

Licence variation application – premises

Department of Environment & Climate Change NSW



This is an application to vary a premises-based activity licence issued under the *Protection of the Environment Operations Act 1997* ('POEO Act').

A variation includes the substitution, omission or amendment of an existing condition, or attaching a new condition to a licence. If a licence holder wishes to seek a variation to licence conditions, this is the application form to fill in.

The form provides for the following scenarios:

- undertaking a new scheduled activity or ceasing a scheduled activity
- deleting an activity covered by a water licence or adding a new activity to be covered by the licence
- changing the scale/capacity of an activity
- extending a scheduled development works licence to cover the next stage of the development works or converting it to a scheduled activity licence
- any other variations.

To complete this form you may need *Guide to licensing* prepared by the Department of Environment and Climate Change (DECC) and available at www.environment.nsw.gov.au/licensing/licenceguide.htm and/or *Waste Classification Guidelines* (DECC 2008) which is available at www.environment.nsw.gov.au/waste/envguidlms/index.htm.

If you need help filling out the form, please contact your nearest DECC office from the list at the end of this form.

Once completed and signed, the form should be sent to your nearest DECC office (as indicated at the end of this form).

1. Licence to be varied

1.1 Licence to be varied

Licence number	12971
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1.2 Name of current licence holder(s)

Full name(s) of licence holder(s)	Australian Rail Track Corporation
ACN /ABN (if applicable)	ACN: 081 455 754 ABN: 75 081 455 754

2. Changes to scheduled activities

If you have stopped undertaking a scheduled activity that is covered by your current licence, or propose to commence a new scheduled activity, you should advise the EPA. For more details on changing your activity type, please refer to Section 8.3 of DECC's *Guide to licensing, part A*.

2.1 Adding a new scheduled activity

Write down the short descriptions of the categories of scheduled activity you would like added to the licence for your premises. These are listed in bold print in Appendix 2 of *Guide to licensing, part B*.

Description of scheduled activities	

Please attach extra page(s) if more space is needed.

2.2 Deleting a scheduled activity

Write down the short descriptions of the categories of scheduled activity no longer conducted at the premises, and that you would like deleted from the licence. These are listed in bold print in Appendix 2 of *Guide to licensing, part B*.

Description of scheduled activities	

Please attach extra page(s) if more space is needed.

3. Changes to 'non-scheduled activity' licence

If you hold a 'non-scheduled activity' licence, and you want to add or delete activities covered by that licence, you must advise the EPA.

If your activity fits the description of a category of activity listed in Schedule 1 of the POEO Act, it will need a Scheduled Activity Licence, and you will need to answer Question 2 instead of this question. Please refer to Appendix 2 in DECC's *Guide to licensing, part B*, to check whether the activity is a scheduled activity.

3.1 Adding a new activity

Write down the short description of the any new non-scheduled activity(ies) proposed to be conducted at the premises, and that you would like added to the licence.

Description of activities to be added	

Please attach extra page(s) if more space is needed.

3.2 Deleting an existing activity

Write down the short description of any non-scheduled activity(ies) no longer conducted at the premises, and that you would like deleted from the licence.

Description of activities to be deleted	

Please attach extra page(s) if more space is needed.

4. Fee-based activity

The licence administrative fee varies according to the classification and scale of your activity. Classification descriptions are found in Appendix 2 of *Guide to licensing, part B*, while activity scales are found in Appendix 5.

A change to the activity classification or activity scale may result in a change to your licence administrative fee. It may also result in a change in, or addition of, a load-based fee if the proposed activity has assessable pollutants as identified by the Protection of the Environment Operations (General) Regulation 1998.

4.1 Change to applicable fee-based activities

An addition or a deletion of a scheduled activity may result in a change to your fee-based activities.

The classifications used to determine licence fees can be found in Appendix 5 of *Guide to licensing, part B*.

Please provide details of the applicable fee-based activities and scales of activities that your licence will cover **as a result of the change**.

	Fee-based activity classification after proposed variation	Activity scale after proposed variation
1		
2		
3		
4		

The EPA will notify you if there is an adjustment to your licence administrative fee.

