



Decision in respect of appeal against classification

Contaminated Sites Act 2003, Part 8, Division 2

Appellant: Sandro Carusi
Site: Lot 231 (10 Wicklow Close), Beaconsfield
Date: 31 March 2010

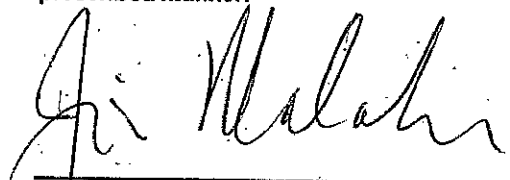
1.0 SUMMARY

- 1.1 The Department of Environment and Conservation (DEC) classified the property known as **Lot 231 (10 Wicklow Close), Beaconsfield** as *remediated for restricted use* (with a restriction on the use of groundwater and excavations below 1.0m) under the *Contaminated Sites Act 2003* (the Act) on 18 November 2008. DEC's reasons for the classification were set out in the 'Notice of Classification' given in accordance with section 15 of the Act on 18 November 2008.
- 1.2 On 16 January 2009 the Contaminated Sites Committee (Committee) received from the Appellant an appeal against the classification, lodged in accordance with sections 18 and 79 of the Act. The letter of appeal specified grounds of appeal that are addressed in detail below.
- 1.3 On 14 July 2009, in accordance with section 80 of the Act, the Committee forwarded a copy of the appeal and supporting information to the CEO of DEC for a report.
- 1.4 The CEO's report, dated 27 August 2009, was forwarded to the Appellants for response. No response was received.
- 1.5 The Committee considered the appeal and the CEO's report and decided that **Lot 231 (10 Wicklow Close), Beaconsfield** should be classified *remediated for restricted use*, and that the restrictions on excavation and the use of groundwater established by the DEC should be retained. Under section 82(2) this decision of the Committee is final and without appeal.

REASONS FOR DECISION

- 2.0 **APPEAL GROUNDS** (Appellant's wording in *italics*)
- 2.1 **GROUND 1** *"The results of the contamination are very general and random. Examinations of every individual lot should be conducted due to different location, amount of infill and type of infill."*
- 2.2 The Contaminated Sites Act does not empower the Committee to undertake soil or groundwater investigation, so its review of DEC's classification of the site is limited to the available, general information.
- 2.3 DEC's Notice of Classification states "a site may be re-classified at any stage to better reflect the current status when additional information becomes available".
- 2.4 The Appellants under this ground do not provide grounds for questioning the classification or restrictions applied to the subject lot.
- 2.5 **The Committee dismisses this ground of appeal.**
- 2.6 **GROUND 2** *"As the owner of the above subject lot, I have not suffered any health issues and two years ago dug the hole for a concrete swimming pool (6.2 x 3.3 x 1.6m deep). The position of my lot also had minimal infill since it is bordering an existing road (Moran Court) and was the original limestone surfaced access road to the quarry."*
- 2.7 Soil investigation of the site during subdivision included the digging of 63 test pits to 2.3m in depth. One pit near the subject lot encountered waste. Aerial photographs also indicate that the landfill operation and spreading of clean fill extended to at least part of the subject lot.
- 2.8 DEC's report on the appeal cites a letter from Moltoni, dated 29 October 2008, "confirming that 1m of clean cover material had been installed across the site". In this context 1m would be interpreted as the minimum depth, with some variation across the site.
- 2.9 **The Committee dismisses this ground of appeal.**

Note: Section 82(2) of the Act provides that the Committee's decision under that section is final and without appeal. Section 83 of the Act provides that the CEO of DEC is to give effect to the outcome of the appeal as soon as practicable and to ensure that the details are published in the prescribed manner.



Jim Malcolm,
Chairman
and as agent for and on behalf of
the Contaminated Sites Committee