



Application to renew licence

Division 3, Part V *Environmental Protection Act 1986*

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| Licence number | L8889/2015/2 |
| Licence holder | Eastern Metropolitan Regional Council |
| File number | DER2015/000777-1 |
| Premises | Red Hill Waste Management Facility Toodyay Road, RED HILL Lot 1 on Diagram 15239, Lot 2 on Diagram 68630, Lot 11 on Diagram 69105 and Lot 12 on Deposited Plan 26468 As defined in Schedule 1 of the licence |
| Date of report | 17/05/2022 |
| Decision | Licence granted |

**MANAGER WASTE INDUSTRIES
REGULATORY SERVICES**

an officer delegated under section 20 of
the *Environmental Protection Act 1986* (WA)

1. Scope of assessment

1.1 Application summary and overview of the premises

Eastern Metropolitan Regional Council (licence holder) submitted an application to renew the current licence L8889/2015/1 as the licence is due to expire on 18 May 2022. The licence was issued under Division 3 Part V of the *Environmental Protection Act 1986* (EP Act) for the Red Hill Waste Management Facility (the Premises) located on Lot 1 on Diagram 15239, Lot 2 on Diagram 68630, Lot 11 on Diagram 69105 and Lot 12 on Deposited Plan 26468.

1.2 Site Operation

The licence holder operates the Premises as a waste management facility which includes the following activities:

- category 12: screening, etc of material;
- category 61A: solid waste facility;
- category 62: solid waste depot;
- category 64: Class II or III putrescible landfill site;
- category 65: Class IV secure landfill site; and
- category 67A: compost manufacturing and soil blending.

These are prescribed activities under the EP Act and are licensed under L8889/2015/1.

2. 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>

3. Consultation

An invitation to comment on the renewal application was sent to the City of Swan on 23 March 2022 in accordance with section 54 of the *Environmental Protection Act 1986* (EP Act). The City of Swan responded on 26 April 2022 indicating that they had no objections to the proposed extension of the licence duration.

The draft revised licence and this decision report were provided to the licence holder on 5 May 2022 for comment. The licence holder's comments, along with DWER's response, have been summarised in Appendix 1.

4. Decision

The Delegated Officer decided to grant licence L8889/2015/2, subject to conditions set out in the licence, for a period of 10 years. This is consistent with the DWER's *Guidance Statement: Licence Duration* (August 2016). In renewing the licence the Delegated Officer has determined to:

- remove redundant conditions, for example relating to monitoring programs or construction requirements that have been completed;
- include conditions considered necessary for the effective administration of the licence (i.e. record keeping and reporting requirements);
- revise licence conditions and consolidate existing pollution control conditions;
- update site plans; and
- correct clerical mistakes and unintentional errors.

4.1 Summary of changes

The below table provides a summary of the proposed updates and will act as a record of implemented changes. All proposed changes have been incorporated into the revised licence.

| Condition / table | Description of change | Justification |
|---|--|---|
| Category descriptions | The Category 62 description was updated. | Updates were made to reflect the current Category 62 description in Schedule 1 of the <i>Environmental Protection Regulations 1987</i> . |
| Interpretation section | Part (d) was updated to specify how references to standards, guidelines or codes of practice should be interpreted. | This change is consistent with the department's current regulatory approach. |
| General wording and formatting | Condition, table and figure numbers were updated throughout. Typographical errors in cross-references between conditions were also corrected. | Some conditions, tables and figures were removed so conditions numbers and cross-references between conditions, tables and figures have been updated accordingly. |
| | Conditions were revised to consistently use the term 'must' rather than 'shall' or similar. | This change is consistent with the department's current regulatory approach. |
| | Names of infrastructure were updated for consistency with the terms used in Schedule 1, Figure 2. | This change provides improved clarity about which infrastructure is being referenced in the conditions of the licence. |
| Condition 1, Table 1 – Waste acceptance | References to the Department of Health <i>Operational Directive 0651/16</i> under the waste acceptance specification for Special Waste Type 2 were replaced to the <i>Code of Practice for Clinical and Related Waste Management</i> . Uncontaminated fill was added to the wastes authorised for acceptance under Categories 62, 64 and 65 | OD 0651/16 has been superseded by the Department of Health's <i>Code of Practice for Clinical and Related Waste Management</i> . The latter document is now the appropriate reference to determine which types of Special Waste Type 2 require incineration and which can be accepted at the Premises. Inclusion of uncontaminated fill in the waste acceptance table is appropriate to reflect current waste terminology and definitions in the Landfill Definitions. |
| Condition 4, Table 2 – Infrastructure and equipment | Terminology of 'Class III putrescible waste cells' was removed and replaced with 'putrescible landfill cells'. Description of the infrastructure location for putrescible landfill cells was also revised for consistency with the infrastructure labelling in Schedule 1, Figure 2. | Landfilling has occurred on the premises since the 1980s. The Delegated Officer identified that it may therefore not be suitable to refer to some historical landfill cells on the premises as 'Class III landfill cells' as they may not meet the associated definition under the current <i>Landfill Waste Classification and Waste Definitions 1996</i> (Landfill Definitions). It is more appropriate to use the term 'putrescible landfill cells' to capture recent Class III landfill cells and historical landfill cells that existed before the current landfill classification framework. This change ensures that historical landfill cells are not inadvertently excluded from the infrastructure requirements specified for putrescible landfill cells. |
| Condition 5, Table 3 – Waste processing | A footnote was added to explain that references to infrastructure in the process limits or specifications refer to the infrastructure labelled | This change provides improved clarity about which infrastructure is being referenced in the process limits or specifications. |