4.2 Change to applicable fee-based activity scale/capacity

A change to the scale or capacity of your currently licensed activity, may result in a change to your fee-based activity scale.

Please write down the fee-based classification of the proposed activity and the new activity scale in the space provided below, as shown in Appendix 5 of DECC's *Guide to licensing, part B*.

Please provide details of any **changes to the scale** of your **currently** licensed activities.

	Fee-based activity classification	Current activity scale	Proposed activity scale
1			
2			
3			
4			

The EPA will notify you if there is an adjustment to your licence administrative fee.

5. Scheduled development work

5.1 Scheduled development work – progression to next stage

If you hold a 'staged scheduled development work' licence and want to commence the next stage of work, please provide the information required below. You may need to provide extra documentation – refer to the conditions of your licence and Appendix 4 of DECC's *Guide to licensing, part B*.

Please provide a brief description of the work to be conducted:

Description of activities	

How many stages to the development work are there?	
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Which stage of the development work does this application relate to?	
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When will the next stage commence?	day/month/year
When will the next stage be completed?	day/month/year

You will need to apply to vary the licence if you conduct any further stages.

Please attach to this application any documents about the scheduled development work that are specified in Appendix 4 of *Guide to licensing, part B* and list them in the table in **Section 0**.

5.2 Scheduled development work – change to a 'scheduled activity' licence

If you hold a 'scheduled development work' licence and you want to commence the scheduled activity, you will need to vary your licence to a 'scheduled activity' licence. You cannot start the scheduled activity until a 'scheduled activity' licence authorises it.

You may need to provide extra documentation – refer to the conditions of your licence and Appendix 4 of DECC's *Guide to licensing, part B*.

Please provide the following information:

When will the activity commence?	day/month/year
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Please tick (✓) 'Yes' or 'No'.

	Yes	No
5.2.1 Will you still be completing some of the development work while carrying on the scheduled activity?		

Please provide a brief description of the work that still needs to be completed:

Description of activities	

When will the work be completed?	day/month/year
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Please attach to this application any documents about the scheduled development work that are specified in Appendix 4 of *Guide to licensing, part B* and list them in the table in **Section 0**.

6. Details of other variations

Your licence can be varied by deleting or amending a condition, or substituting one condition for another.

Please provide details of any other proposed variations not covered previously in this application.

Licence condition number	Details of proposed change	Reason for proposed change
L2.2a	Replace: (a) construction work that causes noise emissions that are not audible at any noise sensitive receiver; With: (a) construction work that causes LAeq(15minute) noise levels that are: (i) no more than 5dB above rating background level at any residence in accordance with the Interim Construction Noise Guideline (DECC, 2009); and (ii) no more than the noise management levels specified in Table 3 of the Interim Construction Noise Guideline (DECC, 2009) at other sensitive land uses.	This change is requested to bring the SSFL licence up to date with the <i>Interim Construction Noise Guideline (DECC, 2009)</i>, which was produced after the SSFL EPL was initially granted. The new condition provides a more easily measured assessment of noise levels below which out of hours work is acceptable. The old term "not audible" provides less technical certainty. The new condition has become a standard condition in licences granted for railways systems activities in the last 18 months, or such licences that have been amended in the last 18 months, and ARTC would appreciate being brought into line with the industry standard (e.g. L12413 TCA, L13316 Liverpool Turnback, L13189 Richmond Duplication, L12908 K2RQ, L13238 Lawson Rail Alignment).
L2.2f	New Condition: (f) Rail maintenance works including tamping and regulating to remediate vertical or horizontal movement >4mm in track geometry that has occurred as a direct result of works being undertaken for the project.	The SSFL EPL L12971 has not had such a condition up to this point in time. The new condition has become a standard condition in licences granted for railways systems activities in the last 18 months (e.g. L12413 TCA, L13316 Liverpool Turnback, L13189 Richmond Duplication, L12908 K2RQ, L13238 Lawson Rail Alignment) and would provide additional safety related flexibility in working hours for the project in the event a critical track safety issue arose. ARTC would appreciate being brought into line with the industry standard, to allow such critical safety related works to be undertaken when necessary.
L2.3	Replace: L2.3 Respite periods - construction work generating high noise impact Grinding, jack hammering, line drilling, pile driving, rock breaking, rock hammering, saw cutting, sheet piling, vibratory rolling and any construction work that generates impulsive, intermittent, low frequency or tonal noise must only be undertaken over a continuous period not exceeding 3 hours and: (a) be undertaken only between 9:00 am and 12:00 pm Monday to Saturday; (b) be undertaken only between 2:00 pm and 5:00 pm Monday to Friday; and (c) not be undertaken on any Sunday or Public Holiday. For the purposes of this condition 'continuous' includes any period during which there is less than a 60 minute respite between ceasing and recommencing any of the activities to which this condition applies. Except as expressly permitted by other conditions of this licence. With: L2.3 High noise impact activities and works occurring on the premises must only be undertaken:	The new condition has become a standard condition in licences granted for railways systems activities in the last 18 months, or such licences that have been amended in the last 18 months (e.g. L12413 TCA, L13316 Liverpool Turnback, L13189 Richmond Duplication, L12908 K2RQ, L13238 Lawson Rail Alignment). ARTC feels that the restricted hours allowed under the SSFL EPL L12971 are overly limiting. If the condition can be varied to mirror the conditions in the other current railway systems activities licences, ARTC would be able to limit noisy works to 3 hour periods with 1 hour respite periods in between, all during standard hours, but also achieve two additional hours of work on weekdays and one additional hour of work on Saturday. ARTC has maintained an excellent track record, having received no complaints via the SSFL hotline that relate to non-compliances with condition L2.3 (formerly O3.3) within the last two years. ARTC therefore requests that this condition be

