Offsets’ to counterbalance the residual impact on *T. erubescens* from Stage 1 of mining. The offset plan included translocation of at least 313 plants to suitable habitat with a research program to support it.

- **Condition 9** – ‘Access to Stage 2 Mining Area’ to prevent access to the Stage 2 mining area until Stage 1 offsets are shown to be achievable.

- **Condition 10** – ‘Stage 2 Offsets’ to counterbalance the residual impact on *T. erubescens* from Stage 2 of mining. The offset plan for Stage 2 will build on the knowledge gained through the development of the Stage 1 offset.

**Assessment of the proposed change to conditions**

The EPA considers the following current environmental policies and guidance are relevant to its assessment of the proposal for this factor:

- *Environmental Factor Guideline: Flora and Vegetation* (EPA 2016b)


The *Environmental Factor Guideline: Flora and Vegetation* identifies a number of reasons why flora or vegetation may be considered significant, with the most relevant reasons to this assessment being:

- flora identified as threatened or priority species
- flora that is locally endemic or associated with a restricted habitat type (e.g. surface water or groundwater dependent ecosystems)
- flora with relictual status, being representative of taxonomic groups that no longer occur widely in the broader landscape.

As part of the inquiry, MRL provided additional information on operational matters, *T. erubescens* monitoring and geotechnical reviews.

The EPA consulted with the Department of Biodiversity, Conservation and Attractions (DBCA) and the Department of Mines, Industry Regulation and Safety on
the direct and indirect impacts of the proposed changes. Comments from both departments were considered by the EPA.

**Threatened flora**

Ministerial Statement 1054 approved the disturbance of up to 313 *T. erubescens* plants within the Stage 1 development envelope and to counterbalance the significant residual impact, a self-sustaining population of at least 313 mature *T. erubescens* individuals must be established. MRL removed 261, a reduction of 16 per cent from the approved 313 individuals. An additional plant was killed by a rock fall outside of the mining area in 2019 and it is uncertain whether this can be directly attributed to the proposal implementation. Monitoring of the remaining plants will be undertaken in accordance with DBCA advice.

The EPA considers a one-for-one replacement as appropriate for the Stage 1 offset. Given the reduction in direct impact to *T. erubescens* plants, the Stage 1 offset requirement and the number of *T. erubescens* approved to be impacted will reduce to 261 plants. This will reduce the impact of Stage 1 from 5 per cent to 4 per cent of the total *T. erubescens* population.

As part of the s. 46 inquiry, MRL requested the removal of condition 9 to remove the requirement of a staged approach to mining. Condition 9 prevents mining within the Stage 2 mining area until the proponent has implemented the Stage 1 offset plan, including establishing a new self-sustaining population of at least 313 mature individuals of *T. erubescens* on a landform that is suitable for the species.

The staged approach was conditioned due to the uncertainty of the indirect impacts to plants adjacent to the mine pits, and uncertainty in the success of the translocation. The key indirect impacts to *T. erubescens* were identified as population fragmentation, disruption of pollinators, stability and potential for slumping of the southern wall and dust deposition. The risk of slumping and dust deposition risk came from the proximity of plants to the edge of the mine pits.

With respect to the risk of wall slumping and dust deposition, the proponent has provided additional information giving greater certainty of the indirect impact to *T. erubescens*. The execution of Stage 1 has provided confidence to the EPA that the implementation conditions are generally conserving the *T. erubescens* species and the potential indirect impacts have greatly reduced.

Activities such as excavation and blasting associated with surface pit wall establishment that carry the greatest level of risk in relation to pit wall stability, have ceased for Stage 1. The proponent is implementing the Stability Monitoring Plan and the pit wall has a factor of safety of two, as required by condition 7. Condition 7 ensures the stability of the southern pit wall to reduce the risk to plants adjacent to F3 pit and this condition will remain unchanged.

The Stage 1 operations that carry the greatest levels of risk to *T. erubescens* in relation to dust generation have ceased. The early stages of pit development were expected to be a higher risk period for dust generation and now that pit walls have been established forming a dust barrier, dust emissions are expected to be further
reduced. Therefore, the risk of indirect impacts to *T. erubescens* from Stage 1 operations are considered to be significantly reduced.

To ensure the disruption of pollinators was short-term, the proponent committed to rehabilitating the mine access road between the F2 and F3 pits after Stage 1 was completed. The EPA notes the rehabilitation of the mine access road has commenced with rehabilitation earthworks substantially completed.

