



**IN THE MATTER** of the Resource Management Act 1991 (“RMA” or “the Act”)

**AND**

**IN THE MATTER** of applications under section 88 of the Act to the **Tasman District Council** by **Tasman Bay Asphalt Limited** for resource consents for an Asphalt Plant (**RM201000, RM201002, RM201018**)

**EVIDENCE OF MARTYN O’CAIN ON BEHALF OF TASMAN BAY ASPHALT LIMITED  
(CONTAMINATED LAND)**

**1. INTRODUCTION**

1.1 My full name is Martyn O’Cain. I am a Certified Environmental Practitioner (Contaminated Land) employed by Envirolink Limited.

1.2 This evidence is given on behalf of Tasman Bay Asphalt Limited (the “Applicant”). The Applicant has applied for (collectively the “Proposal” or “Asphalt Plant”):

- (a) Land Use consent to construct and operate an Asphalt Plant and build an acoustic barrier (RM201000);
- (b) Discharge Permit to discharge contaminants from an Asphalt Plant to air (RM201002); and
- (c) Land Use Consent to undertake earthworks within 10 metres of the toe of the Waimea stopbank (RM201018).

1.3 This evidence addresses the management of potentially contaminated land in accordance with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (“NESCS”).

### **Qualifications and experience**

- 1.4 I have a MSc in Environmental Science from Canterbury University. I also hold a Post-graduate Diploma in Business Management from Massey University and was certified as an Environmental Practitioner (Contaminated Land) by the Environment Institute of Australia and New Zealand on 12 May 2016.
- 1.5 I have read the Environment Court's Code of Conduct for Expert Witnesses 2014, and I agree to comply with it. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
- 1.6 The Asphalt Plant would be sited within a larger Bartlett Road site that is administered by Tasman District Council (TDC) and leased to Downer New Zealand Limited (Downer). I have been engaged by Tasman District Council and by Downer to undertake soil sampling and make recommendations for management of potentially contaminated spoil at the site, as part of the activities authorised by RM210554. I do not consider this existing involvement impacts on my ability to provide evidence in respect of the Application. To the contrary, it assists my knowledge of the site and assists in ensuring there is integrated management of potentially contaminated material across the site.

### **Involvement in the project**

- 1.7 I was engaged by the Applicant in November 2021.
- 1.8 I undertook a site visit on 26 November 2021. As discussed above, I am very familiar with the wider site due to my work for TDC and Downer.
- 1.9 In preparing this evidence I have read the relevant parts of the following documents:
- a. The Application and relevant parts of the Assessment of Environmental Effects (collectively referred to as the "Application").
  - b. The section 95 decision by Tasman District Council.
  - c. The section 42A recommendations report by Tasman District Council.

### **Purpose and scope of evidence**

- 1.10 The purpose of my evidence is to explain why resource consent may be required for disturbance of contaminated land and how earthworks on the site should be managed. I also explain the implications of the site being registered as a hazardous activity or industry site (often referred to as a HAIL site) following its use for an asphalt plant.
- 1.11 My evidence is structured as follows:
- a. Summary (Section 2)
  - b. The site (Section 3)
  - c. Whether resource consent is required under the NESCS (Section 4)
  - d. Management of potentially contaminated land (Section 5)
  - e. Implications of new site contamination register entry (Section 6)
  - f. Comment on s 42A Recommendation Report (Section 7)

## **2. SUMMARY**

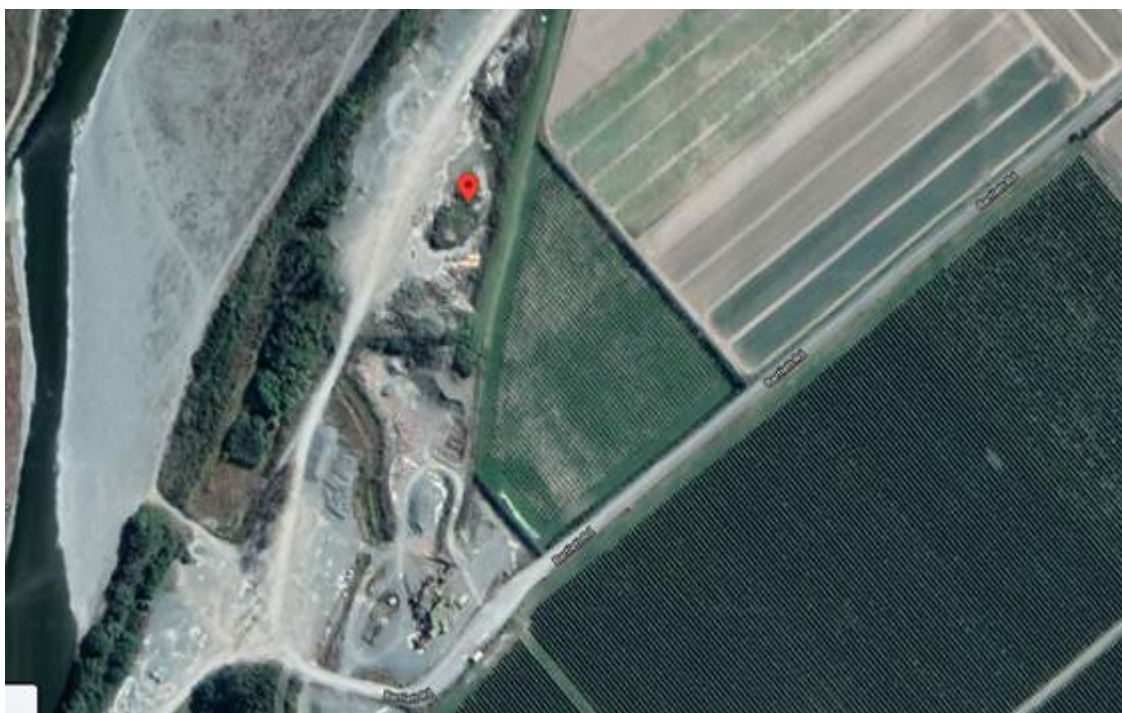
- 2.1 The Application site may be a “piece of land” to which the NESCS applies, due to former use of the wider site as a landfill. For the sake of caution, it is being treated as such by the applicant. I recommend that land disturbance is managed in accordance with an accidental discovery protocol (ADP) that is required as a condition of consent. That approach aligns with the approach being taken on the surrounding gravel extraction and crushing site.

