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Our Ref A595924  
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Dear Mr Newton

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

**PROPOSAL: Sand Quarry**  
**LOCATION: E70/3294, 5 km east of Myalup**  
**LOCALITY: Shire of Harvey**  
**PROPONENT: Rocla Pty Limited**  
**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 23 December 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

Anthony Sutton  
Director  
Assessment and Compliance Division

9 December 2013

Encl

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

**Rocla Pty Limited – Sand Quarry, E70/3294, 5 Km East of Myalup, Shire of Harvey**

The Environmental Protection Authority (EPA) has received a referral for sand mining operations within mining tenement M70/1307. The mining tenement has an area of 1178 hectares (ha). The proposed excavation area is located wholly within Myalup State Forest which is vested in the Conservation Commission of Western Australia and managed by the Department of Parks and Wildlife (DPaW). The State Forest is a pine plantation.

The EPA published the referral information for public comment on whether the EPA should formally assess the proposal. The public comment period closed on 26 February 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 Administrative Procedures).

**1. Environmental Factors**

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

- (a) Hydrological Processes
- (b) Rehabilitation

**2. Advice and Recommendations Regarding Environmental Factors**

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 proposal involves clearing of pine plantations within the State Forest. The proponent has advised the EPA of its view that that the Forest Products Commission (FPC) will carry out the clearing of the pines prior to the commencement of sand mining operations.

The EPA sought advice from the FPC and the Department of Parks and Wildlife (DPaW). These agencies advised that land use priorities for this area should be driven by the management of pine harvesting to meet commercial commitments. The DPaW also advised 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.

While it is noted that the total area of the mining tenement is 1178 ha, the EPA's decision not to assess this proposal carries no presumption about the extent to which pines are removed or the timing of pine removal, to enable sand mining within this tenement. This is a matter to be determined by the FPC.

The EPA notes that the proposal area falls within the South West Coastal Groundwater Area which is proclaimed under section 26B of the *Rights in Water and Irrigation Act 1914*. The construction of water bores and/or the taking of groundwater will require licensing by the Department of Water (DoW). The proponent states that the proposal will not intersect the water table and that it intends to initially maintain a 5 metre (m) finished floor level clearance to groundwater. The proponent has committed to groundwater level and quality monitoring to be undertaken in consultation with the DoW in order to establish future appropriate excavation depth and water quality parameters for monitoring. The DoW advises that generally, sand extraction is allowed within 3m of the maximum groundwater levels in order to maintain hydrological processes and protect groundwater quality. The depth of resource available for sand extraction is also determined by the final landuse and the need to maintain sufficient sand substrate to support the eventual landuse which in this case it is understood that the excavated areas will be returned to productive pine plantation. Noting that the final landuse is proposed to be pines, the depth of excavation and the clearance to groundwater should be determined in consultation with the FPC.

The EPA recommends that the proponent undertake further detailed consultation with the FPC and DPaW 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; and
- final landuse and rehabilitation standards.

The EPA expects that the Department of Mines and Petroleum (DMP) establish and maintain a working relationship with the DPaW and the FPC for mining lease M70/1307 to ensure collaboration regarding mining access and operations management within the State Forest, pine harvesting priorities, and closure and rehabilitation. Rehabilitation of mined areas can be managed under the *Mining Act 1978* to meet the EPA's objective for Rehabilitation.

Additionally, in relation to Hydrological Processes, the EPA notes that there are no conservation category wetlands (CCW) and resource enhancement wetlands (REW) within the proposed excavation area boundary and that a minimum 50 m buffer will be maintained to any surrounding CCW and REW's. The Harvey Diversion Drain passes through the excavation area however the proponent has advised that its proposal is to maintain a 50m buffer to the drain at all times. The proponent will need to submit a mining proposal under the *Mining Act 1978* which can address the extent of mining proposed including ensuring that the proposal is implemented consistent with the buffers to wetlands and the Harvey main drain to ensure the proposal meets the EPA's objective for Hydrological Processes.

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