



## Environmental Protection Authority

Craig McManus  
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Locked Bag 245  
**BUNBURY WA 6230**

Your Ref:  
Our Ref: CMS14180  
Enquiries: Jake Cutler, 6145 0800  
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Dear Mr McManus

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

**PROPOSAL:** Dardanup Residue Disposal Facility  
**LOCATION:** Shire of Dardanup  
**PROPONENT:** Cristal Pigment Australia  
**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 EPA for consideration of its potential environmental impact.

This proposal raises a number of environmental issues. However, the overall environmental impact of the proposal is not so significant as to require assessment by the EPA, and the subsequent setting of formal conditions by the Minister for Environment under Part IV of the *Environmental Protection Act 1986*. Accordingly, the EPA has determined not to assess this proposal.

Nevertheless, 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 2 June 2015, during which, on payment of the appeal fee, an appellant may ask the Minister to consider directing the EPA to reconsider this decision or conduct a formal assessment.

Information on the outcome of the appeals process is available through the Appeals Convenor's website, [www.appealsconvenor.wa.gov.au](http://www.appealsconvenor.wa.gov.au), or by telephoning 6467 5190 after the closing date of appeals.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Sutton', with a long horizontal stroke extending to the right.

Anthony Sutton  
Director  
Assessment and Compliance Division

For the Chairman of the Environmental Protection Authority  
Under Notice of Delegation No. 33 dated 6 December 2013

18 May 2015

Encl: Public Advice

**PUBLIC ADVICE UNDER SECTION 39A(7)  
ENVIRONMENTAL PROTECTION ACT 1986**

**RESIDUE DISPOSAL FACILITY, DARDANUP**

**Summary**

The proposal is to develop a residue disposal facility at Lot 4580, Panizza Road and upgrade part of Panizza Road, Dardanup. The proposal was referred on 13 March 2015 by Strategen Environmental Consultants, representing the proponent, Cristal Pigment Australia Ltd's (CPA).

The proposal is for the disposal of treated solid residue (TSR), which is currently produced from CPA's existing processing facilities at Kemerton and Australind. The proposal comprises a total disturbance area of up to 58 hectares (ha) including 55 ha within Lot 4580 and approximately 3 ha along a 1 kilometre (km) section of Panizza Road. The proposal will comprise the following: up to nine residue disposal areas (RDAs); a lined leachate containment pond; stormwater collection dam; upgraded access road; and other ancillary infrastructure, including internal roads and offices.

The proposal will use water to produce a slurry of the TSR at a production rate of approximately 120,000 cubic meters (m<sup>3</sup>) per year, this equates to a total of 4,200,000 m<sup>3</sup> of slurry to be deposited within the RDAs over the 45 year life (2019 to 2064) of the proposal.

The proposal is located wholly within the Whicher Scarp at the base of the western slope of the Scarp, approximately 16 km south east of Bunbury. The Swan Bioplan Whicher Scarp proposed Conservation Reserve adjoins the eastern boundary of the proposal location.

One comment was received during the seven day public comment period, seeking the proposal to be formally assessed at the Public Environmental Review level of assessment. The key environmental issue raised was the significance of the natural values of the Whicher Scarp.

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* (EIA Administrative Procedures). In making its decision on whether to assess the proposal, the EPA considered the ten aspects of the significance test as set out in clause 7 of the EIA Administrative Procedures:

1. values, sensitivity and quality of the environment which is likely to be impacted;
2. extent (intensity, duration, magnitude and geographic footprint) of the likely impacts;
3. consequence of the likely impacts (or change);
4. resilience of the environment to cope with the impacts or change;
5. cumulative impacts with other projects;
6. level of confidence in the prediction of impacts and the success of proposed mitigation;
7. objects of the Act, policies, guidelines, procedures and standards against which a proposal can be assessed;
8. presence of strategic planning policy framework;

9. presence of other statutory decision-making processes which regulate the mitigation of the potential effects on the environment to meet the EPA's objectives and principles for EIA; and
10. public concern about the likely effects of the proposal, if implemented, on the environment.

The EPA identified the following preliminary environmental factors: Flora and Vegetation; Terrestrial Fauna; Inland Waters Environmental Quality; Terrestrial Environment Quality and Rehabilitation and Decommissioning.

In considering the potential impacts of the proposal on the above preliminary environmental factors, the EPA had particular regard to:

- the potential to impact on the natural values of the Whicher Scarp;
- the small geographic footprint (58 ha) of the proposal and the relatively small impact to remnant vegetation in context of the proposal, with only 1.1% (0.66 ha) of the total proposal area containing very good remnant vegetation and 7.9% (4.6 ha) containing good remnant vegetation;
- the remaining 91% of the proposal area is either cleared (48.2 ha) or has degraded vegetation (4.5 ha) due to grazing;
- surveys conducted by the proponent indicate that conservation significant fauna species only visit the site infrequently and there is no evidence that the proposal area is or has been used for breeding or roosting by Black Cockatoos;
- within the proposal area there are no threatened or declared rare flora (DRF), no threatened ecological communities (TECs) and no priority ecological communities (PECs); and
- information provided in the proponent's referral documentation and supporting attachments.

