



Government of Western Australia  
Department of Water and Environmental Regulation

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East Perth WA 6004

Dear Sir/Madam

This letter is the formal notice of classification of a known or suspected contaminated site in which you have an interest. This constitutes the notice the Department of Water and Environmental Regulation (the department) is legally obliged to give under the *Contaminated Sites Act 2003* (the Act), which came into effect on 1 December 2006.

The Act was set up to record and manage contaminated sites in Western Australia, in order to protect people's health and the environment. Contamination does not necessarily mean that an area is unsafe to live or work in – for example, it may be limited to groundwater, and only becomes an issue to be managed if a groundwater bore was being considered.

This notice explains why the site has been classified, what restrictions, if any, have been placed on the use of the site and how you can appeal the classification. In some cases, this notice may include other lots which also form part of the classified site, in addition to the lot in which you have an interest.

If, after reading this letter, you have any further queries, please contact the department on 1300 762 982 (Contaminated Sites Information Line).

**NOTICE OF A CLASSIFICATION OF A KNOWN OR SUSPECTED CONTAMINATED  
SITE GIVEN UNDER SECTION 15 OF THE *CONTAMINATED SITES ACT 2003***

The site detailed below (**the site**), consisting of 1 parcel(s) of land, was reported to the CEO of the department as a known or suspected contaminated site and has been classified under the Act:

- Parcel 78799 = Approximate spatial representation of section Rail Maintenance Track (RMT) within part of Lot 116 on Deposited Plan 220191 as shown on certificate of title LR3064/463, and within part of Lot 5418 on Deposited Plan 404418 as shown on certificate of title LR3165/155, Wittenoom WA 6751

This notification is being sent to you in accordance with section 15(1) of the Act on the grounds that you, as the recipient, are one or more of the following:

- (a) owner of the site (contact details sourced from the current certificate of title);
- (b) occupier of the site;
- (c) relevant public authority;
- (d) person who, in the CEO's opinion, there is particular reason to notify;
- (e) person who made the report under section 11 or 12; and
- (f) person who, in the CEO's opinion, may be responsible for remediation of a site classified as *contaminated – remediation required*.

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## Site Classification

**Category of site classification:** Contaminated - remediation required

**Date of site classification:** 25/05/2021

**Reasons for classification:** This site was reported to the Department of Water and Environmental Regulation (the department) under section 11 of the 'Contaminated Sites Act 2003' (the Act), which commenced on 1 December 2006. A portion of this site was first classified under section 13 of the Act based on information submitted to the department by January 2008. The site has been classified again under section 13 of the Act to reflect additional technical information submitted to the department by April 2021.

The site consists of a portion of a rail maintenance track that intersects the Wittenoom Asbestos Management Area (WAMA). The WAMA was classified in 2008 due to the presence of free asbestos fibres and asbestos fibre bundles in the surface soils of the site. The asbestos originated from historic mining activities in the area.

The site was reported due to the identification of asbestos fibres in soils of the rail corridor during construction of the maintenance track. The new asbestos impacts are beyond the current spatial extent of the WAMA and are not managed under the approved Asbestos Management Plan developed for the WAMA.

The rail maintenance track is located on the Wittenoom floodplain area. Asbestos fibres are found in the highest concentrations in the stream channels, although bags of asbestos product have also been found on and alongside roads in the area. The bags of asbestos material are understood to have been lost from trucks that transported asbestos products from Wittenoom and the surrounding asbestos mines to the local ports. Asbestos contaminated fill is also known to have been used for construction projects in the local area.

The asbestos in the Wittenoom floodplain area may have originated from the surface soils of material borrow pits located in the WAMA. The borrow pits were used to source fill material for the construction of the infrastructure in the rail corridor/maintenance track. Alternatively, the rail corridor itself may have been impacted from the historically dropped asbestos products bags.

Investigations undertaken between December 2020 and March 2021 as part of the infrastructure construction process identified that free asbestos fibres were present in soils at quantities above those specified in 'Guidelines for the Assessment, Remediation and Management of Asbestos-Contaminated Sites in Western Australia' (Department of Health, May 2009).

As the site has not been fully investigated a comment cannot be made on the suitability of the site as a whole as a transport/rail corridor.

The site is currently managed under the environmental conditions required by Ministerial Statement 999. An accredited contaminated sites auditor has reviewed the investigations and risk assessment completed for the site to date. The auditor's comments are documented in the mandatory auditor's report dated October 2020.

Following the identification of the free asbestos fibres, further investigations and amendment of the asbestos management plan is required.

Based on the presence of free asbestos fibres, the site is contaminated and remediation or management is required to reduce risks to human health, the environment and environmental values to acceptable levels from exposure to asbestos fibres. Therefore, the site is classified as 'contaminated - remediation required'.

The department, in consultation with the Department of Health, has classified this site based on the information available to the department at the time of classification. It is acknowledged that the contamination status of the site may have changed since the information was collated and/or submitted to the department, and as such, the usefulness of this information may be limited.

#### **Other Relevant Information:**

Additional information included herein is relevant to the contamination status of the site and includes the department's expectations for action that should be taken to address potential or actual contamination described in the Reasons for Classification.

Where the land is part of a transaction - sale, mortgagee or lease agreement, the land owners **MUST PROVIDE WRITTEN DISCLOSURE** (on the prescribed Form 6) of the site's status to any potential owner, mortgagee (e.g. financial institutions) or lessee at least 14 days before the completion of the transaction. A copy of the disclosure must also be forwarded to the department.

#### **Action Required:**

This site is considered to be high priority for action to be taken to address contamination.

Asbestos investigations are to be carried out in accordance with the 'Guidelines for the Assessment, Remediation and Management of Asbestos-Contaminated Sites in Western Australia' (Department of Health, May 2009).