| Condition / table | Description of change | Justification |
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| | accordingly in Schedule 1, Figure 2. The waste processing requirements for clean fill, uncontaminated fill and up to Class III contaminated solid wastes were amended to allow these wastes to be disposed to the Class III and Class IV landfill cells. | The licence holder sought more flexibility in the types of wastes that can be disposed into the Class IV landfill cells (refer Appendix 1). Allowing the licence holder to dispose of clean fill, uncontaminated fill and up to Class III contaminated solid wastes into the Class IV landfill cells provides the licence holder with greater flexibility but does not increase the risks associated with Class IV landfilling activities. |
| Conditions 21, 22 and 23 – Compost product quality | These conditions were reworded to commence with the phrase 'the licence holder must ensure that'. | This change is consistent with the department's current approach to the wording of licence conditions. |
| Condition 24, Table 8 – Waste monitoring | The parameter field for the 'waste inputs' was amended to remove the reference to the waste types in the Landfill Definitions and instead refer to the waste types in Table 1 of the licence. | There are some waste types specified in Table 1 that are more specific than the classifications in the Landfill Definitions, such as 'power pole waste' and 'FOGO'. The licence holder is required to monitor the quantities of these specific waste types received so that DWER can assess compliance with the rates at which waste is received specified in Table 1. |
| Conditions 28, 29 and 30 – Odour field assessments | Conditions requiring completion of four odour field assessments (OFAs) have been removed. | The licence holder completed four OFAs between November 2020 and August 2021 and submitted the OFA reports to DWER on 5 November 2021. |
| Condition 33 (former condition 36) – Noise validation | Reference to the 'Australian Association of Acoustical Consultants' was corrected to the proper name 'Association of Australasian Acoustical Consultants'. | This change corrects a previous error in the licence. |
| Condition 46 (former condition 48), Table 14 – Construction/ installation requirements | Rows 1, 2, 3 and 4 of this table were removed. | The Stage 1 FOGO hardstand, Stage 1 FOGO leachate sump, biofilter and mobile aerated floors have been constructed/installed and DWER has completed its construction compliance assessment for these items of infrastructure/equipment. |
| Former condition 50, Table 15 – Construction quality assurance requirements | This condition and table were removed. | The Stage 1 FOGO hardstand and leachate sump have been constructed and DWER has completed its construction compliance assessment for these items of infrastructure. |
| Former condition 52 – Environmental Compliance Report | Reference to reporting against the requirements of condition 50 which specified construction quality assurance requirements was removed. | As per the row above, former condition 50 has been removed from the licence. |
| Definitions | Definitions for the following documents/terms were added: - <i>Code of Practice for Clinical and Related Waste Management</i> - <i>Guideline: Assessment and management of contaminated sites</i> | These documents/terms were not previously listed in the definitions table. |

