



Decision in respect of appeal against classification

Contaminated Sites Act 2003, Part 8, Division 2

Appellants: Noel and Barbara Murray

Site: Lot 204 (63A 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 204 (63A 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 31 December 2008 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 several grounds of appeal that are addressed 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 204 (63A 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 (Appellants' wording in *italics*)**
- 2.1 **GROUND 1** *"DEC recommended that the site be covered with at least 0.7 m of clean imported sand cover. The developer has in fact covered the site with 1.0 m of clean sand material."*
- 2.2 DEC advises that on 22 July 2003 it wrote to the developer recommending that "Clean fill thickness on the site should be increased from 0.7 m (as proposed by Moltoni) to 1.25 m thickness". In the event, as the Appellants observe, Moltoni opted for 1.0 m thickness of clean cover.
- 2.3 This does not provide grounds for questioning the classification or restrictions applied to the subject lot.
- 2.4 **The Committee dismisses this ground of appeal.**
- 2.5 **GROUND 2** *"My neighbours along my back boundary, namely on Lots 214 and 213, have both installed in-ground swimming pools to depths greater than 1.0 m and neither of them encountered waste material of any kind."*
- 2.6 ERM "Beaconsfield Landfill Soil Investigation (2003) reported that test pit P47 located on Lot 204 at depths below 0.4 m encountered "rubbish comprising metal, brick, metal strapping, re-wire, concrete, bricks, steel and plastic sheeting".
- 2.7 DEC advises that "The contention that waste material extends under Lot 204 is further supported by historical aerial photographs showing the extent of waste disposal activities and subsequent remediation of the site".
- 2.8 **The Committee dismisses this ground of appeal.**
- 2.9 **GROUND 3** *"Groundwater monitoring between 2002 and 2005 showed the presence of arsenic, boron, chromium and nickel exceeding the Australian Drinking Water Criteria and Long Term Irrigation Criteria. However, the most recent groundwater monitoring result in August 2007 showed the presence of chlorine and boron below the Australian Drinking Water Guidance Levels. If these levels are below the permissible levels, the groundwater is NOT contaminated as per the Australian Drinking Water Criteria."*
- 2.10 The single groundwater monitoring event in August 2007 is insufficient to clear the site from the previously identified ADWG exceedances and it confirmed exceedance of Long Term Irrigation Criteria.