



Decision in respect of appeal against classification

Contaminated Sites Act 2003, Part 8, Division 2

Appellant: Aleisha and Marco Falso

Site: Lot 218 (5 Waterford Street), Beaconsfield

Date: 31 March 2010

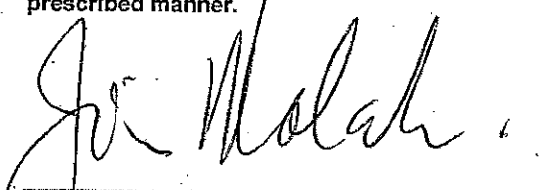
1.0 SUMMARY

- 1.1 The Department of Environment and Conservation (DEC) classified the property known as **Lot 218 (5 Waterford Street), 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 12 January 2009 the Contaminated Sites Committee (Committee) received from the Appellants 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 218 (5 Waterford Street), 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 *"We are ¾ thru building our home and after digging past 1.25m for footings and soakwells etc. have seen no evidence of any rubble of any kind. Only clean sand fill. Our lot is substantially higher than many others in the estate, therefore not all lots are filled equally."*
- 2.2 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.
- 2.3 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.
- 2.4 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