In summary, although the proposal raises a number of environmental issues, the EPA objectives for the preliminary environmental factors listed above can be met on the understanding that the proposal: is relatively small scale; is primarily situated on previously cleared land; does not impact conservation significant fauna species; and is situated outside the conservation reserves of the Whicher Scarp. As a result, the EPA considers that the likely environmental effects of the proposal are not so significant as to warrant formal assessment.

In reaching this decision the EPA acknowledges that this proposal does impact on 5.3 ha of good to very good remnant vegetation of the Whicher Scarp and has potential to impact on inland water quality. However in consulting with other statutory decision-making agencies, the Department of Environment Regulation (DER) advised that the potential impacts to native vegetation and any potential discharges from the site can be dealt with under Part V Division 2 (Clearing) and Division 3 (Prescribed Premises, Works Approvals and Licences) of the EP Act.

## **Advice and Recommendations regarding Environmental Issues**

### **a) Flora and Vegetation**

The Whicher Scarp includes an area of approximately 21,000 ha of which there is approximately 46% (9,200 ha) of the original (pre-European) native vegetation

remaining. This remnant vegetation meets the six criteria for regionally significant natural areas (EPA Guidance Statement 10). Based on vegetation and flora values, including species richness, endemism and geographically distinct species, the Whicher Scarp is recognised as a local 'biodiversity hotspot'.

The proposal area has been substantially cleared for grazing. The majority of the vegetation within the proposal area is completely degraded (approximately 48.2 ha) with the remaining remnant vegetation either degraded (approximately 4.5 ha) or good (4.6 ha). Most of the remnant vegetation understorey species are no longer present due to the high level of degradation from grazing. The EPA notes that a small area (totaling approximately 0.66 ha) of remnant vegetation was identified as very good condition.

Additionally, the EPA notes that no DRF, TECs or PECs, including Whicher Scarp floristic community types, were identified within the proposal area. The remnant vegetation within Lot 4580 is composed of Cartis, Kingia and Guildford vegetation complexes. The EPA notes that these vegetation complexes have less than 30% of the pre-European extent remaining.

The EPA sought advice from the DER with regard to the proposed vegetation clearing. The DER advised that the proposed vegetation clearing could be dealt with under Part V Division 2 (Clearing) of the EP Act. The EPA is of the view that the DER will conduct a comprehensive assessment of the proposed clearing including that a clearing permit will not be granted unless it can be demonstrated that the impacts to the environment are acceptable. The decision of the EPA to not assess this proposal carries no presumption about the outcome of an application for a clearing permit.

## **b) Terrestrial Fauna**

The Whicher Scarp is likely to support significant populations of short range endemic fauna species that are confined to localised habitats / soils and plant species / assemblages restricted to the Whicher Scarp. The degraded state of the remnant vegetation supports the findings that terrestrial fauna most likely only visit the proposal area infrequently. There was also no evidence of current or past use of the site for breeding or roosting by Black Cockatoos within the proposal area.

The proposal will result in the clearing of some Black-Cockatoo foraging habitat. The Commonwealth Department of Environment has advised the EPA that the proposed action (the proposal) is not a controlled action and does not require further assessment and approval under the commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*.

The EPA also notes that the proponent has stated they will develop environmental management plans designed to address potential environmental impacts associated with proposed clearing and construction activities undertaken as part of the proposal. In developing the project specific environmental management plans, the EPA recommends that the proponent adopt the mitigation hierarchy of 'avoid, minimise, rehabilitate and offset' to manage any potential impacts to both Flora and Vegetation and Terrestrial Fauna.

In consideration of the points above and the advice from the DER, the EPA considers that the likely environmental effects of the proposal to Flora and Vegetation and Terrestrial Fauna, are not so significant as to warrant formal assessment. The potential impacts on Flora and Vegetation and Terrestrial Fauna can be adequately dealt with under Part V Division 2 (Clearing) of the EP Act, as further detailed above under Flora and Vegetation.

- c) Inland Waters Environmental Quality**
- d) Terrestrial Environment Quality**
- e) Rehabilitation and Decommissioning**

The proposal has the potential to impact on the underlying groundwater resources as a result of TSR leaching from the RDAs during both the operational phase and the decommissioning phase. TSR is composed of impurities in the titanium rich ore and waste products from processing the ore into titanium dioxide and mainly comprises iron, titanium, calcium, aluminum, magnesium, chloride, carbon, vanadium and manganese.

Part V of the EP Act provides for the licensing and registration of 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 or III putrescible landfill site is Category 64 of Schedule 1 and is 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 *Landfill Waste Classification and Waste Definitions 1996* are available on the DER's website for reference. 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.

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

The EPA has received advice from the DER that, subject to the requirements of obtaining a works approval and licence, the DER is able to manage issues associated with emissions and discharges from such proposals under Part V of the EP Act.

The EPA is of the view that the DER will conduct a comprehensive assessment of the proposal including that a licence will not be granted unless it can be demonstrated that the impacts to the environment are acceptable. The decision of the EPA to not assess this proposal carries no presumption about the outcome of an application for a Works Approval or Licence.

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