



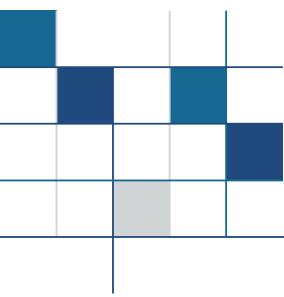
Guideline

Industry Regulation licence reviews

Activities regulated under the:

- *Environmental Protection Act 1986*
- Environmental Protection Regulations 1987

April 2022



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April 2022

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1. Purpose

This document provides guidance on the Department of Water and Environmental Regulation's (the department) framework for reviewing existing licences granted under Part V Division 3 of the *Environmental Protection Act 1986* (EP Act).

This document sets out how licence reviews are initiated and the process the department will follow to complete them. It also details how the department will engage with licence holders and other stakeholders through the review process.

2. Scope

Guidelines provide direction on how the department interprets and applies the legislation it administers. Department guidelines are not mandatory considerations; rather, their purpose is to ensure efficient and effective assessment.

This guideline applies to existing licences issued under Part V Division 3 of the EP Act.

3. Context

This guideline is intended to be read alongside the [Procedure: Industry Regulation licence reviews](#), which explains the steps taken by the department when a licence review is undertaken.

Other documents in the department's regulatory framework that are also relevant to this guideline include:

- [Guideline: Industry Regulation Guide to Licensing](#) – outlines the department's assumptions and approach when granting licences and outlines the approach for licence reviews
- [Guideline: Risk assessments](#) – sets out the risk assessment framework that is followed when assessing new works approval, licence, or amendment applications; this same framework is applied to licence review assessments of existing licences
- [Guidance Statement: Setting Conditions](#) – outlines the principles that the department applies to ensure licence conditions are valid and enforceable
- [Guidance Statement: Licence Duration](#) – states the department's preference for longer-term licences, up to a maximum of 20 years. To ensure these long-term licences continue to reflect up-to-date practices and circumstances, the department undertakes reviews of existing licences.
- [Procedure: Prescribed premises works approvals and licences](#) – details the general processes around processing applications for new works approvals and licences, and around amending a works approval or licence (including department-initiated amendments that may result from a licence review).



4. Legislation

The department manages Western Australia's environment and the environmental impacts of activities undertaken on prescribed premises through the provisions of the EP Act and the *Environmental Protection Regulations 1987* (EP Regulations).

Under s.59 of the EP Act, the Chief Executive Officer (CEO) of the department may amend a licence at any time, including but not limited to:

- varying the conditions which apply to a licence
- removing redundant conditions, or
- imposing new conditions and requirements where necessary.

The department will undertake licence amendments resulting from a licence review in accordance with the procedure specified in s.59B of the EP Act.

Please refer to the [Western Australian Legislation website](#) for copies of the relevant legislation.

5. What is a licence review?

A licence review is a formal risk-based assessment of a licence that is initiated by the department and is undertaken in accordance with the [Guideline: Risk assessments](#).

Licence reviews have a defined scope that may extend to a complete assessment of the risks of the activity and review of all existing licence conditions, or may focus on one or more specific areas of the existing licence. Further information on the scope of a review is provided in Section 5.3.

Licence reviews v licence amendments

A licence holder can apply to amend their licence under s.59 of the EP Act. When assessing an application for an amendment, the department will consider the risks associated with the proposed change. An application for a licence amendment by a licence holder is a separate process from a licence review. In some circumstances, information provided in an amendment application may cause the department to initiate a licence review.

The department can initiate an amendment to a licence at any time. A licence review may trigger department-initiated amendments (see Section 7.1).

For further information on licence amendments refer to the [Guideline: Industry Regulation Guide to Licensing](#) and the [Procedure: Prescribed premises works approvals and licences](#).

5.1 Purpose of a licence review

The primary purpose of a licence review is to ensure a licence remains up to date with current regulation and relevant policy, and to ensure a licence continues to



effectively identify and manage the current potential risks of activities undertaken under the licence to the environment and public health.

Reviews are a mechanism for the department to respond to unforeseen events and new information, in line with its [*Regulatory best practice principles*](#).

Licence reviews also allow the department to work in a cycle of continual improvement with licence holders to ensure each licence reflects contemporary scientific, social, environmental, and governance standards.

5.2 Triggering a licence review

The department may initiate a review of a licence if certain general triggers and/or strategic triggers are identified.

General triggers

General triggers may include:

- periodic licence reviews required to evaluate risk associated with premises issued long duration licences (e.g. greater than 10 years duration)
- changes to relevant legislation or the department's policy
- receipt of complaints, information, or notifications from external stakeholders
- reported incidents occurring on the premises
- internal notifications based on outcomes of other regulatory activities undertaken by the department – for example, as a result of:
 - compliance and/or enforcement action that highlights a review is required
 - investigations and notices issued under the *Contaminated Sites Act 2003* (CS Act)
 - reported changes in ambient environmental conditions (such as the ambient water quality of a surface or groundwater resource)
- the issuing or updating of standards, technical specifications, or guidance documents (e.g. updated assessment criteria, or guidance related to a new or emerging contaminant of concern)
- application of contemporary science to assist in the identification, monitoring, or control of risks
- incidents or events relating to discharges of waste reported to the department under s.72 of the EP Act
- otherwise at the CEO's discretion.



