



Department of
Primary Industries

Guidelines to assist in preparing an application for a licence under the Hemp Industry Act 2008

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Guidelines to assist in preparing an application for a licence under the Hemp Industry Act 2008

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Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (July 2018). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.

Contents

Introduction	Error! Bookmark not defined.
Part 1 – Applicant Details	Error! Bookmark not defined.
Part 2 – Close Associate Details	Error! Bookmark not defined.
Part 3 – Description of Proposed Activities	Error! Bookmark not defined.
3.1 – Cultivation for Commercial Production Details	Error! Bookmark not defined.
3.2 – Cultivation for a Manufacturing Process Details	Error! Bookmark not defined.
3.3 – Cultivation for Scientific Research Details	Error! Bookmark not defined.
3.4 – Supply for Commercial Production Details	Error! Bookmark not defined.
3.5 – Supply for Manufacturing Process Details	Error! Bookmark not defined.
3.6 – Supply for Scientific Research Details	Error! Bookmark not defined.
Part 4 – Fees	Error! Bookmark not defined.
Part 5 – Additional Information for Applicants	Error! Bookmark not defined.
Appendices	Error! Bookmark not defined.
Appendix 1 - Consent Form.....	Error! Bookmark not defined.
Appendix 2 – Example diagram of farm layout	Error! Bookmark not defined.
Appendix 3 – Example diagram of research facility layout	Error! Bookmark not defined.

Please note

This guideline document is provided to assist persons applying for a licence to cultivate and supply low THC hemp under the (NSW) Hemp Industry Act 2008 (The Act) and (NSW) Hemp Industry Regulation 2016. Every attempt has been made to accurately explain the scope of information that needs to be provided in the licence application form. Nevertheless it remains the applicant’s responsibility to ensure that they understand their obligations under this legislation and that all information provided is true and accurate.

The Act provides for penalties of up to \$11,000 or 2 years imprisonment or both where a person makes a false or misleading statement or omits important information from their application.

Introduction

A person or company must hold a current licence under the *Hemp Industry Act 2008* (the Act) before they may lawfully cultivate or supply low-THC hemp in NSW.

A licence can only be issued to a person who is considered suitable to be concerned in or associated with, the cultivation or supply of low-THC hemp. In particular, the person must be of good repute, having regard to the person's character, honesty and integrity. These requirements also apply to close associates (as defined) of the person or company making the application.

The personal details of the licence applicant and all close associates will be referred to the NSW Police for a criminal record check. This is an essential requirement to verify whether an applicant or close associate has a history of drug related or other offences.

Applicants should note that the application form identifies the minimum information required by the *Hemp Industry Regulation 2016*. It is clearly in the interests of the applicant to provide as much information as necessary to clearly explain their proposed activities.

It is recommended that applicants familiarise themselves with a NSW Department of Primary Industries publication, "Growing low THC hemp under licence in NSW – Frequently asked questions" and the *Hemp Industry Act 2008* and the *Hemp Industry Regulation 2016*. These documents can be accessed at <https://www.dpi.nsw.gov.au/agriculture/broadacre-crops/summer-crops/hemp/nsw-hemp-industry>

Definition

Low THC hemp - Low THC hemp is defined as any plant of the genus Cannabis that has a concentration of THC in its leaves and flowering heads of no more than 1% and includes the seed of any such plant and any product (such as oil or fibre) derived from any such plant.

Type of application

Please indicate if you are making a new application or if you are requesting renewal of an existing licence.

If you are applying for licence renewal, please provide your licence number.

Note: To be considered for licence renewal, a licence renewal application must be received by NSW Department of Primary Industries at least 28 days before the current licence is due to expire.

Part 1 Applicant Details

The Secretary is required to investigate of all applications and will consider the circumstances of each application on a case by case basis. In particular, the Secretary is required to conduct a criminal record check of all applicants and their close associates to determine whether they are suitable persons to be involved in the cultivation or supply of low-THC hemp.

The applicant details requested in Part 1 of the application are required to assist the Secretary in this investigation.

