

Decision Report

Application for Licence

Part V Division 3 of the Environmental Protection Act 1986

Licence Number	L9334/2022/1
Applicant ACN	B & J Catalano Pty Ltd 008 961 975
File number	DER2022/000123
Premises	B & J Catalano Pty Ltd Kings Mill Road, Pickering Brook KALAMUNDA WA 6076
	Legal description – Part of Mining Tenement M70/733
	As defined by the premises maps attached to the issued licence
Date of report	22 December 2022
Decision	Licence granted

A/MANAGER, RESOURCE INDUSTRIES REGULATORY SERVICES

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

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1. Decision summary

This decision report documents the assessment of potential risks to the environment and public health from emissions and discharges during the operation of the premises. As a result of this assessment, licence L9334/2022/1 has been granted.

2. Scope of assessment

2.1 Regulatory framework

In completing the assessment documented in this decision report, the Department of Water and Environmental Regulation (the department; DWER) has considered and given due regard to its regulatory framework and relevant policy documents which are available at <u>https://dwer.wa.gov.au/regulatory-documents</u>.

2.2 Application summary and overview of premises

On 16 March 2022, the applicant submitted an application for a licence to the department under section 57 of the *Environmental Protection Act 1986* (EP Act).

The application is to seek a licence relating to the operation of a crushing and screening plant to crush and screen gravel material at the premises. The premises is approximately 2.8 kilometres (km) south-east of Pickering Brook.

The premises relates to the Category 12 and assessed production capacity under Schedule 1 of the *Environmental Protection Regulations 1987* (EP Regulations) which are defined in licence L9334/2022/1. The infrastructure and equipment relating to the premises category and any associated activities which the department has considered in line with *Guideline: Risk Assessments* (DWER 2020) are outlined in licence L9334/2022/1.

2.2.1 Works approval W6405/2020/1

The crushing and screening plant was authorised for construction under Works Approval W6405/2020/1 which was issued on 9 March 2021. The applicant submitted the compliance document required by condition 2 of the Works Approval on 23 November 2021. The department provided correspondence on 4 January 2022 confirming compliance with condition 2 of the Works Approval.

Condition 3 authorises time-limited operations (TLO) to begin from the date of submission of the compliance document (required by condition 2) for a period not exceeding 90 days. TLO ended on 19 February 2022.

Conditions 4-6 of the works approval required the applicant to undertake a noise assessment during time limited operations to verify the outcomes of a noise emission model. The applicant has advised that due to extreme unavailability of suitably qualified acoustical consultations they have been unable to complete this assessment during the TLO period authorised under the works approval.

In this licence application the applicant has requested to expand the premises boundary and include an additional location for the plant to support further extraction in the premises. The applicant is currently in the process of obtaining a clearing permit (CPS 8101/3) to allow clearing of vegetation within the southern area of the premises.

Originally, the requirements to undertake a noise assessment were to be reconditioned within the licence. During the consultation period for the draft instrument, the applicant advised that they will no longer be operating the crusher in the 'Northern Location' (see Figure 1) which was assessed and approved under the works approval. The new proposed location of the crusher and screener in the 'Southern Location' (see Figure 1), is approximately 1.4km south of the

original approved location. Due to the distance between the 'Southern Location' and residencies identified to the north of the premises, the pathway for noise emissions to impact these receptors is not present and therefore the residencies are no longer considered in the risk assessment. As a result of this change, the applicant will be conditioned to operate the plant only in the 'Southern Location' and will not be required to undertake the noise assessment.

3. Risk assessment

The department assesses the risks of emissions from prescribed premises and identifies the potential source, pathway and impact to receptors in accordance with the *Guideline: Risk Assessments* (DWER 2020).

To establish a risk event there must be an emission, a receptor which may be exposed to that emission through an identified actual or likely pathway, and a potential adverse effect to the receptor from exposure to that emission.

3.1 Source-pathways and receptors

3.1.1 Emissions and controls

The key emissions and associated actual or likely pathway during premises operation which have been considered in this decision report are detailed in Table 1 below. Table 1 also details the control measures the applicant has proposed to assist in controlling these emissions, where necessary.

