

CLEVELAND LIBRARY ENVIRONMENTAL MANAGEMENT REGISTER

Objective Reference:	A2600669 Reports and Attachments (Archives)
Authorising Officer:	Louise Rusan General Manager Community and Customer Services
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PURPOSE

The purpose of the report is to continue to communicate with the Department of Environment and Heritage Protection for removal of all or part the site of the Cleveland Library from the Environmental Management Register (EMR).

BACKGROUND

The Cleveland Library (including a café) and a carpark is located at 21-31 Bloomfield Street, Cleveland.

The Land is listed on the Environmental Management Register (EMR) maintained by the Department of Environment and Heritage Protection (DEHP) pursuant to the *Environmental Protection Act 1994* (EP Act) and was formerly a "Restricted" site under the provisions of the *Contaminated Land Act 1991*. These restrictions relate to the former use of part of the Land as a service station.

The service station historically occupied that part of the Land at the Library entrance adjacent to the Bloomfield Street and Middle Street intersection that was remediated in or about 1996. The service station did not occupy any part of the land currently occupied by the northern library building, café or car park areas which were held under separate property titles and amalgamated in 1998.

The EMR entry for the Land includes a Site Contamination Report (SCR), which limits the use of the Land to library and municipal offices and prohibits excavation and removal of soil below 2 metres without DEHP's approval.

DEHP has advised that, pursuant to s582 of the EP Act, the SCR acts as a Site Management Plan (SMP) for the purposes of the EP Act. This potentially means for the existing Library Café to continue as an Approved Use on the Land may require the SMP to be amended or the Land to be removed from the EMR.

Council officers are communicating with DEPH that the EMR listing may represent an administrative error as:

1. The EMR registration in 1996 was historically limited to the service station land that has been decommissioned and should not have been extended to cover the 1998 amalgamated library land and car park.

2. The EMR registration should not retrospectively apply to preapproved lawful uses like the library café that was situated on a separate title to the service station land.
3. The existing lawful use of the Library café does not involve the excavation or removal of soil from the Land.

In August 2017, Council officers were also informed of the Chefs Inc proposal for building and plumbing works involving ancillary excavation for services which was communicated with DEHP. Council was informed by DEHP that such works could not commence unless an environmental assessment of the site occurred to either vary or remove the site from the EMR under the EP Act.

ISSUES

Confidential: Council may resolve to close the meeting to the public under section 275 of the Local Government Act 2009, if its councillors consider it necessary to discuss “business for which a public discussion would *likely prejudice the interests of the local government or someone else*”.

In this matter Council has engaged lawyers to communicate the issues with DEHP noting there are existing contractual arrangements between Council and the Café and Chef’s Inc proposal and statutory interpretation of the EMR and SCR under the *Environmental Protection Act 1994*.

STRATEGIC IMPLICATIONS

Legislative Requirements

Pursuant to s406 of the EP Act, a local government must not allow the use of development of, or an activity to be carried out on, land in a way that contravenes an SMP recorded in the EMR.

Risk Management

Council has undertaken a site history which has identified errors made with the environmental listing and which establishes a cogent case for the land not being listed on the environmental register.

Financial

In the first instance, Council will pursue the error with the environmental listing with the Department of Environment and Heritage Protection within the existing budget.

People

Relationships with the Library Café and 4 Simplicity Pty Ltd (Chefs Inc) have been managed through the Economic Sustainability and Major Projects Group.

Environmental

Environmental issues will be addressed in accordance with the conditions of the relevant Approvals and the requirements of the EP Act.

Social

Development of the Cleveland CBD, as envisaged in the Master Plan, will result in Cleveland being an enhanced destination for residents and visitors, with a mix of development uses that add increased choice and vibrancy to the centre.

Alignment with Council's Policy and Plans

Aligned with Council's Cleveland Centre Master Plan

CONSULTATION

The following work groups were consulted during the preparation of this report:

- Economic Sustainability and Major Projects Group
- Health and Environment
- General Counsel Group
- City Spaces Group
- Redland Water and Waste
- Redlands Investment Corporation

OPTIONS

1. That Council continue to communicate with the Department of Environment and Heritage Protection to remove the site of the Cleveland Library from the Environmental Management Register (EMR).
2. The Council resolves not to communicate with the Department of Environment and Heritage Protection to remove the site of the Cleveland Library from the Environmental Management Register (EMR).

OFFICER'S RECOMMENDATION

That Council continue to communicate with the Department of Environment and Heritage Protection (DEHP) to remove the site of the Cleveland Library from the Environmental Management Register (EMR); and

That the report remains confidential until the determination of the EMR listing with DEHP.