Licence condition number	Details of proposed change	Reason for proposed change
	(a) between the hours of 8:00am to 6:00pm Monday to Friday; (b) between the hours of 8:00am to 1:00pm Saturday; and (c) in continuous blocks not exceeding 3 hours each with a minimum respite from those activities and works of not less than 1 hour between each block except as expressly permitted by Condition E1 of this licence. For the purposes of this condition 'continuous' includes any period during which there is less than a 1 hour respite between ceasing and recommencing any of the work the subject of this condition.	amended to mirror the current railway industry standard.
R4.1 & R4.2	Delete: R4.1 Monthly Monitoring Report The licensee must provide the EPA with a monthly monitoring report on or before the twentieth day of each month and that report must: (a) detail all monitoring undertaken during the previous month to satisfy the requirements of this licence; (b) provide a cogent analysis and interpretation of the monitoring and analytical results reported against relevant limits, goals and objectives, and must include - (i) the nature, scope and duration of any non-compliance with relevant limits, goals and objectives, (ii) details of the measures taken or proposed to be taken- · to remedy any non-compliance referred to in (i), and · to prevent a recurrence of any such non-compliance; (c) provide graphical representations of monitoring and analytical results, obtained over the preceding 11 months as well as those obtained for the month the subject of the report, that clearly shows licensee performance against relevant limits, goals and objectives; (d) be published on the project web site on or before the twenty-eighth day of each month. R4.2 Monthly Complaints Statistics Report The licensee must provide the EPA with a monthly complaints statistics report on or before the twentieth day of each month and that report must: (1) include a graphical representation of the number of complaints received over the preceding 11 months as well as during the month the subject of the report; (2) provide a break down of the complaints into the following categories- (a) noise, (b) vibration, (c) dust, (d) water pollution, (e) non-environmental, and (f) not project related; and (3) be published on the project web site on or before the twenty-eighth day of each month.	ARTC is seeking to reduce the administrative burden on OEH and ARTC by removing these Conditions, and therefore removing the requirement to submit a monthly report each month for the remainder of the SSFL project. ARTC has proven through the submission of monthly reports in accordance with R4.1 & R4.2 since November 2008 that it is keeping the records required by those Conditions. A number of the components within the monthly reports are required to be otherwise reported to OEH via Conditions: • R1 - annual return • R2 - notification of environmental harm • R4.3 - daily hotline complaints, • R4.4 - noise and vibration monitoring, • R4.5 - dust monitoring, and • R4.6 - suitable excavated material. ARTC suggests that the continued reporting through these Conditions, in addition to the ability of OEH to request additional records, is a more beneficial arrangement for both OEH and ARTC.
R4.6	Replace: R4.6 For any suitable excavated material re-used within the site record the licensee must record following details: (a) The date, time, location and amount of uncontaminated excavated material removed; (b) The date, time, placement and amount of uncontaminated excavated material re-used; (c) Details of vehicle, driver and route used in any vehicle movement of any uncontaminated excavated material within the premises; and (d) Details of contractor staff supervising removal, transport and re-located material at each phase of the process including date, time, name and signature. This information must be included in Condition R4.1 requiring Monthly Reports and at any time upon request of an authorised officer of the EPA.	ARTC is seeking to remove the requirement to include this information in a monthly report, in line with our request to remove Conditions R4.1 & R4.2. OEH will retain the right to request this information at any time.

