



Amendment Report

Licence Number	L7064/1997/11
Licence Holder	City of Rockingham
ACN	NA
File Number:	2010/005913-1
Premises	Millar Road Landfill Facility Lot 2170 on Plan 211650 Millar Road BALDIVIS WA 6176
Date of Report	20/12/2019

1. Definitions and interpretation

Definitions

In this Amendment Report, the terms in Table 1 have the meanings defined.

Table 1: Definitions

Term	Definition
AACR	Annual Audit Compliance Report
ACN	Australian Company Number
AER	Annual Environment Report
Amendment Report	refers to this document
Category/ Categories/ Cat.	categories of Prescribed Premises as set out in Schedule 1 of the EP Regulations
CEO	means Chief Executive Officer. CEO for the purposes of notification means: Director General Department Administering the <i>Environmental Protection Act 1986</i> Locked Bag 10 JOONDALUP DC WA 6027 info@dwer.wa.gov.au
CS Act	<i>Contaminated Sites Act 2003 (WA)</i>
Delegated Officer	an officer under section 20 of the EP Act
Department	means the department established under section 35 of the <i>Public Sector Management Act 1994</i> and designated as responsible for the administration of Part V, Division 3 of the EP Act.
DWER	Department of Water and Environmental Regulation
EPA	Environmental Protection Authority
EP Act	<i>Environmental Protection Act 1986 (WA)</i>
EP Regulations	<i>Environmental Protection Regulations 1987 (WA)</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>
Existing Licence	The Licence issued under Part V, Division 3 of the EP Act and in force prior to the commencement of and during this Review
Licence Holder	City of Rockingham
m ³	cubic metres
Minister	the Minister responsible for the EP Act and associated regulations
NEPM	National Environmental Protection Measure

Prescribed Premises	has the same meaning given to that term under the EP Act.
Premises	refers to the premises to which this Amendment Report applies, as specified at the front of this Amendment Report.
Revised Licence	the amended Licence issued under Part V, Division 3 of the EP Act, with changes that correspond to the assessment outlined in this Amendment Report.
Risk Event	as described in <i>Guidance Statement: Risk Assessment</i>
UDR	<i>Environmental Protection (Unauthorised Discharges) Regulations 2004 (WA)</i>

2. Licence Amendment

This amendment is made pursuant to section 59 of the *Environmental Protection Act 1986* (EP Act) to amend Licence L7064/1997/11 granted to City of Rockingham (the Licence Holder) for its Miller Road Landfill Facility facility. This amendment is given under section 59B(9) of the EP Act upon the initiative of an Officer Delegated under section 20 of the EP Act.

The following guidance statements have informed the decision made on this amendment

- *Guidance Statement: Regulatory Principles (July 2015)*
- *Guidance Statement: Setting Conditions (October 2015)*
- *Guidance Statement: Decision Making (June 2019)*
- *Guideline: Industry Regulation Guide to Licensing (June 2019)*

3. Basis for the Amendment

On 20 March 2019 Amendment Notice 2 was issued, following a request from the Licensee (City of Rockingham) to allow for the acceptance, handling and landfilling of PFAS contaminated waste at the Millar Road Landfill Facility. The assessment of the amendment application was carried out with reference to the Department's published *Interim Guideline on the Assessment and Management of Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)* (DWER Interim Guideline).

The Minister for Environment received an appeal (Appeal Number: 019-19) in respect of the amendment to licence from a third party (Tellus Holdings Ltd). The Appellant had submitted 2 grounds of appeal:

- Separation distance to surface water bodies; and
- Risk to groundwater and adequacy of the landfill liner.

The Minister for the Environment, determined the appeal on 12 September 2019. The Minister considered that DWER's risk assessment was appropriate and therefore dismissed the 2 grounds of appeal and recommended that the appeal be upheld to the extent that the waste acceptance criteria for the premises be amended to be consistent with the values in the *PFAS National Environment Management Plan (PFAS NEMP)*. The screening levels for soil, surface water and groundwater and interim concentrations for waste classification and acceptance have now been superseded by the PFAS NEMP.

This CEO initiated licence amendment is to give effect to the Minister's Appeal Determination of 12 September 2019 (number 019-19), to the type and style of the licence and has issued a revised licence, incorporating Amendment Notices 1 and 2 issued between 2016 to 2019 (as detailed in the instrument log below). The obligations of the Licensee have not changed in making this amendment. During the consolidation of this amendment; DWER has not undertaken any additional risk assessment of the Premises. The CEO has also incorporated the DWER initiated Amendment Notice issued in 2016 to extend the Licence duration and corrected the front page of the Licence accordingly.

4. Amendment history

Table 4 provides the amendment history for L7064/1997/11.

Table 2: Licence amendments

Instrument	Issued	Amendment
L7064/1997/11	04/09/2015	Licence reissue and amendment to convert Licence to new format.
L7064/1997/11	01/10/2015	Licence amendment to correct conditions
L7064/1997/11	24/03/2016	Licence amendment to increase cat 62 throughput
L7064/1997/11	29/4/2016	Notice of Amendment to extend the expiry date of the Licence
L7064/1997/11	27/04/2018	Amendment Notice 1: allow for the acceptance of household hazardous waste types and storage of green waste.
L7064/1997/11	20/03/2019	Amendment Notice 2: approval to accept and bury PFAS contaminated solid waste in existing Class III landfill cells 16 and 17.
L7069/1993/11	20/12/2019	DWER initiated amendment to give effect to the Minister's Appeal Determination of 12 September 2019 and amalgamate/ consolidate separately issued licence amendment notice in the licence.