## **3. THE SITE**

- 3.1 The piece of land being assessed is specific to where the former gravel crushing plant is located and the immediate surrounding area. The land area being assessed is approximately 2,500 m<sup>2</sup>. Most of the area is dominated by a disused gravel crusher and associated infrastructure.
- 3.2 The NESCS applies to a “piece of land” where an activity or industry described in the Hazardous Activities and Industries List (HAIL) is being undertaken, or has been undertaken, or where it is more likely than not that an activity or industry described in the HAIL is being or has been undertaken on it (Regulation 5(7)). The only methods that may be used to establish whether or not regulation 5(7) applies are:

- a. Using the most up-to-date information about the area that the territorial authority holds on its files or has available to it from the regional council; or
- b. Relying on the report of a preliminary site investigation stating that none of the regulation 5(7) matters apply.

3.3 The applicant relies on Council's records. Council's records show that there is a HAIL site on LOT 1 DP 368439 (the Waimea River bermlands). I attach a copy of the HAIL Register entry for HAIL site 159 as **Appendix 1**. The location of the site is given as Easting = 1610119 Northing = 5423539, which is shown in the image below:



3.4 However, I understand that the extent and precise location of the landfill within the site is unknown.

3.5 With regard to the NESCS, Council's section 95 notification stated:

Note 3: The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 applies to the disturbance of soil on a 'piece of land' over which a HAIL activity has or is being undertaken. The proposal involves the disturbance of land within a land parcel containing a HAIL Site. However, due to the large size of the land parcel and the unknown extent of the HAIL site, 'piece of land' remains undefined. Consequently, the extent to which the NESCS should apply is uncertain and

an accidental discovery protocol (for contaminated soils) should apply for all land disturbance and may necessitate reassessment under the NES-CS at a later date.

3.6 The document also states:

The site is a HAIL site (ID 159) as an historic landfill, and it is a Working Quarry Site (Waimea bermland gravel extraction and processing).

3.7 In relation to the former landfill, I agree with the Council's assessment that the extent of the HAIL site with respect to the Application site cannot be specifically defined. Out of caution the Applicant has elected to deal with the site as if it is a "piece of land" to which the NESCS applies.

3.8 During the site walk over, a number of small stockpiles of road millings (asphalt) were observed along the western boundary of the site. Mr du Plessis confirmed that this material was from work undertaken on Wensley Road and is the responsibility of Downer. It will be removed prior to Tasman Bay Asphalt taking over the site.

3.9 With respect to the s 95 Report's statements about the site being a working quarry site for gravel extraction and processing, it should be noted that the list of activities in the HAIL includes 'mining extraction, refining and reprocessing, storage and use' but expressly excludes gravel extraction. Category E7 states:

'Mining industries (excluding gravel extraction) including exposure of faces or release of groundwater containing hazardous contaminants, or the storage of hazardous wastes including waste dumps and dam tailings'.

3.10 In addition to the HAIL excluding gravel extraction, it is also silent on 'gravel crushing plants'; therefore, they are likely not to be considered a hazardous activity or industry. As a result, the land being assessed does not need to be considered a piece of land' under the NESCS due to gravel extraction or processing (unless alternative hazardous activities and industries can be confirmed as part of the land use history, or ancillary activities such as fuel storage can be confirmed).

3.11 Additional information about contaminants on the wider Downer site exists as a result of testing undertaken in accordance with RM210554. Two stockpiles were tested to determine soil contaminants. The location of the two stockpiles are shown in the image below. Stockpile 1 was found to contain soil at generally background concentrations. Stockpile 2 contained Arsenic, zinc and benzo[a]pyrene (BaP) at higher than cleanfill levels, but still

suitable for recreational use. This material was therefore suitable to remain on site. Any other contaminated soil found during works are to be separated and tested and disposed of, if necessary, in accordance with an accidental discovery protocol. A copy of RM210554 is attached as **Appendix 2**.



#### **4. WHETHER RESOURCE CONSENT IS REQUIRED UNDER THE NESCS**

- 4.1 It is understood that Tasman Bay Asphalt are proposing to realign the existing stop bank down the western side of the area being assessed and install an asphalt plant that will include chip/filler bins, baghouse and mixing drum, asphalt silo, a control room and diesel storage. Earthworks will also be required when the Applicant is removing its operations from the site for restoration purposes.
- 4.2 The NESCS requires resource consent for land disturbance where permitted activity standards are not met. These include that the volume of the disturbance of the soil of the piece of land must be no more than 25 m<sup>3</sup> per 500 m<sup>2</sup>. I understand that the proposed earthworks will exceed that standard if the piece of land is assessed as the Application area. Consent may also be required for “changing use” of the piece of land.

4.3 Unless a detailed site investigation exists, land disturbance and change of use that does not meet permitted standards is a discretionary activity.

4.4 In my opinion, it is not practicable to undertake a detailed site investigation prior to the granting of the consent due to the existing crusher plant location and on the basis that no material is expected to be removed from the site. It is not necessary to have a detailed site investigation as the works can be managed in accordance with an accidental discovery protocol, as discussed below.

## **5. MANAGEMENT OF POTENTIALLY CONTAMINATED LAND**

5.1 Any proposed earthworks associated with the construction of the asphalt plant and realignment of the stop bank can be carried out under the procedures and protocols set out in an Accidental Discovery Protocol (ADP) specific to contaminants in soil. A draft ADP is attached to this document as **Appendix 3**. This approach aligns with the approach at the surrounding Downer site.

5.2 I recommend inclusion of a condition of consent requiring an ADP for the site.

5.3 I recommend that the sequence of operations on the site is as follows:

- a. Removal of the gravel crusher, realignment of the stop bank and levelling the site occurs in accordance with the requirements of the ADP;
- b. Benchmark the site (analytical testing) prior to installing the asphalt plant;
- c. Install and operate the asphalt plant;
- d. Remove the asphalt plant;
- e. Re-test the site and remediate if necessary to return the site to benchmark condition or similar;
- f. Re-level the site, topsoil and plant with appropriate vegetation.

## **6. IMPLICATIONS OF NEW SITE CONTAMINATION REGISTER ENTRY**

6.1 Use of the site for an asphalt plant is likely to result in a new entry on the Council's site contamination register, because asphalt plants are listed in the HAIL. If a future owner or occupier wishes to undertake a subdivision, land disturbance or change of use that does not meet permitted activity standards in the NES, consent may be required.

