



Contaminated Sites Committee

Summary of Decision – Appeal against Classification

Date of decision	2 September 2011
Type of decision	Determination of an appeal against site classification pursuant to section 82 of the <i>Contaminated Sites Act 2003</i> .
Matter (file no.)	CSC 17/2010
Date lodged	2 September 2010
Appellant	EAST PERTH REDEVELOPMENT AUTHORITY
Site name/address	LOT 500 ON PLAN 54248, EAST PERTH
Certificate of title no./ Crown reserve no.	
Background	<p>Lot 500 is a 6.2ha site currently owned by the East Perth Redevelopment Authority (EPRA) and is used for recreational purposes. The site is bounded by Trinity College to the north, Swan River to the east, the Causeway to the south and WA Police Headquarters to the west. The site is located within the Riverside Project Area, a major urban redevelopment and revitalization project being undertaken by the EPRA in East Perth adjacent to the Swan River.</p> <p>In the 1950's land reclamation occurred at the site extending to the east creating the land now known as the proposed Waterbank Precinct. Fill material was used – dredge spoil extracted from the Swan River and fill material including building waste, road and general waste. It was used as a bus parking lot throughout the period of 1963 to 1972.</p> <p>Technical reports provided by the Appellant showed previous investigations revealed the presence of some contaminants in soils that exceeded the Department of Environment and Conservation (DEC) ecological investigation levels and health investigation levels. Pollutants were detected in groundwater above ANZECC guidelines for fresh and marine quality.</p> <p>Two site investigations were undertaken in 2004 and 2006 identified the presence of soil and groundwater contamination (heavy metals, hydrocarbons and pesticides). Based on these findings the site was</p>

	<p>reported to DEC on 18 August 2008 as a suspected contaminated site. In response to the reporting of the site, DEC decided to delay the classification of the site, as a Mandatory Auditor's Report (MAR) was awaiting submission.</p> <p>At the date of this decision, the Committee understands the MAR is expected to be finalized following the completion of remediation works in 2012.</p> <p>A comprehensive Detailed Site Investigation (DSI) was undertaken in 2009. Soil contamination was found across the site at varying depths as primarily elevated metal, hydrocarbon and organochlorine pesticide concentrations. Groundwater was found to be contaminated with elevated metal, pesticides and nutrient concentrations.</p> <p>As contaminants of concern were identified, a Site Management Plan was developed in 2009 to address environmental, health and safety concerns including soil and groundwater issues, remediation strategies and ongoing monitoring and management of the construction work.</p> <p>In July 2010 the Office of the Environmental Protection Authority (OEPA) gave DEC advice that the Waterbank Project was being treated as 'not assessed – public advice given' under section 39A(7) of the <i>Environmental Protection Act 1986</i>. The OEPA further advised that the <i>Contaminated Sites Act 2003</i> (Act) should manage the contamination issues. Taking this advice into account and considering that an MAR had still not been submitted, DEC proceeded to classify the site <i>contaminated – remediation required</i> on 8 July 2010 to ensure that contamination issues were being addressed.</p> <p>The Appellant appealed on the following (summarised) grounds:</p> <ol style="list-style-type: none"> 1. The written notice of classification does not concur with the previous DEC notice outlining the decision to delay the classification of the site. 2. The written notice of classification has been based on outdated information and there is not a comprehensive understanding of project progression. 3. The above mentioned reports are currently under auditor review. The reviews of these reports are to be completed within the next four months and the reports and accompanying MAR's provided to DEC. 4. Subject to the MARs of the Phase II DSI and SMP, remediation works will begin in early 2011.
<p>Committee's decision?</p>	<p>Appeal Dismissed</p>
<p>Reasons for decision</p>	<p>Ground 1</p> <p>The Committee considered the history of the site and all technical reports provided by the Appellant. The Committee considered s14 of the Act regarding the classification of reported sites. Under s14(1)(b), DEC decided to delay the classification of the site, as a Mandatory Auditor's report was to be submitted. It is not clear what particular circumstances initially made it difficult to classify the site within the</p>

specified time. However DEC subsequently reviewed this decision and proceeded to classify the site in July 2010 after considering the advice from OEPA.

The Committee is satisfied that the current classification, '*contaminated – remediation required*' is appropriate, as remedial works at the site are still continuing.

Ground 2

DEC has advised that the *Reasons for Classification* in the Notice will be updated to reflect the detailed site investigations, remediation works and future development of the site. This ground of appeal was dismissed

Grounds 3 and 4

The Committee noted the advice from the Appellant that an accredited auditor has been appointed to review the site reports and prepare an MAR. The full MAR will not be completed until after the remediation works are completed in 2012.

DEC has advised that when the proposed remediation works have been completed and the MAR submitted, DEC will review the information and reconsider the classification of the site.

These grounds of appeal were dismissed.

The Committee is satisfied that the current classification, '*contaminated – remediation required*' is appropriate based on the information available. When new information is provided to DEC in the MAR, the classification of the site can be reviewed.