



Department initiated Amendment

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

Licence Number	L9440/2024/1
Licence Holder	Australian Garnet Pty Ltd
ACN	646 741 157
File Number	APP-0030529
Premises	Lucky Bay Garnet Project George Grey Drive YALLABATHARRA WA 6535 Legal description – Tenements M70/1280, G70/253, L70/215, L70/134 and L70/178 within Lot 1 on Diagram 91564, Lot 300 on Plan 60565, and Lot 1431 on Plan 251608. As defined by the premises maps attached to the issued licence
Date of Report	31 October 2025 (FINAL)
Decision	Revised licence granted

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1. Decision summary

The Delegated Officer has determined to amend *Environmental Protection Act 1986* (EP Act) Licence L9440/2024/1 to give effect to Minister's Appeal Determination Appeal 001 of 2025, dated 12 August 2025.

This Amendment Report documents the amendments made pursuant to section 59 and 59(B) of the Environmental Protection Act 1986 (EP Act).

The decision report for the existing Licence L9440/2024/1 will remain on the department's website for future reference and will act as a record of the department's decision making.

2. Scope of assessment

2.1 Regulatory framework

In completing the assessment documented in this Amendment Report, the department has considered and given due regard to its Regulatory Framework and relevant policy documents which are available at <https://dwer.wa.gov.au/regulatory-documents>.

2.2 Amendment summary

Licence L9440/2024/1 is held by Australian Garnet Pty Ltd (Licence Holder) for the Lucky Bay Garnet Project (the Premises), located at George Grey Drive YALLABATHARRA WA.

The Premises relates to category 8 and the assessed design capacity under Schedule 1 of the *Environmental Protection Regulations 1987* (EP Regulations) which are defined in existing Licence L9440/2024/1.

The Department of Water and Environmental Regulation (DWER) has initiated an amendment to Licence L9440/2024/1 to give effect to Minister's appeal determination 001/25 (see Appendix 2). An appeal was lodged against conditions of Licence L9440/2024/1 with the appellant raising concerns about the following:

- Dust conditions are inadequate.
- Noise conditions are inadequate and
- Monitoring and compliance conditions for noise and dust are inadequate.

The Appeal Convenors report to the Minister ([link](#)) and summary from the Minister to DWER (Appendix 3) considered dust conditions in Licence L9440/2024/1 are generally adequate to control risks from dust emissions but recommended they are strengthened for site specific circumstances and compliance purposes.

The Appeal Convenors report also considered conditions in Licence L9440/2024/1 to control risk from noise emissions are generally adequate but should be strengthened for compliance purposes.

After considering all information presented in the Appeal Convenors report, the Minister advised DWER to make changes to conditions of Licence L9440/2024/1. Those changes are presented in Table 1 below.

Table 1: Amendment to licence conditions

Condition no.	Amendment
3	As required by Minister's appeal determination: - Condition 3: remove ambiguity about stockpile height (e.g. Australian Height Datum,