Emission	Sources	Potential pathways	Proposed controls
Construction			
Dust Noise	Operating of the screening and crushing plant Vehicle movements on unsealed surfaces Uploading, loading and stockpiling of gravel material	Air / windborne pathway	 Raw material will be dampened prior to being placed in the crusher; Loading area will be surrounded by stockpiles to help contain dust emissions; and Stockpiles will be dampened. Crusher and screening plant will be surrounded by stockpiles; Plant to be operated only when placed in the Southern Location as shown in Figure 1; Late model equipment is to be utilised with reduced noise level outputs; Operation hours restricted to 0700 and 1800 on weekdays and 0700 and 1200 on Saturdays; Only broad band reversing warning devices (croackers) utilised; and D10 dozer to be filled with CAT noise suppression.
Sediment laden stormwater	Gravel material stockpiles	Stormwater runoff	 Applicant have proposed to construct 2 additional detention basins in the southern area to capture runoff in southern area. Surface water management:

Table 1: Proposed applicant controls

Emission	Sources	Potential pathways	Proposed controls
			 Stormwater detection ponds have a capacity to hold at least the 2hr 10% AEP storm event;
			 As extraction is complete, narrow-based contour bunds will be constructed to a grade between 0.1 and 0.4%;
			 Cut-off bunds formed along eastern and northern boundaries of the northern extraction area;
			Regular monitoring of the erosion control measures will be undertaken, and the repairs implemented where necessary
Hydrocarbons	Spillage and leakage from crushing	Direct	No fuel / hydrocarbons stored on site;
	machinery and vehicles	discharge to land	 Plant will be re-fueled each morning, leaving them empty over night; and
		Contaminated stormwater runoff	 As per the procedures outlined in B & J Catalano's Spill Response document that states:
			 spills (even minor in nature) will be contained and cleaned up; and
			 reporting the incident to the department.

3.1.2 Receptors

In accordance with the *Guideline: Risk Assessment* (DWER 2020), the Delegated Officer has excluded the applicant's employees, visitors, and contractors from its assessment. Protection of these parties often involves different exposure risks and prevention strategies, and is provided for under other state legislation.

Table 2 below provides a summary of potential human and environmental receptors that may be impacted as a result of activities upon or emission and discharges from the prescribed premises (*Guideline: Environmental Siting* (DWER 2020)).

Table 2: Sensitive human and environmental receptors and distance from prescribed
activity

Human receptors	Distance from prescribed activity
Residencies to the north and north-east of premises	There are 4 residencies within a 1km radius from the premises perimeter. During the comment period for the draft documents, the applicant advised that they no longer intend to operate the crusher and screener in the northern location as shown in Figure 1 and instead will only be operating the crusher and screener at the southern location which is more than 1km from the nearest sensitive residential receptor. Due to the distance of proposed location of the crusher and screener to the human receptors they have been screened out of the risk assessment. However, the location of the crusher and screener will be conditioned within the licence to operate only in the southern location.
Environmental receptors	Distance from prescribed activity
Threatened and Priority Flora	There is a mapped occurrence of flora species 'Purdie's donkey orchid' (<i>Diuris purdiei</i>) which is listed as 'Endangered' under the <i>Environmental Protection and Biodiversity Act</i> 1999 located 725m east of the premises boundary. There is a mapped occurrence of <i>Bossiaea modesta</i> (Priority 2) located 2.1km south-

	east of the premises boundary.					
Threatened and Priority Fauna	According to the Department of Biodiversity and Conservation (DBCA) database, the following records of significant fauna have been identified:					
	• Carnaby Cockatoo (<i>Zanda latiostris</i>) which is listed as 'Endangered' under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> had a mapped siting 925m north-east of the premises boundary in 2013.					
	• Forest Red-tailed Black Cockatoo (<i>Calyptorhynchus banksii naso</i>) which is listed as 'Vulnerable' under the <i>Environmental Protection and Biodiversity Conservation Act 1999</i> had a mapped siting 1.8km north of the premises boundary in 2014.					
	A targeted Black Cockatoo survey completed in February 2020 by Western Wildlife found several suitable Black Cockatoo habitat trees (three within the proposed extraction area and one near the southern boarder of the premises that has evidence of previous use) and evidence of foraging activity within the premises boundary. The same survey sighted 12 more Red-tailed Black Cockatoos foraging on the eastern boundary of the premises.					
	• Chuditch (<i>Dasyurus geoffroii</i>) which is listed as 'Vulnerable' under the <i>Environmental Protection and Biodiversity Conservation Act 1999</i> had a mapped sighting 1.8km south-west of the premises boundary recorded in 1990.					
	• Quenda (<i>Isoodon fusciventer</i>) is a priority (P4) fauna with a mapped sighting 1.8km south of the premises boundary in 2012					
Parks and Wildlife	The prescribed premises lies within Reserve 6481 – Jarrahdale State Forest.					
Managed Lands and Waters	Vegetation described as medium forest, mostly jarrah and marri trees.					
Public Drinking Water	The prescribed premises is located with the Canning River Catchment Area – Priority 1.					
Source Area (PDWSA)	The proposed is a compatible activity under the Water Quality Protection Note No.25: Land use compatibility tables for public drinking water source areas					
Rights in Water Irrigation Act 1914 (RIWI) Surface Water Proclamation Area	The prescribed premises lies in the Canning Dam Surface Water Area					
Aboriginal Sites and	The Helena River Registered Site lies 1km north of the premises boundary.					
Heritage Places	Screened out as sensitive receptor.					
Surface Water Lines	A surface water line which is a tributary to the Canning River, lies approximately 690m east of the premises boundary (Kangaroo Gully). Topography of the area suggests that any runoff from the premises will lead towards this water line.					
Environmentally Sensitive Areas	There is an Environmentally Sensitive Areas located 725m east of the premises boundary, which appears to be associated with the presence of a threatened flora species in the area.					
	Screened out as sensitive receptor.					



