



Decision Report

Application to renew a licence

Part V Division 3 of the *Environmental Protection Act 1986*

Licence Number	L9042/2017/2
Licence Holder	Leeuwin Civil Pty Ltd
ACN	117 828 789
File Number	DER2017/000155-1
Premises	Kaloorup Gravel Quarry 216 Jindong Treeton Road KALLOORUP WA 6280 Legal description - Lot 4201 on Plan 208196 Certificate of Title Volume 1560 Folio 47
Date of Report	22/04/2024
Decision	To grant a licence

Lesley Hart
Senior Environmental Officer
An officer delegated by the CEO under section 20 of the *Environmental Protection Act 1986*

1. Decision summary

Under the regulatory framework the Delegated Officer decided to process the application to renew licence L9042/2017/1 without conducting any additional risk assessment.

The licence duration will be extended for a further three years with an expiry date of 22 April 2027. This is consistent with the *Guidance Statement on Licence Duration 2016* and aligns with Development Approval (DA21/1075) granted by City of Busselton on 23 August 2022 (refer to Attachment 1 of decision report). In renewing the licence the Delegated Officer has determined to:

- update the format and appearance of the licence;
- remove redundant conditions;
- include conditions considered necessary for the effective administration of the licence (i.e. record keeping and reporting requirements); and
- transfer all other relevant existing regulatory controls and conditions to the new licence.

As a result of the above, the Delegated Officer decided to grant Licence L9042/2017/2, subject to conditions set out in the attached licence.

2. Scope of assessment

2.1 Application summary

On 15 February 2024, Leeuwin Civil Pty Ltd (licence holder) applied to renew licence L9042/2017/1, as the licence is due to expire on 22 April 2024. The licence was granted to the licence holder for the premises located at Lot 4210 on Plan 208196, Kaloorup (Premises).

The licence relates to prescribed premises categories as described in Table 1.

Table 1: Premises category description and production design capacity

Prescribed premises category description (Schedule 1, <i>Environmental Protection Regulations 1987</i>)	Production / design capacity
Category 12 – Screening etc. of material: premises (other than premises within category 5 or 8) on which material extracted from the ground is screened, washed, crushed, ground, milled, sized or separated	50,000 tonnes per annual period

The main activity involves the extraction of gravel material within cells 1, 2 and 3 of the premises. Cell 4 depicted in Schedule 1, Figure 2 of the licence has never had resource extracted and remains a portion of undisturbed land. Licence L9042/2017/2 authorises the crushing and screening equipment only be located within cells 1, 2 and 3 as shown in Schedule 1 - Figure 2 of the licence.

On 23 August 2022, the City of Busselton granted Development Approval for Industry Extractive (sand and gravel) for a new extraction area (cells 4 to 9) within the northwestern corner of the premises for a period of 5 years. The current crushing and screening equipment has not been assessed to be located and operated within cells 4 to 9 in the northwestern corner of the premises (refer to Attachment 1 of decision report).

Prior to commencing any works or operations relating to category 12 within cells 4 to 9 in the northwestern corner, the licence holder is required to apply to amend licence L9042/2017/2. Any changes to the premises must be authorised through a works approval or licence amendment in accordance with Section 53 of the *Environmental Act 1986 (EP Act)*. Please refer to the DWER website for the *Licence and works approval application form* and the guideline *Industry Regulation Guide to Licensing, 2019*. Such an application would need to consider and review dust, noise and stormwater infrastructure with respect to any new areas proposed for extraction and processing activities and necessary changes subject to any ongoing activity in the existing operational cells previously assessed under L9041/2017/1.

3. Regulatory framework

The Delegated Officer has not conducted a full review and risk assessment of emissions and discharges from the Premises in line with the Department of Water and Environmental Regulation's (department) *Work Instruction: Regulatory Services, COVID-19 licensing position* October 2022.

In granting the licence, the Delegated Officer has considered and given due regard to the department's regulatory framework and relevant policy documents which are available at <https://dwer.wa.gov.au/regulatory-documents>.

4. Considerations for issuing a new licence

4.1 Compliance and enforcement actions

There has been one incident identified at the Premises by the department in the last five years relating to non-compliance of a licence condition (in relation to L9042/2017/1) with no enforcement action taken against the occupier in the last 5 years regarding the licence.

