



## Application for Licence

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

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<b>Licence Number</b>	L9381/2023/1
<b>Applicant</b>	Nigel Palmer Earthmoving Pty Ltd
<b>ACN</b>	613 223 608
<b>File number</b>	DER2023/000152
<b>Premises</b>	Nullaki Limestone Quarry Part of Lot 9005, Eden Road  Legal description: Part of Lot 9005 on Deposited Plan 52088 Volume 2653, Folio 12 As defined by the coordinates in Schedule 2 of the licence
<b>Date of report</b>	22 September 2023
<b>Decision</b>	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 L9381/2023/1 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 <https://dwer.wa.gov.au/regulatory-documents>.

### 2.2 Application summary and overview of premises

On 27 February 2023, the applicant submitted an application for a licence to the department under section 57 of the *Environmental Protection Act 1986* (EP Act). Works approval W6712/2022/1 for crushing and screening at the premises was approved in December 2022, and the site demonstrated compliance with the conditions of this instrument on 9 January 2023. The premises is approximately 12 km southeast of Denmark.

The premises relates to the category and assessed production capacity under Schedule 1 of the *Environmental Protection Regulations 1987* (EP Regulations) which are defined in licence L9381/2023/1. 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 L9381/2023/1.

This application seeks a licence for the ongoing crushing and screening of up to 50,000 tonnes of limestone per year at the premises. Under works approval W6712/2022/1, time-limited operations for these activities were permitted for up to 90 days. During this time, the department conducted a site inspection to evaluate the premises' compliance against the works approval and the applicable native vegetation clearing permit (refer to section 2.5 below). Feedback provided from the inspection indicated that the controls on the existing works approval were adequate to protect the environment, and there was a recommendation that conditions to limit dust and sediment laden stormwater from leaving site during both the operational and non-operational portion of the year should be transferred to any new licence. This has been reflected in the conditions of licence L9381/2023/1.

Noise modelling indicates that the operation will comply with the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations).

The Nullaki Peninsula is not located within a proclaimed groundwater or surface water area, and authority to extract water for use at this premises does not form part of this licence. The applicant is responsible for ensuring that any extraction of water that occurs for this premises is in accordance with the *Rights in Water and Irrigation Act, 1914* (RIWI Act).

### 2.3 Part IV of the EP Act

The proposal was referred to the Environmental Protection Authority (EPA) under section 38 of the EP Act in 2017. The EPA declined to assess the proposal, as it determined that impacts from this operation could be adequately managed under Part V of the EP Act (decision CMS17010).

## 2.4 Extractive Industry Licence

The premises has a current Extractive Industry Licence (EIL) granted by City of Albany, which conditionally approves the extraction of limestone from the quarry. It is noted that this approval relates to the operation of the “extractive industry”, which under the City of Albany *Extractive Industries Local Law 2009* does not explicitly include crushing and screening of the material extracted. Conditions included in licence L9381/2023/1 are intended to support and align with the EIL and apply to the crushing and screening (and associated) activities.

The EIL currently contains the following conditions that are specific to the extractive activities:

- Restrictions on the operation of the extractive industry to the period 1 January to 30 April each year, and to the hours of 7am – 5pm Monday to Friday, and 8am – 5pm Saturday, with no operation of the extractive industry permitted on Sundays or Public Holidays;
- Restrictions on the extraction from the excavation site to no more than 50,000 tonnes in any 12-month period;
- Requirements to prevent visible dust from crossing the site boundary; and
- Requirements for vehicles used for excavation to have audible reversing alarms removed and be fitted with noise minimising warning alarms.

It is also noted that the EIL prohibits fuel storage and the major servicing of equipment on the premises and expressly prohibits the washing of extracted material at the premises.

## 2.5 Native Vegetation Clearing Permit

A Native Vegetation Clearing Permit (CPS8392/4) applies to the premises, and the associated transport corridor. It allows for a total area of disturbance of eight hectares, to be progressively cleared three hectares at a time, at the premises. It includes conditions to minimise impacts to black cockatoos and the western ringtail possum, as well as some conditions that are intended to reduce the potential for dust emissions from cleared areas at the premises.

