

TO: Ministry for the Environment

SUBMISSION BY: Golden Bay Cement ((A Division of Fletcher Concrete & Infrastructure Limited)

ON: The Proposed National Environmental Standard for
Assessing and Managing Contaminants in Soil (the Proposed
Standard)

This submission is from Golden Bay Cement (GBC)

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INTRODUCTION

GBC has a cement manufacturing plant located at Portland, several kilometres south of Whangarei and two quarries producing different grades of limestone for cement manufacture. One of the quarries is immediately adjacent to the cement plant and the other is located several kilometres north of Whangarei. It also operates various supply centres in the North Island where bulk cement is stored, handled and distributed.

The various facilities operate under a range of resource consents which require ongoing monitoring of environmental effects. Environmental compliance carries with it a considerable burden in terms of time and cost for GBC.

GBC's activities encompass many of those listed in the Hazardous Activities and Industries List. While by modern standards there may have been events and activities in the past which caused contaminants to enter the soil in some locations, with proper modern site management that is much less likely to occur.

The GBC plant's annual cement production capacity is over 900 000 tonnes.

GBC is the largest single employer in the immediate Portland area and contributes significantly to the local and regional economies. GBC directly employs 141 staff at the Portland quarry and cement works sites, and it's estimated that GBC supports another 293 jobs through supporting industries (NZIER, 2008). Overall, the company contributes around \$60 million per annum to the Whangarei District GDP, and an estimated \$163 million per annum to the New Zealand economy (NZIER, 2008).

SUMMARY

GBC is supportive of there being a National Environmental Standard in respect of contaminants in land but considers that the proposed standard requires clarification or modification in a number of respects. It therefore considers that the release of this standard is premature until further work is done.

In particular it has concerns in the areas set out below.

ISSUES OF CONCERN

Voluntary sub-soil investigation

The approach of making any sub-soil investigation a permitted activity only if the results of the investigation are provided to the Council will be a disincentive to carrying out investigation activities. GBC has undertaken and continues to undertake, for its own purposes, investigations into soil conditions, stormwater discharges, sediments and groundwater. These investigations are in addition to those required to be undertaken for monitoring purposes under resource consents. They assist GBC in making operational and potential development decisions. GBC may be deterred from undertaking these investigations because:

- The standard of sampling, analysis and reporting required under the NES may exceed that which GBC wishes to undertake. This will add delay and cost to investigations
- The requirement to provide information to the Council, even in the absence of a change of use, development or subdivision, is unreasonable and potentially

exposes GBC to requirements to undertake further investigation, site management or remediation or even prosecution.

It is not in the public interest to deter land owners or occupiers from investigating their land.

There should be no consent requirements surrounding sub-surface investigations other than those which exist at present (for example in respect of the construction of long term boreholes) and there should be no obligation to provide data to the Council in order for such an activity to be permitted.

“Development”

There is no definition of “development”. If it is intended to capture all activities requiring earthworks, but only such activities, that should be made clear. The text of the discussion document suggests that earthworks for landscaping and fencing will not require sub-soil investigation, but earthworks to construct a retaining wall will. From that discussion it is not clear whether works such as the expansion of on-site water storage ponds or the construction or expansion of new stormwater drains, or even the cleaning out of such drains will fall within the term “development”. If the NES is adopted a definition is required.

The HAIL List

The use of the HAIL list to identify potentially contaminated sites is flawed because in many cases those activities have been carried out in very confined parts of larger sites, or they have been carried out in a manner which has not resulted in contamination. In addition many Councils have used very general information to identify significant areas of land as potentially contaminated because they have learned that HAIL activities have been undertaken in the vicinity at some time.

As an example GBC has recently developed a new state of the art bulk cement storage facility which is operated in a manner which will avoid any escape of contaminants. Bulk cement storage is on the HAIL list. Under this Proposed Standard any subdivision of excess land or change of use in respect of that excess land will require at least a preliminary investigation and possibly sub-soil investigation on what is a fully sealed site.

As a further example if GBC chose to construct a new building on its cement plant site (an industrial building on a long-established industrial site) it would need to go through the preliminary and sub-soil investigation phase because of the presence of activities on the HAIL list. This is not justified as GBC is aware of the nature of its site, takes appropriate health and safety precautions during construction and complies with relevant provisions in the Regional and District Plans.

The requirement that all such sites be investigated if they are developed, their use is changed or they are subdivided will impose additional costs on those sites. The corresponding devaluation of those sites is not justified.

Preliminary Investigation

It is proposed that where a landowner wants to demonstrate that land is not contaminated through being associated with HAIL activities (for example where the HAIL activity occurred on a discrete part of a site and a different part of the site is being developed) then a preliminary assessment can be undertaken. The inspection must be undertaken by a suitably qualified and experienced person. It is not clear what qualifications and experience are required. It may be that the landowner is the best person to undertake this exercise.

The amount of information required under the Contaminated Land Management Guideline No1 is significant. There is a risk that the Council will take the path of requiring a sub-soil investigation in any event, just to "play it safe". All of this will add time and cost to any proposal for development, change of use or subdivision.

Sub-Soil Investigation and Audit by Councils

The Proposed Standard encourages landowners to do an investigation before lodging any proposals with the Council. This carries with it the risk that the Council will second guess the assessment done and require more or different sampling locations. There is also a risk that the Council will be interested in contaminants other than those identified in the Proposed Standard and will ask for additional investigations. The discussion document refers to a permitted activity being "subject to one or more site investigation reports". There is a significant risk of scope creep.

Many of the smaller territorial authorities do not have the resources to audit the investigation reports and will have to out-source them. This will carry with it delay and cost.

Permitted/Controlled Activity

The discussion paper raises the possibility of the sub-soil investigations being treated as controlled activities rather than permitted activities. There is no real indication of how this would occur. If RMA lines are followed the consent would be required before the investigation was carried out. This would enable the Council to prescribe its requirements. It would also enable the Council to recover costs. While this has the attraction of the Council being obliged to grant the consent, subject to conditions, it carries with it the burden of further costs and delay. The proposal that the activity be controlled is therefore not supported.

Naturally Occurring Elements

It is proposed that no allowance will be made where a naturally occurring element (arsenic and cadmium) exceeds the SGV. It is not clear how a landowner would go about controlling this where, for example, a site exceeded the level because of the presence of volcanic soil. This proposal is unrealistic and proper allowance should be made for naturally occurring elements.

SGVs

This submission does not directly address the contaminants identified, but GBC does have a concern that a number of priority elements of concern are not addressed in this guideline. GBC would support a more robust approach to the development of the technical aspects of the guidelines.

Delay and Cost

The Proposed Standard does not impose any time limits on Councils auditing and responding to assessments. Councils have already demonstrated an inability to meet timeframes under the RMA. This is not likely to be any different. The requirements for preliminary and sub-soil investigations to be carried out in accordance with the

Contaminated Land Management Guideline No1, by appropriately experienced and qualified people, with subsequent audit by the Council will impose significant additional cost. This is inconsistent with the Government's stated intention of expediting the consenting process.

Golden Bay Cement

Paul Bonetti

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