- Please provide two passport sized photographs with your name clearly printed on the back. **Do Not** glue or stick the photographs to the application form.
- Applications may be made by a person or by a corporate entity. Where a corporate entity is the applicant, all directors and office bearers of the company are close associates of the applicant. See Part 2.
- If you are applying on behalf of a corporate entity or business, please include the business name and the ABN. You should also indicate your executive role within this business, such as whether you are the owner, manager or a director of the business.
- A photocopy of your driver's licence helps establish your identity and ensures that the applicant is over the age of 18 years. Licences cannot be issued to persons under 18 years of age.
- Provide full residential and postal addresses.

1.1 Drug-Related Offences

An application for a licence to cultivate or supply low-THC hemp **must be refused** if the applicant or any close associate of the applicant, has been found guilty of a drug-related offence (as defined) in any state or territory.

drug related offence means an indictable offence under the *Drug Misuse and Trafficking Act 1985* or under a corresponding law.

Applicants and close associates who have been found guilty of a *drug related offence* at least 10 years prior to making the application should acquaint themselves with the provisions of the *Criminal Records Act 1991*.

Where the offence was set aside or pardoned, full details should be provided with the application form so that the applicant's eligibility for a licence can be determined by the Secretary.

1.3 Licence Refusal in other States

Applicants must disclose whether they, or a close associate, have been refused a licence to produce low-THC hemp, or had a licence revoked in another state or territory.

Part 2 Close Associates Details

This section collects information about persons who are **close associates** of the applicant. Close associates are defined in Section 4 of the Act as follows:

- (1) For the purposes of this Act, a person is a **close associate** of an applicant for, or the holder of, a licence if the person:
 - a. holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the licence applicant or holder, and by virtue of that interest or power is or will be able (in the opinion of the Secretary) to exercise a significant influence over or with respect to the conduct of that business, or
 - b. holds or will hold any relevant position, whether in his or her own right or on behalf of any other person, in the business of the licence applicant or holder.

- (2) In this section:

relevant financial interest in relation to a business means:

- a. any share in the capital of the business, or
- b. any entitlement to receive any income derived from the business, whether the entitlement arises at law or in equity or otherwise.

relevant position means the position of director, manager or secretary or any executive position, however designated, if it is an executive position.

relevant power means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others:

- a) to participate in any directorial managerial or executive decision, or
- b) to elect or appoint any person to any relevant position

All applicants should familiarise themselves with this definition. The following guidelines are provided to assist in determining who should be listed in the application as close associates:

- a spouse, de facto partner or other family members who are in partnership for business or taxation purposes are close associates;
- directors, executive managers and co-owners of a company or other business entity are close associates;
- A person making land available to an applicant or licensee on a share-farming basis is a close associate.

The following persons are not generally close associates:

- children under the age of 18 who reside with the applicant or a close associate of the applicant would not generally be considered to be close associates.
- Employees of the applicant who hold no **relevant financial interest, relevant position** or **relevant power** in the company are not close associates.
- Shareholders in a publicly listed company are not close associates.
- A person leasing land to a licensee is not generally a close associate.

Complete information needs to be provided for each close associate relevant to this application. If the applicant has more than 2 close associates, make a photocopy of Part 2 and attach the completed form to the application.

Where the cultivation of low-THC hemp is intended on property not owned by the applicant and the owner of the property lives and/or works on the property, the owner may or may not be considered a close associate of the applicant depending upon meeting criteria defined of under "close associate".

Under a cultivation for research license, research conducted on the property of a person who is not a license holder but has consented to this research taking place on this is not required to apply for a licence and may not be considered a close associate if this person does not meet the criteria defined of under "close associate".

Farm workers, consultants or contractors are not close associates if they hold no financial interest or power in the business of the applicant or licensee.