- 6.2 However, the asphalt plant consent conditions will require both baseline and post-activity soil testing. If testing of the site once the applicant has removed the asphalt plant indicates that soil contaminant levels are at or below background concentrations, those results can be presented as a detailed site investigation, in which case the NESCS will not apply to future activities (Reg 5(9)).

## 7. COMMENT ON S 42A RECOMMENDATION REPORT

- 7.1 The s 42A report states:

3.8 There is a HAIL site (ID 59) identified on the river berm 100m north of the proposed asphalt plant operation – that is a past landfill site. There is a plan in place to remove dumped spoil from the balance of the gavel processing and storage area and to rehabilitate that area. The aims are to improve biosecurity control and restore amenity and recreational values of the river berm.

5.6 ...

- a. The Applicant also originally applied for consent to store and use bitumen. However, the proposed bitumen is not a hazardous substance; and the storage of diesel complies with permitted activity rule 16.7.2.1. Therefore, consent is not required for storage and use of hazardous substances.
- b...
- c. With regard to HAIL site 159, the [NESCS] applies to the disturbance of soil on a “piece of land” over which a HAIL activity has or is being undertaken. The proposal involves the disturbance of land within a land parcel containing a HAIL Site. However, due to the large size of the land parcel and the unknown extent of the HAIL site, “piece of land” remains undefined. Consequently, the extent to which the NES-CS should apply is uncertain and an accidental discovery protocol (for contaminated soils) should be adopted for all land disturbance and may necessitate reassessment under the NES-CS at a later date.

- 7.2 I agree with the report writer that bitumen is not a hazardous substance. Other matters raised in the s 42A report have been addressed above.

**Martyn O’Cain**

**10 December 2021**



# Appendix 1

## Tasman District Council HAIL Register

<p style="text-align: center;"><b>SiteID 159</b></p> <p><b>Valuation Assessment 1939018901</b></p> <p><i>Property Affected</i> LOT 1 DP 368439</p> <p><i>Location</i> Easting = 1610119    Northing = 5423539</p> <p><i>Also Known As</i> landfill by River</p>
<p style="text-align: center;"><b>Site Type Landfill Site</b></p> <p><i>MfE Land Use</i> TBA</p> <p><i>National Environment Standard</i> Not Assessed</p> <p><i>HAIL Primary Classification</i> Landfill sites.(G3)</p> <p><i>HAIL Secondary Classification</i></p> <p><i>Register Classification</i> Category 1 (c) - Verified Hazardous Activity or Industry-limited sampling, risk not quantified</p> <p>A site which is a verified HAIL and has been sampled, but not in sufficient detail to quantify risks to people and/or the environment from the hazardous substances present.</p>
<p><i>Land Use: Start Date</i> 1961</p> <p><i>End Date</i> late 1970's</p> <p><i>Storage Tanks - above ground</i></p> <p><i>Storage Tanks - underground</i></p> <p><i>File Number</i></p>
<p><i>LIM Statement</i> Part of this property has been identified as being used for burying rubbish from the nearby district. This land use has the potential to contaminate the adjacent soil with leachate, landfill gas, visible rubbish and chemicals. This site is subject to the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011. A report with testing of stockpiled soil for waste disposal purposes is on file. Any future change of use, substantial earthworks or further subdivision might require a site investigation report pursuant to the regulations.</p>
<p style="text-align: center;"><i>Confirmed</i> N</p>

### Disclaimer

The Information provided is based on what is known to the Council and what is shown in Council records. Every care is taken collating this information, however the records may be incomplete, and therefore the information may be inaccurate.

## Appendix 2

*Downes Bartlett, Rd  
RM Consent -*



File: RM210554

amy.bennetts@tasman.govt.nz  
Phone 543 7652

11 August 2021

Tasman District Council  
Private Bag 4  
Richmond 7050

Dear Giles

**Decision on Non-Notified Resource Consent Application RM210554  
Land Use Consent - To undertake earthworks on the berm of the Waimea River within  
10 metres of the stopbank and exceeding 1 hectare, and to disturb contaminated soil  
under the Resource Management (National Environmental Standard for Assessing and  
Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS)**

Your application for resource consent has been granted. A copy of the Council's decision is attached. Please carefully read the conditions that have been attached to the consent and feel free to contact me if you have any questions about your consent or its conditions. My contact details are listed at the top of this letter.

Here are some matters that I need to highlight for you.

Section 357A of the Resource Management Act 1991 ("the Act") provides you with the right to lodge an objection with the Council against this decision including any of the conditions. Objections must be made in writing setting out the reasons for the objection together with a deposit fee of \$328.00 (GST inclusive), and must be lodged here within 15 working days of receiving this letter.

The final cost of processing your application has not been calculated yet. If the final cost exceeds the deposit already paid, then as we previously advised, you will be invoiced separately for the additional cost. If the final cost is less than the deposit already paid, then you will receive a refund. Where the costs are equal to the deposit already paid, no further action is required. You will receive a letter shortly about the final costs of processing your application.

Under Section 125 of the Act, your consent will lapse in 5 years unless you have given effect to it before then.

Yours sincerely

Amy Bennetts  
Consent Planner - Natural Resources

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## RESOURCE CONSENT DECISION

Resource consent number: RM210554

Pursuant to Section 104A of the Resource Management Act 1991 ("the Act"), the Tasman District Council ("the Council") hereby grants resource consent to:

**Tasman District Council**  
(hereinafter referred to as "the Consent Holder")

**Activity authorised by this consent:** Land Use Consent - To undertake earthworks on the berm of the Waimea River within 10 metres of the stopbank and exceeding 1 hectare, and to disturb contaminated soil under the NES-CS.

### Location details:

Address of property:	Appleby Highway, Appleby
Legal description:	Lot 10 DP 5969
Record of title:	493293
Valuation number:	1939018901
Location co-ordinates:	Easting: 1610095 Northing: 5423482 (NZTM)

Pursuant to Section 108 of the Act, this consent is issued subject to the following conditions:

### CONDITIONS

#### General

- 1 All works shall be carried out in general accordance with the application for RM210554 received by Council on 18 June 2021 and all supporting information, including the Site Investigation Report dated 19 May 2021 and produced by Envirolink, Erosion and Sediment Control Plan dated 11 June 2021 and produced by Environmental Compliance, Spoil Redistribution Plan dated June 2021 and the attached RM210554 Plans A and B, unless inconsistent with the conditions of this consent, in which case these conditions shall prevail.
- 2 The Consent Holder shall ensure all persons undertaking activities authorised by this resource consent are made aware of the conditions of the consent and ensure compliance with these conditions. A copy of the consent documents shall be kept available on site, and shall be produced without unreasonable delay upon request from a servant or agent of the Council.

