



Decision in respect of appeal against classification

Contaminated Sites Act 2003, Part 8, Division 2

Appellants: Giulietta and Guiseppe Pittorini

Site: Lot 202 (3 Moran Street), Beaconsfield

Date: 31 March 2010

1.0 SUMMARY

- 1.1 The Department of Environment and Conservation (DEC) classified the property known as **Lot 202 (3 Moran 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 5 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 did not specify any valid grounds of appeal.
- 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 202 (3 Moran 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

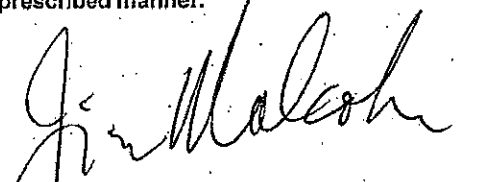
- 2.0 **APPEAL GROUNDS (Appellants' wording in italics)**
- 2.1 **GROUND 1** *"We have been living in our home for two and a half years and still to this day have not had anyone from your department or any other for that matter knock on our door to test our land."*
- 2.2 DEC in the "Reasons for classification" states "The Site was subject to a soil and groundwater investigation between 1999 and 2003" with further groundwater investigations in 2007. The soil investigations included several test pits near lot 202, one on the adjacent lot 204 which encountered "rubbish comprising metal, brick, metal strapping, re-wire, concrete, bricks, steel and plastic sheeting".
- 2.3 The Appellants under this ground do 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** *"Our site is ... not suitable for a kindergarten, however is suitable to have a children's playground and parkland that is watered with contaminated bore water and surrounding homes with children living in them, is there a difference?"*
- 2.6 DEC in the "Reasons for classification" states "A screening risk assessment was conducted that demonstrated that the site is suitable for residential and public open space land uses, subject to a restriction on the abstraction of groundwater for domestic uses and, as a precautionary measure, the installation and maintenance of 1.25 m of imported clean sand cover over the site to prevent the disturbance of underlying waste material."
- 2.7 The Appellants under this ground do not provide grounds for questioning the classification or restrictions applied to the subject lot.
- 2.8 **The Committee dismisses this ground of appeal.**
- 2.9 **GROUND 3** *"Salentina Ridge has numerous olive trees planted on the verges of almost every home, I'm sure that the roots of these trees exceed the 1.0m depth, so now not only have ourselves but the general public been contaminated when these plump olives are picked and eaten."*
- 2.10 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".

2.11 The Committee notes that olives are relatively hardy¹ and do not require long term irrigation.

2.12 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

¹ Miyamoto et. al. *Landscape Plant Lists for Salt Tolerance Assessment* (April 2004), lists the European olive (*Olea europea*) as moderately salt tolerant.