

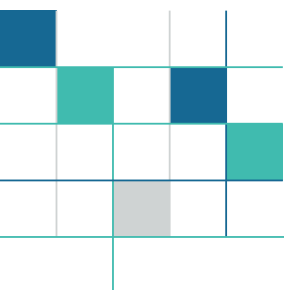
Procedure

Industry Regulation licence reviews

Activities regulated under the:

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

April 2022



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1. Purpose

This *Procedure: Industry Regulation licence reviews* (the procedure) outlines the processes undertaken by the Department of Water and Environmental Regulation (the department) to review existing licences granted under Part V Division 3 of the *Environmental Protection Act 1986* (EP Act) and the actions the department may take following a review.

This procedure aligns with the department's *Customer Service Charter*. For further information on how the department manages its relationship with external stakeholders, refer to the *Customer Service Charter* on the [department's website](#).

2. Scope

Procedures provide step-by-step explanations of the department's regulatory processes and how these processes apply the department's guidelines, policies, and the legislation that it administers.

This procedure applies to licences granted under Part V Division 3 of the EP Act when they are subject to reviews.

3. Context

This procedure is intended to be read alongside the [Guideline: Industry Regulation licence reviews](#) (the guideline), which informs the department's assumptions and decisions when a licence review is undertaken.

Other documents in the department's regulatory framework that are also relevant to this procedure 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: 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 instruments 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 any licence amendments resulting from a licence review in accordance with s.59B of the EP Act.

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



5. Licence review procedure

The process for conducting licence reviews is described in the following sections and is shown in Figure 1.