#### Prior to Works

- 3 The Consent Holder shall, at least 10 working days prior to the intended commencement date of activities authorised by this consent, submit a Construction

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Management Plan (CMP) to the Council's Team Leader - Monitoring & Enforcement.  
The information provided shall include:

- (a) site description;
- (b) description of the works;
- (c) earthworks methodology and timeline; and
- (d) final version of the Erosion and Sediment Control Plan.

**Advice Note:**

The Erosion and Sediment Control Plan should be prepared in accordance with best practice and the Nelson Tasman Erosion and Sediment Control Guidelines 2019.

- 4 The Consent Holder or appointed representative shall contact Council's Team Leader - Monitoring & Enforcement at each of the following stages:
  - (a) at least 48 hours prior to commencement of works on-site;
  - (b) upon placement of all sediment control measures; and
  - (c) at least 24 hours prior to decommissioning of the sediment control measures.

**Site Management**

- 5 The Consent Holder shall avoid or minimise sediment transport off-site and shall ensure that no sediment from stockpiled material is transported off-site via stormwater flow or wind action. For the duration of the earthworks, sediment controls shall be implemented and maintained in effective operational order at all times.
- 6 Work machinery and tools shall be washed and all soil and substrate removed before leaving the site.
- 7 The works shall be carried out in a manner, or measures implemented, so that at no time will dust generated by the authorised activity become a nuisance to occupants of neighbouring properties or the public in general.
- 8 The Consent Holder shall ensure that all noise generated on site does not exceed an uncorrected noise level of 55 dBA L<sub>10</sub> (day) and 70 dBA L<sub>max</sub> (night) measured at the notional boundary of any dwelling over a measurement period of 15 minutes during the authorised hours of operation.

**Advice Note:**

Noise shall be measured and assessed in accordance with the provisions of NZS 6802:2008 - Acoustics - Environmental Noise.

- 9 All machinery shall be maintained and operated in such a manner minimising, so far as practicable, any spillage of fuel, oil and similar contaminants to water or land, particularly during machinery refuelling. Any refuelling shall be undertaken using a spill mat and best practice measures.
- 10 The Consent Holder shall maintain a spill kit on site at all times to contain and/or absorb any spilled hazardous substance and/or any other measures necessary to prevent any spills of hazardous substances entering land or water.

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- 11 All spills shall be immediately contained and controlled by an approved product and shall be removed from the site for appropriate disposal. In the event of a spill on the site greater than 20 litres, the Consent Holder or their agents shall record the details, and provide to Council's Team Leader - Monitoring & Enforcement within 24 hours of the spill:
  - (a) the date, time and volume of the spill;
  - (b) the substance spilt;
  - (c) measures taken to contain and absorb the spilt substance; and
  - (d) the cause of the spill, and the measures taken since to prevent a repeat of the incident.
- 12 Works shall only take place between the hours of 0700 to 1700 on weekdays and 0800 to 1300 on Saturdays. No works shall be undertaken on Sundays or any public holiday.
- 13 Appropriate warning signs shall be erected at the entry of the site to alert the public that the area is inaccessible during the remediation works, in addition to information about the operational hours and traffic movements associated with the works.

**Stormwater Discharge**

- 14 The Consent Holder shall take all practicable measures to limit the discharge of sediment with stormwater run-off to water and off-site during and after the works. In particular, stormwater shall be directed away from temporary stockpiles, exposed soil and the Waimea River, and the earthworks shall, so far as practicable, be carried out during fine weather periods when the likelihood of sediment run-off will be minimised.
- 15 Stormwater management measures shall be installed prior to works undertaken on site to prevent the flow of sediment-laden stormwater into the surrounding Waimea River berm land and Waimea River.

**Excavation and Recontouring of Stockpiles**

- 16 All excavation and recontouring works shall be carried out in accordance with the construction sequence described in the ESCP and RM210554 Plan A, attached.
- 17 No excavation shall occur below the existing ground level.
- 18 Only fill from stockpile 1 as shown on RM210554 Plan B, and other uncontaminated fill material (finer grained spoil/fill) shown via testing to be below cleanfill criteria, may be used to fill the former silt pond.
- 19 Fill used to recontour the quarry area is to be compacted in layers not exceeding an average of 0.5m lifts.
- 20 The existing discharge pipe from the basin to the former sediment pond shall be decommissioned in accordance with the certified ESCP.
- 21 In the event that evidence of chemical contamination (discoloured soil, asbestos, odours, containers, etc.) is discovered, then all earthworks should immediately stop and the area must be cordoned off. As soon as practicable, the Consent Holder must contact a suitably qualified and experienced contaminated land specialist (SQEP) to conduct an assessment of risk. A copy of the assessment made by the SQEP shall

be provided to Council's Team Leader - Monitoring & Enforcement within 5 working days of the Consent Holder receiving the assessment.

Works may recommence after a copy of the assessment has been sent to the Council's Team Leader – Monitoring & Enforcement and shall comply with any recommendations made by the SQEP.

- 22 If excavated contaminated soil, waste or other uncontrolled fill needs to be temporarily stockpiled on-site before removal off-site, the Consent Holder shall ensure stockpiles are:
- (a) managed in a manner that minimises, to the greatest practicable extent, any adverse effects on on-site workers, the public and off-site stormwater migration pathways;
  - (b) covered and located on a sealed surface or placed on impermeable sheeting;
  - (c) located at least 3 metres from site boundaries;
  - (d) kept tidy, less than 2 metres in height and with a stable slope;
  - (e) fenced to prevent public or unauthorised access; and
  - (f) removed off-site within 10 days following excavation.
- 23 The site must be remediated to meet recreational standard levels. On completion of the recontouring, soil validation samples shall be taken to confirm the surface soils meet the recreational standard levels. The results shall be provided to Council's Team Leader - Monitoring & Enforcement.
- 24 All exposed ground shall be stabilised as soon as practicable following the completion of the works and a vegetative cover established no later than the next growing season following the completion of works in order to avoid soil erosion.

