



Application to renew a licence

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

Licence Number	L8748/2013/2
Licence Holder	Hallgrav Pty Ltd
ACN	645 594 378
File Number	2013/002689 - 1
Premises	Bindoon Hill Gravel Quarry 75 Toy Road BINDOON WA 6502 Legal description Part of Lot 7 on Plan 7148 As defined by the Premises map in Schedule 1
Date of Report	12 May 2022
Decision	To grant a licence

Neville Welsh
SENIOR INDUSTRY REGULATION OFFICER
INDUSTRY REGULATION

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 L8748/2013/2 without conducting any additional risk assessment.

The licence can be issued for 20 years, which is consistent with the *Guidance Statement on Licence Duration 2016*. In renewing the licence, the Delegated Officer has determined to:

- transfer all existing regulatory controls and conditions to the new licence which had only recently been converted to the current licence format when L8748/2013/1 was transferred to Hallgrav Pty Ltd on 27 April 2021,
- reduce the licence duration to three years to align with the existing expiry date (31 July 2025) on the licence holders Licence / Lease Agreement for Lot 7 on Plan 7148 with the freehold land title holder, Jonathon James Dwyer (i.e. current end date of legal occupancy as defined in the Lease Agreement); and,
- to allow sufficient time for a new planning approval / Extractive Industries Licence to be determined by the Local Government Authority.

As a result of the above, the Delegated Officer decided to grant Licence L8748/2013/2, subject to conditions set out in the attached licence and with a duration of three years.

2. Scope of assessment

2.1 Application summary

On 15 March 2022 (licence holder) applied to renew licence L8748/2013/1, as the licence is due to expire on 26 May 2022. The licence was granted to the licence holder for the premises located at 75 Toy Road, Bindoon WA 6502 (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	Not more than 100,000 tonnes per annum

The Premises was established in 2000 and is licensed to process up to 100,000 tonnes of material to supply construction and road base gravel for surrounding projects.

A Lease (Licence) Agreement between the owner of Lot 7 and the Applicant exists that allows the licence holder to operate the Premises. This agreement expires on 31 July 2025.

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 2021.

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 have been no incidents or complaints identified at the Premises by the department in the last five years. There have been no enforcement actions 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 categories and the corresponding maximum production capacities for the renewal of the licence are consistent with the categories for which the licence holder currently holds a licence and that 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. Application supporting documents revealed the planning approval expires on 30 June 2022, subsequently a new application for planning approval was submitted by the land holder Mr Jonathon James Dwyer to the Shire of Chittering. The Shire explained that a new approval is unlikely to be decided before the current licence expires on 26 May 2022. See table 2 “Consultation” following for further explanation of planning approval timeframes.

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.

Licence L8748/2013/1 was transferred to the current licence holder, Hallgrav Pty Ltd, on 27 April 2021, at which time the licence was changed to the current licence format and all other required updates to the licence were completed at that time. Therefore, the new licence requires minimal changes as noted below in Table 1.

Table 1: Licence conditions changes, description and rationale

Current condition / table	New condition / table (if relevant)	Description and rationale
Definitions	N/A	Removed definition of ‘quarterly’ – not required.
Schedule 1	N/A	Updated premises map with current aerial imagery.

6. Consultation

The Delegated Officer undertook the consultation for the application to renew the licence as per Table 2.

Table 2: Consultation

Consultation method	Comments received	Delegated Officer's response
Application advertised on the department's website on 28 March 2022	No Comments were received by 18 April 2022.	Nil
Local Government Authority advised of application on 25 March 2022.	<p>The Shire of Chittering replied on 02 May 2022 explaining that an application for planning approval had been received and is under assessment pending sufficient information. If the required information is provided, then an approval may be limited to a maximum ten (10) year duration.</p> <p>Should the information provided be inadequate or substandard the Shire may consider an alternative decision.</p>	<p>The delegated officer has considered the requirement for planning approval determined by the Shire of Chittering.</p> <p>As an application has been submitted for planning approval / issue of an Extractive Industry Licence. it is considered appropriate that the licence duration be extended for three years to allow sufficient time for the planning approval application to be determined.</p> <p>Once a copy of the new planning approval is provided to the department an extension of the licence duration can be considered by means of a licence amendment to extend the licence duration in line with the planning approval.</p>
Applicant was provided with draft documents on 27 April 2022.	<p>Applicant supplied a copy of the current Extractive Industry Licence for the premises on 28 April 2022 that expires on 30/06/2022.</p> <p>Applicant responded on 10 May 2022 with no comments on licence conditions and on 11 May 2022 provided a full copy of the Licence Agreement, confirming the agreement expiry date of 31 July 2025.</p>	As noted above with respect to the provision of new planning approval, subject to the licence holder providing evidence of a new Licence Agreement with the existing land holder applicable beyond 31 July 2025, a licence amendment application to extend the duration of the licence can be submitted for assessment.