



Your ref:

Our ref: DMO 1209

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Chief Executive Officer  
Town of Victoria Park  
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Dear Sir/Madam

**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 consisting of 1 parcel(s) of land, was classified by the Department of Water and Environmental Regulation (DWER) under the *Contaminated Sites Act 2003* (the Act) on 03 September 2012 as '*Possibly contaminated - investigation required*':

- Parcel 71752 = Lot 705 on Deposited Plan 230206 as shown as Subject M on Deposited Plan 410474 on certificate of title LR3139/186, known as 63 Kent Street, Kensington WA 6151 **(the site)**

Following the submission of further information, the site has been re-classified.

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*.

**Re-classification of the Site**

**Former Site Classification**

**Category of Former site classification:** Possibly contaminated - investigation required

**Date of Former site classification:** 03/09/2012

**New Site Classification**

**Category of New site classification:** Remediated for restricted use

**Date of New site classification:** 18/07/2017

**Reasons for classification:** This site was reported to the Department of Water and Environmental Regulation (DWER) as per reporting obligations under section 11 of the 'Contaminated Sites Act 2003' (the Act), which commenced on 1 December 2006.

The site was first classified under section 13 of the Act based on information submitted to DWER by January 2007. The site has been classified again under section 13 of the Act to reflect additional technical information submitted to DWER by July 2017.

The site consists of the southern portion of Lot 705 on Plan 230206, as shown as subject M on deposited plan 410474.

The site was reported in 2007 due to its historical use for sand mining and landfilling between the mid-1960s and 1992. Between 1992 and 2006 the site was used for the storage and disposal of inert waste, including street sweepings, and the storage and washing of heavy vehicles. Landfilling and waste disposal are land uses that have the potential to cause contamination, as specified in the guideline 'Assessment and management of contaminated sites' (Department of Environment Regulation [DER], 2014)

A preliminary site investigation was carried out in December 2004 that confirmed the historical uses of the site and identified stockpiles of construction and road sweeping wastes, two stormwater compensation basins, a number of areas of soil staining from vehicle cleaning activities and areas of inert landfill material (such as building or construction waste).

Detailed site investigations were undertaken in phases between 2009 and 2014. These investigations confirmed the presence of fill material at shallow depths extending to 1.5 to 6.5 metres below ground level. The fill material observed was indicative of inert building and construction waste, with an area of suspected municipal waste in the south and west of the site.

Soil investigations in 2009 and 2011 found that metals (lead, copper and zinc), hydrocarbons (such as from petrol or diesel) and pesticides (dieldrin) were present in the waste material at concentrations exceeding Ecological Investigation Levels and/or exceeding Health-based Investigation Levels for parks and recreational areas, as published in 'Assessment Levels for Soil, Sediment and Water' (Department of Environment and Conservation [DEC], 2010), which were relevant criteria at the time of the investigation. The soil impacts were present at depths greater than 1.5 metres below ground level and therefore unlikely to pose an unacceptable risk to human health or the environment under the proposed passive recreational land use.

Shallow soil investigations were undertaken in 2014 which did not identify any contaminants of concern in shallow soils at concentrations exceeding Health Investigation Levels (HILs) for recreational land, as specified in the 'National Environment Protection (Assessment of Site Contamination) Measure 1999' (the NEPM). It is noted that Lead was identified in one shallow sample at a concentration exceeding the relevant HIL for residential land use.

Occasional fragments of asbestos containing material (ACM) were identified on the soil surface of the site during early site investigations. However, ACM was not observed at depth within the waste material. A detailed asbestos survey was undertaken in 2014 which identified (and removed) a small quantity of ACM fragments in the north-west portion of the site corresponding to the former location of waste stockpiles containing ACM which were observed in 2009. The quantity of ACM identified at the site is considered to be below criteria specified in 'Guidelines for the Assessment, Remediation and Management of Asbestos-Contaminated Sites in Western Australia' (Department of Health, May 2009).

Groundwater investigations in 2011 identified benzene (such as from petrol) in groundwater at one location at a concentration marginally exceeding the assessment level for non-potable use of groundwater, as specified in the 'Assessment and management of contaminated sites' (DER 2014). Further monitoring in 2014 did not identify benzene in groundwater beneath the site.