Remediation of the site is required to mitigate potential risks to human health. Remedial options must be assessed and a remediation action plan developed for the site.

Due to the presence of asbestos in soils, the department requires that a site-specific health and safety plan be developed to address the health risks associated with asbestos impact at the site.

A Site Management Plan and Asbestos Management Plan should be developed as other impacted locations may be identified during future works.

#### General Information

The nature and extent of contamination and any restrictions on the use of the land, if applicable, are listed in Attachment A.

Information in relation to the classification of the site is available free of charge as a summary of records via the Contaminated Sites Database at [www.der.wa.gov.au/contaminatedsites](http://www.der.wa.gov.au/contaminatedsites).

In some instances the department has had to classify sites based on historical information. A site may be re-classified at any stage when additional information becomes available, for example where a new investigation or remediation report completed in accordance with the department's 'Contaminated Sites Guidelines' and the *National Environment Protection (Assessment of Site Contamination) Measure 1999*, is submitted to the department. The current site classification is the classification most recently conferred on the site.

#### Memorials

In accordance with section 58(1) of the Act, the department will lodge a memorial with the Registrar of Landgate, recording the classification against the site's Certificate(s) of Title LR3064/463, LR3161/155. Parcel(s) without a registration number or certificate of title will not have a memorial lodged against them until a certificate of title has been created. Once complete, confirmation of the lodgement of the memorial(s) will be forwarded to the following people:

- (a) each owner,

- (b) Western Australian Planning Commission;
- (c) CEO of the Department of Health;
- (d) Local Government Authority;
- (e) relevant scheme authority.

Given that memorial(s) will be lodged against the site, the Western Australian Planning Commission (WAPC) may not approve the subdivision of the land under Section 135 of the *Planning and Development Act 2005*, or the amalgamation of that land with any other land without seeking, and taking into account, the advice of the department as to the suitability of the land for subdivision or amalgamation. Furthermore, a responsible authority (e.g. Local Government Authorities) may not grant approval under a scheme for any proposed development of the land without seeking, and taking into account, advice from the department as to the suitability of the proposed development.

#### Disclosure upon sale / lease / mortgage of the site

Where the land is part of a transaction – sale, mortgage or lease agreement – and is classified as

- *contaminated – remediation required*;
- *contaminated – restricted use*; or
- *remediated for restricted use*;

land owners MUST PROVIDE WRITTEN DISCLOSURE (on the prescribed Form 6 enclosed) of the site's status to any potential owner, mortgagee (e.g. financial institutions) or lessee at least 14 days before the completion of the transaction. A copy of the disclosure must also be forwarded to the department.

**Important note:** Failure to provide written notice is an offence and carries a penalty of up to \$125,000 and a daily penalty of \$25,000.

#### Transferring responsibility for remediation

This site has been classified '*contaminated – remediation required*'. Where transfer of responsibility for remediation is proposed, the person responsible for remediation must obtain written agreement from the person to whom the whole or part of that responsibility will transfer, and seek written approval of that agreement from the department in accordance with section 30 of the Act. If it is proposed to transfer responsibility for remediation to the State, then written approval from the Minister for Environment must be obtained.

The memorial lodged against the Certificate(s) of Title for this site specifies that in accordance with section 58(5) of the Act, the Registrar of Landgate may not register, or accept for registration, an instrument affecting the land unless the department gives written consent to that registration.

#### Appealing the Site Classification

All site classifications given by the department are appealable. However, only certain people can lodge a valid appeal. The people who can lodge a valid appeal varies, depending on the classification category, as detailed in Fact Sheet 4: *Site classifications and appeals*. Appeals need to be lodged in writing with the Contaminated Sites Committee at Forrest Centre, Level 22, 221 St Georges Terrace, Perth WA 6000, within **45 days** of being given this notification. The appeal should set out the appellant's relationship to the site, and must include the grounds and facts upon which it is based. An appeal fee (currently \$45) applies.

To find out more about the appeal process, see the Contaminated Sites Committee website at [www.csc.wa.gov.au](http://www.csc.wa.gov.au) or contact the office of the Committee on (08) 6364 7264.

For further information on all aspects of site classification, please refer to Fact Sheet 4 and the 'Contaminated Sites Guidelines', which are available from the department's website at [www.der.wa.gov.au/contaminatedsites](http://www.der.wa.gov.au/contaminatedsites) or by contacting the Contaminated Sites Information Line on 1300 762 982.

Yours sincerely



**Michelle Brierley, A/Manager**

CONTAMINATED SITES REGULATION  
Delegated Officer under section 91  
of the *Contaminated Sites Act 2003*

27/05/2021

Enc. Attachment A – Nature and Extent and Restrictions on Use.

Fact Sheet 4: Site classifications and appeals

Fact Sheet 5: Buyer beware – buying and selling contaminated land

Form 6 – Land Owner's Disclosure Before Completion of Land Transaction

## **ATTACHMENT A – Nature and Extent and Restrictions on Use**

- Parcel 78799 = Approximate spatial representation of section Rail Maintenance Track (RMT) within part of Lot 116 on Deposited Plan 220191 as shown on certificate of title LR3064/463, and within part of Lot 5418 on Deposited Plan 404418 as shown on certificate of title LR3165/155, Wittenoom WA 6751

**Nature and Extent:** Free asbestos fibres are present in the soils at the site.

**Restriction on Use:** Access to the site is restricted to construction and maintenance personnel operating under an appropriate health and safety plan.

The site needs to be managed under the existing or new Asbestos Management Plan is required.

The land use of the site is restricted to commercial/industrial use. The site should not be developed for a more sensitive use such without further contamination assessment and/or remediation.