Figure 1. Prescribed premises (specifying crusher / screener location)

3.2 Risk ratings

Risk ratings have been assessed in accordance with the *Guideline: Risk Assessments* (DWER 2020) for each identified emission source and takes into account potential source-pathway and receptor linkages as identified in Section 3.1. Where linkages are in-complete they have not been considered further in the risk assessment.

Where the applicant has proposed mitigation measures/controls (as detailed in Section 3.1), these have been considered when determining the final risk rating. Where the delegated officer considers the applicant's proposed controls to be critical to maintaining an acceptable level of risk, these will be incorporated into the licence as regulatory controls.

Additional regulatory controls may be imposed where the applicant's controls are not deemed sufficient. Where this is the case the need for additional controls will be documented and justified in Table 3.

Licence L9334/2022/1 that accompanies this decision report authorises emissions associated with the operation of the premises i.e. crushing and screening of gravel material.

The conditions in the issued licence, as outlined in Table 3 have been determined in accordance with *Guidance Statement: Setting Conditions* (DER 2015).

Licence: L9334/2022/1

Risk events					Risk rating ¹ Applic	Applicant	Applicant	
Sources / activities	Potential emission	Potential pathways and impact	Receptors	Applicant controls	C = consequence L = likelihood	controls sufficient ?	Conditions ² of licence	Justification for additional regulatory controls
Operation								
Source: • Operation of	Dust	Pathway: air / windborne Impact: disturbances to threatened fauna and smothering of adjacent vegetation.	Adjacent native vegetation and threatened flora	Refer to Section 3.1	C = Minor L = Rare Low Risk	Y	Condition 1: infrastructure requirements – water truck Condition 2: dust management	Applicant controls have been conditioned within the licence. The Delegated Officer considers that the risk of dust impacts on adjacent native vegetation will be sufficiently managed.
the screening and crushing plant at southern location Activities: • Vehicle movements on unsealed surfaces • Uploading, loading and stockpiling of gravel	Noise	Pathway: Air / windborne Impact: disturbance to threatened fauna	Threatened fauna (Black Cockatoos)	N/A	C = Minor L = Rare Low Risk	Y	Condition 1: infrastructure requirements – noise suppression	It is noted that there are limited studies on noise impacts on fauna. Advice from DBCA (refer to Table 4) recommends that any impacts to black cockatoos be minimised where possible from emissions during operations. DWER notes that during the application for the relevant clearing permits for this premises (CPS 8101/1-3) clearing of vegetation associated with black cockatoo habitats were assessed. The clearing permit required the applicant to conduct a survey to identify trees of significance and were required to leave a 50m buffer of uncleared vegetation around trees identified to be suitable for use. The purpose of this was to provide a visual and noise buffer between potential nesting sites and mining operations. The Delegated Officer has considered the risks associated with emissions impacting potential black cockatoo roosting habitats and has determined that requirements of the clearing permit

Table 3: Risk assessment of potential emissions and discharges from the premises during operation

