



Industry guide

Effective date: Not yet authorised

Setting the boundary of prescribed premises

Purpose

To provide direction for the establishment of the boundaries of premises that are to become prescribed premises.

Background

The Department of Environment and Conservation Western Australia (DEC) regulates prescribed premises under Part V of the *Environmental Protection Act 1986* (EP Act). Prescribed premises are listed in Schedule 1 of the Environmental Protection Regulations 1987 (see [State Law Publisher](#)).

The boundary of prescribed premises must be included in all works approvals and licences to define the area to which the works approval or licence applies.

The boundary may be proposed by an applicant but is determined by DEC as part of the process for assessing the application. However, the boundary forms part of the specifications of a works approval or licence and is subject to appeal. Therefore, it is essential that the decision is a reasonable one related to the objects of the *Environmental Protection Act 1986* and the purpose of the works approval or licence.

The boundary of prescribed premises must:

- encompass the whole area on which the activity that causes the premises to become prescribed takes place and from which emissions and discharges from these activities would occur
- define an area under the control of the occupier
- be clearly and unambiguously described
- encompass a contiguous* area of land, water or land and water, except where the area is bisected by a road, rail or waterway reserve.

The boundary needs to include the area required to enable the effective operation of the works approval or licence but should not, without good reason, include activities that do not cause the premises to become prescribed.

To facilitate inspection and compliance activities and for the convenience of the occupier, the boundary may also need to be readily identifiable on the ground.

For most premises the area of the activity taking place that causes the premises to become prescribed will be the same as the cadastral boundary of the premises. However, in some cases the boundary of the prescribed premises may be different from the cadastral boundary.

In the case of ports established under the *Port Authorities Act 1999* the variety of possible tenure and use arrangements makes determining the occupier and establishing the area that is the prescribed premises more complicated.

* For the purposes of this Industry Guide 'contiguous' means that the premises forms a single geographical unit that is not separated by areas not under the control of the occupier.

Implementation

Where a cadastral boundary meets the boundary requirements listed above, the cadastral boundary should be used as the prescribed premises boundary and described by reference to the title or, in the case of mining operations, to the mining tenement, and be marked on a plan of suitable scale. Where the areas are not contiguous*, separate works approvals or licences are required for each of the premises.

To set a different boundary for a prescribed premises:

1. Identify the extent of the proposed activity that would cause the premises to become prescribed.
2. Where possible, exclude areas not related to the activities that would cause the premises to become prescribed. Only include such areas if their inclusion will be necessary to establish a practical premises boundary and for the occupier to be able to comply with the conditions of the works approval or licence.
3. Identify the resulting boundary of the area, ensuring that the area will be under the control of the occupier and is a contiguous* area. Where areas are separated only by a waterway reserve, a railway reserve, a road reserve, or a combination of these, the premises may be considered contiguous*. In such circumstances the proposed premises boundary should be discussed with DEC.
4. In the case of ports established under the *Port Authorities Act 1999* a map of the area(s) on which activities that would cause the premises to become prescribed and details of the tenure and use arrangements for the area(s) need to be provided to DEC to enable an appropriate boundary to be determined.
5. Establish how the boundary is to be clearly and unambiguously described. The preferred approach is for the applicant to have a licensed surveyor survey the boundary and provide a plan of suitable scale. Although less desirable, Geographical Positioning System coordinates, geographic coordinates of corners of the premises given by latitude and longitude, or a description based on distances and compass bearings from permanent ground marks can be used. Such descriptions would also need to be marked on a plan of suitable scale.
6. Where the boundary that is set is not a cadastral boundary, DEC will consider whether conditions of the works approval and licence need to require the occupier to establish permanent marks sufficient to define the boundary.

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