

A decorative graphic on the right side of the page consisting of a cluster of green hexagons of varying sizes, arranged in a pattern that resembles a stylized tree or a molecular structure. The hexagons are arranged in a way that they appear to be part of a larger, continuous pattern that is partially cut off by a diagonal white line.

**Protection of the Environment
Operations Act licence risk
level: Licensee appeal and
internal review guidelines**

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Introduction

The NSW Environmental Protection Authority (EPA) risk-based licensing system aims to ensure that all licensees receive an appropriate level of regulation based on the level of risk they pose. The EPA assesses the site-specific risks posed by the licensed premises considering:

1. the day-to-day operations at the site, assessing the types of environmental media relevant to the premises (air, odour, water and noise emissions)
2. the pollutant incident risk at the premises
3. the environmental management performance of the licensee.

The assessment process determines an overall environmental risk level for each licensed premises: levels 1, 2 or 3, with level 3 being the highest risk. The risk levels allocated to each licence will be available on the EPA's Public Register from the first licence anniversary after 1 July 2015. Licensees will be advised in writing of their risk level.

Appeal mechanisms available to licensees

The risk levels determined by the EPA are subject to appeal mechanisms, these include:

1. request an internal review of the risk level
2. request a Chief Environmental Regulator (CER) review (an internal review is a prerequisite to CER review)
3. external appeal of the EPA's decision by application to the land and environment court.

Internal review of risk levels

A licensee can appeal the risk level determined for their licence and request an internal review of the risk level within 21 days of the being notified of the risk level by the EPA.

An application for an internal review of risk levels must include the grounds upon which the application has been made. The application must specify the reasons for seeking an internal review and provide adequate information to support the review. Go to the website for an [internal review application form](#).

Purpose and scope of the internal review

- The purpose of the internal review is to determine, on the available information, whether the correct risk level has been allocated to the licence. The internal review is limited to the risks posed to the environment from day to day operations and the pollutant incident risk at the premises.
- The internal review will be undertaken by an EPA officer from a region other than the responsible region involved in the initial risk assessment.
- The scope of the internal review is limited to the matters raised in the application.

Process of the internal review

- The EPA receives an application for internal review within 21 days of the Licensee being notified of the licence risk level.
- Within 21 days of receiving the request the EPA will make a decision on the outcome of the internal review.
- The EPA may request further information from the licensee. If additional information is requested the timeframe for determining the outcome of the review is extended by 14 days. The review can be conducted if additional information is not received within 14 days of the request.
- The EPA may undertake a site inspection as part of the internal review. If a site inspection is required the timeframe for determining the outcome of the review is extended by 14 days.
- The EPA may uphold the original risk level or assign a revised risk level. The licensee will be notified of the outcome of the review and the risk level published on the EPA's public register.

Request for review of risk level by Chief Environmental Regulator

If the licensee is not satisfied with the outcome of the internal review an appeal can be made to the EPA's Chief Environmental Regulator (CER) within 21 days of being notified of the internal review outcome.

Scope and limitations of the CER review

- The scope of the CER review is limited to the matters raised in the internal review and the application for CER review only.
- The CER will undertake a desktop review of the risk level and notify the licensee of the outcome within 21 days of receiving the application.

Appeal to the Land and Environment Court

If the licensee is not satisfied with the outcome of the CER review, the licensee may seek external review in the land and environment court. The deadline for lodging the appeal is 21 days after notice of the CER decision is given.