

Mr Richard Kerr
Operations Manager
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Our Ref 13-338916
Enquiries Mark Jefferies
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Dear Mr Kerr

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

PROPOSAL: Sand Mining
LOCATION: Neaves Road, Mariginiup
LOCALITY: City of Wanneroo
PROPONENT: Eclipse Resources Pty Ltd
DECISION: Not Assessed – Public Advice Given

Thank you for your letter referring the above matter to the Environmental Protection Authority (EPA).

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 EPA provides 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 3 February 2014. Information on the appeals process is available through the Office of the Appeals Convenor's website, www.appealsconvenor.wa.gov.au, or by telephoning 6467 5190.

Yours sincerely



Anthony Sutton
Director
Assessment and Compliance Division

20 January 2014

Encl

PUBLIC ADVICE UNDER SECTION 39A(7)
Environmental Protection Act 1986
Sand Mining Neaves Road Mariginiup
Eclipse Resources Pty Ltd

SUMMARY

The Environmental Protection Authority (EPA) has received a referral for sand mining operations within prospecting licences P 70/1596 and P70/1597. The prospecting licences are proposed to be converted to a mining lease. The proposed mining lease and indicative mining area boundary is shown on Attachment 1. The proposed sand mining area is located wholly within State Forest 65 (Gnangara pine plantation) which is vested in the Conservation Commission of Western Australia and managed by the Department of Parks and Wildlife (DPaW).

The EPA published the referral information for public comment on whether the EPA should formally assess the proposal. The public comment period closed on 21 November 2013. No comments were received.

The EPA has considered the proposal in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act) and the *Environmental Impact Assessment Administrative Procedures 2012*. In making its decision on whether to assess the proposal, the EPA considered the values of the environment, the extent of the likely impacts, policies, guidelines, procedures and standards against which a proposal can be assessed, and the presence of other statutory decision-making processes which regulate the mitigation of the potential effects on the environment (see Section 7, Significance Test of the Administrative Procedures).

1. Environmental Factors

The EPA identified the following preliminary environmental factors for the proposal:

1. Flora and Vegetation;
2. Inland waters Environmental Quality;
3. Hydrological Processes; and
4. Rehabilitation and Closure.

Advice and Recommendations Regarding Environmental Factors

The proposal is in the Gnangara pine plantation. The area of the proposal has largely been cleared. The proponent has advised the EPA that the Forest Products Commission (FPC) is responsible for the clearing of any remaining pines prior to the commencement of sand mining operations.

The EPA acknowledges that for land within the South West Mineral Field that is a State Forest or a timber reserve within the meaning of the *Conservation and Land Management 1984* (CALM Act), the Minister for Environment, as Minister responsible for land managed under the CALM Act, has powers of concurrence for the grant of mining tenure given the areas impacted by the proposal are described as 'public reserves' under Part III Division 2 of the *Mining Act 1978*. Through this process, the

Minister for Environment can identify prescribed conditions under which mining activities must be undertaken, as prerequisites to his concurrence to mining within the tenement, which then become conditions of the mining lease upon grant.

The FPC has previously advised the EPA that land use priorities in pine forest areas should be driven by the management of pine harvesting to meet commercial commitments. The DPaW advises that management of the pine plantation areas within State Forest is to a large extent determined by the requirements of the management plans. In the case of a management plan for State Forest or timber reserve planted with exotic species, section 56(1b) of the CALM Act requires that a management plan shall be designed to achieve optimum yield in production consistent with the satisfaction of long-term social and economic needs.

Also located within the boundary of the proposed mining lease are the following Bush Forever sites:

- Little Coogee Flat (site 443);
- State Forest 65 (site 105); and
- Gnanagara Plantation Bushland (site 106).

The proponent has advised that the Bush Forever sites located in the proposed mining area are not to be mined and buffers are to be provided (see Attachment 1). The proponent has also advised that groundwater levels will be managed so there are no impacts on the Bush Forever sites.

The EPA notes that the proposal falls within the Gnanagara Mound Public Drinking Water Priority 1 Source Protection Area. The construction of water bores and/or the taking of groundwater will require licensing by the Department of Water (DoW). The DoW advises that generally, sand extraction is allowed within 3 metres of the maximum groundwater levels in order to maintain hydrological processes and protect groundwater quality. The depth of resource available for sand extraction will also be determined by the need to maintain sufficient sand substrate to support the final proposed landuse. In this case it is understood that potential landuses may include pine plantation or future industrial land. The Department of Planning (DoP) will need to be consulted regarding the potential for future industrial land use of the area.

The proposal referred to the EPA will be managed under a mining lease to be issued under the *Mining Act 1978*. The Mining lease will require a mining proposal to be submitted to the Department of Mines and Petroleum (DMP) for approval. The potential impacts of the proposal on the preliminary key environmental factors identified above can be managed to meet the EPA's objectives under the Mining Act approvals processes. The DMP will address:

- whether a land clearing permit is required to retain any significant remnants of vegetation and the formalisation of appropriate buffers to the Bush Forever sites;
- maintaining separation from groundwater both to protect the groundwater resource and to ensure there is sufficient sand remaining to support the eventual landuse;
- rehabilitation and closure to a land use compatible with pine plantation or future industrial uses.

The proposal will also require a works approval and licence under Part V of the EP Act to be issued by the Department of Environment Regulation. The Part V licence will manage potential emissions from the sand excavation activities.

The EPA recommends that the proponent undertake further detailed consultation with the DMP, DPaW, DOW, DoP, FPC and any other relevant stakeholders regarding:

- approvals and access to the State Forest;
- evaluation of the proposal in terms of its impact on optimum yield production in the affected plantation areas;
- potential alignment with harvesting operations;
- proposal impacts on existing roads and management of haulage networks;
- buffer zones to Bush Forever sites;
- establishing separation distances from groundwater; and
- rehabilitation and closure objectives and standards.

The decision of the EPA to not assess this proposal carries no presumption about the outcome of any other statutory decision-making processes.