Licence reviews may also be considered by the department if such a review is recommended by other government departments or if certain actions are undertaken by other government departments. Potential triggers may include:

- changes to relevant legislation, external policy, government strategy or direction in relation to the other department, or as requested by the CEO of a relevant department (e.g. Department of Health policy related to the treatment of sewage), or
- actions or formal notifications resulting from other regulatory functions external to the department (e.g. inspections undertaken by the Department of Mines, Industry Regulation and Safety or the Department of Health).

Strategic triggers

Strategic licence reviews are part of the systematic analysis of multiple related premises. The group of premises may be derived from an industry sector or several sectors, or from an association with each other by geographical area, emission type, location and siting, or be due to the existence of a sensitive receptor (e.g. a review of all premises with emissions to air, in response to an emergent airborne contaminant of concern).

The decision to undertake strategic licence reviews will be determined from time to time based on strategic direction taken by the State Government on policy or legislation, or as directed by the CEO.

5.3 Licence review scope

The department will set the scope of the licence review when it is initiated.

The scope of the review will be informed by the review trigger(s) and the potential risks that the ongoing operation of the premises may present to public health and the environment.

A review may be conducted as a complete or partial assessment of risks associated with one or more emissions and/or discharges, and the current licence conditions, that includes consideration of factors such as:

- infrastructure and activities utilised to minimise, monitor, or control risks associated with one or more emissions or discharges
- operational management plans and activities that may impact risk to public health, the environment or water resources
- implementation and update of controls required by the licence
- implementation of new or updated standards and guidelines related to premises activities
- principles set by other departments (e.g. the Department of Health) that relate to one or more emissions or discharges
- the alignment of monitoring activities, data collection and reporting with contemporary science and industry-accepted approaches for the identification,



assessment, and ongoing monitoring of potential risks to public health, the environment and water resources

- emissions, discharges, infrastructure, or activities that are the subject of compliance, enforcement, or complaint records that have been issued since the last review of the licence or otherwise since the licence was issued or amended
- information and activities undertaken in response to improvement requirements specified in the licence, or other relevant actions undertaken by the licence holder since the last review or otherwise since the licence was issued or amended
- the control of sources of known or suspected impacts to sensitive receptors.

5.4 Timeframes

Once the scope of the licence review is set, the timeframe for completion of the review will be determined.

Factors which may influence the timeframe include:

- the scope of the review
- the risk associated with emissions generated from the premises under review
- the level of stakeholder interest in the premises under review
- the extent and applicability of the existing knowledge base on environmental siting and characteristics of infrastructure, activities and/or emissions related to assessment of the premises' potential risk
- the technical complexity or uncertainty surrounding environmental siting and characteristics of infrastructure, activities and/or emissions related to assessment of the premises' potential risk.

6. Licence review assessment

6.1 Risk assessment

Licence reviews consider the risk of emissions and discharges from the premises, potential for environmental harm and impact on public health, and the effectiveness of existing conditions in managing these risks.

The licence review and risk assessment for the premises will be undertaken in accordance with the department's regulatory framework (with particular reference to the [Guideline: Risk assessments](#)).

To inform the risk assessment, the department may choose to undertake a visit to the premises to better understand the operation of the premises and effectiveness of pollution control measures.

The risk assessment stage of the licence review may result in a recommendation to:



- request further information from the licence holder (see Section 6.4)
- change the scope of the licence review
- suspend the licence review
- amend the conditions on the licence, and/or
- notify the licence holder of the process to submit an appropriate application (e.g. a licence amendment) to seek approval for any unlicensed activities occurring at the premises (see Section 7.2).

6.2 Information used in reviews

The kinds of information the department may use in a review include, among others:

- documents and information submitted to the department as part of previous applications, assessments, licence reviews, annual audit compliance reports, and/or annual environmental reports
- information on the operations of the premises known to the department (e.g. information provided under the CS Act, compliance inspections, complaints, enforcement actions, environmental monitoring data)
- characterisation or description of emissions and infrastructure associated with operation of the premises
- premises location and siting information
- relevant reporting and information submitted in accordance with regulatory instruments (e.g. monitoring data)
- expert opinions and published research
- previous department experience with similar activities or emissions
- predictive modelling (including groundwater and surface water models, noise models, geotechnical stability and design models, and air dispersion models)
- information provided through stakeholder consultation (refer to Section 6.3)
- any additional information provided by the licence holder following the licence review notification letter.

The department obtains information from multiple sources, including, among others:

- the department's own records of:
 - applications (including past and current)
 - compliance activities (e.g. compliance inspections, compliance reports, and pollution enquiries)
 - correspondence (including with the licence holder and third parties)
 - environmental monitoring data
- the department's scientific, regulatory, and technical expertise and knowledge



- other regulatory and advisory functions within the department (e.g. native vegetation regulation or water licensing)
- other departments (e.g. Department of Health, Department of Mines, Industry Regulation and Safety)
- third-party experts and/or data repositories
- information submitted through the review's general and targeted consultation processes (see Section 6.3)
- information provided by the licence holder in response to a departmental request (see Section 6.4).