Condition no.	Amendment
	<i>above ground level or other measure considered appropriate by the Department.</i> Sand Tailings Storage Area operational requirements under condition 3, table 3 has been updated requiring stockpiles within this area must not exceed 25mRL in height.
14, Table 9	As required by Minister's appeal determination: - <i>Condition 14: remove ambiguity for condition wording relating to 'targets'. For example, this could be rephrased to 'management action trigger'. Confirm the monitoring point location 'to be determined' and place within a figure of the licence.</i> Condition 14 has been updated by replacing 'target' with 'trigger value' in response to Ministers requirements. Condition 17 has been updated also to include clear management actions in response to exceedances of trigger values (see below comments against this condition).
14, Table 9	As required by Minister's appeal determination appeal 001 of 2025: - <i>Clearly cross-reference dust monitoring locations M1, M2 and M3 within a condition of the licence.</i> Table 9 monitoring point reference and location column updated by removing 'To be determined – near R1 and a background location' and replaced with established monitoring locations M1, M2 and M3 which are shown in Schedule 1 of the licence (these monitoring locations relate to dust deposition gauges). New references for the high-volume air sampler monitoring locations have also been included for better clarity (HV1 to HV3). An additional monitoring location HV4 has also been included as required by the Minister and is discussed in more detail below (see condition 29). Note: Licence holder provided an updated map indicating names and locations for all air and noise monitoring equipment (refer to Figure 4 of the licence).
15	As required by Minister's appeal determination appeal 001 of 2025: - <i>Condition 15: Remove ambiguity from 'note 2' regarding when 3 days vs 22 days of monitoring is required.</i> Note 2 of condition 15 updated to describe when noise monitoring must be undertaken.
17	As required by Minister's appeal determination appeal 001 of 2025: - <i>Condition 17: should be rephrased to correctly cross reference the wording used in condition 14. It currently refers to 'limits' and not 'targets'. This condition should also include a reporting mechanism to the Department if risks to receptors are identified.</i> Condition 17 for managing limit exceedances has been replaced with a revised management response condition from DWER's condition library relating to trigger value exceedance management actions and reporting requirements.
22, 23, 24 and 25	As required by Minister's appeal determination appeal 001 of 2025: - <i>Condition 22: if not yet submitted, revise to include a timeframe for completion of the noise assessment (e.g. 6 – 9 months following issue date of the licence).</i> The Licence Holder provided an Environmental Noise Assessment on 13/02/2025 to demonstrate compliance with previous conditions 22 to 25. DWER provided a response to the report on 21/05/2025. Notwithstanding that related conditions have been met, the Licence Holder has requested the retention of these conditions as they are still seeking to demonstrate compliance with the EP Noise Regulations for night-time operations.
Conditions 26 and 27	As required by Minister's appeal determination appeal 001 of 2025: - <i>Condition 26: revise for the dust monitoring period to capture worst case scenario conditions.</i>

Condition no.	Amendment
	- <i>Conditions 26 and 27: revise, or add another condition, so that the licence holder must submit to DWER:</i> <i>an interim dust monitoring assessment</i> Condition 26 updated requiring the licence holder to provide an interim Ambient Air Dust Monitoring Assessment Report to the CEO by 19 December 2025. The requirement to engage the services of a person qualified and experienced in the area of environmental ambient air monitoring and assessment has been removed from this condition. This requirement is now placed under condition 28 when preparation and submission of a revised dust assessment and management plan is required following a minimum of 12 months of monitoring data has been collected from 17 January 2025. See condition 28 below for further details. The requirement to capture worst case scenario conditions should be captured considering that 10 months of 2025 data will be considered in the interim assessment report. <i>an interim revised dust management plan sooner than twelve months (ideally 6 months after commencement of monitoring, at the discretion of the department).</i> Condition 27 has been updated requiring submission of an interim dust management plan to the CEO by 19 December 2025. The requirement to revise the Trigger Action response Plan framework has been removed from the interim plan because the licence holder is unlikely to be able to engage external consultants to undertake the assessment work within the tighter timeframes. This requirement has been carried over into condition 28 when a minimum of 12 months worth of monitoring data will be available and a submission date of 31 March 2026.
27	As required by Minister's appeal determination appeal 001 of 2025: <i>Condition 27: require that the dust management plan is implemented, rather than just submitted to the Department.</i> Condition 27 has also been updated requiring the Licence Holder implement the interim revised dust management plan following submission to the CEO.
28	New condition added to complement conditions 26 and 27 and require the licence holder to submit a revised dust monitoring assessment and dust management plan by 31 March 2026 (in consideration of at least 12 months of data). The revised report and management plan must be completed by a person qualified and experienced in environmental ambient air monitoring and assessment. This requirement is consistent with the appeal determination.
29	As required by Minister's appeal determination appeal 001 of 2025: <i>Move a monitoring location between the site and resident or add an additional monitoring location (for monitoring similar to M1, M2, M3).</i> In accordance with the Minister's appeal determination, DWER has decided to retain the existing ambient air monitoring network and require an additional ambient air monitoring station (HV4) is installed adjacent to existing monitoring station M2. The new station must be installed by 31 December 2025. The additional monitoring station will increase the existing air monitoring network and will allow the licence holder to monitor potential impacts on nearby receptors as the mine pit progresses in a northerly direction. Schedule 1, Figure 4 has been updated indicating the location of the new monitoring station.
Previous Condition 31	As required by Minister's appeal determination appeal 001 of 2025: <i>Correct the condition number for the environmental report.</i> Actioned.
Schedule 1,	Figure updated to include a proposed location for an additional ambient air monitoring station as