Licence condition number	Details of proposed change	Reason for proposed change
	With: <i>R4.6 For any suitable excavated material re-used within the site the licensee must record following details:</i> <i>(a) The date, time, location and amount of uncontaminated excavated material removed;</i> <i>(b) The date, time, placement and amount of uncontaminated excavated material re-used;</i> <i>(c) Details of vehicle, driver and route used in any vehicle movement of any uncontaminated excavated material within the premises; and</i> <i>(d) Details of contractor staff supervising removal, transport and re-located material at each phase of the process including date, time, name and signature.</i> <i>This information must be provided at any time upon request of an authorised officer of the EPA.</i>	
E1 – E8	Replace: Special Conditions E1 to E8 With: E1 Additional Hours (1) Local Possessions <i>(a) construction works, including high noise impact activities and works may be undertaken during any local possession, but only if:</i> <i>(1) carrying on those works and activities during the hours specified in Condition L2.1 would cause unacceptable risks to;</i> <i>(i) construction personnel safety;</i> <i>(ii) rail passenger and railways personnel safety; or</i> <i>(iii) railway network operational reliability as may be notified to the licensee from time to time by RailCorp; or</i> <i>(iv) essential utility services; and</i> <i>(2) the licensee complies with the requirements of Condition E11.</i> <i>(b) Rail adjustment, tamping and regulating may be undertaken at any time during a local possession permissible by Condition E1 (1)(a).</i> (2) Weekends (independent of possessions) <i>(a) construction works, including high noise impact activities and works may be undertaken during the approved hours in L2.1 & L2.2, except on public holidays, and also between the hours of:</i> <i>(i) 1.00 pm and 10.00 pm on Saturdays; and</i> <i>(ii) 8.00 am and 10.00 pm on Sundays</i> <i>But only if:</i> <i>(1) carrying on those works and activities during the hours specified in Condition L2.1 would cause unacceptable risks to:</i> <i>(i) construction personnel safety;</i> <i>(ii) road user and public safety;</i> <i>(iii) road network operational performance as may be notified from time to time by the Roads and Traffic Authority; or</i> <i>(iv) essential utility services; or</i> <i>(2) the Roads and Traffic Authority's Traffic Management Centre (or other road authority) refuse to issue a road occupancy licence for those activities or works during any weekday;</i> <i>(3) the licensee complies with the requirements of Condition E11.</i> (3) Weekday evenings and nights (independent of possessions) <i>(a) construction works, including high noise impact activities and works may be undertaken, except on public holidays, between the hours of:</i> <i>(i) 6:00 pm and 7:00 am the following day on Mondays,</i>	Since L12971 was granted in November 2008, ARTC has been required to have <u>all</u> out-of-hours (OOH) works on the SSFL project approved by OEH. Since mid-2009, ARTC has been providing OOH variation applications four weeks prior to works in order to obtain these approvals. As of November 2011, ARTC has prepared 98 variation applications, the vast majority of which relate to OOH works approvals. This creates a substantial administrative workload for both parties, particularly OEH. ARTC has a good track record of preparing detailed OOH submissions, as demonstrated to OEH, and of informing the community of OOH works and managing the community's expectations. The SSFL has a well proven community consultation program, with respite offers being made to all affected residents each time OOH works are undertaken, based on case specific noise impact assessments. This is reflected in ARTC's excellent track record for OOH works, with no complaints received via the SSFL hotline within the last two years that related to problems with construction work within approved OOH periods. ARTC has clearly demonstrated a capacity to manage the OOH approvals process with minimal supervision. The allowance of controlled self-approval has become a standard condition in licences granted for railways systems activities in the last 18 months, or such licences that have been amended in the last 18 months (e.g. L12413 TCA, L13316 Liverpool Turnback, L13189 Richmond Duplication, L12908 K2RQ, L13238 Lawson Rail Alignment). ARTC is seeking to update the SSFL EPL to bring it into line with the industry standard. Planning of OOH works can often result in the requirement for last minute changes to work scopes or timings, often due to changes imposed by RailCorp, third party service providers or others who have a controlling interest in ARTC's OOH works. This can cause problems with last minute cancellations of works and changes to community respite offers. The change to these conditions would allow ARTC to prepare OOH applications for self-approval 3-4 weeks prior to the works as compared to 6-8 weeks prior at present. This would provide more certainty for all OOH works, and allow more certainty in communications and

