

Perth Airport accuses Airservices Australia of PFAS contamination



Professional Negligence

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Due to ASA's use of PFAS-containing products, the contaminant has spread within Perth Airport by permeating into the soil, leaching into subsoil and groundwater, and flowing in groundwater that goes into the Swan River, the lawsuit alleges.

“Perth Airport has had, and continues to have, concentrations of PFAS which are above acceptable levels (in that they pose a material risk to the environment or to humans),” the lawsuit says,

“As a result of the release of PFAS-containing AFFF as pleaded and the spread of PFAS as pleaded, ASA...[has] caused and are continuing to cause damage and material injury.”

PAPL alleges that the PFAS contamination is causing a “substantial, unreasonable interference” with the use of Perth Airport and that it was “reasonably foreseeable” to ASA and its predecessor the Civil Aviation Authority that the contamination would occur.

The lawsuit claims that ASA is obliged under its lease agreements with PAPL to indemnify it against losses and expenses caused by negligent or careless use of areas of the airport.

“In circumstances where each of ASA and CAA brought onto...areas hazardous, or potentially hazardous, materials in the form of AFFF, each of ASA and CAA owed to PAPL...a duty to take reasonable care to ensure such [fire suppressant] was selected, used, delivered, stored, contained and/or released in a manner which would avoid the risk of it causing PFAS contamination,” the lawsuit claims.

“With respect to the selection, use, delivery, storage, containing and/or release of [fire suppressant]...each of CAA and ASA failed to take any, or sufficient, steps to avoid the risk.”

PAPL seeks an order forcing ASA to remove the alleged PFAS contamination from

PAPL claims ASA was aware or ought to have been aware from at least January 2007 that PFAS contamination had occurred in areas of Perth Airport.

PAPL also alleges that ASA's environmental management plan, issued from August 2018, is "deficient" and does not comply with terms of lease agreements with PAPL.

"The [management plan] does not conform to the requirements for a robust site management plan, including because it is missing a definition of the nature of extent of the impacts and risks of PFAS, identification of the relevant stakeholders and their responsibilities, a timeframe for the management of the PFAS contamination, contingency measures and notification procedures, and a format for future reporting." PAPL alleges.

"The loss suffered by PAPL has been exacerbated by the delay, or refusal, on ASA's part to provide a compliant EMP and to carry out its operations in accordance with that EMP."

PAPL has allegedly conducted remediation and site management work in the contaminated areas at its own cost.

ASA is a government-owned company responsible for providing aviation rescue and fire-fighting services and carrying out activities to protect the environment from the effects connected to operating aircraft under the Air Services Act 1995 (Cth).

Property owners and residents have brought five class actions against the government's use of allegedly firefighting foam.

The first three class actions over PFAS were [settled in 2020 for \\$212.5 million](#), the biggest class action settlement of that year.

A spokesperson for Airservices Australia told Lawyerly on Thursday that it is currently reviewing Perth Airport's lawsuit.

“In addition, we have already taken action to remove the old fire station and associated materials and soil to address PFAS at this site.”

Perth Airport is represented by Corrs Chambers Westgarth.

The case is [Perth Airport Pty Ltd v Airservices Australia](#).