



Government of **Western Australia**
Contaminated Sites Committee

Decision in Respect of Appeal Against Classification

Contaminated Sites Committee Reference No. CSC 06/2015

Contaminated Sites Act 2003, Part 8, Division 2

Appellant: Water Corporation

Site: Lot 1273 on Diagram 190076 as shown on Certificate of Title LR3036/384
known as Leonora Wastewater Treatment Plant, WA 6438

Decision: **Appeal Upheld**

Classification to be changed from *possibly contaminated – investigation required to report not substantiated*

Date: 21 September 2016

1.0 Summary

- 1.1. The site is located approximately 500 metres (m) southwest of Leonora town centre approximately 830km northeast of Perth and 230km north of Kalgoorlie on the Goldfields Highway.
- 1.2. The site is owned by the Appellant, the Water Corporation, and includes the Leonora Wastewater Treatment Plant. (WWTP) which treats municipal wastewater from the town of Leonora under licence number 7461/2000/7. The site is presently zoned commercial/industrial.
- 1.3. The WWTP was constructed between 1992 and 1995 and the site is not known to have been used for other potentially contaminating purposes prior to the construction of the treatment plant.
- 1.4. The CEO of the Department of Environment Regulation (DER) classified the site *possibly contaminated – investigation required* by a Notice of Classification dated 9 September 2015, pursuant to the *Contaminated Sites Act 2003* (Act). The classification was based on information accompanying the report of a known suspected contaminated site received by the then Department of Environment and Conservation on 31 May 2007, as well as the report titled *Leonora Wastewater Treatment Plant, Preliminary Site Investigation and Environmental Site Assessment* (URS, 16 April 2015).
- 1.5. The Appellant first lodged the appeal with the Contaminated Sites Committee (Committee) on 9 October 2015. The application contained grounds of appeal, but the certificate of title, further site investigation reports and the Notice of Classification were not attached. The Appellant was contacted by the Committee and provided this further information on the same day.
- 1.6. On the 2 November 2015, the Appellant provided the Committee with the report titled, *Leonora Wastewater Treatment Plant – Preliminary Site Investigation and*

Environmental Site Assessment – prepared for Water Corporation (URS 16 April 2016).

- 1.7. On the 22 February 2016, in accordance with Section 80 of the Act, the Committee requested the CEO of the DER to provide a report on the appeal. The DER Appeal Report dated 17 May 2016 was received by the Committee on 20 May 2016. The Committee then forwarded the report to the Appellant for a response, which was due by 28 June 2016.
- 1.8. On the 11 July 2016, the Committee emailed the Appellant to determine if there would be further submissions or comments in relation to the DER Appeal Report. The Appellant advised that it was satisfied with DER's recommendation to substitute the classification of *possibly contaminated – investigation required with report not substantiated*.
- 1.9. The Committee has considered all documents provided by both the Appellant and the CEO throughout the document exchange listed above.
- 1.10. The Committee has considered all grounds of appeal and decided that the appeal should be upheld and the classification should be changed from *possibly contaminated – investigation required to report not substantiated*. Under section 82(2) of the Act this decision is final and without appeal.

2.0 Appeal Grounds (summary)

The Appellant raised a number of grounds of appeal, in summary;

- 2.1. The Appellant disagrees with the CEO's statement *'The investigations carried out on-site at the wastewater treatment plant were limited and do not meet the standards required as outlined in DER's Guidelines 2014 ...and the NEPM'*. The Appellant states that the investigations carried out for the WWTP were undertaken in accordance with DER and NEPM guidelines for PSI. A DSI was determined not be required for the WWTP as no soil pathway receptors (SPR) linkages were identified.
- 2.2. The PSI did not identify any potential contamination at the WWTP site itself other than potential leakage of partially treated wastewater through Ponds 1 to 3.
- 2.3. This potential contamination source/pathway was demonstrated to be incomplete when the comprehensive groundwater monitoring undertaken in the ESI for the adjacent land parcel showed that there had been no impact to groundwater from either the WWTP or the infiltration channel.
- 2.4. Any potential superficial soil impacts beneath the ponds pose no risk to human health or the environment under the current land use without groundwater linkage and the groundwater investigation demonstrated that this pathway was not complete.
- 2.5. Water Corporation believe that the classification is primarily due to the adjacent land parcel (the emergency overflow channel) and not the WWTP itself.
- 2.6. The offsite discharge does not warrant the classification of the WWTP land parcel (Lot 1273) when there is no identified impact.
- 2.7. Water Corporation believes that the classification of Lot 1273 should be amended to *report not substantiated*.