Condition no.	Amendment
Figure 4	required by the Minister.

3. Consultation

Table 2 provides a summary of the consultation undertaken by the department.

Table 2: Consultation

Consultation method	Comments received	Department response
Phone conversation with Jenny Cookson, Senior Manager Approvals, Mineral Resources (MR) on 01/09/2025. Follow up email sent 3 September 2025 (including clarification email sent 05/09/2025). Topics discussed: - Timeframes for installation of an additional air monitoring station. - Method used to monitor dust deposition. - Date when dust monitoring commenced. - Provide interim air monitoring report.	MRL advised on 01/09/2025: - Each ambient air monitoring station (i.e. M1, M2 and M3) consists of a separate dust deposition gauge and PM¹⁰ high volume sampler. - MR are restricted to their own tenure if DWER considers additional ambient air monitoring stations are required to be installed. - MR requested an appropriate time frame is granted for purchasing and installing a new ambient air monitoring station. Email response received from MR on 17/09/2025 <i>Thank you for your emails below in relation to the proposed amendments to the Lucky Bay licence in response to the appeal.</i> <i>I understand from your following up email that change in the location of a dust monitoring site is proposed to better address potential impacts to Receptor 3. However, monitoring point M2 is located between the operational mining areas and this receptor, and I am unsure where else we would place a monitor to better address these impacts, considering that we are constrained to locations within our tenure. Could you please provide further advice on DWER's requirements in relation to this monitoring?</i> <i>Please find that attached air quality monitoring data that was sent to the Office of the Appeals Convenor in May. As discussed, following the meeting with the Appeals Convenor on 6 May, I provided additional information in relation to some of their queries.</i> <i>They indicated that they were concerned that waiting 12 mths for the dust assessment was insufficient in the event</i>	- Existing ambient air monitoring stations M1, M2 and M3 will remain unchanged in the licence. - The licence holder will be required to install an additional monitoring station (M4) in the northeast corner of the premises, to monitor for potential impacts on receptor 3 as the mined pit progresses north. - DWER notes MRL is restricted to locating an additional monitoring station within the premises boundary. - DWER notes the air quality monitoring data.

	<i>that dust was posing a health risk – i.e. particularly in relation to respirable silica. I sent them the air quality monitoring data that was available at that date. The dust monitors were installed and commenced monitoring in mid December 2024, so the results were from Jan to early March. The remaining March and April samples had been collected but were still with the lab being analysed.</i> <i>The results show that none of the air quality target values imposed in the Licence had been exceeded. Note in particular the results for respirable crystalline silica summarised below, which are well below the target of 10 ug/m3.</i>	
Email to DWER dated 19/09/2025 following a phone conversation between Paul Anderson (DWER) and Jenny Cookson (MRL) on 19/09/2025. DWER had requested a copy of the interim dust monitoring assessment that MRL had provided the Office of the Appeals Convenor.	Mineral Resources forwarded a copy of an email sent to the Office of the Appeals Convenor on 7 May 2025 which contained air monitoring sampling results.	The correspondence provided only contained copies of air monitoring sampling results, noise assessment report and a Direction to Mondify a Mining Operation. The email did not contain an interim dust monitoring assessment as requested.
Licence Holder was provided with draft amendment on 24/09/2025	Licence Holder comments received 17/10/2025. Refer to Appendix 1 for further details.	Refer to Appendix 1
Phone conversation with Matthew Blacklow, Principal Environmental Compliance, Mineral Resources on 29/10/2025	Discussed: - Confirmed location and type of air monitoring stations at the premises. - Proposed new air monitoring station location, type and procurement of equipment. - Annual period defined in the Licence isn't aligned with granted date.	Annual period in licence corrected. Air monitoring equipment identification and locations confirmed in the licence.