Each Close Associate Must

- provide two passport sized photographs with your name clearly printed on the back, (**Do Not** glue or stick the photographs to the application form);
- describe the nature of your association with the applicant including an explanation of the position, power or financial interest you have with the applicant;
- provide a photocopy of your driver's licence to help establish your identity and ensure that you are over the age of 18 years. Licences will not be issued to persons under 18 years of age;
- provide full residential and postal addresses;
- sign the declaration at the bottom of the page verifying that the details provided are correct

Part 3 Descriptions of Proposed Activities

A description of the proposed cultivation or supply of low-THC hemp is required to assist in determining the bona fide nature of the proposed activities and provides a basis for any subsequent audits or inspections.

Purpose of licence

Applicants should note that a licence can authorise more than one activity, such as cultivation and supply of low-THC hemp. The following category descriptions are provided to assist applicants.

cultivate includes grow, harvest or produce

supply includes sell and distribute, and also includes agreeing to supply, or offering to supply, or keeping or having in possession for supply, or sending, forwarding, delivering or receiving for supply, or authorising, directing, causing, suffering, permitting or attempting any of those acts or things.

Activity	The activity means
3.1 - Cultivation of low-THC hemp for commercial production	Low-THC hemp is cultivated for the purpose of supplying low-THC hemp products derived from such plants (such as seeds or fibre) into the commercial market.
3.2 – Cultivation of low-THC hemp for use in manufacturing process	<p>Low-THC hemp is cultivated for the purpose of supplying low-THC hemp products derived from such plants (such as seeds or fibre) as raw materials for use in manufacturing processes.</p> <p>This might include on-farm processing or processing off-farm in a factory.</p> <p>This would include farmers who are contracted by a manufacturer to grow low-THC hemp material for supply to the manufacturer.</p>
3.3 - Cultivation of low-THC hemp for scientific purposes	<p>Low-THC hemp is cultivated for the purpose of scientific research, instruction, analysis or study.</p> <p>For example, this might include:</p> <ul style="list-style-type: none"> • <i>bona fide</i> research into some aspect of agronomy, plant quality, plant health, plant breeding, product development or similar activity. • <i>bona fide</i> educational activities or the demonstration of low-THC hemp cultivation to students.

Activity	The activity means
<p>3.4 Supply of low-THC hemp for commercial production</p>	<p>Low-THC hemp plant material or seed is supplied for the purpose of commercial production which is not to be used in a manufacturing process.</p> <p>An example of supply for commercial production would be; supplying seed which will be used for sowing or supplying seed or fibre to a third party not involved in the original production, who may on-sell for manufacturing processes.</p>
<p>3.5 - Supply of low-THC hemp for use in manufacturing process</p>	<p>Low-THC hemp plant material is supplied for use in a manufacturing process. A manufacturing process is taken to mean any process that converts low-THC hemp plants and raw seed into fibre, processed seed, oil or other products.</p> <p>This would include supply of low-THC hemp material grown under contract to a manufacturer.</p> <p>This may include on-farm processing of fibre or oil extraction.</p>
<p>3.6 - Supply of low-THC hemp for scientific purposes</p>	<p>Low-THC hemp plants, or products derived from such plants (such as seeds or fibre), are supplied to a research or educational facility or to a laboratory for scientific research, instruction, analysis or study.</p> <p>For example, this might include:</p> <ul style="list-style-type: none"> • <i>bona fide</i> research into some aspect of product development, production, plant quality, plant health, plant breeding or similar activity. • <i>bona fide</i> educational activities or demonstration of some aspect of the cultivation of low-THC hemp to potential licensees. • Where low-THC hemp plant material or seed is supplied for the purpose of scientific analysis, disease resistance and variety traits. <p>This part does not include supply of low-THC hemp samples to a laboratory for statutory testing of THC levels in a low-THC hemp crop.</p>

Indicate the nature of the production activities that you propose

Do you intend to produce or supply hemp fibre, hemp seed or some other hemp material? You may carry out more than one activity.

Intended use of low-THC hemp material

Describe the low-THC hemp products that you intend to produce under the proposed licence.

Note: The *Hemp Industry Act 2008* cannot authorise licences for the cultivation and supply of low-THC hemp for medicinal or human therapeutic purposes.