| Condition / table | Description of change | Justification |
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| | - Uncontaminated fill | |
| | Definition for cover material was amended to include uncontaminated fill. | Uncontaminated fill, as defined in the Landfill Definitions, is considered to be a suitable material for use as cover in the Class III and IV landfill cells. |
| | General updates were made to guideline/standard/method names, including the removal of publication dates. | These changes were made to reflect recent revisions to guidelines referenced in the licence and publication dates were removed in accordance with item (d) in the Interpretation section of the licence. |
| | <p>The following defined terms were removed:</p> <ul style="list-style-type: none"> - AS 1289.5 - AS 1289.6.7.1 - AS 1289.6.7.2 - ASTM D5641 - ASTM D5820 - ASTM D6392 - EN 16841-2 - Guideline: Odour emissions - HDPE - OD 0651/16 - Odour intensity - Odour operator - Odour panellist - OFA - VDI 3940-3 | These defined terms are redundant as they were referenced in the conditions proposed for amendment or removal as outlined above. |
| | <p>The following dot points were removed from the definition of suitably qualified person:</p> <ul style="list-style-type: none"> - odour field assessments, means a person with at least three years' experience in planning, managing and undertaking odour field assessments; - construction of the Stage 1 FOGO hardstand and leachate sump, means a civil engineer with at least three years' experience supervising the construction of waste containment infrastructure; - installation of the mobile aerated floors and biofilter, means a person who has experience supervising the installation of this equipment. | These definitions are redundant based on other changes to the licence as summarised above. |
| | The definition for ACM and asbestos fibres were amended. | The DoH <i>Guideline for the Assessment, Remediation and Management of Asbestos Contaminated Sites in Western Australia</i> was revised in 2021 and these definitions were updated for consistency with the terms used in the revised guideline. |

| Condition / table | Description of change | Justification |
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| Schedule 1, Figure 2 – Premises layout | <p>Figure 2 was updated incorporating the following changes:</p> <ul style="list-style-type: none"> - The labels for the Stage 14 and 16 Class III landfill cells (previously designated as 'under construction' or 'future') were replaced with new labels indicating that these are 'Class III landfill cells'. - A label describing the historical landfill area on Lot 11 as 'Class III landfill cells' was replaced with a label indicating that these are 'historical landfill cells'. | <p>The Stage 14 and 16 landfill cells were constructed under W6312/2019/1 during 2020 and 2021. DWER has completed its construction compliance assessment for these items of infrastructure.</p> <p>Landfilling has occurred on the Premises since the 1980s. The Delegated Officer identified that labelling the historical landfill area on Lot 11 as 'Class III landfill cells' may not be appropriate as the landfill cells in this area may not meet the associated definition under the current Landfill Definitions. Labelling this area as 'historical landfill cells' is more appropriate as it will avoid incorrect inferences being drawn about the construction specifications of the landfill cells in this part of the premises.</p> |
| Schedule 1, Former Figure 4 – Stage 1 FOGO layout | This figure was removed from the licence. | This figure is redundant based on changes to condition 45 (former condition 48) as summarized above. |
| Schedule 2 – Surface water and groundwater monitoring | The wording of surface water and groundwater monitoring requirements were revised, including the removal of references to calculating emissions. | These changes are consistent with the department's current regulatory approach for monitoring conditions. Removing the reference to calculation of emissions is appropriate given that these requirements relate to ambient environmental monitoring programs rather than emission or discharge monitoring programs. |

Appendix 1: Summary of licence holder's comments on draft licence and decision report

| Condition | Summary of licence holder's comment | Department's response |
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| General – Wording change of 'shall' to 'must' | The licence holder did not object to this in principle, however they noted that 'shall' in legislation already means the same as 'must'. The licence holder also sought confirmation of whether this wording change is consistent with DWER's approach to reviewing and issuing other prescribed premises licences. | In accordance with s.56 of the <i>Interpretation Act 1984</i> , where in a written law the word shall is used in conferring a function, such word shall be interpreted to mean that the function so conferred must be performed. The department's replacement of the term 'shall' with the term 'must' in conditions of the licence therefore does not affect how these conditions should be interpreted or implemented. The department made this change to improve the consistency of condition wording throughout the licence and avoid the potential misunderstanding that conditions in the licence using the term 'shall' should be interpreted differently from those using the term 'must'. |
| Condition 4, Table 2 – Infrastructure and equipment | The licence holder understood the logic of trying to change the wording from 'Class III landfill Cells' to 'Putrescible' to include historical areas of the site, however they raised concerns that 'Putrescible landfill' is not defined in the Landfill Definitions. | The term 'putrescible landfill' is used in relation to Class II and Class III landfills in the Landfill Definitions. For the purposes of conveying the infrastructure requirements in Table 2 of the licence, it is important that it is clear what infrastructure is being referred to by the term 'Putrescible landfill cells'. The Delegated Officer therefore determined to update the infrastructure location description for 'Putrescible landfill cells' in Table 2 to reflect that this term applies to infrastructure labelled as 'Class III landfill cells' and 'Historical landfill cells' in Figure 2 of the licence. This change clarifies how the term 'Putrescible landfill cell' should be interpreted in relation to infrastructure on the premises. |
| Condition 5, Table 3 – Waste processing | The licence holder requested that this condition be amended to include the waste types permitted under the Landfill Definitions in a Class IV Cell as it is impractical to exclude some. For example currently Inert Waste Type 1 and Inert Waste Type 2 are only permitted in the Class III cells and not the Class IV, similarly with Class III contaminated solid waste, as well as Special Waste Type 3. The licence holder suggested that this is problematic as they could potentially receive material that has a Class IV level of acceptance for hydrocarbons, but also contains asbestos and/or Class III PFAS or below. They suggested that if the material is acceptable in the Class III cells it should also be acceptable in the Class IV and highlighted that this restriction on material, particularly contaminated soil, can make landfilling solid | The Delegated Officer has determined that some additional waste types can be disposed to the Class IV landfill cells without increasing the potential risks associated with Class IV landfilling. These wastes include clean fill, uncontaminated fill and up to Class III contaminated solid wastes. The waste processing table has been amended accordingly. Due to the limited scope of this renewal assessment and the licence holder proposing these changes at a very late stage of this assessment, the Delegated Officer determined that no other waste types can be authorised for disposal in the Class IV landfill cell at this time. If the licence holder would like to dispose of other wastes in the Class IV landfill cell, such as Special Waste Type 1, they can apply to the department for a licence amendment to have these changes assessed under a separate application. Such changes would require the department to conduct a risk assessment and consider the need |

