



Licence Number L9089/2017/1

Licence Holder Opalvale Pty Ltd

ACN 106 512 896

File Number: DER2017/001530

Premises

Salt Valley Road Class II Landfill
Chitty Road, HODDYS WELL WA 6566

Legal description –
Part of Lot 11 on Deposited Plan 34937
Certificate of Title Volume 2535 Folio 391

Date of Report 6 May 2020

Decision Grant licence amendment

1. Definitions and interpretation

Definitions

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

Table 1: Definitions

Term	Definition
ACN	Australian Company Number
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 6919
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
EP Act	<i>Environmental Protection Act 1986</i> (WA)
EP Regulations	<i>Environmental Protection Regulations 1987</i> (WA)
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	Opalvale Pty Ltd
Minister	the Minister responsible for the EP Act and associated regulations
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.

Term	Definition
Risk Event	as described in <i>Guidance Statement: Risk Assessment</i>

2. Amendment Description

The following guidance statements have informed the assessment and decision outlined in this Amendment Report:

- *Guidance Statement: Regulatory Principles (July 2015)*
- *Guidance Statement: Setting Conditions (October 2015)*
- *Guidance Statement: Decision Making (June 2019)*
- *Guidance Statement: Risk Assessment (February 2017)*
- *Guidance Statement: Environmental Siting (November 2016)*

2.1. Purpose and scope of assessment

In August 2017, the Department of Water and Environmental Regulation (DWER) received a licence application from Opalvale Pty Ltd (Opalvale) for a licence to operate a Class II landfill at Hoddy's Well (768 Chitty Road). DWER granted licence L9089/2017/1 for the operation of Cell 1 of the Salt Valley Road Landfill on 5 February 2019.

Under section 102(3)(b) of the *Environmental Protection Act 1986*, third parties aggrieved by any condition of the licence were invited to lodge an appeal direct to the Appeals Convenor within 21 days of the applicant being notified of the decision. The appeal period closed on 28 February 2019 and in this period three appeals were received objecting to conditions of the licence (Appeal Number 010/19).

The appellants sought for the conditions of the licence to be strengthened submitting that the assessment of risks relating to emissions and discharges from the premises was insufficient. Appellants' key concerns related to separation distances to receptors, rehabilitation, independent oversight, the public availability of information and were seeking financial assurance to be applied to the premises.

On 3 January 2020 the Minister made a decision to allow the appeals in part, requesting that conditions of the licence be amended in relation to vermin and pests, rehabilitation and fire management. In summary the Minister allowed the appeals to the extent that:

1. Licence condition 8(e) be amended as follows: Rehabilitation of a cell or stage commences within 6 months after disposal in that cell or stage has been completed.
2. Licence condition 13 be amended to remove the 'and' before 'instances'.
3. Licence condition(s) be included to require increased vermin populations to be reported, including management actions undertaken.
4. Licence condition(s) be included to require the reporting of fire at the premises to the Chief Executive Officer (CEO), and within an appropriate timeframe, require the licence holder to provide a report to the CEO on the fire event, including but not restricted to the date, time, location, cause and the management measures used to control the fire and any residual issues.

The Minister also requested that the Licence Holder update the latest version of the Landfill Management Plan to specify the methodology for undertaking vermin, pest and weed monitoring as required by condition 13, and identifies foxes as a feral animal present at the premises. An amended Management Plan was provided to DWER on 13 March 2020.

This amendment has been initiated by DWER to give effect to the Minister's appeal determination. There is no right of appeal to this amendment under section 105 of the EP Act due to the Minister's determination.

3. Other approvals

Table 3 below outlines other approvals relevant to this project.

Table 2: Relevant approvals

Legislation	Number	Approval
<i>State Administrative Tribunal Act 2004</i> <i>Planning and Development Act 2005</i>	State Administrative Tribunal (SAT) Order, 27 February 2013	Planning approval by order of SAT – for the proposed landfill development at Lot 11 Chitty Road, Toodyay.
	Shire of Toodyay – Planning Approval Ref: 11CHI/A4273, 6 March 2015	Extension of existing planning approval issued by SAT on 27 February 2013; amendment to condition 5 of SAT Order. Condition 5 referred to the lapse of planning approval to be of no further effect unless a Works Approval had been issued by DER on the Works Approval application (W5800/2015/1) within two years of the date of the original approval (on or before 27 August 2015).
<i>Rights to Water and Irrigation Act 1914</i>	Not applicable	Groundwater extraction bore (not-potable use) sited for potential operational water requirements (currently not required as surface water volumes are sufficient for operational use. Bore is located within an area zones for unrestricted groundwater usage. No licence is required.

4. Amendment history

Table 4 provides the works approval and licence history for W5800/2015/1 and Licence L9089/2017/1.

Table 3: Works approval and licence history

Instrument	Issued	Amendment
W5800/2015/1	27/08/2015	New works approval
W5800/2015/1	17/08/2017	Works approval Amendment Notice 1
W5800/2015/1	12/10/2018	Works approval Amendment Notice 2
L9089/2017/1	05/02/2019	New Licence
L9089/2017/1	06/05/2020	Licence amendment to give effect to the Minister's appeal determination.

5. Location and receptors

Table 5 below lists the relevant sensitive land uses in the vicinity of the Prescribed Premises which may be receptors relevant to the proposed amendment.

