

**SUBMISSION ON PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR  
ASSESSING AND MANAGING CONTAMINANTS IN SOIL**

**TO:** Ministry for the Environment  
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**SUBMISSION ON:** Proposed National Environmental Standard for  
Assessing and Managing Contaminants in Soil

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**1. Introduction**

Tainui Group Holdings Limited (**TGHL**) makes this submission in response to the Ministry for the Environment's (**MfE**) request for submissions on the Proposed National Environmental Standard for Assessing and Managing Contaminants in Soil (the **Standard**).

**2. Background**

2.1 TGHL's role is to manage the commercial assets of the Waikato-Tainui people. TGHL's core business is property investment and development. TGHL has significant land holdings and active development projects within the Waikato region.

**3. TGHL's general submission is that:**

3.1 TGHL is generally supportive of the regulation of levels of soil contamination at a national level through measures such as national environmental standards, as they provide consistency and certainty for landowners throughout New Zealand. While the Standard is limited to the contaminants in soils and their acceptability for redevelopment, it is a step in the right direction considering the lack of national guidance regarding contamination in New Zealand compared to overseas jurisdictions.

3.2 However, TGHL is concerned that the Standards proposed may result in additional compliance costs and even act as a disincentive to carrying out subsurface investigations to determine the presence of contaminants in soils.

4. TGHL's specific submissions on the Standard are set out below:

5. **Subsurface investigation standards**

*Comments*

- 5.1 The requirement to provide a copy of any subsurface investigation reports to Territorial Authorities will act as a disincentive to investigate contaminant levels, particularly where there may be potential for liability or there is a risk that council may take enforcement action as a result. In addition, site investigation reports will need to be provided to local authorities regardless of the conclusions in the report and such information would be included on the public record. No discretion is provided in relation to commercial sensitivity, nor where there may be issues in relation to the matters raised in the report or the scope of the assessment process undertaken by various consultants involving legal privilege.
- 5.2 In addition, the default discretionary activity status where soil investigations are withheld appears to be disproportionately strict when compared with the restricted discretionary activity status for use, development and subdivision activities carried out without a site investigation. This may create a situation where rather than undertaking a potentially risky subsurface investigation that could lead to unfavourable reporting, a party may decide to pursue a restricted discretionary activity status for any subdivision and development activity to avoid such a report ending up on the public record.

*Amendments sought*

- 5.3 Maintain permitted activity status for subsurface investigation but delete obligation to provide subsurface reports to territorial authorities, unless the activities result in off-site effects.

6. **Use, development and subdivision standards**

*Comments*

- 6.1 The requirement to carry out a site investigation and assess soils against the Soil Guideline Values (**SGV**) when carrying out any use, development or subdivision (subject to limited exceptions) may result in unnecessary compliance costs and additional delays when the redevelopment of land is contemplated.
- 6.2 The exempted activities provided for in the proposed Standard are limited and activities which arguably do not significantly increase the risk to human health and where there is no accompanying change in use are still caught – such as where a new building is to be constructed but no change of use at the site is contemplated.
- 6.3 Landowners with properties recorded as potentially contaminated or on the Hazardous Activities and Industries List (**HAIL**) are required to carry out a preliminary site investigation report. TGHL's concern with this requirement is that a number of councils do not have the resources to determine whether sites are appropriately located on the HAIL list and accordingly if there is any risk in relation to any activity undertaken on the site councils often resort to a default position of including the site on the HAIL list. In some regions, contaminated site registers are compiled from historic telephone book surveys and are in no way an up-to-date or accurate list of site uses – either current or historic.

- 6.4 This will mean that landowners may be put to the unwarranted expense of commissioning a preliminary site investigation which is disproportionate to the risk involved. The inclusion of properties on HAIL is also likely to be subject to greater challenge by landowners given its significance for development costs, as well as potential land valuation implications. However, currently inclusion on HAIL is undertaken unilaterally by councils.
- 6.5 Communication and information sharing between regional councils and territorial authorities who must implement the Standard must also be improved to ensure that council records are accurate. Given that territorial authorities will now require copies of site investigations to be provided before granting resource consents to certain activities, it may be more appropriate that the register be jointly maintained by the regional council and territorial authorities in an area.

*Amendments sought*

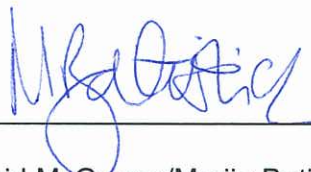
6.6 Broaden exemptions to include:

6. construction and/or installation of new buildings, structures and supporting works and improvements which are not associated with a change in use.

6.7 Amend existing exemptions as follows:

2. subdivision which is not associated with a change in use ~~or a disturbance of the ground~~
4. internal and external additions and alterations to existing buildings, structures and improvements that ~~occur above ground level and do not disturb the ground~~ are not associated with a change in use.

6.8 Restrict sites requiring preliminary investigation to verified HAIL sites and those specifically identified as potentially or actually contaminated by the territorial authority.



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For Tainui Group Holdings Limited

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