



Application to renew a licence

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

Licence Number	L7833/2002/6
Licence Holder	Flyash Australia Pty Limited
ACN	002 840 271
File Number	2011/008639-1
Premises	Flyash Australia Boys Home Road PALMER WA 6225 Being Part of Lot 3001 on Plan 51101 as depicted in Schedule1 of licence
Date of Report	20/12/2022
Decision	To grant a licence

Senior Environmental 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 L7833/2002/5 without conducting any additional risk assessment.

The licence is 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:

- update the format and appearance of the licence;
- remove redundant conditions;
- include conditions considered necessary for the effective administration of the licence (i.e. record keeping and reporting requirements);
- include all infrastructure into condition 1, *Table 1: infrastructure and equipment requirements*;
- correct clerical mistakes and unintentional errors; and
- transfer all existing regulatory controls and conditions to the new licence.

As a result of the above, the Delegated Officer decided to grant Licence L7833/2002/6, subject to conditions set out in the attached licence.

2. Scope of assessment

2.1 Application summary

On 7 October 2022, Flyash Australia Pty Limited (licence holder) applied to renew licence L7833/2002/5, as the licence is due to expire on 21 December 2022. The licence was granted to the licence holder for the premises located at Boys Home Road Palmer Being Part of Lot 3001 on Plan 51101 (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 62: Solid waste depot	100,000 tonnes per annum

The main activities occurring on the Premises include the storing of flyash from the Collie A boiler post-combustion into the flyash transfer silo. The flyash is then loaded into pneumatic tanker trucks via a telescopic loading chute and removed off-site. Possible emissions from the site include dust and contaminated stormwater.

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 an agreement with Electricity Generation and Retail Corporation trading as Synergy (the owner of the lot on which the Premises is located) for the sale and delivery of flyash from Synergy to the licence holder. This agreement recognises that the licence holder is the owner of the equipment and that it is allowed to operate the activity that makes the Premises prescribed (would only be on its own prescribed when the activity occurs on a separate premises than the power station). There is no mention of leasing the land on which the equipment from the licence holder is located.

When assessing legal occupancy, the Delegated Officer had regard for the wording of the definition of occupier as per the EP Act. Section 3 defines occupier as follows:

occupier, in relation to —

- (a) *any premises, means a person who **is in occupation or control of those premises**, whether or not that person is the owner of those premises; or*
- (b) *premises different parts of which are occupied by different persons, means, in relation to any such part, a person who is in occupation or control of that part, whether or not that person is the owner of that part;*

As the licence holder is allowed to operate the solid waste depot on the Premises by the owner of the land, owns the equipment that causes the Premises to be prescribed, operates this solid waste depot within the rules set by the Synergy and that Synergy has some control over who can attend the Premises, the Delegated Officer believes that both the licence holder or Synergy could be deemed to be the occupier of the Premises. The Delegated Officer is aware that the EP Act will be amended and that in the near future a licence will be issued to the person who undertakes a prescribed activity and that this will no longer be directly linked to a location on a map i.e. premises.

Based upon the above the Delegated Officer believes that the licence holder can be deemed the occupier of the Premises and can hold a licence for 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 which was previously assessed.

4.4 Planning approval

The licence holder has informed the department that planning approval is not necessary for the activities on the Premises.

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.

Table 2 summarises the changes from the expiring licence into the new licence including changes made to licence conditions where required and the rationale for changes made.

Table 2: Licence conditions changes, description and rationale

Current condition / table	New condition / table (if relevant)	Description and rationale
General conditions 1.2.1 -1.2.4	N/A	Removed as no longer relevant
	Table 1 – infrastructure table	Included infrastructure and operational requirements from decision report
1.3	2 - Operations	Updated condition to new format
Table 1.3.1	Table 2	Direct replacement
1.3.1	2 – Waste processing	Direct replacement but removed process limits as there is no limits referred to in the licence
Table 1.3.2	Table 3	Direct replacement
2.1 – 2.5	N/A	Removed - not applicable in the licence
1.2.5	4 – Stormwater	Direct replacement
2.6.1 – 2.6.2	5 and 6 – Fugitive emissions	Direct replacement
2.7 – 2.8	N/A	Removed - not applicable in the licence
3.1 – 3.5	Monitoring	Removed - not applicable in the licence
3.6.1	7 - Monitoring inputs and outputs	Direct replacement
4 - Improvements	N/A	Removed -not applicable in the licence
Records -5.1.1 – 5.1.2	8 and 9	Direct replacement
5.1.3 – 5.1.4	10,11, 12 and 13	Replaced with new template conditions
5.2.1	N/A	Removed annual environmental reporting condition as submission is no longer required
5.3		Removed - Notification requirement no longer required in licence, however, <i>section 72</i> of the EP Act still applies
Schedule 2		No longer relevant, Annual Audit Compliance Report (AACR) form available on DWER website

6. Consultation

The Delegated Officer undertook the consultation for the application to renew the licence as per Table 3.

Table 3: Consultation

Consultation method	Comments received	Delegated Officer's response
Application advertised on the department's website on 11/11/2022	No comment received	N/A
Shire of Collie advised of application on 2/11/2022	Email received 17/11/2022 indicates that the Shire of Collie has no issues or comments.	N/A
Draft licence and draft decision report provided to licence holder for consideration on 24/11/2022 and requesting premises coordinates	Licence holder responded with an email on 28/11/2022 citing no comments to be added.	N/A
	Licence holder also submitted a map of coordinates via email on 30/11/2022	Inserted map of coordinates into licence