



## CEO-initiated amendment

### Division 3, Part V *Environmental Protection Act 1986*

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<b>Licence number</b>	L9350/2022/1
<b>Licence holder</b>	Christopher George David Vogel
<b>DWER file number</b>	DER2022/000437
<b>Premises</b>	Dellendale Creamery 308 Churchill Road SCOTSDALE WA 6333
<b>Date of report</b>	28 October 2024
<b>Status of report</b>	Final

## Amendment description

This amendment is made pursuant to section 59 of the *Environmental Protection Act 1986* (EP Act) to amend an existing licence issued under the EP Act for a prescribed premises as set out below. This notice of amendment is hereby given under section 59B(9) of the EP Act.

This amendment has been initiated by the Chief Executive Officer of the Department of Water and Environmental Regulation (DWER) to give effect to the Minister for Environment's (Minister) appeal determination of 25 September 2024.

There is no right of appeal to this amendment under section 105 of the EP Act due to the Minister's determination.

## Background

Licence L9350/2022/1 was issued to Christopher George David Vogel (licence holder) on 3 February 2023 for operation of the Dellendale Creamery in the rural locality of Scotsdale, about 7 km north of Denmark.

The licence holder had been operating the creamery without a licence since about mid-2005, after the works approval issued for the proposal expired in 2008. No compliance certification was submitted to the department following construction, demonstrating how the works had been completed in accordance with the works approval conditions. The licence holder applied for a licence in 2022 after being made aware they were operating without approval.

Following the granting of the licence, the licence holder subsequently lodged an appeal against several conditions, with multiple grounds of appeal. In September 2024, the Minister allowed the appeal to the extent that the licence conditions are amended to address several matters (Appeal 006 of 2023):

### Amendments to conditions

The Minister determined that while the department's assessment and decision to limit the irrigation of wastewater and require monitoring and reporting was justified, consistent with the advice of DWER and the Appeals Committee the following changes are required:

- delete a condition consistent with the department's advice;
- amend the definition for rainfall events and add a condition to restrict irrigation onto saturated soils;
- amend the frequency to facilitate more targeted irrigation practices;
- increase the nutrient loading limits to align with more targeted irrigation practices but within the farm nutrient budget;
- add a target value for the soil phosphorus environmental risk index;
- delete the limit on the number of cattle;
- amend the volumetric monitoring requirements to use one flow meter compared to the observed volume of wastewater discharged;
- add a reporting requirement to address targeted irrigation practices, soil monitoring and effective management of the nutrient export risk; and
- amend environmental reporting from annual to biennial, and amend reporting requirements to be more clear, achievable and complete.

## Decision

The delegated officer has amended the licence to give effect to the Minister's determination dated 25 September 2024, as required under section 110 of the EP Act.

The decision report for the existing licence will remain on the DWER website for future reference and will act as a record of DWER's decision making.

## Consultation

The licence holder was provided written notice of the CEO's intention to amend the licence, including a copy of the proposed changes to the licence, on 4 October 2024, and did not make any representations within the period specified in the notice.

## Summary of amendments

The below table provides a summary of the amendments and will act as a record of implemented changes. All changes have been incorporated into a revised works approval as part of the amendment process.

Condition no.	Amendments
Cover page	Date of amendment added
	Assessed production capacity changed to 265 kL/yr
Notes	Text added to give emphasis to this licence including conditions resulting from the Minister's decision on an appeal, which cannot be further amended or removed (unless by the Minister)
Condition 1 – Table 1	Delete item 3.9, to cease production when the tank is full
	Amend item 4.10 to require only one volumetric flow meter to be installed
	Delete item 7.15 to limit the number of cattle that may be grazed
Condition 2 – Table 2	Amend item 1 to reflect only one volumetric flow meter to be installed
Condition 5 – Table 3	Amend item 5, to replace the text 'at least 150 days between applications' with an irrigation frequency interval of 30 days with a maximum of four 1 mm irrigation events per year over any area.
	New item 10 added, to target the soil phosphorus environmental risk index in the irrigation area at, or below, a value of 0.4
	New item 11 added, to prohibit irrigation onto saturated soils
Condition 6 – Table 4	Amended to increase the irrigation nutrient loading rates to the values of 16.5 kg/ha/year total nitrogen and 8 kg/ha/year total phosphorus
Condition 7 – Table 5	Amended to require the monitoring of the volume of all wastewater irrigated using (i) the measured volume through a flow meter, and (ii) the observed volume of wastewater discharged from a fixed volume irrigation tank
Condition 8 – Table 6	Amended to require ambient soil monitoring in summer months and the frequency from triennial to biennial
Condition 14	Amended to: <ul style="list-style-type: none"> <li>(a) Require biennial submission of the environmental report commencing in 2026;</li> <li>(b) Allow the volume of wastewater irrigated to be reported using a comparison of the measured volume, via a flow meter, and observed discharge volumes;</li> <li>(c) Allow controlled waste tracking receipts to report wastewater that is removed;</li> <li>(d) Delete reporting of 24-hour logs for irrigation on each paddock and any rainfall;</li> <li>(e) Delete reporting of cattle grazing numbers;</li> <li>(f) Require annual summaries of fertiliser application (condition 5), crop harvest (condition 5), and nutrient loading (condition 6) data at a scale of kg/ha/year that includes explanations of: <ul style="list-style-type: none"> <li>• how the volume of inputs and outputs varied across the different</li> </ul> </li> </ul>

	<p>irrigation areas; and</p> <ul style="list-style-type: none"> <li>• how the variation in the data across different irrigation areas is managed and calculated consistent with the conditions of the licence</li> </ul> <p>(g) Delete graphical reporting of soil monitoring data (condition 8);</p> <p>(h) Replace the collective requirements for ‘an assessment and interpretation of the data’ for conditions 6, 7 and 8 with the requirement to explain:</p> <ul style="list-style-type: none"> <li>• the management of wastewater production volumes across the reporting period in relation to storage capacity, irrigation volumes, climate and rainfall;</li> <li>• the nutrient export risk based on all available data, including trends, soil data and any variability in the nutrient loading and management of different irrigation areas; and</li> <li>• the management actions that will be, or are being, implemented where PERI results are above 0.4</li> </ul>
Condition 15 (new)	<p>New condition to require the submission of a report to the CEO within 12 months of the Minister's determination that:</p> <p>(a) reviews the approach to targeted irrigation and establishes how the areas targeted for irrigation are effectively represented by, and align with, the soil testing locations, including potential changes to locations over time; and</p> <p>(b) establishes management actions that will be implemented in response to irrigation areas with PERI results that are above the 0.4 target.</p>
Definitions	Delete the text ‘from 9:00 am to 9:00 am the following day’ in the definition for ‘rainfall event’
	Definitions for ‘biennial period’ and ‘PERI’ added