4. Conclusion

The Delegated Officer has determined to amend Licence L9440/2024/1 to give effect to Minister's Appeal Determination 001 of 2025, dated 12 August 2025. A summary of proposed changes to Licence L9440/2024/, including justification for those changes, are provided in Table 1 above and which act as a record of implemented changes.

All proposed changes have been incorporated into the Revised Licence as part of the amendment process.

References

1. Department of Environment Regulation (DER) 2015, *Guidance Statement: Setting Conditions*, Perth, Western Australia.
2. Department of Water and Environmental Regulation (DWER) 2020, *Guideline: Environmental Siting*, Perth, Western Australia.
3. Office of the Appeals Convenor, Appeals Convenor's Report to the Minister for Environment - *Appeal against Licence L9440/2024/1, Australian Garnet (Lucky Bay)*, Yallabatharra, May 2025
4. Office of the Appeals Convenor, Minister's Appeal Determination, *Appeal Against Licence L9440/2024/1 Lucky Bay Garnet Project, Yallabatharra*, Appeal Number: 001 of 2025, 12 August 2025

Appendix 1: Summary of Licence Holder's comments on draft conditions

Condition	Summary of Licence Holder's comment	Department's response
2	AGPL seeks re-instatement of Note 1. AGPL understands that the previous Noise Assessment information submitted in relation to Condition 22 has not adequately met DWER's requirements in order to demonstrate that night-time mining operations would be acceptable. The information submitted to date has not shown that operational noise exceeds night-time noise criteria. Rather, the information was not sufficient to enable a clear determination to be made by DWER. Advice from DWER's Environmental Noise Branch (ENB; correspondence of 14 July 2025) highlighted deficiencies in the submitted information, in that it did not provide a noise modelling assessment for the night-time mining operations, and did not provide sufficient representative monitoring data for worst-case weather conditions (among other findings). AGPL intends to prepare a new Noise assessment which addresses the deficiencies identified by the ENB in order that the requirements of Condition 22 are satisfied. This would require Note 1 to Condition 2 to be retained to enable the assessment to be undertaken.	Supported.
3	The clarification that the stockpile height must not exceed 25 mRL is accepted. The condition also states that the dimensions of the stockpile must be maintained at 250 m x 806 m x 10 m. The reference to 10 m height may not align with 25 mRL. Accordingly, can this height value please be removed to avoid confusion.	Supported
14	On review, it has been identified that the location of the current monitoring instruments (HiVol PM10 monitors [HV] and dust deposition gauges [DDG]) does not correspond with the locations previously provided to DWER. The current location of the monitors is provided as an attachment (DWER note; refer to Figure 4 of the amended licence). Based on these monitoring locations, AGPL would appreciate the opportunity to discuss the proposed location of the additional monitoring point, and/or revision of the existing monitoring locations.	AGPL discussed and provided an updated map indicating location and correct names for all air monitoring stations. Licence updated to reflect these changes. HV4 as depicted in Figure 4 of the amended licence is a new monitoring location that will be required in accordance with condition 29 (refer below for additional info on this condition).