**Advice Note:**

Compliance with this condition is considered to be when an 80% vegetative cover has been established in accordance with the Nelson Tasman Erosion and Sediment Control Guidelines 2019 or any subsequent version.

- 25 The remediation works shall not result in damming or diversion of floodwaters, erosion of the river banks or adverse effects on other property owners or nearby road structures. Furthermore, the design and construction of the stopbank needs to be maintained during and after the remediation works.

**Disposal of uncontrolled fill and waste**

- 26 Prior to any excavated material being transported off-site the Consent Holder, or appointed representative, shall notify Council's Team Leader - Monitoring & Enforcement of the intended disposal site.
- 27 All soil and substrate removed from site shall be taken to York Valley Landfill or another facility authorised to accept contaminated material. Soil and substrate shall be transported using appropriately licensed contractor(s) and trucks shall be covered during transportation.
- 28 The Consent Holder shall keep a record of the volume of excavated material transported off-site, any testing carried out on this material, and where this material is

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disposed of. Receipts for the disposal of soil and waste at appropriate facilities shall also be kept by the Consent Holder. These records and receipts shall be made available to Council Officers on request.

#### Cultural

- 29 In the event of any archaeological artefacts (e.g., shell, midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga, etc.) being uncovered, the Consent Holder shall:
- (a) cease the works immediately, as required by the Heritage New Zealand Pouhere Taonga Act 2014;
  - (b) consult with the Heritage New Zealand's Central Regional Office (email [infocentral@heritage.org.nz](mailto:infocentral@heritage.org.nz), PO Box 2629, Wellington 6140, phone (04) 494 8320; and
  - (c) shall not recommence works in the area of the discovery until the relevant Heritage New Zealand approvals to damage, destroy or modify such sites have been obtained.

#### Administration

- 30 Pursuant to Section 128 of the Resource Management Act the Council may, review any or all of the conditions of the consents for all or any of the following purposes:
- (a) dealing with any adverse effect on the environment which may arise from the exercise of the consents that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage; or
  - (b) to deal with any unforeseen adverse noise issue that might arise as a result of the implementation of these consents; or
  - (c) requiring the Consent Holder to adopt the best practicable option to remove or reduce any adverse effect on the environment resulting from the water take or discharge; or
  - (d) reviewing the frequency, duration, quantity of the discharge authorised by this consent if it is appropriate to do so; or
  - (e) to comply with national environmental standards made under Section 43 of the Resource Management Act 1991.

#### Duration

- 31 This consent shall expire 12 months after the commencement of the work approved under this consent.
- 32 This consent shall lapse on 11 August 2026.

#### ADVICE NOTES

- 1 The Consent Holder shall meet the requirements of Council with respect to all Building Bylaws, Regulations and Acts.

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- 2 Access by the Council's officers or its agents to the property is reserved pursuant to Section 332 of the Resource Management Act 1991.
- 3 Pursuant to Section 127 of the Resource Management Act 1991, the Consent Holder may apply to the Consent Authority for the change or cancellation of any condition of this consent.
- 4 This resource consent only authorise the activities described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
  - (a) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP) and Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011;
  - (b) be allowed by the Resource Management Act; or
  - (c) be authorised by a separate resource consent.
- 5 The Consent Holder must meet the requirements of the Tasman Nelson Regional Pest Management Plan (2019-2029) when dealing with any pest plants or animals within the subject site.
- 6 Plans attached to this consent are (reduced) copies and therefore will not be to scale and may be difficult to read. Originals of the plans referred to are available for viewing at the Richmond office of the Council. Copies of the Council Standards and documents referred to in this consent are available for viewing at of the Council.

**REASONS FOR THE DECISION**

**Background to Proposed Activity**

Resource consent is sought to undertake earthworks to recontour a disused quarry site on berm land next to the Waimea stopbank and disturb contaminated soil. The site is located at the end of Bartlett Road, Appleby in the Rural 2 Zone and Land Disturbance Area 1. The site is also located within the Waimea River Park, which is noted as Public Conservation land and is subject of the Waimea River Park Management Plan 2010. In addition, it is a HAIL site (ID 159) for hardfill and a historic county landfill (active during the 1960s and 1970s) and has historically been used as a gravel crushing site. The exact location of the landfill is unknown.

Over the last two decades a large amount of spoil material has been stockpiled within the site, mostly along the riverside edge of the stopbank which bounds the site to the north-east. The spoil material is uncontrolled fill, and largely appears to consist of road slip material and soil excavated from development-related projects, mixed with construction waste like concrete, asphalt, plastic, road surface millings and green waste.

Two stockpiles have been tested and assessed by Envirolink to determine soil contaminant concentrations. The report was submitted as part of the application. Twenty-three soil samples were analysed for heavy metals, polycyclic aromatic hydrocarbons (PAH) and organochlorine pesticides (OCP).

Stockpile 1 results show that the soil is at background levels, with the exception of naturally elevated nickel and chromium concentrations, and so can be disturbed with no controls under the Resource Management (NES CS) Regulations 2011. This material can be used to fill up the former silt pond along the riverbank.

Stockpile 2 results shows that concentrations for Arsenic, zinc and BaP are above cleanfill criteria, but meet the standard for recreational use so the material can remain on site, but is not considered to be suitable for reuse in the silt pond. The pond is more likely to be eroded into by the river, also, the water table will be higher there so possibly more potential for leaching compared to the rest of the remediation area.

If during works further contaminated soil is suspected, the suspected material will be separated and tested/disposed of according to an accidental discovery protocol.

Approximately 22,500m<sup>3</sup> of material will be spread over a 4.4 hectare redistribution area, and finer grain cleanfill material will be used to fill a former silt pond closer to the river (i.e., no significant amount of rocks, woody debris or concrete rubble that could then be eroded into by the river). Around 15% of material is likely to be concrete, which will be removed from site. The redistribution area will be sloped towards the river and downstream. The remediation is estimated to take 6 weeks, depending on whether and how much material needs to be sorted out and removed.

Works will be done in accordance with a Spoil Redistribution Plan and an Erosion and Sediment Control Plan and will maintain a separation distance of approximately 30m from the gravel bank of the Waimea River.