*T. erubescens* is currently listed as Threatened under the *Biodiversity Conservation Act 2016* (BC Act) with an International Union for Conservation of Nature (IUCN) threat status of Vulnerable due to its restricted distribution and the threats posed by mining. Although the legislation has changed from the *Wildlife Conservation Act 1950* to the BC Act since the original assessment, the threat status remains the same. DBCA notes the threat status was recently nominated to be upgraded to Critically Endangered. The threat status has not formally changed, therefore, in this assessment the EPA has chosen to focus on the risk to the species from the proposed changes.

The EPA notes that the research program to support the translocation will continue. In addition to the current program, MRL will contribute $500,000 as an indirect offset to fund research and management of *Tetratheca*. The EPA considers this financial contribution could be used for long term management of the remaining 86 per cent of *T. erubescens* plants from indirect impacts not associated with mining and result in greater protection to the species.

In Report 1581, the EPA supported a cautious staged approach with initially only 5 per cent of the *T. erubescens* population to be impacted. Since then, the direct impact has been reduced and certainty has been gained on the indirect impacts from dust and pit stability. In addition, the removal of the staged approach will not change the overall requirements of the offsets. Therefore, the EPA considers the risk to the species has reduced to a level whereby the staged approach is not required.

**Koolyanobbing Range Priority Ecological Community, vegetation units and Priority flora species**

The total amount of clearing remains unchanged from the original assessment with no more than 193 hectares in Stage 1 and 10 hectares in Stage 2.

The PEC ‘Koolyanobbing vegetation complexes (banded ironstone formation)’ remains ranked as Priority 1, the same as during the original assessment. The conservation status of the six Priority flora impacted by the proposal remains the same as during the original assessment with one Priority 1 species, four Priority 3 species and one Priority 4 flora species.

The proponent has not requested changes related to the management of the PEC or Priority flora. The EPA considers that there is no significant or additional information that changes the assessment of the impact to the PEC or Priority flora from the original assessment.
Administrative changes to the Implementation Conditions

MRL has proposed references to Parks and Wildlife be amended to Department of Biodiversity, Conservation and Attractions (DBCA) to reflect the current name of the government agency. The EPA considers it appropriate to use DBCA in the recommended conditions, where the agency is referred to.
4. Conclusions and recommendations

Change to condition 6

The original assessment in Report 1581 details that condition 8 requires the re-establishment of *T. erubescens* plants commensurate with the impact of Stage 1. To match the requested change to condition 8, the EPA finds it appropriate to change condition 6 (Flora and Vegetation Management) to ensure the proposal has no adverse effects to greater than 261 *T. erubescens* plants in the Stage 1 area.

Change to condition 8

The proponent has requested to amend condition 8 (Stage 1 Offsets) to reduce the mature individuals of *T. erubescens* to be established in the new self-sustaining population. The reduction will be equal to the number of mature individuals of *T. erubescens* that have been impacted by the proposal. The EPA considers it is appropriate to amend the condition.

Remove condition 9

The proponent has requested to remove condition 9 (Access to Stage 2 Mining Area) to allow access to the Stage 2 mining area and disturb the additional *T. erubescens* plants prior to establishing a self-sustaining population. The EPA considers it is appropriate to remove the condition due to the reduced direct and indirect impacts to the species.

Change to condition 10

The proponent has requested to amend condition 10 (Stage 2 Offsets) to change the timing of the submission of the Stage 2 offset plan to within three months of mining of Stage 2 commencing. The EPA considers it is appropriate to amend the timing of the submission of the Stage 2 offset plan.

Addition of condition 12

The proponent has provided for an additional indirect offset in the form of a monetary contribution to a strategic research fund for *T. erubescens*. The EPA considers the provision of an additional indirect offset should be a new condition with subclauses to ensure there is a robust governance model for the fund.

Conclusions

In relation to the environmental factors, and considering the information provided by the proponent and relevant EPA policies and guidelines, the EPA concludes that:

- There is additional information that changes the conclusions reached by the EPA under the environmental factors ‘Flora and Vegetation’ and ‘Offsets (integrating factor)’ since the proposal was assessed by the EPA in Report 1581 (September 2016). The additional information relates to the direct and indirect impacts to Threatened flora species *T. erubescens*.
- The total direct impact to *T. erubescens* has reduced from 15 per cent to 14 per cent of the population due to the proponent further minimising the mine pit
disturbance. Any additional disturbance to this species is likely to be considered unacceptable by the EPA.

- The high degree of uncertainty of the indirect impact to *T. erubescens* from wall slumping and dust deposition has been reduced through monitoring of the operations and demonstrating the effectiveness of the mining techniques. Therefore, the risk of indirect impacts has been reduced.