Destination of low-THC hemp material

At the time of application, information regarding the destination of the low THC plant material may not be known. If this information is known it should be supplied with your application. Where information is not provided as part of the application or changes are made to details initially provided, this information will need to be provided in the annual report. (See licence conditions)

Duration of licence

A licence would normally be valid for a period of five years; however the licensee may request a shorter duration.

Part 3.1 -3.6 Details of Proposed Sites and Other Information

Please only complete the sections that are relevant to the activities you have identified at the start of Part 3 of your application.

3.1 Details Required for Cultivation – Commercial production

- a. Provide a full description of the property on which the low-THC hemp will be cultivated. The Lot number and Deposited Plan number (DP No.) will be on your rates notice. They can also be obtained by contacting your Local Council office. Please note that a licence will not generally be granted to cultivate commercial low THC hemp crops in an urban area.
- b. If you have a Property Identification Code issued by Local Land Services, you should provide the PIC number. PIC numbers are very useful in identifying the property in question.
- c. If you are not the owner of the property on which you propose to cultivate low THC hemp under the current application, you will need to provide evidence that the owner consents to the use of this property for the cultivation of low THC hemp. An example of a consent form is provided at Appendix 1 for this purpose.
- d. Estimate of the maximum number of hectares of low-THC hemp proposed to be cultivated on the property in any one year under this application. This estimate is for planning purposes only and some variation from year to year is acceptable and can be highlighted in annual reports.
- e. Provide a plan of the property showing those areas where low-THC hemp is proposed to be grown or stored. Where possible a Google Earth satellite map should accompany the application showing;
 - the property
 - fence lines
 - roads
 - residences
 - storage facilities
 - GPS coordinates and
 - the paddocks intended for hemp production.

A hand drawn map, including the details listed above, as illustrated at Appendix 2 is also acceptable.

Where possible, low THC hemp crops should be positioned close to a residence on the property, or located so that any unauthorised access is more likely to be detected. An internal paddock is recommended. Low THC hemp crops should not be positioned alongside a public road, unless the crop will be screened by trees or shrubs.

3.2 Details Required for Cultivation – Manufacturing process

- a. Provide a full description of the property on which the low-THC hemp will be cultivated. The Lot number and Deposited Plan number (DP No.) will be on your rates notice. They can also be obtained by contacting your Local Council or Shire office. Please note that a licence will generally not be granted to cultivate commercial low THC hemp crops in an urban area.
- b. If you have a Property Identification Code (PIC) issued by Local Land Services, you should provide this number. PIC numbers are very useful in identifying the property in question.
- c. If you are not the owner of the property on which you propose to cultivate low THC hemp under the current application, you will need to provide evidence that the owner consents to the use of their property for the cultivation of low THC hemp. An example of a consent form is provided at Appendix 1 for this purpose.
- d. You should estimate the maximum number of hectares of low-THC hemp likely to be cultivated on the property in any one year under this application. This estimate is for planning purposes only and some variation from year to year is acceptable and can be highlighted in annual reports.
- e. An indication must be given to the processing the hemp material or seed is likely to be subjected to.
- f. Provide a plan of the property showing those areas where low-THC hemp is proposed to be grown or stored. Where possible a Google Earth satellite map should accompany the application showing;
 - the property
 - fence lines
 - roads
 - residences
 - storage facilities
 - GPS coordinates and
 - the paddocks intended for hemp production.

A hand drawn map, including the details listed above as illustrated at Appendix 2, is also acceptable.

Where possible, low THC hemp crops should be positioned close to a residence on the property, or located so that any unauthorised access is more likely to be detected. An internal paddock is recommended. Low THC hemp crops should not be positioned alongside a public road, unless the crop will be screened by trees or shrubs.