6.3 Public information and consultation

In line with the department's [Best practice regulatory principles](#), all licence reviews will be advertised on the department's website for a minimum of 21 calendar days once the scope and timeframe have been finalised and the licence holder notified.

Publicly available information

Details of all active licence reviews will be placed on the department's website and will include:

- instrument details
- the licence(s) under review (with links to the existing licence and decision report)
- scope and timeframe of the review
- current status of the review

In addition, strategic licence reviews applying to a group of premises will include a description of the intent and purpose of the policy or strategy where relevant, or an information sheet to explain the context for those specific reviews.

Targeted consultation

The department may also seek advice from external stakeholders as part of a licence review. This would typically be undertaken for premises which pose a high risk to public health, the environment or water resources, or premises for which there is a high degree of external stakeholder interest.

6.4 Requests for additional information

At any point during the licence review, if the department finds that the information available is not sufficient to complete a reasonable assessment of any risk and related controls, the department may request additional evidence and information to be provided by the licence holder. This information may include (but not be limited to):



- baseline surveys on ambient environmental quality, water, habitat, or other environmental condition
- an environmental or impact prediction study, including modelling or prediction of potential risk, and/or
- monitoring and provision of details on management of impacts and/or risk events.

If further information is requested from the licence holder, that request will be made in writing and a justification for requiring the information provided. The department may 'stop the clock' and suspend the licence review, and will provide the licence holder with an expected timeframe for the submission of further information.

A minimum of 21 days will be provided. A longer period may be provided if considered appropriate by the department. The licence review timeframes will recommence once all the requested information is received to the satisfaction of the department.

7. Licence review outcomes

7.1 Amendment of conditions

Licence reviews will normally result in an amended set of licence conditions being developed. The department will implement these via department-initiated amendments to the licence conditions in accordance with the [Guidance Statement: Setting Conditions](#). The licence holder will be informed in writing of the proposed amendments and given at least 21 calendar days to provide written comment.

For more information on the licence amendment process, refer to the [Procedure: Prescribed premises works approvals and licences](#).

7.2 Unlicensed activities

During the course of a review, if a premises is found to be undertaking activities that are not authorised under the licence issued under Part V of the EP Act or another regulatory instrument, information on the unregulated activities will be referred to the department's Compliance and Enforcement team.

The department will also advise the licence holder on how to apply for a works approval and/or a licence amendment should they wish to seek to have those activities approved.

Application forms for a works approval or for amending an existing licence can be found on the [department's website](#).



8. Completion and publication

The review will be finalised by the issue of the review decision report and/or amended licence where relevant.

The department or the licence holder may request a meeting to discuss the outcomes of the review.

After the completion of the review, the review decision report and amended licence will be published on the department's website, including when the review did not result in an amendment of the licence.

The publication will include reference to any related decisions which are open for appeal for a period of 21 calendar days. For more information on the appeals process, refer to the [*Procedure: Prescribed premises works approvals and licences*](#).

9. Applications during review period

If a licence holder applies to amend their licence while a review is underway for that licence, the department will consider the impact of the application on that licence review on a case-by-case basis.

Applications may be managed separately to the licence review or incorporated into the review process once validated and accepted, depending on the scope of the application and its timing in relation to the progress of the licence review.



Document implementation

This guideline comes into effect on the day it is published.

Related documents

Legislation	
WA State Parliament	<i>Environmental Protection Act 1986</i>
WA State Parliament	<i>Environmental Protection Regulations 1987</i>
WA State Parliament	<i>Contaminated Sites Act 2003</i>

Department documents	
Policy	
	<i>Customer Service Charter</i>
	<i>Regulatory best practice principles</i>
Guidelines	
	<i>Guidance Statement: Licence Duration</i>
	<i>Guidance Statement: Setting Conditions</i>
	<i>Guideline: Industry Regulation Guide to Licensing</i>
	<i>Guideline: Risk assessments</i>
Procedures	
	<i>Procedure: Industry Regulation licence reviews</i>
	<i>Procedure: Prescribed premises works approval and licences</i>

Custodian and review

The currency of this document will be reviewed no later than three years from the date of issue, or sooner as required.

Document details	
Lead group (custodian)	Better Regulatory Practice, Regulatory Capability
Current version	Version 1.0 (April 2022)
Previous versions	N/A
Corporate file number	DWERVT3132



Glossary

Terms	Definitions
CEO	The chief executive officer of the department.
condition	A restriction or limitation as stated and applied under a works approval or licence.
department	Department of Water and Environmental Regulation.
licence	A licence granted and in force under Part V Division 3 of the EP Act.
review	A formal and planned risk-based assessment of a licence initiated by the department to a defined scope.
stop the clock	A business rule where the timeframe for processing a review can be paused under specified circumstances.
works approval	A works approval granted and in force under Part V Division 3 of the EP Act.