3.0 DER responses to the Appeal (summary)

- On 22 February 2016 the Committee requested a Section 80 Appeal Report under the CS Act from the CEO of DER. A response was due by 7 April 2016.
- The CEO of DER Section 80 Appeal Report was received by the Committee on 20 May 2016 and was dated 17 May 2016.
- The CEO of DER classified the site on 9 September 2015 as *possibly contaminated – investigation required*. A memorial (LR 3036/384) was placed on the Certificate of Title.
- The classification was based on information accompanying the report of a known or suspected contaminated site received by the then Department of Environment and Conservation on 31 May 2007 as well as the report titled *Leonora Wastewater Treatment Plant, Preliminary Site Investigation and Environmental Site Assessment (URS 16 April 2015)*, received on 11 May 2015.
- The site was incorrectly reported as a source site based on the operation of the WWTP and expected contamination of the soil and groundwater, however no investigations had been taken at that time. No secondary evidence of contamination was provided to the Department.
- The PSI indicated no evidence of soil or groundwater contamination above screening levels at the WWTP site and no evidence of off-site migration of contaminants through soil or groundwater. The PSI identified pathogens (*E. coli* and faecal Coliform bacteria) in WWTP's site emergency discharge infiltration channel on a portion of the adjacent land being Lot 977 on Plan 215257 and Unallocated Crown Land. The infiltration channel is accessible to the public, therefore a complete exposure pathway was identified.
- Lot 977 had been reported as an affected site due to an assumption by the reporter of impact based on migration of contamination through soil and groundwater from the wastewater treatment plant.
- DER requested advice from Department of Health (DoH) on 31 August 2015 and further information was received from the Water Corporation on 17 August 2015 as requested by DER. After considering this additional information, the CEO of DER considered that further action was required to address the possible contamination issues associated with the off-site infiltration channel, but incorrectly classified the WWTP as *possibly contaminated – investigation required*.
- To ensure further investigations are undertaken in the area of the off-site infiltration channel, DER intends to classify a digitised parcel within Reserve 35852 as *possibly contaminated – investigation required*.
- DER has advised that the classification is wrong and there is no evidence to demonstrate that the land on which the wastewater treatment plant is located (Lot 1273) is contaminated. Accordingly, the classification should be changed to *report not substantiated*.
- DER recommends that the appeal grounds be upheld and the current classification of Lot 1273 be substantiated with *report not substantiated*.

4.0 Committee's decision

- 4.1. The Appeal was received within the prescribed appeal period.
- 4.2. The Committee has decided that the on-site investigations meet the relevant DER standards.

- 4.3. The Committee has decided that the technical report titled *Leonora Wastewater Treatment Plant - Preliminary Site Investigation and Environmental Site Assessment* (URS 16 April 2016), did not find any potential contamination except potential leakage of part-treated wastewater. The pathway from this potential source is incomplete as testing has shown groundwater is not impacted from the WWTP. The pathway from potential soil impacts beneath the ponds is similarly incomplete and poses no risk to human health or the environment.
- 4.4. The current classification of *possibly contaminated – investigation required* relates to the adjacent parcel (the emergency overflow channel), not the WWTP.
- 4.5. The off-site discharge does not warrant the current classification of Lot 1273 as *possibly contaminated – investigation required* when there is no identified impact.

5.0 Conclusion

The Committee has decided that all grounds of the appeal should be upheld and that the classification should be changed from *possibly contaminated – investigation required* to ***report not substantiated***.

Note: section 82(2) of the Act provides that the CSC's decision under that section is final and without appeal. Section 83 of the Act provides that the CEO of the Department is to give effect to the outcome of the appeal as soon as practicable and to ensure that the details are published in the prescribed manner.



Jim Malcolm
Chairman

and as agent for and on behalf of
the Contaminated Sites Committee