

# Contaminated Sites Committee

- Summary of Decision
  - Appeal Against Site Classification
- 

<b>Date of decision</b>	29 March 2011
<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.)	03/2010
<b>Date lodged</b>	23 February 2010
<b>Appellant</b>	Terex Mining Australia
<b>Site name/address</b>	12 and 16 Hazelhurst St, Kewdale WA
<b>Certificate of title no./ Crown reserve no.</b>	Lot 105 on Diagram 93268 on Certificate of Title Volume 2112 Folio 127 Lot 106 on Diagram 93268 on Certificate of Title Volume 2112 Folio 128
<b>Background</b>	<p>The Department of Environment and Conservation (DEC) classified the property as <i>possibly contaminated – investigation required</i> under the <i>Contaminated Sites Act 2003</i> (the Act) on 15 February 2010. The Appellant is a tenant of both properties, both are zoned industrial. Lot 106 was used for machinery maintenance and storage, and Lot 105 included construction of a 'build pad' of large machinery.</p> <p>Contamination including petroleum hydrocarbons, semi volatile organic compounds, polycyclic aromatic hydrocarbons and monocyclic aromatic hydrocarbons (Benzene, Toluene, Ethyl benzene and Xylenes – BTEX) and heavy metals were identified. Some were at concentrations above health based investigation levels for both industrial use and residential use.</p> <p>The soil profile beneath the site was Bassendean Dune System, the soils of which are porous in nature, and depth of the groundwater under the site is approximately 5.5m.</p> <p>The site was remediated by the removal of visibly stained soil.</p> <p>DEC noted Soil validation sampling results were confusing because it was unclear where samples were taken, and whether all potentially contaminated areas were sampled.</p> <p>No groundwater testing was undertaken.</p>

	<p>The Appellant argued that no pathways for groundwater contamination were identified; the majority of the site consisted of sealed concrete/asphalt in good condition; all areas where potential contamination was identified were excavated and the contaminated soil removed from the site; soil validation sampling in the excavated areas found no potential contaminants remaining beneath the excavated areas; the maximum excavation depth was 1.5m below ground level, however the groundwater depth in the area is at 5.5m below ground level; it is not the responsibility of Terex to investigate impacts that may be caused by surrounding land users.</p>
<p><b>Committee's decision?</b></p>	<p>Appeal dismissed</p>
<p><b>Reasons for decision</b></p>	<p>DEC advised that due to the porous nature of the soil, there are potential pathways for migration of soil contaminants to the groundwater. The hydrocarbon concentration that was identified in soils removed from the site exceeded health levels for commercial and industrial sites.</p> <p>The Committee considers that contamination can enter groundwater through preferential pathways such as old root channels, crack and joints in sealed areas. The Committee is not satisfied that all potential pathways for groundwater contamination have been investigated. The Committee is not satisfied that there is enough evidence to prove that the site is not contaminated. The Committee noted that there have been no detailed groundwater investigations undertaken, and considers that validation sampling of soil following remediation is not an adequate method to guarantee that there are no preferential pathways carrying contamination to the groundwater.</p> <p>The classification of the site is related to actual or suspected contamination status of the site in question, which includes groundwater, and is irrespective of the source of contamination.</p> <p>The Committee considered the technical report provided did not provide a complete examination of the contamination status of the site.</p> <p>The Committee concluded the appropriate classification for the site is <i>possibly contaminated – investigation required</i>, based on the unknown contamination status of the groundwater.</p>