## 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.

**Table 1: Proposed applicant controls**

Emission	Sources	Potential pathways	Proposed controls
<b>Operation</b>			
Dust	Crushing of material, vehicle movements, lift-off from stockpiles and/or stored product, earthworks etc.	Air / windborne pathway	<ul style="list-style-type: none"> <li>• Restriction of noise generating activities to only occur between 7am till 5pm Monday to Friday and 8am till 5pm on Saturdays (excluding Sundays and public holidays).</li> <li>• Separation distance of over 2 kilometres to sensitive residential receptors to be maintained.</li> <li>• Separation distance of 1.5 kilometres from Nullaki campsite to be maintained.</li> <li>• Limited operations – premises will only operate between 1 January to 30 April annually.</li> <li>• Limited production to a maximum of 50,000 tonnes of limestone per year.</li> <li>• Internal speed limit within premises of 20 kilometres per hour and limiting traffic on haul roads and trafficable areas during operations.</li> <li>• Crushing and screening plant location will have regard for wind direction and be positioned on the floor of the quarry to minimize dust impacts when operating.</li> <li>• Programming work so that large sections of bare area are not exposed at any one time, no more than 3ha to be open/un-rehabilitated in accordance with the clearing permit.</li> <li>• Use of water for dust suppression on operational areas. No washing of excavated material is permitted by the EIL.</li> <li>• Cease dust generating activities where preventative measures are ineffective in reducing dust lift-off, for example during periods of high wind speeds.</li> <li>• A complaint recording system will be implemented during operations.</li> <li>• The applicant proposes a condition be added to the licence that no visible dust may cross the boundary of the premises.</li> </ul>
Noise	Crushing and screening of material	Air / windborne pathway	<ul style="list-style-type: none"> <li>• Restriction of noise generating activities to only occur between 7am till 5pm Monday to Friday and 8am till 5pm on Saturdays (excluding Sundays and public holidays).</li> <li>• Separation distance of over 2 kilometres to</li> </ul>

Emission	Sources	Potential pathways	Proposed controls
			<p>sensitive residential receptors to be maintained.</p> <ul style="list-style-type: none"> <li>• Separation distance of 1.5 kilometres from Nullaki campsite to be maintained.</li> <li>• Limited operations – premises will only operate between 1 January to 30 April annually.</li> <li>• Limited production to a maximum of 50,000 tonnes of limestone per year.</li> <li>• Internal speed limit within premises of 20 kilometres per hour.</li> <li>• Fit warning lights rather than audible alarms or beepers on machinery and equipment.</li> <li>• Mobile screening plant to operate on quarry floor during operations.</li> <li>• Regular maintenance of plant and machinery where a logbook and/or record of service history is maintained.</li> <li>• A complaint recording system will be implemented for site activities.</li> </ul>
Contaminated stormwater	Crushing, screening and storage of material.	Runoff potentially causing ecosystem disturbance or impacting surface water quality	<ul style="list-style-type: none"> <li>• Limestone porosity prevents runoff occurring.</li> <li>• Depth to groundwater is greater than 100 metres below ground level beneath the limestone quarry.</li> <li>• Refueling conducted by a mobile tanker, no storage of large quantities of environmentally hazardous materials.</li> <li>• Conduct training programs on emergency spills, materials storage, and handling practices.</li> <li>• Maintain an incident recording system during operational activities.</li> <li>• Operations will only occur during summer months when minimal rainfall is expected.</li> </ul>