3.3 Details Required for Cultivation – Scientific Purposes

- a. Provide a full description of the property or facility on which the low-THC hemp will be cultivated for research, instruction or analysis. Where the cultivation will take place on private property, provide the Lot number and Deposited Plan number (DP No.) for the property. They will be on the rates notice or can be obtained by contacting the Local Council office. Please note that a licence will generally not be granted to cultivate low THC hemp crops in an urban area.
- b. The applicant will need to attach a comprehensive description of the research, instruction or study proposed under this application. This should include:
 - the objectives of the research, instruction or analysis and what you hope to achieve from the activity;
 - a description of the trial design, experimental method or analysis plan;
 - an estimate of the quantity of low-THC hemp products to be produced; and
 - how any low-THC hemp will be utilised, disposed of or destroyed.
- c. Provide details of educational qualifications and other relevant qualifications and experience of applicant and close associate. The applicant is responsible for the conduct of the research activity and should have professional qualifications and scientific experience that are relevant to the proposed work.
- d. If the proposed research is to be carried out on a property or facility that is not owned or controlled by the applicant, you will need to provide evidence that the owner consents to the use of their property for the cultivation of low-THC hemp. An example of a consent form is provided at Appendix 1 for this purpose.
- e. You should estimate of the maximum number of hectares of low-THC hemp likely to be cultivated on the property or facility in any one year under this application. This estimate is for planning purposes only and some variation from year to year is acceptable and can be highlighted in annual reports.
- f. Provide a plan of the property or facility showing those areas where low-THC hemp is likely to be grown or stored. Where possible a Google Earth satellite map should accompany the application showing:
 - the property with GPS coordinates at the entrances;
 - fence lines;
 - roads;
 - buildings, residences and any public areas;
 - storage and processing facilities;
 - the paddocks, blocks or glasshouses intended for hemp production.

A hand drawn map, including the details listed above as illustrated at Appendix 3, is also acceptable.

Where possible, low THC hemp crops should be positioned close to a residence on the property, or located so that any unauthorised access is more likely to be detected. An internal paddock is recommended. Low THC hemp crops should not be positioned alongside a public road, unless the crop will be screened by trees or shrubs.

3.4 Details Required for Supply – Commercial production

- a. If you have produced the low THC hemp under licence that you intend to supply for commercial production you should answer yes to this section. If you did not produce the low THC hemp but procured it from elsewhere these details should be recorded in section **c** of the application.
- b. In many cases, the supply of low-THC hemp will be part of an application to cultivate a low-THC hemp crop. However, the applicant may not have determined the final destination of the crop at the time of making the application, particularly where the licence extends over several years. In that case the licence holder should provide details of any destination of low THC hemp material in the Annual report which is required under the conditions of the licence.

However, if the sale or destination of a crop is known at the time the application to cultivate is made; the applicant should provide the information at **d**.

- c. If you are a wholesaler or commercial trader and the low-THC hemp you are supplying for commercial purposes has not been cultivated by you, please provide brief details of the origin of the low-THC hemp material. Name, address and Licence Number for the source of each batch of low-THC hemp supplied will be sufficient.
- d. Provide complete details of the location of the property that is to be used for the proposed commercial production and the name of the responsible person that is to be supplied with the low-THC hemp for commercial production (if known).
- e. Provide an estimate of the quantity of low-THC hemp to be supplied for commercial production on an annual basis. This estimate is for planning purposes only and some variation from year to year is acceptable and can be highlighted in annual reports.

3.5 Details Required for Supply – Manufacturing process

- a. If you have produced the low THC hemp under licence that you intend to supply for processing and or manufacturing process you should answer yes to this question. If you did not produce the low THC hemp but procured it from elsewhere these details should be recorded in section **c** of the application form
- b. In many cases, the supply of low-THC hemp will be part of an application to cultivate a low-THC hemp crop. However, the applicant may not have determined the final disposal of the crop at the time of making the application, particularly where the licence extends for the full five years. In that case the licence holder should provide details of any disposal of low-THC hemp material in the **Annual report** which is required under the conditions of the licence.