5. Decision

This amendment is made pursuant to section 59(1)(j) of the EP Act, being an amendment to give effect to a decision of the Minister under the EP Act.

A copy of the Minister's Appeal Determination and Appeals Convenor's report can be obtained from the Appeals Convenor's website at www.appealsconvenor.wa.gov.au.

6. Conclusion

Based on the assessment in this Amendment Report, the Delegated Officer has determined that a licence amendment will be granted, subject to conditions commensurate with the determined controls and necessary for administration and reporting requirements.

6.1. Summary of amendments

Table 5 provides a summary of the proposed amendments and will act as record of implemented changes. All proposed changes have been incorporated into the Revised Licence as part of the amendment process.

Condition No.	Proposed amendments
NA	Updated the format and appearance of the Licence
1.1.2	Definitions updated to reflect department name changes and add some new definitions.
1.2.1 – 3.3.1	Amended wording. Licence conditions updated to reflect wording in current Licence template.
1.2.3	Table 1.2.3 amended to give effect to the Minister's Appeal Determination of 12 September 2019. This is to ensure that the License Holder complies with the waste

	acceptance criteria for clay/single composite lined landfills as outlined in the document titled PFAS National Environmental Management Plan (NEMP).
Schedule 2	Prescribed premises categories for Millar Road Landfill Facility added to the Licence
Schedule 3	Updated the notification form

6.2 Licence Holder comments

The Licence Holder was provided with the draft amendment on 4 October 2019 for review and comment. The Licence Holder advised on 5 November 2019 that they have no further comments on the draft amendment and waived the remaining consultation period.

Stephen Checker
MANAGER WASTE INDUSTRIES
REGULATORY SERVICES

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

Appendix 1: Key documents

	Document title	In text ref	Availability
1	Licence L7064/1997/11 – Millar Road Landfill Facility	L7064/1997/11	accessed at www.dwer.wa.gov.au
2	DER, July 2015. <i>Guidance Statement: Regulatory principles</i> . Department of Environment Regulation, Perth.	DER 2015a	accessed at www.dwer.wa.gov.au
3	DER, October 2015. <i>Guidance Statement: Setting conditions</i> . Department of Environment Regulation, Perth.	DER 2015b	
4	DER, August 2016. <i>Guidance Statement: Licence duration</i> . Department of Environment Regulation, Perth.	DER 2016a	
5	DER, May 2016. <i>Guidance Statement: Publication of Annual Audit Compliance Reports</i> . Department of Environment Regulation, Perth.	DER2016b	
6	DER, November 2016. <i>Guidance Statement: Risk Assessments</i> . Department of Environment Regulation, Perth.	DER 2016b	
7	DER, September 2016. <i>Guidance Statement: Environmental Standards</i> . Department of Environment Regulation, Perth.	DER2016c	
8	DER, November 2016. <i>Guidance Statement: Decision Making</i> . Department of Environment Regulation, Perth.	DER 2016c	
9	DWER, June 2019. <i>Guideline: Industry Regulation Guide to Licensing</i> . Department of Water and Environmental Regulation, Perth.	DWER 2019b	

Appendix 2: Appeal Determination



**Minister for Environment; Disability Services; Electoral Affairs
Deputy Leader of the Legislative Council**

Our Ref: 019/19

**DIRECTOR GENERAL
DEPARTMENT OF WATER AND ENVIRONMENTAL REGULATION**

**APPEAL AGAINST AMENDMENT OF LICENCE L7064/1997/11 – MILLAR ROAD
LANDFILL FACILITY, BALDIVIS**

I have today determined an appeal by Tellus Holdings Ltd in objection to the amendment of the above licence by the Department of Water and Environmental Regulation (DWER). A copy of my decision and the Appeals Convenor's report are attached for your information.

The appellant submitted that conditions authorising the licence holder to accept Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) contaminated waste at the premises should not have been added to the licence. The appeal was based on two grounds of appeal; inadequate separation distances to surface water bodies and the risk to groundwater/adequacy of liner.

In making my determination, I concur with the advice provided by DWER during the appeal process to the effect that the waste acceptance criteria for the premises should be amended to be consistent with the values in the PFAS National Environmental Management Plan. Therefore I have allowed the appeal in part and request that DWER amends the licence accordingly. I have otherwise dismissed the appeal.

The final wording of the amendment to the conditions will be a matter for your discretion in giving effect to this appeal decision under section 110 of the *Environmental Protection Act 1986*.

A handwritten signature in blue ink, appearing to read 'Stephen Dawson'.

Hon Stephen Dawson MLC
MINISTER FOR ENVIRONMENT

Att.
12 SEP 2019

Level 12, Dumas House, 2 Havelock Street, West Perth, Western Australia, 6005.
Telephone +61 8 6552 5800 Facsimile +61 8 6552 5801 Email: Minister.Dawson@dpc.wa.gov.au