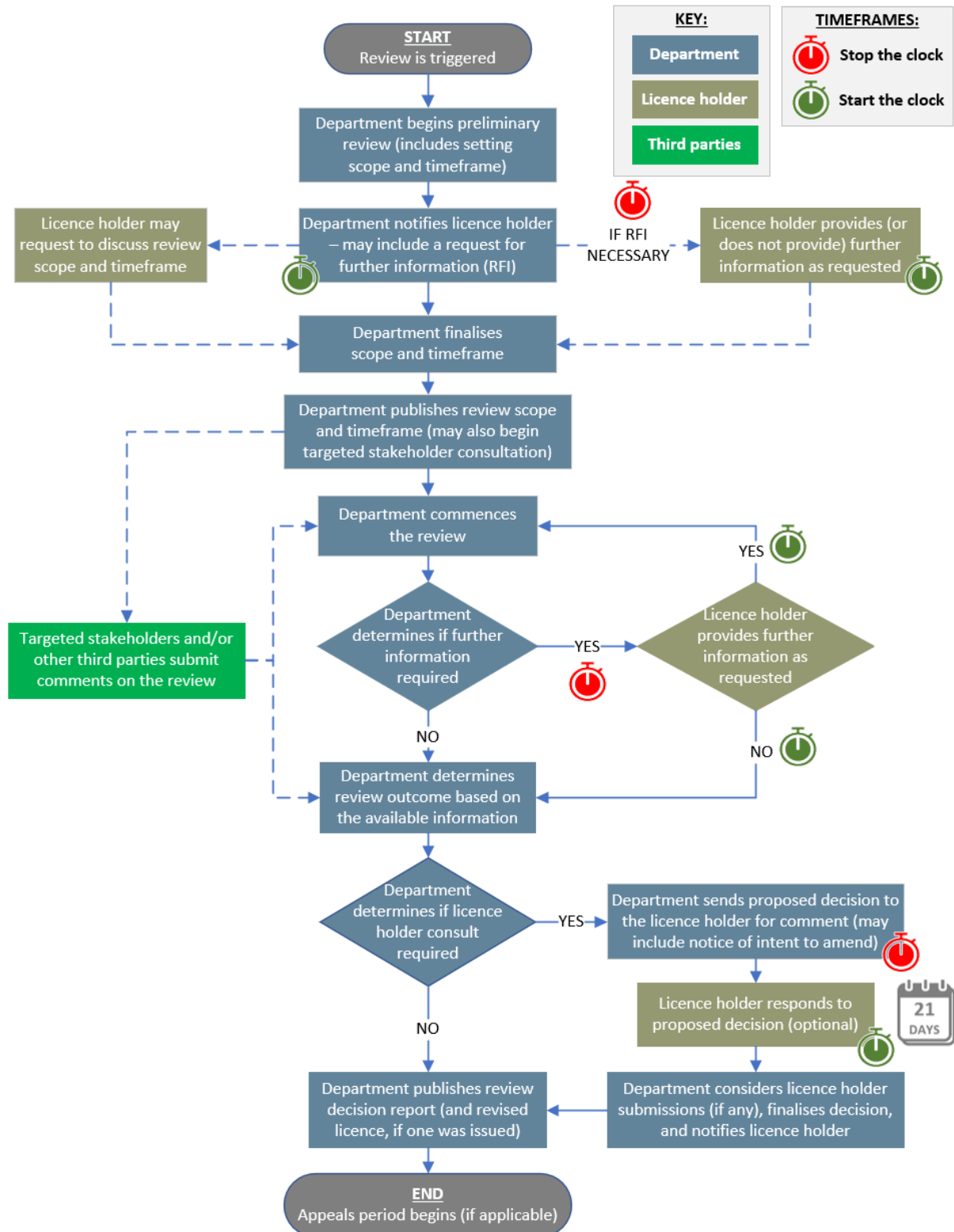


Figure 1: Licence review process flowchart



5.1 A review is triggered

There are a number of circumstances which may cause the department to consider a review of a particular licence. Some common triggers include:

- periodically on long duration licences
- compliance incidents and/or enforcement actions
- the department becoming aware of new information regarding the licence's premises.

Please see the guideline for a full list of triggers.

5.2 Department begins preliminary review

Once a review has been triggered, the department will commence the preliminary stages of the review. This involves conducting a high-level assessment of the licence and the trigger(s) for the review.

From this, the department will determine:

- the scope and expected timeframe of the review
- the relevant direct interest stakeholders that may be contacted to seek submissions on the review, and
- what additional information the department may need to request from the licence holder to help support the review.

Setting the review scope

The department sets the scope of the licence review. This scope may be subject to change later in the process if the department determines a need to expand, restrict, or otherwise change what aspect of the licence is being reviewed.

More information on what factors the department considers when it determines the scope of a review is contained in the guideline.

Setting the review timeframe

Once the scope is determined, the timeframe for the completion of a licence review will be set. Table 1 sets out when different timeframes may apply.

More information on what factors inform the timeframe set for a review is contained in the guideline.



Table 1 – Timeframes of review completion

Broad timescale for completion ¹	Description
Short term (6–12 months)	Limited scope or low-risk premises where: <ul style="list-style-type: none"> updates to environmental siting or risk assessment based on new knowledge or data includes some gaps that can be addressed within three months.
Medium term (12–18 months)	Limited scope or medium- to high-risk premises where: <ul style="list-style-type: none"> updates to environmental siting or risk assessment based on new knowledge or data includes some gaps that can be addressed within 6–12 months, and/or environmental siting or risk assessment has moderate complexity or has a moderate degree of uncertainty.
Long term (18–24 months)	Premises where: <ul style="list-style-type: none"> the department requires additional information to inform a detailed risk assessment of activities and potential impacts environmental siting or risk assessment is technically complex or where new receptors exist and/or data/knowledge gaps may take more than 12 months to resolve stakeholder engagement is likely to be required, and/or the review scope involves multiple emission types and aspects.
Custom timeframe (specific timescale to be set when determining scope)	Reviews involving: <ul style="list-style-type: none"> specialised, high-risk, or contentious premises (as defined by scope of review), or specific matters relevant to policies, government commitments, projects, strategic issues, or as otherwise directed by the CEO.

Note 1: These timeframes do not factor in where the review may be paused while in ‘stop the clock’ because of, for example, the department waiting on a licence holder’s response to a request for further information or comments on the proposed decision.