However, if the sale or disposal of a crop is known at the time the application to cultivate is made, the applicant should provide the information in section **d** of the application form
- c. If you are a wholesaler or commercial trader and the low-THC hemp you are supplying for processing has not been cultivated by you, please provide brief details of the origin of the low-THC hemp material. Name, address and Licence Number for the source of each batch of low-THC hemp supplied will be sufficient.
- d. Provide complete details of the processor or manufacturer to whom you intend to supply low-THC hemp, including a description of the location of the manufacturing facility and the name of a responsible person representing the processor or manufacturer.
- f. If you intend to process low THC hemp plant material or seed on site please indicate this.
- g. Provide a brief explanation of the manufacturing process that the low-THC hemp will be subject to, such as:
 - crushing of seed and extraction of oil;
 - processing of hemp fibre
 - other manufacturing
- h. Provide an estimate of the quantity of low-THC hemp to be supplied for processing on an annual basis. This estimate is for planning purposes only and some variation from year to year is acceptable and can be highlighted in annual reports.

3.6 Details Required for Supply – Research

- a. If you have produced the low THC hemp under licence that you intend to supply for scientific research, instruction, analysis or study, you should answer yes to this section. If you did not produce the low THC hemp but procured it from elsewhere these details should be recorded in section **c** of the application form.
- b. In many cases, the supply of low-THC hemp will be part of an application to cultivate a low-THC hemp crop. However, the applicant may not have determined the final destination of the crop at the time of making the application, particularly where the licence extends over several years. In that case the licence holder should provide details of the final destination of low-THC hemp material in the **Annual Report** which is required under the conditions of the licence.

However, if the sale or disposal of a crop is known at the time the application to cultivate is made; the applicant should provide the information at **d** of the application form.

- c. If you are a wholesaler or commercial trader and the low-THC hemp you are supplying for research has not been cultivated by you, please provide brief details of the origin of the low-THC hemp material. Name, address and Licence Number for the source of each batch of low-THC hemp supplied will be sufficient.
- d. If known, provide complete details of the researcher to whom you intend to supply low-THC hemp, including a description of the location of the property that is to be used for the proposed research, instruction, analysis or study, and the name and contact details of a responsible person representing the research body.
- e. Provide a brief explanation of the research that the low-THC hemp will be used for – if known.
- b. Provide an estimate of the quantity of low-THC hemp to be supplied for research on an annual basis. This estimate is for planning purposes only and some variation from year to year is acceptable and can be highlighted in annual reports.

Part 4 Fees

Application fee \$572

The application fee must accompany the application. If no application fee, or the incorrect application fee, is received, the application will not be processed until the correct fee is provided.

All new licence applications attract the same Application Fee. The Application Fee represents the actual administrative cost of processing the licence application.

Licence renewal fee \$418

This fee only applies to current licensees applying to renew their licence.

Note: To be considered for licence renewal, a licence renewal application must be received by NSW DPI at least 28 days before the current licence is due to expire.

Annual licence fee \$200

Please note an Annual Licence Fee of \$200 is to be paid in each subsequent year for the duration of the licence, usually five years. The timing of the Annual Licence Fee payment will coincide with the anniversary of the issue of the licence. Payment of the annual licence fee is a condition of the licence. Non-payment of the annual licence fee is an offence under Section 6 of the *Hemp Industry Act 2008*. Licensees will be invoiced annually for the Annual Licence Fee.

For example, the total fee payable over the 5 year term of a licence is:

Initial Application Fee	\$572
<hr/>	
Annual licence fee - 4 @ \$200	\$800
<hr/>	
Total	\$1,372

All fees include GST.

Part 5 Additional Information

Applicants will be notified when the application is received and processing may take up to 1 month from the date of lodgement. When processing is complete, the applicant will be notified in writing whether the licence has been granted or refused.

The Secretary's decision in relation to determination of a licence application is final and is not subject to review.

Appendix 1. Consent Form



CONSENT FORM

(to be submitted in the event a new location is to be used which was not approved at the time of granting licence).

Consent to use of property for the cultivation of low-THC hemp

I, *(full name)*.....

being the legal owner of the property *(full address of the property)*

Lot
No.....DP.....PIC.....

Address.....

give consent for the use of this property for the cultivation of low THC hemp for the purpose of commercial production/ manufacturing process/ scientific research *(delete uses that are not applicable)* pursuant to a licence issued under the *Hemp Industry Act 2008*.

The number of hectares to be sown:

Signature.....Date.....