Investigations also identified nutrients (such as ammonia and nitrate) and metals (such as copper and nickel) at concentrations exceeding criteria relevant to the protection of surface water environments. However, given the absence of sensitive surface water receiving bodies in proximity to the site, nutrients impacts to groundwater are unlikely to pose an unacceptable risk to the environment. The concentrations of ammonia in groundwater beneath the site also exceeded the aesthetic assessment level of non-potable use of groundwater, indicating that groundwater beneath the site may not be suitable for garden reticulation or irrigation of playing fields.

Landfill gas is being generated by areas of historical domestic landfill beneath the site. During sampling events in 2011, 2012 and 2014 carbon dioxide was present at 1.5 metres below ground level at concentrations exceeding the action criterion published in 'CIRIA C665: Assessing risks posed by hazardous ground gases to buildings' (Construction Industry Research and Information Association (CIRIA), 2007). Concentrations of methane recorded in soil gas at the site did not exceed the action criterion as specified in CIRIA 2007.

Based on the absence of buildings or large areas of impermeable surfaces (such as car parks) the generation of landfill gas beneath the site is unlikely to pose an acute risk to human health under a passive recreation landuse.

A site management plan has been prepared to facilitate the ongoing use of the site for passive recreation and outlines management measures to ensure that identified contamination at the site does not pose an unacceptable risk to human health, the environment or any environmental value.

The site is contaminated and has been remediated such that it is suitable for passive recreational use, subject to implementation of the site management plan. Therefore, the site is classified as 'remediated for restricted use'.

DWER, in consultation with the Department of Health, has classified this site based on the information available to DWER 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 DWER, and as such, the usefulness of this information may be limited.

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

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 DWER.

#### **Action Required:**

The site is required to be managed in accordance with 'Site Management Plan - Kensington Bushland, Kent Street, Victoria Park' (SERS, 3 July 2017).

#### 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 DWER 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 DWER's 'Contaminated

Sites Guidelines' and the *National Environment Protection (Assessment of Site Contamination) Measure 1999*, is submitted to DWER. The current site classification is the classification most recently conferred on the site.

### Memorials

In accordance with sections 58 (1) and (3) of the Act, DWER will give notice to Landgate to withdraw the current memorial(s) lodged against the Certificate(s) of Title relating to the site, and subsequently lodge a new memorial against the Certificate(s) of Title which will record the new site classification. 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 DWER 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 DWER 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 DWER.

**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.

### Appealing the Site Classification

All site classifications given by DWER 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) 6467 5201.

For further information on all aspects of site classification, please refer to Fact Sheet 4 and the 'Contaminated Sites Guidelines', which are available from DWER'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



**Naomi Telford, A/Manager**

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

19/07/2017

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

- Lot 705 on Deposited Plan 230206 as shown as Subject M on Deposited Plan 410474

**Nature and Extent:** Metals (such as lead, copper and zinc), hydrocarbons (such as from diesel or oil) and pesticides are present within landfill wastes beneath the site at depths up to 6.5 metres below ground level.

Hydrocarbons (such as from petrol), nutrients, iron, manganese and chloride are present in groundwater beneath the site.

Landfill gas (carbon dioxide) is being generated by degrading landfill wastes present beneath the site.

**Restriction on Use:** The land use of the site is restricted to recreational open space which excludes sensitive uses with accessible soil such as childcare centres, kindergartens, pre-schools and primary schools. The site should not be developed for a more sensitive use such as residential use or childcare centres without further contamination assessment and/or remediation.

Due to the nature and extent of groundwater contamination identified to date, the abstraction of groundwater for any purpose is not permitted.

Due to the presence of buried waste beneath the site generating landfill gas (such as carbon dioxide) the construction of buildings with enclosed spaces or large areas of impermeable surfaces (such as asphalt car parks or sporting courts) is not permitted without further assessment of landfill gas.

The ongoing use of the site for passive recreational land use is permitted provided the site is managed in accordance with the 'Site Management Plan - Kensington Bushland, Kent Street, Victoria Park' (SERS, 3 July 2017), which is available from the Town of Victoria Park. The site management plan details the restrictions outlined above and includes provisions for:

- maintaining appropriate cover over areas of waste fill;
- managing risks to human health during soil disturbing works; and
- periodic site inspections to ensure cover over waste fill and recover any visible fragments of asbestos-containing material.