Table 4: Receptors and distance from activity boundary

Residential and sensitive premises	Distance from Prescribed Premises
Privately owned farm land	Immediately adjacent (east and west)
Residential premises	Internal farmhouse, approximately 400 m south west (excluded as a sensitive receptor)
	Approximately 1,100 m north east (two properties to the north east of the premises.
	Approximately 1,700 m south of the premises
	Approximately 70 houses within a 1-5 km radius of the premises, predominately to the north and south.

Table 6 below lists the relevant environmental receptors in the vicinity of the Prescribed Premises which may be receptors relevant to the proposed amendment.

Table 5: Environmental receptors and distance from activity boundary

Specified ecosystems and environmental receptors	Distance from the Premises
Department of Biodiversity, Conservation and Attractions Managed Lands and Waters	DBCA managed freehold land, which will be included as part of the adjacent Clackline Nature Reserve, 670 m south Clackline nature reserve approximately 2.3 km south east Nanamoolan Nature Reserve 2.3 km east and north east.
Waterways Conservation areas	The Premises is within the Avon River Management Area.
Proclaimed surface water area	The Premises is within the Avon River Catchment Area.
Directory of Important Wetlands of Australia	Avon River Valley, approximately 17 km downstream from the closest feeding tributary to the premises. The Avon River is a registered type B2 wetland and provides high environmental value to public and the environment.
Threatened Ecological Communities and Priority Ecological Communities	A number of threatened ecological communities (wheatbelt woodlands) >5 km to the north east and south east
Groundwater	Low permeability fractured rock aquifer (confined) potentially suitable for domestic and non-potable use as well as stock watering. No registered users within 5 km of Premises.

6. Risk assessment

Table 7 below describes the Risk Events associated with the amendment consistent with the *Guidance Statement: Risk Assessments*. This table identifies whether the emissions present a material risk to public health or the environment, requiring regulatory controls.

Table 6: Risk assessment for proposed amendments during operation

Risk Event				Consequence rating ¹	Likelihood rating ¹	Risk ¹	Reasoning	Regulatory controls
Source/Activities	Potential emissions	Potential receptors, pathway and impact	Applicant controls					
Landfill operation	Vermin/feral animal and weed impacts	<p>Nuisance to or direct impact to native animals, through preying or vector transmission of disease.</p> <p>Vermin can be a nuisance and affect public health and surrounding native ecosystems (inclusive of Clackline Nature Reserve, located 670m south).</p> <p>Non-native flora (weeds) may establish on cleared ground and impact on surrounding native vegetation.</p>	The Licence Holder's amended Landfill Management Plan outlines measures that will be undertaken to prevent feral animal access to the landfill, monitoring initiatives and eradication measures. These commitments have been included in Condition 13 of the revised Licence.	Minor	Unlikely	Medium	<p>DBCA lands that will be incorporated into Clackline Nature Reserve in the future has been reassessed as occurring approximately 670 m south of the Premises boundary. Accordingly the Licence Holder has strengthened measures to prevent, monitor and eradicate feral animals. Given the strengthened applicant controls (reflected in Condition 13) the Delegated officer has determined that the overall risk rating for vermin and feral animals is medium.</p>	<p>Additional Operational controls</p> <p>Additional Record-keeping controls</p> <p>Condition 13 has been updated in accordance with the Licence Holder's management plan.</p>

Note 1: Consequence ratings, likelihood ratings and risk descriptions are detailed in the Department's Guidance Statement: Risk Assessments (February 2017)

7. Consultation

Table 9: Summary of consultation

Method	Comments received	DWER response
Draft Licence and Management Plan referred to DBCA on 17 March 2020.	Suggested minor wording changes to fencing and monitoring requirements in the feral animal management plan.	Suggestions have been incorporated into the relevant operational conditions
Applicant referred draft documents on 6 April 2020.	In an email dated 15 April 2020 the Licence Holder's representative advised that whilst there are no comments on the proposed changes they have chosen not to waive the consultation period.	n/a

8. 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.

9. 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.

9.1. Summary of amendments

Table 10 provides a summary of the proposed amendments and will act as a record of implemented changes. All proposed changes have been incorporated into the Revised Licence as part of the amendment process.

Table 10: Summary of licence amendments

Condition No.	Proposed amendments
Definitions	The postal address of the CEO has been updated to reflect the current address
8 (e)	Amended to substitute the word 'phase' with 'stage'
13	Amended to remove the 'and' before 'instances'
13	Additional infrastructure, monitoring and reporting items added
33	(d) added to ensure that feral animal monitoring and management actions are recorded
35	Condition added requiring the Licence Holder to record and report on details of any fires at the Premises

Tracey Hassell
A/Manager – Waste Industries
INDUSTRY REGULATION

An officer delegated by the CEO under section 20 of the EP Act

Appendix 1: Key documents

	Document title	In text ref	Availability
1	Minister's Appeal Determination, dated 3 January 2020	010/19	accessed at www.appealsconvenor.wa.gov.au
5	DER, July 2015. <i>Guidance Statement: Regulatory principles</i> . Department of Environment Regulation, Perth.	DER 2015a	accessed at www.dwer.wa.gov.au
6	DER, October 2015. <i>Guidance Statement: Setting conditions</i> . Department of Environment Regulation, Perth.	DER 2015b	
7	DER, August 2016. <i>Guidance Statement: Licence duration</i> . Department of Environment Regulation, Perth.	DER 2016a	
8	DER, November 2016. <i>Guidance Statement: Risk Assessments</i> . Department of Environment Regulation, Perth.	DER 2016b	
9	DER, November 2016. <i>Guidance Statement: Decision Making</i> . Department of Environment Regulation, Perth.	DWER 2019	