



Lodging an appeal against a site classification

This information sheet provides a guide to persons who are, or who may be considering, lodging an appeal to the Contaminated Sites Committee, against a site classification decision of the Department of Environment and Conservation (DEC), under the Contaminated Sites Act 2003 (the Act).

Background

The Act provides a regulatory framework for the identification, recording, classification, management and remediation of contaminated sites.

A site that is known or suspected of being contaminated is required to be reported to DEC by the owner or occupier of the site, the person that caused the contamination, or an auditor engaged to report on the site under the Act. When a site is reported, the Chief Executive Officer of DEC is required to review the report and classify the site based on the risk the site poses to human health, the environment or any environmental value. Schedule 1 of the Act provides for seven categories of site classification. Under section 18 of the Act, eligible persons may appeal against classification decisions or aspects of classification decisions.

Who may lodge an appeal against a site classification?

The Act and Regulations set out the nature of appeals that may be made to the Contaminated Sites Committee and who is eligible to lodge an appeal with the Committee.

The following table is included as a guide only to a person's eligibility to appeal against a site classification decision. Section 18 of the Act sets out specific criteria governing eligibility to appeal and prospective appellants should refer to section 18 of the Act to determine their eligibility to appeal.

Classifications	Eligible Appellants		
	Owner/Occupier	Person responsible for remediation	Third party who reported a suspected contaminated site
Possibly contaminated, Investigation required	✓		
Not contaminated - unrestricted use	✓		
Contaminated – restricted use	✓	✓	
Remediated for restricted use	✓	✓	
Contaminated – Remediation required	✓	✓	
Decontaminated	✓		
Report not substantiated	✓		✓

An appeal is to be brought, dealt with and determined in accordance with Part 8 of the Act.

If you are unsure about your eligibility to appeal against a site classification decision under the Act, you may wish to seek legal advice before proceeding.



Format of the Appeal

Section 79 of the Act prescribes that an appeal under section 18 of the Act is instituted by lodging written notice of the appeal to the Committee setting out the grounds and facts on which the appellant relies.

For appeals under the Act to be accepted by the Committee, they must:

- be in writing;
- clearly identify the matter or decision being appealed;
- clearly set out the grounds and facts on which the appellant relies;
- be accompanied by the correct appeal fee as specified in section 65 of the Contaminated Sites Regulations 2006;
- be signed by the appellant; and
- be lodged at the Office of the Contaminated Sites Committee within the time prescribed under section 79 of the Act.

Fee payable

If you appeal to the Contaminated Sites Committee against a site classification decision, you are required to pay a fee at the time of lodging your appeal with the Office of the Contaminated Sites Committee. The fee is a prescribed fee under section 65 of the Contaminated Sites Regulations 2006. Currently the prescribed fee is \$45.

The Committee may decide to waive or reduce a fee if paying that fee would cause you financial hardship. If you wish to apply for a fee to be waived or reduced, you will need to provide a written statement to the Committee, along with your appeal, setting out the reasons why the fee should be waived or reduced.

Time limit for lodging an appeal

Written notice of an appeal under section 18 of the Act is to be lodged within 21 days after the day on which the appellant is given the notice or certificate by the Department of Environment and Conservation, or such later time as may be specified in that notice.

The Committee's decision

The Committee will give written notice and reasons for its decision to the appellant, any other affected persons and the Chief Executive Officer of DEC. The Chief Executive Officer is required under the Act to give effect to the outcome of an appeal.

Under the Act, a decision of the Committee in relation to appeals against site classifications is final and without appeal.



Other information sheets

1. Role of the Contaminated Sites Committee
3. Lodging an appeal against an investigation or clean up notice
4. Lodging an application to determine responsibility for remediation
5. Lodging an application for an exemption certificate (disclosure statement)

Contact details

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