| Condition | Summary of licence holder's comment | Department's response |
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| | waste difficult. Without sufficient softer materials to be pushed up against the liner and material to fill the gaps in between soil wastes, it is difficult to obtain cell stability and could cause potential liner integrity issues. | for additional regulatory controls to apply to Class IV landfilling at the premises. |
| Conditions 21, 22 and 23 – Compost product quality | The licence holder highlighted that their comment above in relation to changing 'shall' to 'must' also applies to the rewording of these conditions. | Conditions 21, 22 and 23 were reworded for consistency with the wording of other conditions in the licence and to more clearly convey that the licence holder is responsible for ensuring that these composting product quality requirements are achieved. |
| Condition 24, Table 8 – Waste monitoring | The licence holder indicated that recording waste as the 'Type of Waste' specified in Table 1 of the licence would cause significant issues with reporting. Comparisons from year to year would be lost, confusion from weighbridge officers entering data into Mandalay would likely occur leading to inaccuracies. They indicated that their preference would be for the wording 'inputs' and 'outputs' to be used or requested that as in condition 1, Table 1 (Waste Acceptance), the 'Category' and 'Rate at which Waste is Received' be utilised for waste monitoring purposes instead. The licence holder referred to the Waste Inputs and Outputs table extracted from their 2021 Annual Environmental Monitoring Report to demonstrate the types of wastes and their inputs and outputs that are currently monitored. They requested that they be allowed to continue to report in this format or similar and suggested that this data could easily be interpreted for comparisons against the limitations in the licence. | <p>Condition 24, Table 8 of the existing licence already required the licence holder to record waste inputs at the premises as per the waste types defined in the Landfill Definitions. The only additional waste types that would be required to be monitored based on the amended condition in the revised licence would be power pole waste, green waste and food organics and garden organics (FOGO). The waste input and output monitoring table from the 2021 Annual Environmental Report indicates that the licence holder has already been monitoring quantities of power pole waste, green waste and FOGO received at the premises. The Delegated Officer has therefore assumed that the licence holder is not opposed to the amendment proposed in the draft revised licence but is opposed to being required to monitor the quantities of all of the different waste types received at their premises.</p> <p>The Delegated Officer understands that the licence holder would prefer to monitor total waste quantities received under each prescribed premises category on the licence, rather than the quantities of each different waste type. However, this approach would not be consistent with the standard waste monitoring requirements that the department imposes on other licensed waste facilities. The Delegated Officer therefore considers that the amended condition in the draft revised licence is appropriate and has not implemented any changes based on the licence holder's comments.</p> <p>The licence holder expressed concerns about losing the ability to make year to year comparisons about waste quantities received at the premises if the approach to waste monitoring is amended as proposed in the draft revised licence. However, the licence holder should still be able to monitor the total quantities of waste received under each prescribed premises category to facilitate monitoring of trends in waste quantities over time. The Delegated Officer also notes that the licence holder is required to report the total</p> |

| Condition | Summary of licence holder's comment | Department's response |
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| | | quantities of wastes received during each annual period under categories 61A, 62, 64 and 65 within their Annual Audit Compliance Report. |
| Schedule 1, Figure 2 – Map of the premises layout | The licence holder requested that a label of 'Old Landfill Cells' be added to the relevant area as it not labelled but only outlined with the matching key. | The Delegated Officer accepts this suggestion and a label of 'Historical landfill cells' has been added to the landfilling area on Lot 11 of the premises. |