Licence: L9334/2022/1

Risk events					Risk rating ¹	Applicant	Conditions ² of licence	
Sources / activities	Potential emission	Potential pathways and impact	Receptors	Applicant controls	C = consequence L = likelihood	controls sufficient ?		Justification for additional regulatory controls
								and the inclusion of and the applicant's proposed controls within the licence will be sufficient in mitigating this risk.
Source: • Gravel stockpiles from southern location Activities: • Contaminated	Sediment laden stormwater	Pathway: stormwater runoff from premises Impact: contamination of surface water and adjacent	PDWSA	Refer to Section 3.1	C = Minor L = Possible Medium Risk	Y	Condition 4: stormwater contamination Condition 5: stormwater	According to the Water Protection Note No. 25 – Land use compatibility tables for public drinking water source areas (DWER, 2021) the proposed activities are considered compatible with a Priority 1 area, provided they are managed in a manner that will ensure no impacts or degradation to the quality of the drinking water source. Conditions have been added to the licence to ensure stormwater is prevented from being contaminated by the crushing and screening activities and that all contaminated stormwater is to be retained on site.
stormwater runoff from		vegetation	Adjacent native vegetation		C = Minor L = Possible Medium Risk			Conditions have been added to the licence to ensure stormwater is prevented from being contaminated by the crushing and screening activities and that all contaminated stormwater is to be retained on site.
			Ephemeral surface water lines		C = Minor L = Rare Low Risk			The Environmental Protection (Unauthorised Discharges) Regulations 2004 also apply.

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Risk events		Risk rating ¹	Risk rating ¹ Applicant					
Sources / activities	Potential emission	Potential pathways and impact	Receptors	Applicant controls	C = consequence L = likelihood	controls sufficient ?	Conditions ² of licence	Justification for additional regulatory controls
Source: Spills of leakage from vehicles and mining machinery onto land Activities: Contaminated stormwater runoff from premises	Hydrocarbon contaminated stormwater	Pathway: stormwater runoff from premises Impact: contamination surface water and adjacent vegetation	PDWSA Ephemeral surface water lines Adjacent native vegetation	Refer to Section 3.1	C = Minor L = Unlikely Medium Risk C = Minor L = Rare Low Risk C = Minor L = Rare Low Risk	Y		Conditions have been added to the licence to ensure stormwater is prevented from being contaminated by the crushing and screening activities and that all contaminated stormwater is to be prevented from being released into the environment. The Environmental Protection (Unauthorised Discharges) Regulations 2004 also apply.

Note 1: Consequence ratings, likelihood ratings and risk descriptions are detailed in the Guideline: Risk Assessments (DWER 2020).

Note 2: Proposed applicant controls are depicted by standard text. **Bold and underline text** depicts additional regulatory controls imposed by department.

4. Consultation

Table 4 provides a summary of the consultation undertaken by the department.

Table 4: Consultation

Consultation method	Comments received	Department response
Application advertised on the department's website on 5 September 2022.	None received.	N/A
Local Government Authority advised of proposal on 5 September 2022.	Comments from the City of Kalamunda received on 13 December 2022 confirmed that no developmental application is required to be submitted for the proposal as it is within mining tenure and is regulated by the <i>Mining Act 1972</i>	N/A
Department of Biodiversity and Conservation (DBCA) advised of proposal on 5 September 2022.	Comments from DBCA received on 21 September 2022. DBCA was previously contacted during the relevant clearing permit applications (PCS 8101/1-3) where it was identified that the area hosted suitable breeding habitat / use for threatened black cockatoos. DBCA recommends that potential impacts to these species roosting and breeding activities that may result from operations subject to this application are considered and should be minimised / avoided.	The department has considered these comments from DBCA in the assessment.
Water Corporation advised of proposal on 5 September 2022.	None received.	N/A
Four residencies within 1km buffer of premises boundary advised of proposal on 5 September 2022.	None received.	N/A
Applicant was provided with draft documents on 9 November 2022.	Comments received from applicant on 20 December 2022. Refer to Appendix 1: Summary of applicant's comments on risk assessment and draft conditions	Refer to Appendix 1: Summary of applicant's comments on risk assessment and draft conditions

5. Conclusion

Based on the assessment in this decision report, the delegated officer has determined that a licence will be granted, subject to conditions commensurate with the determined controls and necessary for administration and reporting requirements.

References

- 1. Department of Environment Regulation (DER) 2015, *Guidance Statement: Setting Conditions*, Perth, Western Australia.
- 2. Department of Water and Environmental Regulation (DWER) 2020a, *Guideline: Environmental Siting*, Perth, Western Australia.
- 3. DWER 2020b, Guideline: Risk Assessments, Perth, Western Australia.
- 4. DWER 2021, Water quality protection note 25 Land use compatibility tables for public drinking water source areas, Perth, Western Australia.
- 5. *Environmental Protection (Noise) Regulations* (EP Noise Regulations) 1997, Perth, Western Australia.
- 6. Herring Storer Acoustics 2020, Acoustic Assessment, Catalano Gravel Extraction Pickering Brook, Como, Western Australia.
- 7. Western Wildlife 2020, Targeted Black Cockatoo Study, Perth, Western Australia.

