

Mr I Watkins  
Director IW Projects  
Opal Vale Pty Ltd  
PO Box 419  
MORLEY BC WA 6943

Our Ref 13-230921  
Enquiries Kaylene Carter  
Phone 6145 0805

Dear Mr Watkins

**NOTICE UNDER SECTION 39A(3)**  
***Environmental Protection Act 1986***

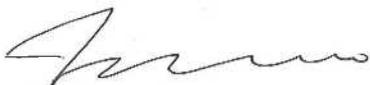
**PROPOSAL:** Class II Landfill  
**LOCATION:** Lot 11 Chitty Road, Toodyay  
**LOCALITY:** Shire of Toodyay  
**PROPONENT:** Opal Vale Pty Ltd  
**DECISION:** Not Assessed – Public Advice Given

The Environmental Protection Authority (EPA) understands that you wish to undertake the above proposal which has been referred to the Authority for consideration of its potential environmental impact.

This proposal raises a number of environmental issues. However, the EPA has decided not to subject this proposal to the environmental impact assessment process and the subsequent setting of formal conditions by the Minister for Environment under Part IV of the *Environmental Protection Act 1986* (EP Act). Nevertheless, the staff of the Office of the EPA has provided the attached advice to you as the proponent, and other relevant authorities on the environmental aspects of the proposal.

The EPA's decision to not assess the proposal is open to appeal. There is a 14-day period, closing 21 October 2013. Information on the appeals process is available through the Office of the Appeals Convenor's website, [www.appealsconvenor.wa.gov.au](http://www.appealsconvenor.wa.gov.au), or by telephoning 6467 5190.

Yours sincerely



Ian Munro  
A/Director  
Assessment and Compliance Division

7 October 2013

Encl

**PUBLIC ADVICE UNDER SECTION 39A(7)**  
***Environmental Protection Act 1986***

**OPAL VALE PTY LTD - CLASS II LANDFILL, LOT 11 CHITTY ROAD, TOODYAY**

**BACKGROUND**

The proposed Class II Landfill site is the Williamson's Clay Pit at Lot 11 Chitty Road, Toodyay. Under the provisions of the Shire of Toodyay's Local Planning Scheme No 4 the land use is zoned an "A" use within the Rural Zone. An "A" use means that the use is not permitted unless the local government has exercised its discretion by granting planning approval.

Following refusal of the Development Application by the Shire of Toodyay, the proponent took the matter to the State Administrative Tribunal (SAT). On 13 June 2013, SAT issued its Reasons, Decisions and Orders and determined that "the application for review is allowed, with effect from 27 February 2013". The SAT decision contained 28 orders, of which 15 are impacted by the Works Approval process with the Department of Environment and Regulation (DER). The SAT approval, while deemed current and effective as a planning approval, commences and can only be acted upon from the date that the DER issues a Works Approval under Part V the *Environmental Protection Act 1986* (EP Act).

The SAT conditions cover such matters as groundwater and watercourse protection, seismic risk, landfill design, fire, dust and road management, fencing, permitted hours of operation, and that rehabilitation be to the requirement of the DER and the Shire of Toodyay.

The Environmental Protection Authority (EPA) received a third party referral for the proposed Landfill at Lot 11 Chitty Road, Toodyay. The EPA published the referral information for public comment. Fourteen comments were received through the EPA Consultation Hub website and twenty one submissions were sent directly to the Office of the EPA. A broad range of issues were raised through the public comment process.

In accordance with the EPA's *Environmental Impact Assessment Administrative Procedures 2012*, the EPA has considered the potential environmental impacts and whether they meet the EPA's objectives. In considering the referral information, relevant agency advice and the public comments, the EPA determined that the potential environmental impacts of the proposal were not so significant that they warranted EPA assessment and the subsequent setting of formal conditions by the Minister for Environment under the EP Act. The EPA considered that the proposal could be managed and regulated by other statutory processes.

**ADVICE AND RECOMMENDATIONS**

**1. Environmental issues**

- a. Amenity - odour
- b. Hydrological processes
- c. Inland waters environmental quality

## 2. Advice and recommendations regarding environmental Issues

DER Works Approval and Licensing - Part V of the EP Act provides for the Licensing and Registration of certain prescribed premises with the potential to cause emissions and discharges to air, land or water. Schedule 1 of the *Environmental Protection Regulations 1987* establishes the list of prescribed premises for which a Licence to operate is required under Part V of the EP Act. A Class II putrescible landfill site is Category 64 of Schedule 1 and defined as:

“premises on which waste (as determined by reference to the waste type set out in the document entitled *Landfill Waste Classification and Waste Definitions 1996* published by the Chief Executive Officer and as amended from time to time) is accepted for burial<sup>1</sup>.”

The DER has responsibility under Part V of the EP Act for the Licensing and Registration of prescribed premises and administration of a range of regulations. The licencing process can result in a decision to grant or refuse a Licence. If the decision is to grant the Licence it will result in legally binding conditions for the monitoring and management of the proposal to meet desired environmental outcomes.

Licensing also provides the opportunity for public comment on the proposal and consideration of comments received.

The DER advised the EPA that subject to the requirements of obtaining a Works Approval and Licence, the Department is able to manage issues associated with emissions and discharges from the proposal under Part V of the EP Act.

The decision of the EPA to not assess this proposal carries no presumption about the outcome of an application for a Works Approval or Clearing Permit.

### **Environmental advice**

The EPA recommends that:

- the proponent should apply (if not already lodged) for a Works Approval and Licence from the DER. The DER will conduct a comprehensive assessment of the proposal. The DER will not grant a Works Approval and Licence unless it can be demonstrated that the impacts to the environment are acceptable;
- if clearing of native vegetation is required, the proponent should apply for a Clearing Permit under Part V of the EP Act. The DER will undertake an assessment of the impacts against the clearing principles in the Act before making a decision on whether or not to grant approval to clear the native vegetation;
- the proponent should ensure that odour emissions are minimised;
- the proponent should liase with the DER and the Department of Water (DoW) to update the hydrogeological report and implement any design changes to ensure that a minimum separation distance between the groundwater and the landfill

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<sup>1</sup> Production or design capacity of greater than 20 tonnes or more per year

liner of 2 metres is achieved as per the DER landfill design guidelines (*Siting, Design, Operation and Rehabilitation of Landfill September 2010, EPA Victoria*);

- the proponent should address the issues raised by the DoW in its advice to the Shire of Toodyay in July 2010 and June 2012;
- the Department of Agriculture and Food (DAFWA) advised that should the proposal be approved, the DAFWA recommends that a buffer/separation distance, in line with the EPA and Department of Health requirements, be established around the facility, where agricultural production does not occur. Beyond the buffer, the DAFWA supports the continuation of commercial farming;
- the DAFWA advised that the proponent needs to be aware of their obligations under the *Biosecurity and Agriculture Management Act 2007* and associated regulations; and
- the proponent should undertake ongoing consultation to adequately inform and engage with stakeholders.

Strategic Waste Management - the requirement for a strategic waste management policy for Perth was raised in a number of public submissions. The EPA is advised that the Waste Authority is investigating strategic waste management issues and has established a subcommittee, the Strategic Waste Infrastructure Planning Working Group (SWIPWG) to develop a waste and recycling infrastructure plan for the Perth/Peel region. The EPA is advised that this process will identify future landfill requirements for a metropolitan population of 3.5 million people. Further information on the SWIPWG and the strategic waste planning project is available on the Waste Authority's website: [www.wasteauthority.wa.gov.au](http://www.wasteauthority.wa.gov.au). The EPA is supportive of this initiative.