

WAIMAKARIRI DISTRICT COUNCIL

Submission on the Proposed National Environmental Standard for Assessing and Managing Contaminants in Soil

Contact: Nick Harrison
Manager: Resource Planning and Regulation
Waimakariri District Council
Private Bag 1005
RANGIORA 7470

1 General Submission

This is a submission from the Management of the Waimakariri District Council based on advice from staff that addresses the technical merits of the proposed National Environmental Standard for Assessing and Managing Contaminants in Soil.

The Management of the Waimakariri District Council considers that a National Environmental Standard for Assessing and Managing Contaminants in Soil is necessary to avoid duplication and inconsistent management of contaminated land between the Regional Councils and Territorial Authorities. It will also provide clear guidelines for the assessment, investigation and remediation of land being prepared for development or change of use.

In adopting this position with respect to this proposed national environmental standard (NES) we are mindful that under the Resource Management Act, section 31(b)(iia), territorial authorities are responsible for: *“the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.”* The draft Canterbury Regional Policy Statement includes a policy regarding the identification of potentially contaminated land and supports *...“better national guidance (particularly National Environmental Standards) on acceptable levels of hazardous substances in soils.”*

Summary

- Support the development of a National Environmental Standard for Assessing and Managing Contaminants in Soil.
- Have reservations about:
 - a) compliance costs
 - b) definition and identification of *suitably qualified and experienced* persons
 - c) ensuring there is no overlap with current legislation
 - d) site-specific assessment

2 Specific submission

The policy objective is appropriate to address the problems identified and is supported.

Regional Council and Territorial Authority planning controls do not adequately identify land that could potentially be affected by contaminants in the soil particularly at the stage when the land is subdivided, developed or the land use changes in such a way

that the contaminated status of the soil would have significant implications for that activity.

As described by the 'sheep dip' scenario, sites that contain contaminated soils are difficult to identify and exact location may be lost over time with change of ownership and/or land use.

Reasons for support of NES

We agree with the preferred option of a National Environmental Standard (NES). We consider that this is a national issue and requires a national response. The standard can be applied consistently across the country and is not affected by local variations of environment or population.

Reservations (caveats)

Making the land safe for human use is the objective of the NES and it applies to:

- Subsurface investigations; and
 - The use, development and subdivision of land.
- The standard would need to be carefully drafted to ensure a variety of situations can be addressed appropriately and consistently.

We consider it very important to ensure that not all land, or every activity, is required to go through a site investigation and this position should be maintained unless there is good cause. We need to ensure we do not create a requirement to consent what would otherwise be a permitted activity. The scope of the NES needs to be constrained to ensure it does not become onerous without reasonable justification. Emphasis needs to be placed on the opportunity for developers and land owners to know what they have from the beginning rather than getting further down the track with the development or land use change and finding there are significant and costly issues of soil contamination to address.

The NES should ensure the adequacy of the site investigation. Consistent and adequate investigations and assessment are critical and the proposed NES requires that the Territorial Authority audit the initial report against prescribed criteria.

- Ensure no overlap with other legislation.

Other legislation and regulations already appropriately control some activities and it would be unreasonable to require site investigations in these instances.

- Appropriately qualified and experienced practitioners.

The requirement for reports to be prepared by *appropriately qualified and experienced* practitioners means that there needs to be a clear definition of an appropriate level of qualifications and experience. An accreditation scheme for these practitioners would be critical to ensure the level of reporting required is achieved.

- Site-specific assessments

The site-specific assessment for produce consumption calculation (Page 73 of the discussion document) adds a level of complexity without contributing to the intention of providing a 'safe for human use' environment.

The definitions of rural/lifestyle block/residential and high density residential (Generic exposure scenarios, Page 68 of the discussion document) are not logical. It would seem more sensible to apply a single standard which is reasonable in the context of curtilage, irrespective of zoning. The definition for high density residential should be restricted to apartments where the land is a joint amenity and controlled by the body corporate and not private space. Therefore the scenarios would be limited to: residential, parks/recreational and rural/commercial/industrial. We also acknowledge that the 10% produce threshold is precautionary and does not need to be any tighter than this.

We do not believe the NES should include controls on natural hazards. Residents growing their own food will change soil composition by the introduction of any number of additives, natural and chemical, and it would be impractical for the NES to control these activities which are most likely to be undertaken to mitigate the effects of natural hazards. Gardeners growing vegetables will make every effort to ensure the growing medium is safe and productive.

- Compliance and enforcement

The issues of compliance and enforcement of the NES will be controlled by the Territorial Authority through the consent process and matters for assessment. In effect it will apply automatically, thus removing any opportunities for challenge from a reluctant party.

- Costs

The cost of compliance seems extraordinary and although initial investigations may not incur any increase or additional cost the more sophisticated soil assessment cost of around \$10,000 for relatively straight forward assessments would seem very high. Associated with this is the increase in application costs which significantly increases the total cost for the landowner or developer. These increased costs could become a barrier to compliance.

Lynley Beckingsale
Technical Assistant