- No new significant environmental factors have arisen since its assessment of the proposal.

- The original EPA assessment identified three key environmental factors and each of the impacts to the factor were manageable, subject to conditions, and the EPA’s objectives for each could be met. None of the key environmental factors remained significant following appropriate management measures.

- This inquiry identified the previous three key environmental factors are now represented by only one key environmental factor, in accordance with the EPA *Statement of Environmental Principles, Factors and Objectives* (EPA 2018). The impacts to the one key environmental factor are considered manageable, based on the requirements of existing conditions, and the imposition of the attached recommended conditions.

**Recommendations**

Having inquired into this matter, the EPA submits the following recommendations to the Minister for Environment under s. 46 of the EP Act:

1. While retaining the environmental requirements of the original conditions of Ministerial Statement 1054, it is appropriate to change implementation by: replacing conditions 6-1 (Flora and Vegetation Management), 8-2 (Stage 1 Offsets) and 10 (Stage 2 Offsets); deleting condition 9 (Access to Stage 2 Mining Areas); and inserting condition 12 (Offset – *T. erubescens*).

2. That, after complying with s. 46(8) of the EP Act, the Minister may issue a statement of decision to change conditions 6, 8, 9 and 10 of Statement 1054 in the manner provided for in the attached recommended Statement (Appendix 1).
References

EPA 2016a, *Environmental Impact Assessment (Part IV Divisions 1 and 2) Administrative Procedures 2016*, Environmental Protection Authority, Perth, WA.

EPA 2016b, *Environmental Factor Guideline – Flora and Vegetation*, Environmental Protection Authority, Perth, WA.

EPA 2018a, *Statement of Environmental Principles, Factors and Objectives*, Environmental Protection Authority, Perth, WA.


Appendix 1: Identified Decision-Making Authorities and recommended environmental conditions

Identified Decision-making Authorities

The following decision-making authorities have been identified for the purposes of s. 45 as applied by s. 46(8) of the Environmental Protection Act 1986:

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<th>Decision-making Authority</th>
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<td>1. Minister for Environment</td>
<td>Biodiversity Conservation Act 2016 (Taking or disturbing threatened species)</td>
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<td>2. Minister for Water</td>
<td>Rights in Water and Irrigation Act 1914 (Water abstraction licence, construction of wells)</td>
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<td>3. Minister for Aboriginal Affairs</td>
<td>Aboriginal Heritage Act 1972 (s. 18 consent)</td>
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<td>4. Minister for Mines and Petroleum</td>
<td>Mining Act 1978 (Mining lease)</td>
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<td>5. CEO, Department of Water and Environmental Regulation</td>
<td>Environmental Protection Act 1986 (Works approval and licence)</td>
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<tr>
<td>6. Executive Director, Resources and Environmental Compliance Division, Department of Mines, Industry Regulation and Safety</td>
<td>Mining Act 1978 (Mining proposal)</td>
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<td>7. State Mining Engineer, Department of Mines, Industry Regulation and Safety</td>
<td>Mines Safety and Inspection Act 1994 Mines Safety Inspection Regulations 1995 (Mines safety, approval to commence mining operations)</td>
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<tr>
<td>9. CEO, Shire of Yilgarn</td>
<td>Health Act 1911 Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974</td>
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Note: In this instance, agreement is only required with DMAs 1 to 4, since these DMAs are Ministers.
RECOMMENDED ENVIRONMENTAL CONDITIONS

STATEMENT TO CHANGE THE IMPLEMENTATION CONDITIONS APPLYING TO A PROPOSAL
(Section 46 of the Environmental Protection Act 1986)

YILGARN OPERATIONS, KOOLYANOBBING RANGE F DEPOSIT

Proposal: To mine iron ore and construct mine infrastructure at the F Deposit area, located on the southern Koolyanobbing Range, approximately 50 kilometres north-east of the town of Southern Cross.

Proponent: Yilgarn Iron Pty Ltd
ACN 626 035 078

Proponent Address: 1 Sleat Road
APPLECROSS WA 6153

Assessment Number: 2198

Report of the Environmental Protection Authority: 1660

Previous Assessment Number: 2023

Previous Report Number: 1581

Preceding Statement/s Relating to this Proposal: 1054

Pursuant to section 45 of the Environmental Protection Act 1986, as applied by section 46(8), it has been agreed that the implementation conditions set out in Ministerial Statement No. 1054, be changed as specified in this Statement.

