

Contaminated Sites Committee

- Summary of Decision
 - Appeal Against Site Classification
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Date of decision	22 February 2012
Type of decision	Determination of an appeal against site classification pursuant to section 82 of the <i>Contaminated Sites Act 2003</i> .
Matter (file no.)	CSC 10/2011
Date lodged	18 July 2011
Appellant	Judy Paioff
Site name/address	20 Bassendean Road, Bayswater
Certificate of title no./ Crown reserve no.	Lot 337 on Plan 3404 as shown on Certificate of Title Volume 264 Folio 61A
Background	<p>The site has been operated as a pest control business which was classified <i>possibly contaminated – investigation required</i> by DEC in 2008. The Notice of classification was re-issued on 27 June 2011 when it was discovered the original notice had not been sent to the correct address for the site owner.</p> <p>The classification was based on a report dated April 1996 by the Waters and Rivers Commission. The contaminants were pesticides, the chemicals identified do not readily break down in the environment. Levels were up to 74 times the relevant criteria allowed for potable and non-potable water in the Assessment Levels for Soil Sediment and Water (DEC, 2010). Contamination was found in the groundwater up to 100m from the site.</p> <p>The summarised grounds of appeal:</p> <ol style="list-style-type: none"> 1. The Notice of Classification was not provided to the correct address at the time of classification; 2. Classification is based on a very old report, with testing undertaken 15 years ago; 3. No current evidence is provided by DEC to justify current contamination of the site.
Committee's decision?	Appeal Dismissed

Reasons for decision	Regarding each ground of appeal: <ol style="list-style-type: none">1. This is not a valid ground of appeal. The Notice of Classification was re-issued which provided the Appellant with the opportunity to appeal;2. The contaminating chemicals detailed in the report dated April 1996 are substances that persist in the environment, therefore the passage of time is not a reason to suggest that contamination is no longer present;3. The CEO of DEC classifies sites on the basis of the information currently available to him. It is open to the owner to undertake further investigations to demonstrate that the site is no longer contaminated.
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