**Tasman Resource Management Plan ("TRMP") Area and Rules Affected**

According to the TRMP the following apply to the application site:

Zone: Rural 2 Zone  
 Areas: Land Disturbance Area 1, HAIL site 159

The proposed activity does not comply with the following TMRP permitted activity rules:

**Flood hazard**

The proposed earthworks cannot meet condition (c) of permitted activity Rule 16.10.2.1 as they are located on and within 10 metres of the stopbank toe, exceed 20 square metres in area, open for more than 3 days and involve raising or lowering areas of land. As well as condition (e): material deposited on any berm land occupies an area of less than 20 square metres and is deposited for no longer than 10 consecutive days.

The proposed earthworks are a **restricted discretionary activity** pursuant to Rule 16.10.2.2.

**Land disturbance area 1**

The proposed earthworks cannot meet condition (n) of permitted activity Rule 18.5.2.1 as the amount of material excavated is greater than 50 cubic metres and (i) within 20 metres of the bank of any river or stream; and (ii) within 20 metres of the toe of any stopbank; and (iii) within any flood plain. Furthermore, the proposal cannot meet condition (q) in 18.5.2.1 regarding recontouring, as the cut batter, excavation and infilling associated with recontouring of land is more than 1 metre in height and includes an area of more than 1 hectare.

The proposed earthworks are a **controlled activity** pursuant to Rule 18.5.2.3.

**NES-CS**

Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

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The proposed works are to occur on a HAIL site (ID 159). The proposed soil disturbance cannot meet condition (c) and (d) in Regulation 8.3 of permitted activities, as the volume of the disturbance of the soil of the piece of land will be more than 25 m<sup>3</sup> per 500 m<sup>2</sup> in addition to more than 5 m<sup>3</sup> per 500 m<sup>2</sup> of soil will be taken away from the site per year.

The proposed soil disturbance will be a **controlled activity** pursuant to Regulation 9 under the NES-CS as the contamination levels in the soil is below the standard for recreational use.

**Overall Activity Status**

The application is classified as a **Restricted Discretionary Activity**.

**Principal Issues (Actual and Potential Effects on the Environment)**

The principal issue(s) associated with the proposed activity involve the actual and potential effects on the environment. For this application these were:

- 1 Potential adverse effects on stopbank and flood hazards.
- 2 Potential adverse effects on human health and environment.
- 3 Potential adverse effects on water quality.
- 4 Potential adverse effects on public access and amenity.
- 5 Potential adverse effects on the Waimea River Park.

I consider that the adverse effects of the activity on the environment will be no more than minor for the following reasons:

**1 Potential adverse effects on stopbank and flood hazards**

The stopbank in this location is designed to a level of 17m NZVD 2016 to protect the Richmond plains and township by containing a 200-year flood event. Provided the design level and construction of the stopbank is maintained after the stockpiles are redistributed there will be no adverse effect on the stopbank function from the remediation works.

The proposed work will occur on berm land, within the Waimea stopbank and is therefore subject to flooding.

Alteration to flood and stormwater flows are considered to be negligible. The recontouring will effectively form a lump on the berm sloping downstream and toward the river. This will cause smaller overland flows to be diverted towards the river rather than downstream along the berm in the existing situation.

There will be a 9% floodway cross sectional area increase from the existing situation increasing flood carrying capacity at this location. Filling of the old silt pond to restore the original ground level will not affect the floodway cross section. The recontoured area will have shallower flow under flood conditions and is not expected to cause any significant change in flow velocities.

The probability of the site flooding while works are underway is low given the duration of works is around 6 weeks, and will be undertaken during a forecasted dry period to avoid the risk of flood and sediment-laden stormwater reaching the river.

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The remediation is not expected to result in damming or diversion of floodwaters, erosion of the river or adverse effects on other property owners and nearby road structures. Adverse effects in relation to flooding and effects on stopbanks are likely to be less than minor.

**2 Potential adverse effects on human health or the environment arising from the disturbance and presence of potentially contaminated soils**

Contaminated soil can present a risk to human health and the environment when it is disturbed and uncontained. Analysis of soil samples shows concentrations for Arsenic, zinc and BaP above clean-fill criteria, but the results meet the standard for recreational use and the material can therefore remain on site. The escape pathways include vehicle tracking, dust, erosion and sediment generation, stormwater run-off, and disposal.

The applicant has prepared a Spoil Redistribution Plan and an ESCP for the remediation of the quarry area to control the disturbing activities and minimise the risk for dispersal of contaminants. The risk of disturbing the landfill is considered to be low since no earthworks will be below the current ground level.

Anna MacKenzie, Council's Resource Scientist - Contaminants, has been involved in the project at an early stage. Ms MacKenzie has the following comments about the remediation plans:

*The effects on the environment need to be considered. In this instance, the site is already on the HAIL register (Site 159) for hardfill and municipal waste, and the soil is remaining on-site, and is being redistributed.*

*An erosion and sediment control plan, with management and disposal of any contaminated soil should be provided.*

*An accidental discovery protocol should be in place to identify and manage soil which is potentially contaminated. Material such as soil with odour/ discoloration/ asbestos/ drums/ chemicals or other non-natural material should be segregated and a suitably qualified and experienced practitioner is contacted for advice and testing, prior to reuse/disposal of material.*

*Only natural material which meets clean-fill criteria in stockpile one is to be used in the former silt pond area. Stockpile two had the top 1/3rd of the stockpile tested - the results from this indicated that the soil does not meet the clean-fill criteria. Although the material meets the standard for recreational use and can thereby remain within the stopbank area. Waste shall be segregated, with the concrete being reused, and organic waste can be reused on the area against the stopbank. Any other types of uncontrolled fill should be separated and removed from the area to an authorised facility, as York Valley Landfill, according to an accidental discovery plan in the ESCP.*

*During the works additional soil testing should be undertaken in the remaining 2/3rd of stockpile two that has not been sampled. On completion of the recontouring, soil validation samples should be taken to confirm the surface soils meet the recreational standard levels.*

I consider the proposed activity, in accordance with the proposed mitigations and ESCP and Ms MacKenzie's comments, is likely to have no more than minor effects on human health or the environment given the contaminated soil will either remain on site or be disposed of at an authorised facility.

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**3 Potential adverse effects on water quality**

The environmental risks associated with the proposal mainly include erosion and discharge of sediment-laden water to Waimea River.

The proposed Erosion and Sediment Control Plan (ESCP) describes methods to control and minimise the environmental risks and adverse effects in the area.

It is considered that the methods in the ESCP together with safe disposal and stabilisation of the fill and establishment of vegetation cover will lead to less than minor adverse effects on water quality during the construction phase.