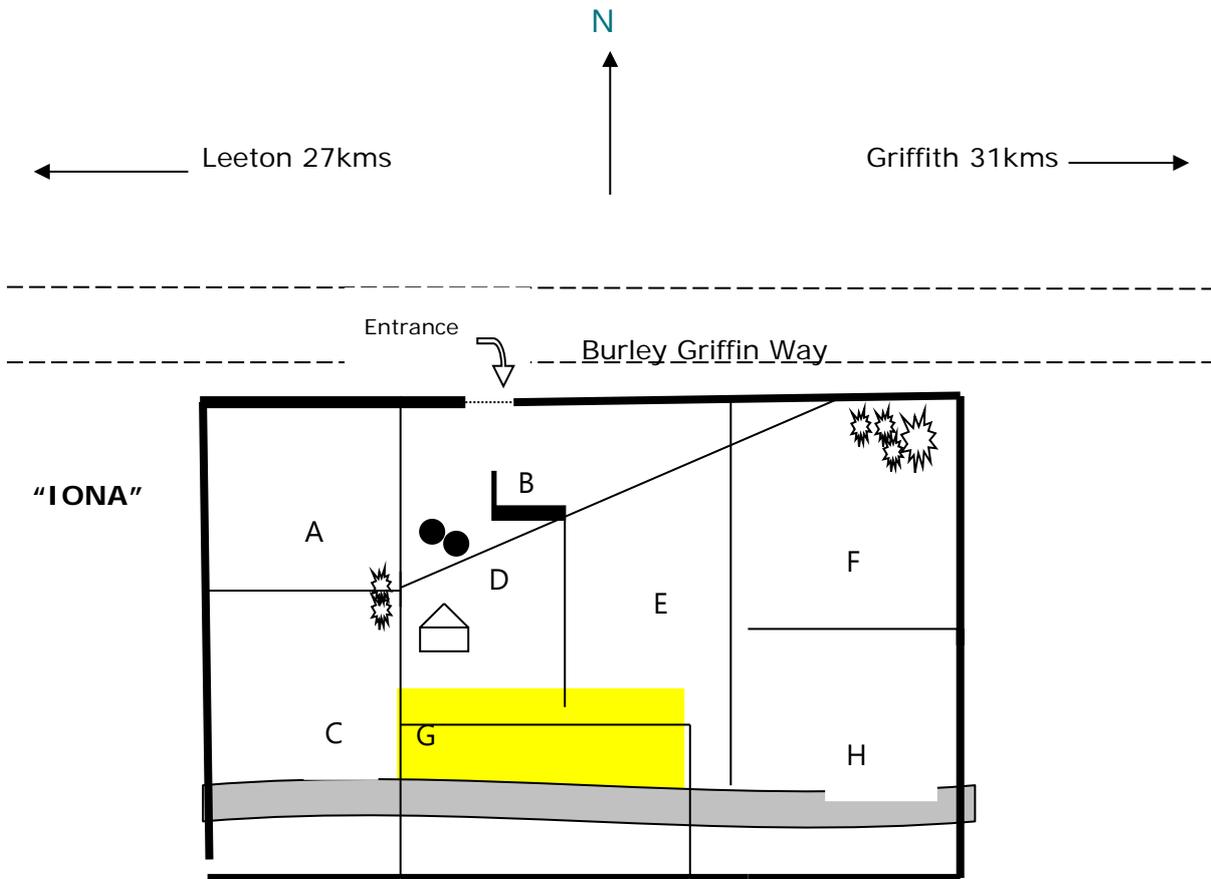
Contact Telephone:

NOTE: A crop cannot be grown at this location until licensee has been notified by NSW DPI that this location has been approved.

Name of Licence Applicant or Licence Holder:.....