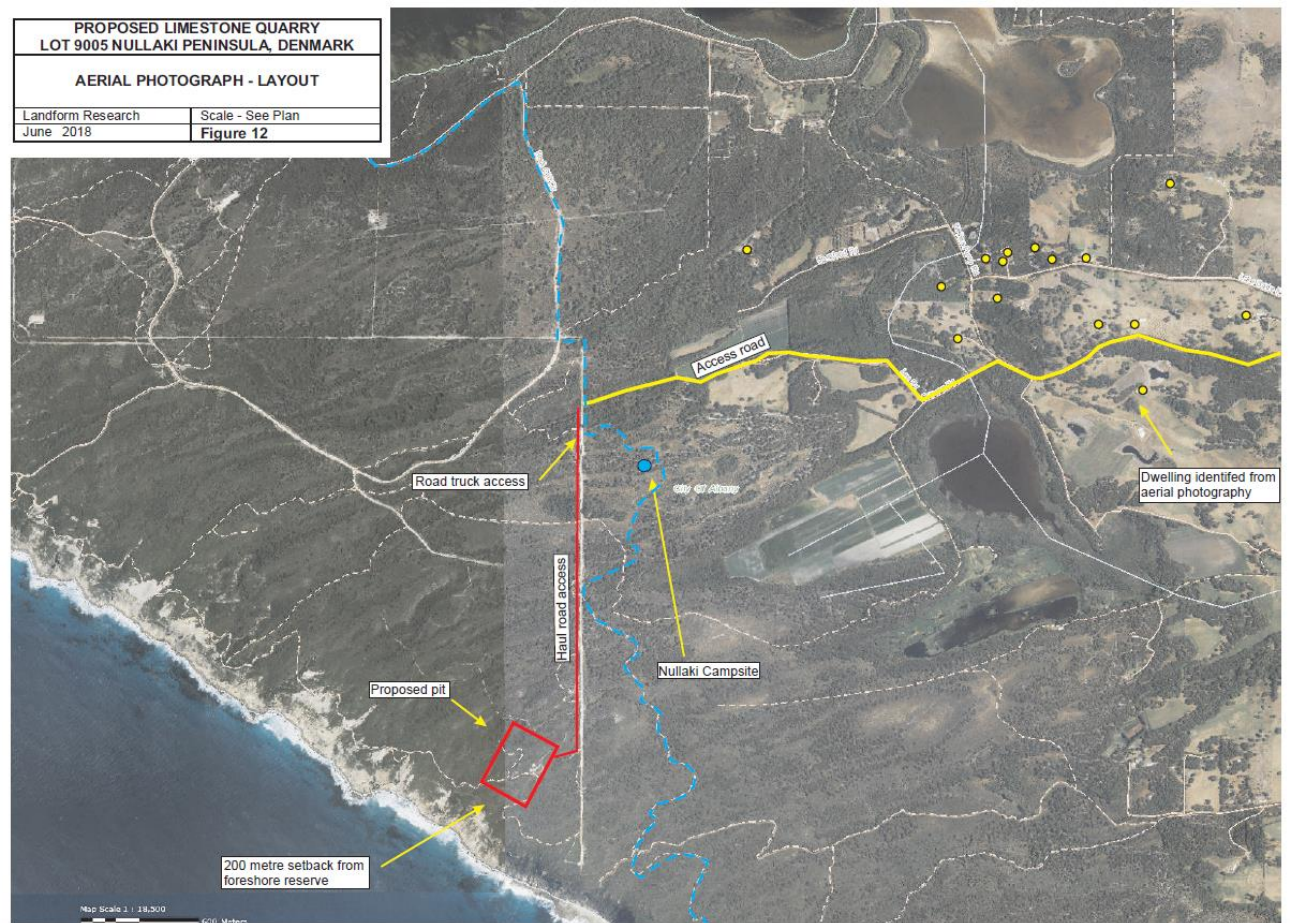
### 3.1.2 Receptors

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 and Figure 1 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
Residential premises	> 2kms north and east
Nullaki campsite	1.5km northeast
Bibbulman track	400 m east
Environmental receptors	Distance from prescribed activity
Vegetation – Open heath (no TEC's or PEC's)	Immediately adjacent to site
Southern Ocean	200m south



**Figure 1: Distance to sensitive receptors**

## 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 L9381/2023/1 that accompanies this decision report authorises emissions associated with the operation of the premises i.e. category 12 activities.

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



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

Risk events					Risk rating <sup>1</sup> C = consequence L = likelihood	Applicant controls sufficient?	Conditions <sup>2</sup> of licence	Justification for additional regulatory controls
Sources / activities	Potential emission	Potential pathways and impact	Receptors	Applicant controls				
<b>Operation</b>								
Screening, crushing, unloading, loading and storage of material  Vehicle movements	Dust	Air / windborne pathway causing impacts to health and amenity	Nullaki campsite located 1.5km from premises.  No TEC's, PEC's, fauna or environmentally sensitive areas within 800m of the premises boundary.  There are no wetlands, National Parks and Nature Reserves within 2km of the Premises boundary	Refer to Section 3.1	C = Minor L = Rare <b>Low Risk</b>	Y	Conditions 1, 3, and 7.	The applicant has proposed that a condition be applied to the licence to ensure that no visible dust crosses the premises boundary.  The applicant will keep a record of any complaints received regarding dust.
	Noise	Air / windborne pathway causing impacts to health and amenity	Nullaki campsite located 1.5km from premises.	Refer to Section 3.1	C = Minor L = Rare <b>Low Risk</b>	Y	<b>Conditions 1, 2, and 7.</b>	The closest noise sensitive receptor is greater than 2km away, and the Nullaki campsite is greater than 1.5km away.  The EIL has conditioned reversing alarms, no blasting activity, and stipulated that all operations must comply with the <i>Environmental Protection</i>