Condition	Summary of Licence Holder's comment	Department's response
15	Changes to noise monitoring frequency accepted.	Noted
17	Inclusion of trigger values and management actions accepted.	Noted
22, 23, 24 and 25	As described above for Item 1, AGPL requests that these Conditions be reinstated to enable preparation and resubmission of a Noise Assessment that addresses the deficiencies identified by DWER ENB. The Appeals Convenor's Report to the Minister of Environment did not indicate the need to remove Condition 22-25, so we understand that there should be no need to omit these conditions to address the Minister's Appeal determination. The Appeals Convenor's Report did recommend that a new timeframe for submission of the report be specified in the condition. AGPL requests that a timeframe of nine (9) months from grant of the revised licence be included.	Supported. Conditions reinstated into the licence.
26	Change noted and accepted for submission of interim dust assessment report.	Noted DWER has revised the submission of this report and is requiring an interim report be submitted by 19 December 2025 (timeframe for submission aligns with submission of interim dust management plan). DWER notes that limited monitoring data has been provided to date. This requirement is in line with the appeal determination.
27	Change noted and accepted for submission of interim dust management plan.	Noted
29	AGPL advised a HiVol PM10 monitor is already located at the DWER proposed M4 location and is identified as HV2 in the licence. AGPL has agreed to install an additional HiVol PM10 monitor near the existing dust deposition gauge M2 and is identified as HV4 in the licence.	Noted. Map of dust and noise monitoring site locations updated in licence – refer to Figure 4.
Schedule 1: Maps, figure 4	Once a suitable location of the additional monitoring point is agreed with DWER, AGPL will provide a revised figure for inclusion as figure 4 of the Licence.	Updated figure provided and included into the licence – refer to Figure 4.

Appendix 2: Minister's Appeal Determination

OFFICIAL

Appeal Number:
001 of 2025



Environmental Protection Act 1986

Hon Matthew Swinbourn BA LLB MLC
Minister for the Environment; Community Services; Homelessness

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST LICENCE L9440/2024/1 LUCKY BAY GARNET PROJECT, YALLABATHARRA

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 102(3)(b) of the *Environmental Protection Act 1986* in objection to conditions of the licence. This document is produced by the Office of the Appeals Convenor for the Minister but is not the Appeals Convenor's own report, which can be downloaded from the Appeals Convenor's website at www.wa.gov.au/organisation/office-of-the-appeals-convenor.

Appellant:	Bailiwick Legal
Proponent:	Australian Garnet Pty Ltd
Proposal description:	Grant of licence L9440/2024/1 Australian Garnet (Lucky Bay), Yallabatharra
Minister's Decision:	The Minister allowed in part the appeal.
Date of Decision:	12 August 2025

REASONS FOR MINISTER'S DECISION

An appeal was received objecting to the Department of Water and Environmental Regulation's (the Department) decision to issue licence L9440/2024/1 Australian Garnet (Lucky Bay), Yallabatharra.

Decision

Having considered the information available, including the Department's response to the appeal and the Appeals Convenor's report, the Minister decided that the conditions of the licence should be strengthened as recommended in the Appeals Convenor's report.

The Minister therefore allowed the appeal in part. The Minister's reasons are as follows.

Dust conditions can be strengthened for site specific circumstances

The Minister accepts the Appeals Convenor recommendation that dust conditions should be amended to include a more iterative approach to dust monitoring and management. This is for

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site specific circumstances, including the isolation and position of the residence with respect to the site. The licence holder will need to submit an interim dust monitoring assessment and management plan to the Department for review sooner than 12 months.

The Minister also accepted a recommendation that a dust monitor is positioned between the site and the appellants residence.

Noise conditions can be strengthened for compliance purposes

The Minister understands that the Department has restricted operating hours for mining operations and required noise monitoring. It is understood from the Department's response that with restriction of mining operation hours, the site is expected to comply with assigned noise levels under the *Environmental Protection Noise Regulations 1997*.

The Minister agrees with the Appeals Convenor's recommendation to strengthen both noise and dust conditions for compliance purposes.

The Minister formed the view that controls specified in the licence, along with the amendments recommended by the Appeals Convenor, should be sufficient to manage dust and noise emissions from the premises.

Note: this decision is published pursuant to the terms of section 110 of the *Environmental Protection Act 1986* and regulation 8 of the *Environmental Protection Regulations 1987*.

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