



Decision in respect of appeal against classification

Contaminated Sites Act 2003, Part 8, Division 2

Appellant: Bev Chiera

Site: Lot 206 (67 Lefroy Road), Beaconsfield

Date: 31 March 2010

1.0 SUMMARY

- 1.1 The Department of Environment and Conservation (DEC) classified the property known as **Lot 206 (67 Lefroy Road), 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 8 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 several grounds of appeal that are addressed in detail below.
- 1.3 The Appellant advised that further information would be forthcoming, but no such information was received by the Committee.
- 1.4 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.
- 1.5 The CEO's report, dated 27 August 2009, was forwarded to the Appellant for response. No response was received.
- 1.6 The Committee considered the appeal and the CEO's report and decided that **Lot 206 (67 Lefroy Road), 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** *"This word "contaminated" should be changed to the classification of the land which is "remediated" on all forms (Form 6) and correspondence."*
- 2.2 The Appellant under this ground does not provide grounds for questioning the classification or restrictions applied to the subject lot.
- 2.3 **The Committee dismisses this ground of appeal.**
- 2.4 **GROUND 2** *"I have sunk soak wells which were dug into the soil further than 1.25m and the only thing we came across was clean sand."*
- 2.5 Soil investigation of the site during subdivision included the digging of 63 test pits to 2.3m in depth. Two pits near the subject lot encountered waste. Aerial photographs also indicate that the landfill operation and spreading of clean fill extended to the subject lot.
- 2.6 The Appellant under this ground does not provide grounds for questioning the classification or restrictions applied to the subject lot.
- 2.7 **The Committee dismisses this ground of appeal.**
- 2.8 **GROUND 3** *"most recent groundwater monitoring results, obtained in August 2007 ... showed the widespread presence of chloride and boron contamination at concentrations exceeding Long Term Irrigation criteria levels, but below Australian Drinking Water Guidance levels."*
- 2.9 DEC has advised that the observed chloride concentrations in groundwater "exceed minimum crop tolerance limits and may damage moderately sensitive food plants such as tomatoes, peppers and potatoes". DEC therefore recommended "that groundwater is not suitable for domestic garden irrigation uses".
- 2.10 **The Committee dismisses this ground of appeal.**
- 2.11 **GROUND 3** *"if the groundwater is contaminated ... why does it not affect other houses on the opposite side of Lefroy Road and surrounding streets?"*
- 2.12 This is not a valid ground of appeal. The validity of the classification of the subject lot is independent of whether or not adjacent lots have or have not been classified.

2.13 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