



## Contaminated Sites Committee

### Determination: Appeal Against Site Classification

<b>Date of decision</b>	3 April 2012
<b>Type of decision</b>	Determination of an appeal against site classification pursuant to section 82 of the <i>Contaminated Sites Act 2003</i> .
<b>Matter</b> (file no.)	CSC 14/2010
<b>Date lodged</b>	9 September 2010
<b>Appellant</b>	Marisha Jurek
<b>Site name/address</b>	45 Harper St, Woodbridge
<b>Certificate of title no./ Crown reserve no.</b>	Lot 11 on Plan 70499 as shown on Certificate of Title Volume 1739 Folio 894
<b>Background</b>	<p>The Department of Environment and Conservation (DEC) classified the property as <i>remediated for restricted use</i> under the <i>Contaminated Sites Act 2003</i> (the Act) on 13 July 2010.</p> <p>The reason for classification is that the property is peripheral to the West Midland Former Tip Site and contains landfill materials on the rear portion of the property. These have been covered by approximately 0.5m clean fill. Restrictions on use placed on the property prevent excavation below 0.5m without approval following the submission of a suitable health and safety plan. Groundwater abstraction and use are also restricted (except for analytical testing) due to the nature and extent of groundwater contamination.</p> <p>The Appellant is an owner of the property. The appeal was on the grounds that there was uncertainty in the use of the term "site" in DEC's Notice of Classification, the nature and extent of landfill material causing contamination was not fully identified, reasons for the classification are unclear and ambiguous, no evidence had been provided to the Appellant regarding what contamination had occurred or by whom, a memorial should not be lodged against the property while any part of the classification or reasons are unclear, and that the principles of the <i>Contaminated Sites Act</i> had not been adequately addressed by DEC.</p>
<b>Committee's decision?</b>	The appeal should be <b>dismissed</b> .

<p><b>Reasons for decision</b></p>	<p>❖ <b><u>The Committee found with respect to these grounds:</u></b></p> <p><u>Ground 1 - Site Classification</u>  The Committee acknowledges that in the documents related to 45 Harper Street, Woodbridge, the meaning of the word “site” may vary according to context. This does not mean that the classification has not been properly applied.</p> <p><u>Ground 2 - Nature and extent of contamination</u>  The Committee acknowledges this statement, however the Committee received information regarding the investigations undertaken, including a number of reports which reveal that materials that are clearly contaminants were present on the appellant’s property. The Appellant’s level of knowledge regarding the site is not a relevant consideration with respect to its need for classification under the Act. If only a portion of a property is found to be contaminated, the Act requires a memorial to be placed on the Certificate of Title (which relates to the entire property).</p> <p><u>Ground 3 - Restriction of Use</u>  On the basis of investigations of the landfill available to the Committee, and in the absence of further investigations to the contrary, the Committee considers the restrictions on use to be appropriate.</p> <p><u>Ground 4 - Reasons for Classification</u>  As per Ground 2 above. As noted in the DEC response to the appeal, the exact composition of the landfill material is unknown, however investigations have shown contaminating waste materials are present in material deposited on the main landfill area, as well as the rear portion of multiple blocks which include this property. Specific identification of all contaminating materials and their extent is not required for classification.</p> <p><u>Ground 5 - Memorial</u>  The Committee has considered the appellant’s “objections and concerns” and does not consider that they provide grounds to question the classification of the site. The Act requires that a memorial be lodged against property to which this classification applies.</p> <p><u>Ground 6 - Objective and principles of the Act</u>  The appellant has not suggested that the classification is inconsistent with any of the principles. The Committee notes the reasons given for the classification do not specifically address the principles, however this does not invalidate the classification.</p> <p><b><u>Decision:</u></b></p> <p>All appeal grounds were dismissed. Based on the information before it, and in the absence of further investigation showing the contrary, the Committee considers the classification is appropriate.</p>
------------------------------------	---