5.3 Department notifies licence holder

Once the department has determined the scope and timeframe of the licence review, a formal notification letter will be sent to the licence holder informing them of:

- the department’s intention to review the licence
- the scope of the review and expected timescale of completion
- an invitation to submit information they wish the department to have regard to through the review process and which has not previously been provided to the department
- any other information relevant to the licence review (see Section 5.6).



The licence holder may request a meeting with department representatives before commencement of the licence review to clarify any items in the notification letter. The timeframe for requesting any meeting or clarification will be provided in the notification letter.

5.4 Department publishes review scope and timeframe

Once the licence holder has been notified of the upcoming review and any requested further information has been provided, the department will publish the scope of the review on its website along with any relevant timeframes for identification of stakeholder interest. For further information on the advertising of reviews, please see the guideline.

5.5 Department undertakes the review

The department will undertake the licence review in line with the scope established and its published regulatory framework documents.

If a site visit is planned, the licence holder will be notified in writing and a suitable time arranged for the visit. To minimise disruption to the premises, the site visit may be undertaken in conjunction with a compliance inspection.

For further details on what information is used in the review, please see the guideline.

5.6 Department may request further information

If further information is necessary to continue the review of a licence, the department will:

- notify the licence holder using a formal 'request for further information' letter
- give the licence holder a minimum of 21 calendar days to respond
- notify the licence holder that the review is to be put on 'stop the clock'.

The licence holder may ask for additional time to respond to requests for further information, which the department may allow at its discretion.

If the information is not provided, the department may elect to finalise the review based on the information it has available, which may result in stricter and/or more prescriptive conditions being applied through an amended licence.

5.7 Consultation

The department may also undertake targeted consultation with other public authorities or external stakeholders.

All consultations for licence reviews will be carried out in line with the [Procedure: Prescribed premises works approvals and licences](#).



5.8 Department determines if amendments required

As a result of the review, the department may seek to amend the conditions of the licence. Further information around the licence amendment process may be found in the [Procedure: Prescribed premises works approvals and licences](#).

Where the department determines that no amendments are required to the existing licence, the licence will be finalised – see Section 5.11.

5.9 Department sends licence holder the draft decision report and draft revised licence

The department will generate a decision report as a result of the review. This report will comprise the details of the review including its scope, findings and the information used to inform any decision the department has made.

The licence holder will be sent a draft version of the decision report and, if applicable, a draft licence with any proposed amendments.

5.10 Licence holder response to proposed decision (and proposed amendments)

In line with s.59B of the EP Act, once the department has sent the draft decision report and, if applicable, the draft amended licence, the licence holder will be provided with at least 21 calendar days to respond to the draft documents and to propose alternative controls to address the identified risks.

During the 21 calendar days, ‘stop the clock’ will apply to the review and amendment process timeframes. The response period may be extended with the department’s approval.

5.11 End of licence review

On completing a licence review, the department will:

- notify direct-interest stakeholders and any person who made a submission on the review through any public consultation process of the review outcome
- publish a copy of the review decision report and, if relevant, the amended licence on the department’s website
- monitor compliance with any revised licence conditions.

If the licence holder or any other person objects to any licence amendments that result from the review, they may lodge an appeal with the Minister for Environment within 21 calendar days of the licence holder being notified of the amendment.

For further details on these matters, please refer to the [Procedure: Prescribed premises works approvals and licences](#).



Document implementation

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

Related documents

Non-department documents	
Author	Title
WA State Parliament	Environmental Protection Act 1986
WA State Parliament	Environmental Protection Regulations 1987

Department documents	
Policy	
Customer Service Charter	
Guidelines	
Guidance Statement: Licence Duration	
Guideline: Industry Regulation Guide to Licensing	
Guideline: Industry Regulation licence reviews	
Guideline: Risk assessments	
Procedures	
Procedure: Prescribed premises works approval and licences	

Custodian and review

The currency of this document will be and 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)
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Corporate file number	DWERVT3132



Glossary

Terms	Definition
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.