Risk events					Risk rating <sup>1</sup> C = consequence L = likelihood	Applicant controls sufficient?	Conditions <sup>2</sup> of licence	Justification for additional regulatory controls
Sources / activities	Potential emission	Potential pathways and impact	Receptors	Applicant controls				
								<p><i>(Noise) Regulations 1997</i> (Noise Regulations)</p> <p>Noise modelling indicates that the operation will comply with the Noise Regulations during operations.</p> <p>Equipment specifications (sound power level) have been included as a regulatory control on the licence</p> <p>The applicant will keep a record of any complaints received regarding noise.</p>
	Sediment laden stormwater	Overland runoff potentially causing ecosystem disturbance or impacting surface water quality	Surrounding vegetation. No TEC's, PEC's, fauna or environmentally sensitive areas within 800m of the premises boundary.  Southern Ocean 200m south	Refer to Section 3.1	C = Minor L = Rare <b>Low Risk</b>	N	<b><u>Condition 4.</u></b>	A condition to divert clean stormwater around the operational areas and retain potentially contaminated stormwater on site has been added.
	Potentially hydrocarbon contaminated stormwater			Refer to Section 3.1	C = Minor L = Rare <b>Low Risk</b>	N	<b><u>Conditions 4, 5, and 6.</u></b>	Conditions to require environmentally hazardous materials are stored securely and recovered immediately in the case of a spill have been added.

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 12 April 2023	None received	N/A
Department of Mines, Industry Regulation and Safety (DMIRS) on 6 April 2023 to discuss safety issues raised during a recent DMIRS inspection of the premises	DMIRS advised that while they had some concerns with the site, the crushing and screening activities and equipment regulated under this licence were safe and nothing they had observed presented a reason to prevent the issuing of this licence.	Noted.
Local Government Authority advised of proposal on 12 April 2023.	None received	N/A
Community consultation, letters sent to 10 stakeholders that have previously made submissions regarding this premises 12 April 2023.	One submission received, with issues summarised and addressed in Appendix 1.	Refer to Appendix 1.
Applicant was provided with draft documents on 30 June 2023	No comments on draft conditions.	Noted.

## 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) 2020, *Guideline: Environmental Siting*, Perth, Western Australia.
3. DWER 2020, *Guideline: Risk Assessments*, Perth, Western Australia.

## Appendix 1: Summary of stakeholder issues raised in submission and DWER response.

Subject	Summary of stakeholder submissions	Department's response
Vegetation	The operator has not adhered to the conditions of clearing permit CPS8392/4	<p>Clearing of native vegetation is outside the scope of this licence application. And is dealt through a separate process under Part V of the EP Act.</p> <p>This has been referred to the Compliance and Enforcement branch of the Department. A site inspection to review the work approval holder's compliance under the clearing permit and works approval for the premises was conducted in March 2023, during time-limited operations. Compliance determinations are managed through a separate process to this assessment, however, feedback from the inspection has been incorporated into this assessment.</p>
Water	Water has been extracted from a seasonal creek for use in this operation, causing a negative impact on the area.	<p>The taking of water is not regulated under Part V of the EP Act and is therefore outside the scope of this licence application.</p> <p>This has been referred to the Water Licensing Branch of the department to review the requirement for a licence under the <i>RIWI Act</i>. The outcomes of that review will be managed in a separate process to this assessment.</p>
Compliance with the EIL	The operator has not adhered to the conditions of the EIL that has been issued to the premises.	Compliance with the EIL for the premises is determined by the City of Albany and is outside the scope of this assessment.
Compliance with the <i>Mines Safety and Inspection Regulations 1995</i> .	The operator has not complied with various elements of the <i>Mines Safety and Inspection Regulations 1995</i> .	The department contacted Worksafe (a branch of DMIRS) on 6 April regarding environmental and safety issues on the site. DMIRS will progress with workplace safety matters related to this site through their department processes. DMIRS informed the department that they have no reason to prevent a licence under the EP Act for crushing and screening from being issued.
Proof of Occupier Status	A Certificate of Title, obtained in May 2023, is different to the version submitted with the application.	Review of this matter determined that the Certificate of Title that was provided with the application on 27 February 2023 was true and correct at that time, and therefore the application was valid and complete.