Licence condition number	Details of proposed change	Reason for proposed change									
	<i>Tuesdays, Wednesdays and Thursdays;</i> <i>(ii) 6:00 pm and 8:00 am the following day on Fridays; and</i> <i>(iii) 6:00pm Sunday and 7:00am Monday for the purpose of traffic management works.</i> <i>But only if:</i> <i>(1) carrying on those works and activities during the hours specified in Condition L2.1 would cause unacceptable risks to:</i> <i>(i) construction personnel safety;</i> <i>(ii) road user and public safety;</i> <i>(iii) road network operational performance as may be notified from time to time by the Roads and Traffic Authority; or</i> <i>(iv) essential utility services; or</i> <i>(2) the Roads and Traffic Authority's Traffic Management Centre (or other road authority) refuse to issue a road occupancy licence for those activities or works during the day; and</i> <i>(3) the licensee complies with the requirements of Condition E11;</i> <i>(4) the works and activities are not being undertaken on more nights during any single week, within the same noise catchment of any noise sensitive receiver, than the maximum number of nights of work during any single week for the noise limit shown in Table E1.3.</i> <i>In determining the maximum number of nights of work during any single week, the licensee must:</i> <i>(i) apply the calculated predicted noise level to Table E1.3 to determine which noise limit and thus, the maximum number of nights of work per week permitted by this condition;</i> <i>(ii) explicitly state in the assessment report whether there are any particularly annoying activities as listed on page 16 of the Interim Construction Noise Guideline (DECC, 2009) and what corrections were applied to the predicted levels where particularly annoying activities were identified;</i> Table E1.3 <table border="1"> <thead> <tr> <th>Noise Limit Expressed as LA10 (15 minute)</th><th>Maximum nights of work during any single week within the same noise catchment</th><th>Maximum nights of consecutive work during any single week within the same noise catchment</th></tr> </thead> <tbody> <tr> <td>Rating Background Level plus ≤20 dBA</td><td>3</td><td>2</td></tr> <tr> <td>Rating Background Level plus ≤30 dBA</td><td>2</td><td>2</td></tr> </tbody> </table> <i>(7) the works and activities are not being undertaken within the same noise catchment of any noise sensitive receiver sooner than two nights directly following any night works undertaken during a local possession; and</i> <i>(8) The licensee implements the mitigation measures outlined in the assessments undertaken in accordance with this condition.</i> (4) Additional works approved by EPA The following additional hours have been approved by EPA: <i>(i) [Specified details of approved hours not covered by E1(1) to E1(3)].</i>	Noise Limit Expressed as LA10 (15 minute)	Maximum nights of work during any single week within the same noise catchment	Maximum nights of consecutive work during any single week within the same noise catchment	Rating Background Level plus ≤20 dBA	3	2	Rating Background Level plus ≤30 dBA	2	2	respite offers for the community. Scope changes would generally not be allowed by ARTC under the new conditions within two weeks of works due to the need to undertake noise impact studies, and provide a minimum of five days notice of the works to residents. OEH has recently advised ARTC that processing times for variation applications may possibly exceed the four week timeframe that OEH and ARTC currently work to, due to an increase in the administrative workload of OEH. The new conditions are aimed at removing as much of this administrative load as possible. OEH can have confidence in ARTC undertaking this administrative load now that ARTC has demonstrated a capacity to effectively manage the OOH approval process.
Noise Limit Expressed as LA10 (15 minute)	Maximum nights of work during any single week within the same noise catchment	Maximum nights of consecutive work during any single week within the same noise catchment									
Rating Background Level plus ≤20 dBA	3	2									
Rating Background Level plus ≤30 dBA	2	2									