Appendix 1: Summary of applicant's comments on risk assessment and draft conditions

Condition	Summary of applicant's comment	Department's response
Schedule 2	Applicant has confirmed that coordinates for prescribed premises are correct.	Noted.
Conditions 6-9	Applicant has advised they do not intend to conduct anymore crushing and screening activities in the northern location and will only be conducting category 12 activities in the southern portion of the premises (which is >1km from the nearest residencies).	The department has noted this change and will condition the location of the plant to be operated only from the Southern Location. Additionally, the requirements to complete the noise assessment will be removed as impacts to residential receptors are no longer considered in the risk assessment due to the larger distance to sensitive receptors (no pathway).

Appendix 2: Application validation summary

SECTION 1: APPLICATION SUMMARY						
Application type						
		Relevant works approval number:	W6405/2020/1	None		
		Has the works approval been complied with?		Yes ⊠	No 🗆	
Licence		Has time limited operations under the works approval demonstrated acceptable operations?		Yes 🗆	No 🛛 N/A 🗆	
		Environmental Compliance Report submitted?		Yes ⊠	No 🗆	
		Date Report received: 23/11/21 (A2706266)				
Date application received		16/03/22				
Applicant and Premises details						
Applicant name/s (full legal name/s)		B&J Catalano Pty Ltd				
Premises name		B&J Catalano Pty Ltd				
Premises location		M 70/733				
Local Government Authority		City of Kalamunda				
Application documents						
HPCM file reference number:		DER2022/000123				
Key application documents (additional to application form):		 Supporting documents (DWERDT577750) including: Proof of Occupies Status ASIC Company Extract Letter of Authorisation Attachment 2 – Premises Map Water Management Plan for Proposed Activities Figure 2: Proposed Operations and Stormwater Management Noise Management Plan for emissions and discharges related to operation Siting and Location Proposed Fee Calculation 				
Scope of application/assessment						
Summary of proposed activities or changes to existing operations.		The applicant has applied for a Category 12 Licence to authorise the operation of a gravel extraction site with a screening and crushing plant for the processing of the material. The applicant has been undertaking gravel screening and crushing since 2007.				

	Proposed production design capacity	or Proposed changes to the production or design capacity (amendments only)
	150 000 tonnes /annun (estimated throughput)	N/A
egislative context and other approva	ls	
Has the applicant referred, or do they intend to refer, their proposal to the EP under Part IV of the EP Act as a significant proposal?	A Yes □ No ⊠	Referral decision No: Managed under Part V □ Assessed under Part IV □
Does the applicant hold any existing Pa IV Ministerial Statements relevant to th application?		Ministerial statement No: EPA Report No:
Has the proposal been referred and/or assessed under the EPBC Act?	Yes 🗆 No 🖂	Reference No:
Has the applicant demonstrated occupancy (proof of occupier status)?	Yes 🗆 No 🖂	Certificate of title General lease Mining lease / tenement 21/6/36 Other evidence Expiry:
Has the applicant obtained all relevant planning approvals?	Yes 🛛 No 🗆 N	Approval: I/A Expiry date: If N/A explain why?
Has the applicant applied for, or have a existing EP Act clearing permit in relation to this proposal?		CPS No: [8101/3]
Has the applicant applied for, or have existing CAWS Act clearing licence relation to this proposal?		Application reference No: Licence/permit No:
Has the applicant applied for, or have existing RIWI Act licence or permit relation to this proposal?		Application reference No: Licence/permit No:

Does the proposal involve a discharge of waste into a designated area (as defined in section 57 of the EP Act)?	Yes ⊠ No □	Name: Canning Dam Surface rea Type: Proclaimed Surface Water Area Has Regulatory Services (Water) been consulted? Yes □ No □ N/A ⊠ Regional office:
Is the Premises situated in a Public Drinking Water Source Area (PDWSA)?	Yes ⊠ No □	Name: Canning River Catchment Area Priority: P1 Are the proposed activities/ landuse compatible with the PDWSA (refer to WQPN 25)? Yes \boxtimes No \square N/A \square
Is the Premises subject to any other Acts or subsidiary regulations (e.g. Dangerous Goods Safety Act 2004, Environmental Protection (Controlled Waste) Regulations 2004, State Agreement Act xxxx)	Yes 🗆 No 🖂	N/A
Is the Premises within an Environmental Protection Policy (EPP) Area?	Yes □ No ⊠	N/A
Is the Premises subject to any EPP requirements?	Yes □ No ⊠	N/A
Is the Premises a known or suspected contaminated site under the <i>Contaminated Sites Act 2003</i> ?	Yes □ No ⊠	N/A