**4 Potential adverse effects on public access and amenity**

The proposed site is currently an unused crusher site with several artificial stockpiles on leased land next to the Waimea River, which is publicly accessed via Bartlett Road. The proposed land disturbance will temporarily increase potential noise and dust pollution in the immediate area and increase vehicle movements on the public access roads. The site will be off limits to the public while the operation is underway. However, this is temporary and full public access will be returned after the remediation is finalised.

The remediation of the site will improve safety and access to and along the stopbank both for maintenance activities and for the public.

Uncontrolled fly tipping, that takes place today, will also be able to be better managed and the potential for the spoil piles to erode during a flood event will be eliminated.

It is considered that the temporary visual and amenity effects from the land disturbance will be less than minor and the remediation including revegetation will have positive long-term effect for amenity and recreational values.

**5 Potential adverse effects on Waimea River Park**

The Waimea River Park is public land and although not classified under the Reserves Act 1977 is the subject of the Waimea River Park Management Plan 2010. The primary purpose of the land is for river management and soil conservation, however other public values and uses, including recreational activities such as walking, cycling and horse riding, are also provided for within the park.

The proposed remediation will improve safety and access to and along the stopbank both for maintenance activities and for the public. Removal of the stockpiles and revegetation of the area will improve the amenity values. Adverse effects in relation to public use and access to the park, cultural and community values are likely to be less than minor.

**Relevant Statutory Provisions**

In considering this application, I had regard to the matters outlined in Section 104 of the Act. In particular, I had regard to the relevant provisions of the following planning documents:

- (a) the Tasman Regional Policy Statement (TRPS);
- (b) the Tasman Resource Management Plan (TRMP);
- (c) the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

Most of the objectives and policies contained within the TRPS are mirrored in the TRMP. The activity is considered to be consistent with the relevant objectives and policies contained in Chapters 12. Land Disturbance Effects and 13. Natural Hazards of the TRMP.

**Part II Matters**

I have taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as presented in Section 5.

**Notification and Affected Parties**

The adverse environmental effects of the activity are considered to be no more than minor. The Council's Principal Planner Resource Consents has, under the authority delegated to him, decided pursuant to Section 95 of the Act that the application did not require public or limited notification.

This consent is granted on 11 August 2021 under delegated authority from the Tasman District Council by:

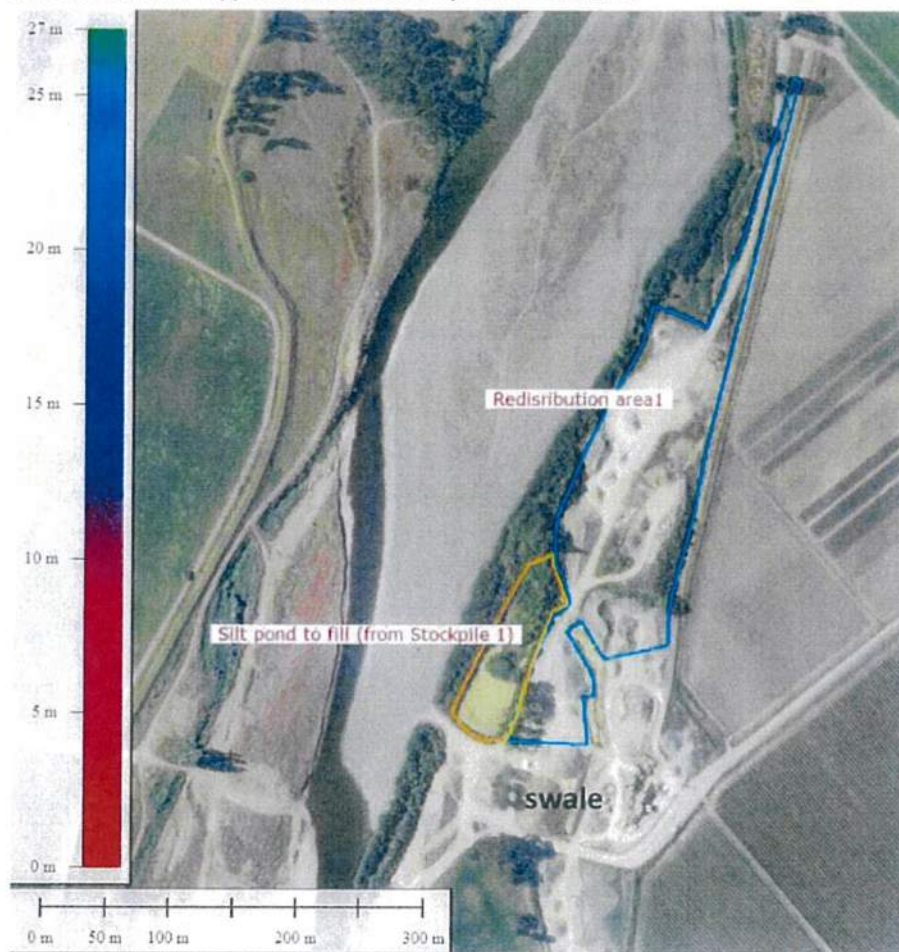


Amy Bennetts  
Consent Planner - Natural Resources

21/09/2021

21/09/2021

RM210554 Plan A - Approximate areas for Spoil Redistribution



*A Bennett*



21/09/2021



RM210554 Plan B –Erosion and Sediment Control Plan



EnviroCo Environmental Compliance  
 tasman  
 Bartlett's Road Quarry Remediation  
 Downer  
 ESCP Drawing Rev 2

Prepared by:  
Richard Abbott (CEmpF)  
26<sup>th</sup> May 2021  
 Reviewed by:  
Blair Gray (CFESC)  
11<sup>th</sup> June 2021

RM210554, Consent Granted 11 August 2021

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## **Appendix 3**

## Accidental Discovery Plan Tasman Bay Asphalt Bartlett Road, Appleby

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### 1. Introduction

This Accidental Discovery Plan outlines the process to be implemented in the event that unexpected and / or unidentified contaminated soils or hazardous materials are discovered during earthworks. The procedures outlined allow personnel working on the site to identify potential contaminated / hazardous substances and take appropriate action.

### 2. Unidentifiable material

Contamination indicators or hazardous materials may include but are not limited to the following:

- Intact or damaged drums and containers;
- Unusual odours;
- Ash;
- Discoloured (stained) soils and / or groundwater;
- Petroleum hydrocarbon contaminated soil and / or free product (visual or odorous);
- Coal tar products. Surface or buried pavement products often associated with petroleum hydrocarbon odours;
- General refuse, including any material that normally would be sent to a licensed landfill;
- Bonded cement materials (asbestos).

