

# Contaminated Sites Committee

- Summary of Decision
- Appeal Against Site Classification

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| <b>Date of decision</b>                                | 14 March 2012  |
| <b>Type of decision</b>                                | Determination of an appeal against site classification pursuant to section 82 of the <i>Contaminated Sites Act 2003</i> .  |
| <b>Matter</b> (file no.)                               | CSC 14/2011  |
| <b>Date lodged</b>                                     | 1 September 2011   |
| <b>Appellant</b>                                       | Shell Company of Australia Pty Ltd   |
| <b>Site name/address</b>                               | 1730 Reginald St, Wyndham  |
| <b>Certificate of title no./<br/>Crown reserve no.</b> | Lot 19 on Plan 172093 as shown on Certificate of Title LR3142/904;<br>and<br>Lot 896 on Plan 208779 as shown on Certificate of Title LR3142/904  |
| <b>Background</b>                                      | <p>The site was used as a fuel storage depot for approximately 35 years to 1999. In 2008 site infrastructure was removed. After environmental investigations were undertaken, a number of reports by URS Australia Pty Ltd (URS) were undertaken. A covering letter from URS to the Appellant dated 2 May 2011 recommended that the site be used for commercial/industrial use, provided that groundwater was not abstracted, and buildings built for future on-site workers be constructed with 'slab-on-grade' foundation. No classification was recommended.</p> <p>DEC classified the site <i>contaminated – restricted use (C-RU)</i> on 2 August 2011. The Appellant filed an appeal on 1 September 2011 as an occupier of the site.</p> <p>The summary of appeal grounds:</p> <ol style="list-style-type: none"> <li>1. The site is zoned industrial;</li> <li>2. Remediation has been undertaken to remove primary contamination sources;</li> <li>3. Groundwater monitoring indicates natural attenuation is occurring and groundwater has been remediated enough for any future commercial or industrial land uses;</li> <li>4. A Human Health and Environmental Risk Assessment Report 2001 concluded that as long as the site is used for non-sensitive commercial purposes with slab-on-grade foundation, no unacceptable risk to human health or environment has been identified;</li> <li>5. The current classification of C-RU indicates some further works</li> </ol> |

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|                                     | <p>may need to be carried out for a change of land use from petroleum storage and distribution;</p> <ol style="list-style-type: none"> <li>6. The land is suitable for any commercial/industrial use according to Shell's risk assessment, which is inconsistent with a classification of C-RU;</li> <li>7. Both C-RU and R-RU (<i>remediated - restricted use</i>) have the same regulatory requirements;</li> <li>8. Shell requests the site be classified R-RU</li> </ol>  |
| <p><b>Committee's decision?</b></p> | <p><b>Appeal Dismissed</b></p>  |
| <p><b>Reasons for decision</b></p>  | <p>With respect to each ground:</p> <ol style="list-style-type: none"> <li>1. This is not a valid ground of appeal. The Committee notes this zoning is consistent with the classification and restrictions on use;</li> <li>2. The Committee notes that in the reports provided, it was noted that hydrocarbon impacted soils were identified in excess of the relevant EILs and/or HIL-F in a number of areas in the soil which remains on site following infrastructure removal. Further, significant levels of contaminants remain in groundwater, including an increase in concentration of chemicals of potential concern in seven monitoring wells, with only two wells showing some limited evidence of natural attenuation.</li> <li>3. The Committee notes as above</li> <li>4. The Committee notes this ground is encompassed within current classification and restrictions on use.</li> <li>5. The Committee notes this ground is encompassed within current classification and restrictions on use.</li> <li>6. The Committee notes this ground is encompassed within current classification and restrictions on use.</li> <li>7. This is not a valid ground of appeal.</li> <li>8. The Committee considers the current classification is appropriate as there is no evidence that the Site has been remediated, which is required in order to trigger the proposed classification.</li> </ol> |