4.2 Legal occupancy

The licence holder has demonstrated legal occupancy of the Premises.

4.3 Categories of the licence

The requested category and the corresponding maximum production capacity for the renewal of the licence is consistent with the category for which the licence holder currently holds a licence and which was previously assessed.

4.4 Planning approval

The licence holder has informed the department that it has planning approval for the activities on the Premises. City of Busselton has confirmed development approval has been granted for the activities undertaken within the premises (refer Section 6 – Consultation).

5. Summary of changes to the licence conditions

Section 62 of the *Environmental Protection Act 1986* (EP Act) provides the legal power to attach conditions to licences. Most licences are issued with conditions as per *Guidance Statement – Setting Conditions* (October 2015) to prevent, control, abate or mitigate pollution or environmental harm as a result of the emissions and/or discharges from the premises in question.

Table 2 summarises the changes from the expiring licence into the new licence including changes made to licence conditions where required and the rationale for changes made.

Table 2: Licence conditions changes, description and rationale

Current condition / table	Summary of current condition	New condition / table (if relevant)	Description and rationale
-	Explanatory notes	N/A	Redundant and removed as no longer relevant.
-	Definitions Interpretation	Table 2	Revised to current licensing format.
1	Emissions – Authorised emissions	N/A	Redundant and removed as no longer relevant.
2	Infrastructure and equipment	1, Table 1	Transfer of existing condition. The infrastructure table has been amended under operational requirements for: <ul style="list-style-type: none"> • site equipment - reference to cells 1 to 3 only, as cell 4 is not operational. Initial risk assessment undertaken for L9042 /2017/1 included cell 4 however, supporting documentation provided with licence renewal application does not include cell 4; • Water cart -include the words 'or crushing'; • Noise bunds – reference topsoil and product stockpiles for noise mitigation purposes; and • stormwater retention ponds - to include the words '<i>via the swale drains</i>';
3	Dust management	2	Transfer of existing condition.
4	Stockpile management	3	Transfer of existing condition.
5	Noise management	4	Transfer of existing condition.
6	Stormwater management	5	Transfer of existing condition.
7	Record keeping	8 & 9	Revised to current licensing format.
8	Complaints	6	Revised to current licensing format.
9	Annual Audit Compliance Report (AACR)	7	Revised to current licensing format.

Current condition / table	Summary of current condition	New condition / table (if relevant)	Description and rationale
10	Department request	N/A	Redundant and removed as no longer relevant.
Schedule 1	Maps	Schedule 1	Existing maps have been transferred and renamed (Figure 1, 2 and 3).
Schedule 2	Primary activities	N/A	Table 4 – Primary activities: Category 12 definition and design capacity has been incorporated onto front page of licence. Table 5 – Infrastructure and equipment: reference to swale drains has been included in condition 1 under Stormwater retention ponds. Reference to topsoil and product stockpiles positioned to mitigate machinery noise has been included in condition 1 under Noise barriers/bunds.

6. Consultation

The Delegated Officer undertook the consultation for the application to renew the licence as per Table 3.

Table 3: Consultation

Consultation method	Comments received	Delegated Officer's response
Application advertised on the department's website on 15 March 2024.	No comments received.	N/A
Local Government Authority advised of application on 7 April 2024.	The City of Busselton replied on 13 March 2024 confirming that the plan attached was approved as part of the development approval DA21/1075 issued on 23 August 2022. Therefore, the City does not have any objection to the proposed licence.	The Delegated Officer, notes the Development Approval issued for extractive industry (sand and gravel extraction) for the remaining resource in cells 1 to 3 and the new extraction area for cells 4 to 9 in the northwestern corner of the premise (Attachment 1). Licence L9042/2017/2 does not currently authorise the relocation and operation of the crushing and screening equipment within cells 4 to 9. The licence holder is advised to apply for a licence amendment prior to undertaking crushing and/or screening activities within the new extraction area (cells 4 to 9) so that a risk assessment can be undertaken.
Applicant was provided with draft documents on 20 March 2024.	No comments.	N/A

Attachment 1: City of Busselton Approved Development Plan DA21/075