Licence Number (as applicable)

Appendix 2. Example Diagram of Farm Layout

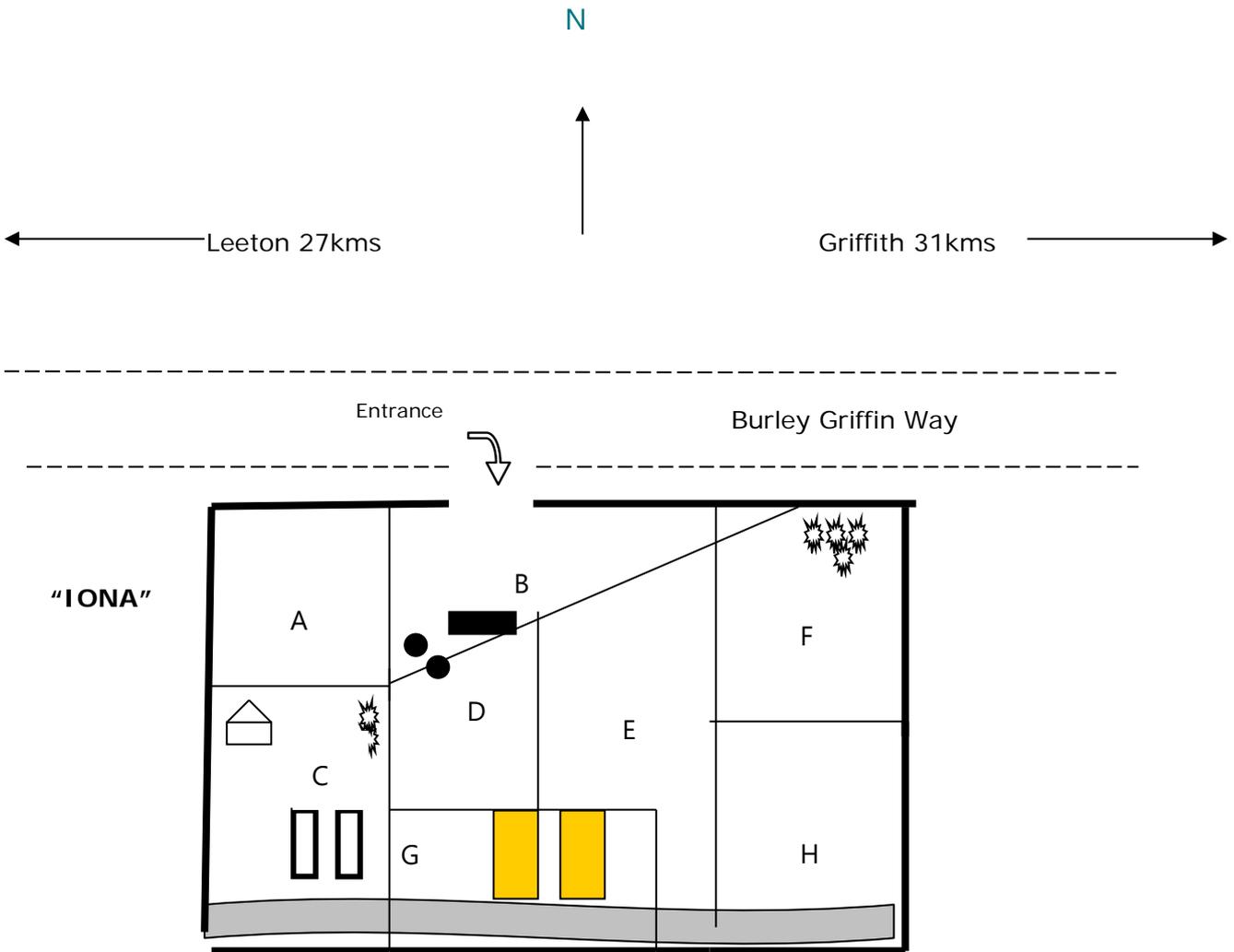


Mapping Symbols

Boundary fence		Main access roads and distances	
Individual trees		Internal fence lines	
Irrigation channels		Silo	
House		Sheds, storage facilities	
Proposed site of crop			

Directions.....

Appendix 3. Example Diagram of Research Facility



Boundary fence		Main access roads and distances	
Individual trees		Internal fence lines	
Irrigation channels		Silo	
House		Sheds, storage facilities	
Proposed research plots		Glass houses	

Directions.....