## Appendix 2: Application validation summary

SECTION 1: APPLICATION SUMMARY					
Application type					
Licence	☒	Relevant works approval number:	W6712/2022/1	None	<input type="checkbox"/>
		Has the works approval been complied with?		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
		Has time limited operations under the works approval demonstrated acceptable operations?		Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	
		Environmental Compliance Report / Critical Containment Infrastructure Report submitted?		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
		Date Report received: 9 January 2023			
Date application received		27 February 2023			
Applicant and Premises details					
Applicant name/s (full legal name/s)		Nigel Palmer Earthmoving Pty Ltd			
Premises name		Nullaki Peninsula Limestone Quarry			
Premises location		Lot 9005, Nullaki Peninsula, Deposited Plan 52088, Volume 2653, Folio 12; GPS coordinates (541200mE, 6121500mN zone 50)			
Local Government Authority		City of Albany			
Application documents					
HPCM file reference number:		DER2023/000152			
Key application documents (additional to application form):		1A - Certificate of Title 1B - ASIC extract 1C - Landowner consent 2 - Maps 3 - Management Plan approved by the SAT 3C - Clearing Permit 4 - Development Approval (SAT) and EIL (City of Albany) 5 - Audit of works approval			
Scope of application/assessment					
Summary of proposed activities or changes to existing operations.		<i>Licence Application</i> For the continued operation of a mobile crushing and screening plant for limestone, including the associated bulldozer, excavator and loader, beyond the 90 days TLO that is authorised under the works approval.			

**Category number/s (activities that cause the premises to become prescribed premises)**

**Table 1: Prescribed premises categories**

Prescribed premises category and description	Proposed production or design capacity
Category 12: Screening etc. of material: premises (other than premises within category 5 or 8) on which material extracted from the ground is screened, washed, crushed, ground, milled, sized or separated.	Proposing to crush and screen limestone for approximately 100 days per year, up to 50,000 tonnes per annum.  (Consistent with council planning approvals)

**Legislative context and other approvals**

Has the applicant referred, or do they intend to refer, their proposal to the EPA under Part IV of the EP Act as a significant proposal?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> EPA decided not to assess	Referral decision No: CMS17010 Managed under Part V <input checked="" type="checkbox"/> Assessed under Part IV <input type="checkbox"/>
Does the applicant hold any existing Part IV Ministerial Statements relevant to the application?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Ministerial statement No: EPA Report No:
Has the proposal been referred and/or assessed under the EPBC Act?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Reference No:
Has the applicant demonstrated occupancy (proof of occupier status)?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Certificate of title <input checked="" type="checkbox"/> General lease <input type="checkbox"/> Expiry: Mining lease / tenement <input type="checkbox"/> Expiry: Other evidence <input checked="" type="checkbox"/> Expiry:
Has the applicant obtained all relevant planning approvals?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	Approval: The EIL has been provided. Expiry date: 30 June 2023
Has the applicant applied for, or have an existing EP Act clearing permit in relation to this proposal?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	CPS No: 8392/4
Has the applicant applied for, or have an existing CAWS Act clearing licence in relation to this proposal?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Application reference No: N/A Licence/permit No: N/A
Has the applicant applied for, or have an existing RIWI Act licence or permit in relation to this proposal?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	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 <input type="checkbox"/> No <input checked="" type="checkbox"/>	Name: N/A Type: Has Regulatory Services (Water) been consulted? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Regional office: South Coast Region
Is the Premises situated in a Public Drinking Water Source Area (PDWSA)?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Name: N/A Priority: Are the proposed activities/ landuse compatible with the PDWSA (refer to <a href="#">WQPN 25</a> )? Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
Is the Premises subject to any other Acts or subsidiary regulations (e.g. <i>Dangerous Goods Safety Act 2004, Environmental Protection (Controlled Waste) Regulations 2004, State Agreement Act xxxx</i> )	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<i>Planning and Development Act 2005</i> <i>Environmental Protection (Clearing of Native Vegetation) Regulations 2004</i> <i>Environmental Protection (Noise) Regulations 1997</i> <i>Environmental Protection (Unauthorised Discharge Regulations) 2004</i>
Is the Premises within an Environmental Protection Policy (EPP) Area?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Is the Premises subject to any EPP requirements?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Is the Premises a known or suspected contaminated site under the <i>Contaminated Sites Act 2003</i> ?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Classification: N/A Date of classification: N/A