Condition 6-1 of Ministerial Statement 1054 is deleted and replaced with:

6 Flora and Vegetation Management

6-1 Within three (3) months of any ground-disturbing activities within the Stage 2 mining area as shown in Figure 3 in Schedule 1 of Ministerial Statement 1054, the proponent shall update and submit a revised Condition Environmental Management Plan to the satisfaction of the CEO, on advice of the Department of Biodiversity, Conservation and Attractions, to demonstrate that the following environmental outcomes will be met:
(1) no adverse effects on priority flora and vegetation, outside the Stage 1 and 2 development envelopes attributable to the implementation of the proposal;

(2) no adverse effects on greater than 261 *Tetratheca erubescens* plants during implementation of Stage 1; and

(3) no adverse effects on greater than 652 *Tetratheca erubescens* plants during implementation of Stage 2.

**Condition 8-2 of Ministerial Statement 1054 is deleted and replaced with:**

**8 Stage 1 Offsets**

8-2 Within three (3) months of any ground-disturbing activities within the Stage 2 mining area as shown in Figure 3 of Schedule 1 of Ministerial Statement 1054, the proponent shall update and submit a revised Stage 1 *Tetratheca erubescens* Offset Plan to the satisfaction of the CEO on advice of the Department of Biodiversity, Conservation and Attractions, as described in condition 8-3 to the CEO.

The objectives of the Stage 1 *Tetratheca erubescens* Offset Plan are to:

(1) determine the methods to support translocation of *Tetratheca erubescens*; and

(2) ensure a self-sustaining population of mature individuals of *Tetratheca erubescens* equivalent to those that have been impacted through implementation of stage 1 on a landform that is suitable for the species.

**Condition 9 of Ministerial Statement 1054 is deleted.**

**Condition 10-2 of Ministerial Statement 1054 is deleted and replaced with:**

**10 Stage 2 Offsets**

10-2 Within three (3) months of any ground-disturbing activities within the Stage 2 mining area as shown in Figure 3 in Schedule 1 of Ministerial Statement 1054, the proponent shall prepare and submit a Stage 2 *Tetratheca erubescens* Offset Plan, using the research and findings from the Stage 1 *Tetratheca erubescens* Offset Plan required under condition 8-2, to the satisfaction of the CEO on advice of the Department of Biodiversity, Conservation and Attractions, as described in condition 10-3 to the CEO.

The objective of the Stage 2 *Tetratheca erubescens* Offset Plan as defined in Table 3 in Schedule 1 of Ministerial Statement 1054 is to:
(1) ensure a self-sustaining population of mature individuals of *Tetratheca erubescens* equivalent to those that have been impacted through implementation of stage 2 on a landform that is suitable for the species.

**Condition 12 is added:**

**12 Offset – *Tetratheca erubescens***

12-1 The proponent shall fund and undertake an offset for *Tetratheca erubescens* with the objective to maintain and protect the species from external threats as far as practicable. The amount of funding required shall be a minimum contribution of $500,000.

12-2 Within twelve (12) months of the date of this Statement, or as otherwise agreed in writing by the CEO, the proponent shall prepare and submit to the CEO a *Tetratheca erubescens* Conservation Plan, for the offset required by condition 12-1, which identifies on-ground conservation projects and research projects to be undertaken that contribute to long-term conservation outcomes for the species. The plan shall be to the satisfaction of the CEO on advice of the Department of Biodiversity Conservation and Attractions.

12-3 The *Tetratheca erubescens* Conservation Plan shall include, but not be limited to:

(1) details on how the proposed on-ground conservation projects contribute to a long-term conservation outcome for *Tetratheca erubescens*;

(2) details on how the proposed research projects contribute to a long-term conservation outcome for *Tetratheca erubescens* and more broadly to *Tetratheca* species in the Yilgarn region;

(3) an outline of the agreed governance arrangements – including agreed stakeholder responsibilities for implementing the projects, and any contractual arrangements for third parties involved and legal obligations; and

(4) details of the financial and financial auditing arrangements including project budget and recipients of funds if projects are being undertaken by any third parties.

12-4 Within six (6) months of receiving notice in writing from the CEO that the *Tetratheca erubescens* Conservation Plan satisfies the requirements of conditions 12-1 to 12-3, the proponent shall commence the implementation of the conservation plan.
12-5 Any changes to the *Tetratheca erubescens* Conservation Plan must be approved by the CEO in writing.

12-6 The proponent shall implement the latest revision of the *Tetratheca erubescens* Conservation Plan which the CEO has confirmed by notice in writing satisfies the requirements of conditions 12-1 to 12-3.