Please note that items or material such as concrete, brick, iron, plastic, rope, wire etc., while not necessarily sources of contamination, are indicators that the material being excavated is most likely uncontrolled fill and therefore may also contain elevated concentrations of heavy metals or other soil contaminants. Uncontrolled fill requires assessment prior to offsite disposal.

### 3. Procedures

In the event that items in Section 2 are encountered, the following actions should be undertaken immediately:

- Stop all earthworks where the suspect material, emission and / or discharge has been identified;
- If by discovery there is perceived to be an immediate risk to the workers in the vicinity, then the area shall be evacuated immediately;
- If contact with the suspect material has occurred, by either dermal contact or inhalation, then medical attention should be sought;

- Notify the site supervisor;
- Cordon off the area with a suitable barrier;
- Work shall not resume or commence unless authorised.

The contractor's environmental consultant and Tasman District Council's contaminated sites/hazardous substances representative are to be contacted.

Once the site is deemed safe to approach and inspect, the contamination shall be characterized by collecting samples for chemical analysis. When the material characteristics have been established, advise the site supervisor as to whether the materials may remain on site or whether materials should be directly loaded into trucks for disposal at an appropriate licensed landfill / cleanfill.

Please note that if the material being excavated is considered to be 'uncontrolled fill' and is not odorous, stained, contain drums or noticeable quantities of refuse, then the excavated material only needs to follow the protocols detailed in Section 4 below.

It is also important to differentiate between 'uncontrolled fill' and 'unsuitable material'. 'Uncontrolled fill' is material that is not native to that location but has been placed there and is not suitable for engineering purposes. 'Unsuitable material' may be natural, in situ material that has been deemed by a qualified geotechnical engineer as not suitable for engineering purposes and therefore needs to be removed. Such material is not subject to the requirements of Section 4 unless it can be shown to be associated with a hazardous activity or industry.

Any intact drums or tanks that are uncovered shall be dealt with in a similar manner as described above. There should be no attempt made to remove the containers. The container(s) will not be removed until it is certain that it is empty, or the contents have been identified and deemed safe for removal by a suitably qualified person.

#### **4. Managing Excavated Material**

Uncontrolled fill material that is excavated for the purpose of installing or accessing existing services will be placed on top of a sealed area, plastic sheeting or directly on to a truck. The excavated material will be assessed for its suitability to be reinstated back into the pit or trench by a suitably qualified engineer.

If it is not suitable to be reused due to engineering reasons, then it will be analytically tested to confirm that it is suitable for disposal at York Valley Landfill without further treatment. The analytical results will be provided to the landfill operators when applying for a special waste

manifest. Alternatively, the analytical testing may confirm that it is suitable for disposal as general 'cleanfill'.

If material excavated from the uncontrolled fill area is to be stockpiled on site for longer than 48 hours, then it will be managed in a way that will prevent migration of sediment during strong winds or rain events.

All trucks transporting material excavated from the landfill area will be covered while in transit.

Please note that the analytical testing of material can take up to 7 working days before the results are available from the lab. This time delay needs to be taken into considerations when managing the material.

## **5. Landfill Gas Assessment**

If the material discovered is clearly made up of putrescible and decomposing refuse, then landfill gas (LFG) may be present. A specialist consultant should be contacted on discovery. If considered necessary, LFG will be monitored during excavations that penetrate into the landfill / refuse. A MultiRae Plus Multiple Gas Monitor or a similar instrument will be used to monitor lower explosive levels (LEL) and upper explosive levels (UEL). If volatile gases are detected within LEL and UEL concentrations, then work shall cease, and the appropriate specialists and authorities notified. A specific work procedure will be prepared for any ongoing work.

Entering pits and confined spaces should also be addressed in the appointed contractors Health and Safety Plan.

## **6. Asbestos**

Often it is unclear if asbestos containing material has been present or disposed of on a site, particularly if buildings have already been removed. If, during excavations, sheets or fragments of bonded cement cladding, roofing or pipes are unearthed, under the Health and Safety at Work (Asbestos) Regulations 2016, further investigation is required.

If bonded cement material is discovered, then work shall cease, and a suitably qualified practitioner contacted. The material will be tested at a laboratory to confirm the absence or presence of asbestos.

## **7. Health and Safety Guidance**

Guidance for health and safety issues is provided by the 'Health and Safety Guidelines on the Cleanup of Contaminated Sites' (1994).

All contractors and/or outside organisations working on the site will be expected to provide on request, a health and safety plan prepared specifically for the type of work and associated machinery they will be involved with.

To help prevent site workers from being unnecessarily exposed to potential hazardous substances at the site, there are a few simple protocols that they can follow. These shall be included in the contractor's health and safety plan:

- No food to be consumed within 20 m of areas under excavation
- There shall be no smoking within 20 m of areas under excavation
- All visitors must report to the site manager and are to be made aware of the on-site hazards associated with this site
- Personal protective equipment (PPE) will include hard hat, safety boots, long sleeve cotton overalls, high visibility vest, and gloves. These items shall be worn at all times by staff working on the excavations but are not within an enclosed operating area (excavator or truck cab) until the affected areas are excavated and the site shown to be 'clean' by analytical soil sample results;
- Good quality disposable dust masks must be available to all staff during earthworks operations<sup>1</sup>. All staff will be required to wear dust masks if wind conditions are causing dust to become visually air borne. Dampening down the material may be used to prevent dust becoming excessively airborne;
- Site workers should ensure that they wash their hands thoroughly after working with the material and prior to eating, smoking or touching their face;
- All heavy machinery working in areas where the landfill is exposed will be fitted with spark arrestors;
- Signs will be erected at all entrances to the site clearly stating that it is a potentially hazardous site and public access is prohibited. The sign will include the appropriate contact numbers for site management;
- Staff must not enter open pits greater than 1 m deep during any excavation process or when collecting validation samples unless the pit walls have been stabilised by benching or shoring. Samples are to be collected by using the excavator;
- In all emergency situations the first concern must be to save life and prevent injury.

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<sup>1</sup> Further detailed information is available on this subject in the NZS/AS 1715:2009; *Selection, use and maintenance of respiratory protection devices* or *A Guide to Respiratory Protection* (1999)



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