Licence condition number	Details of proposed change	Reason for proposed change
E11.2	Replace: <i>"....with Condition E1 – E8, the licensee must:"</i> With: <i>"....with Condition E1, the licensee must:"</i>	In order to reflect the replacement of Conditions E1 – E8 with the new Condition E1 as detailed above.

Development consent

Please tick (✓) 'Yes' or 'No'.

	Yes	No
6.1 Have the proposed variation(s) listed above, been the subject of environmental assessment and public consultation under the <i>Environmental Planning and Assessment Act 1979</i> ?		

If you answered 'Yes' to this question, please attach a copy of the development consent.

If you answered 'No' to this question, please tick (✓) the statement below that is correct.

A development application has been made to obtain development consent	
No development consent is necessary for the new activities	

If development consent is **not** necessary, please provide details indicating why:

Details	

7. Supporting documentation

Appendix 4 of *Guide to licensing, part B* provides details of the supporting documentation that is required when applying for a licence.

Please provide details of documentation included with this application.

Document title	

Please attach extra page(s) if more space is needed.

8. Signature of licence holder

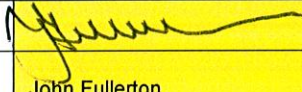
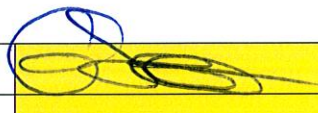
This application may only be signed by a person(s) with legal authority to sign it. The various ways in which the application may be signed, and the people who may sign the application, are set out in categories below.

Please tick (✓) the box next to the category that describes how this application is being signed.

If the proposed licence holder is:		The application must be signed and certified by one of the following:
an individual	☒	the individual.
a company	☐ ☐ ☐ ☐	the common seal being affixed in accordance with the <i>Corporations Act 2001</i> , or two directors, or a director and a company secretary, or if a proprietary company that has a sole director who is also the sole company secretary – by that director.
a public authority other than a council	☐ ☐	the chief executive officer of the public authority, or by a person delegated to sign on the public authority's behalf in accordance with its legislation (Please note: a copy of the relevant instrument of delegation must be attached to this application).
a local council	☐ ☐	the general manager in accordance with s.377 of the <i>Local Government Act 1993</i> ('LG Act'), or the seal of the council being affixed in a manner authorised under the LG Act.

I/We (the licence holder):

- **apply for the variation of the licence listed in Section 1**
- **declare that the information in this form (including any attachment) is not false or misleading in any material particular.**

Signature		Signature	
Name (printed)	John Fullerton	Name (printed)	Gavin Carney
Position	CEO / Managing Director	Position	Company Secretary
Date	16/11/2011	Date	16/11/2011

Seal (if signing under seal):

Additional information

1. It is an offence to supply any information in this form that is false or misleading in a material particular. There is a maximum penalty of \$22,000 for a corporation or \$11,000 for an individual.
2. Details of the licence application and licence will appear on the EPA's Public Register. The EPA can be asked by any person to provide reasons for refusal or granting of a licence application.
3. The Environment Protection Authority (EPA) is now a part of the Department of Environment and Climate Change (DECC), which exercises certain statutory functions and powers in the name of the EPA.

Send this form to your nearest DECC office:

Metropolitan

Parramatta

Department of Environment and Climate Change NSW
PO Box 668
PARRAMATTA NSW 2124

Phone: 9995 5000
Fax: 9995 6900

Wollongong

Department of Environment and Climate Change NSW
PO Box 513
WOLLONGONG EAST NSW 2520

Phone: 4224 4100
Fax: 4224 4110

North East

Newcastle

Department of Environment and Climate Change NSW
PO Box 488G
NEWCASTLE NSW 2300

Phone: 4908 6800
Fax: 4908 6810

Grafton

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