

# Contaminated Sites Committee

- Summary of Decision
  - Appeal Against Site Classification
- 

<b>Date of decision</b>	15 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.)	01/2010
<b>Date lodged</b>	23 February 2010
<b>Appellant</b>	Terex Mining Australia
<b>Site name/address</b>	4 Miles Road, Kewdale WA
<b>Certificate of title no./ Crown reserve no.</b>	Lot 256 on Plan 9521 as shown on Certificate of Title 1328 Folio 42
<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 11 January 2010. The Appellant is a tenant which has occupied the site for over 20 years.</p> <p>Contamination including petroleum hydrocarbons, semi volatile organic compounds, polycyclic aromatic hydrocarbons and monocyclic aromatic hydrocarbons (Benzene, Toluene, Ethyl benzene and Xylenes – BTEX) were found to have been above health based investigation levels for both industrial use and residential use. Contamination was also found beneath a sealed section of the site.</p> <p>The depth of the groundwater under the site is approximately 3m and the soil profile beneath the site was observed to be blue metal over limestone over yellow and white sand. Geological mapping for the area indicates the site is on sands of the Bassendean Dune System, which are porous in nature.</p> <p>The site was remediated by the removal of approximately 50 tonnes of impacted soil.</p> <p>No groundwater testing was undertaken. No land use information prior to the Appellant's occupancy was provided.</p>

	<p>The Appellant argued that no pathways groundwater contamination were identified; no signs of contamination existed on unsealed ground or around storm water drains; water within storm water drains appeared clean and free from odour; all identified contaminated soil was removed from the site; soil validation sampling detected on contaminants in soils beneath excavated areas; excavation depth was well above groundwater levels; it was not Terex’s responsibility to investigate contamination caused by surrounding land use.</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 that was identified in soils beneath the ‘sealed portion of the yard’ exceeding health levels for commercial and industrial sites indicated a presence of contamination pathways. There may be cracks or fractures in the surface seal allowing the hydrocarbons to infiltrate to the soils. Further, this area was not excavated, consequently there may be hydrocarbon impacted soil at this location.</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 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. The Committee noted that there have been no detailed groundwater investigations undertaken, and there is no information regarding the historical use of the site, which could also have included potentially contaminating activities that may have led to groundwater contamination.</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 concluded the appropriate classification for the site is <i>possibly contaminated – investigation required</i>, based on the unknown contamination status of the groundwater.</p>