

32. CONTAMINATED LAND RULES

The rules in this chapter apply in conjunction with the relevant area based rules except for Chapter 11A.

32.1 Permitted Activities

The following activities are permitted with respect to Contaminated Land provided they comply with any specified conditions.

32.1.1 Subsurface investigations of contaminated and potentially contaminated land to determine the presence, extent and nature of any contamination is a Permitted Activity

32.1.2 The removal of underground petroleum storage systems is a Permitted Activity, provided that:

32.1.2.1 No more than 30 m³ of soil in aggregate per tank shall be removed.

32.1.2.2 All removed soil shall be disposed of at a facility authorised and / or consented to receive such waste

32.1.2.3 The tank removal investigation, remediation, validation and management processes shall be carried out in accordance with the Ministry for the Environment “Guidelines for Assessing and Managing Petroleum Hydrocarbon Contaminated Sites in New Zealand” (1999) and “Contaminated Land Management Guidelines for Reporting on Contaminated Sites in New Zealand” (November 2003). This shall include the preparation of an environmental management plan, a copy of which shall be provided to the Council prior to work commencing.

32.1.2.4 A report detailing the results of validation sampling shall be provided to the Council within 60 days of receipt of laboratory results.

32.1.3 The use, development or subdivision of potentially contaminated land that has been confirmed as not being contaminated land for its intended use following subsurface investigations and the removal of underground petroleum storage systems to facilitate the collection of subsurface soil samples is a Permitted Activity, provided that:

32.1.3.1 A subsurface sampling report prepared by a suitably qualified environmental scientist shall be provided to the Council.

Providing for subsurface investigations to determine the presence, extent and nature of any contamination will help to identify contaminated land and ensure that any subsequent resource consent applications for subdivision, use, or activity (including remediation or development) are informed by the results of the subsurface investigations.

It is considered that it would be unreasonable to require a resource consent when land that may have been contaminated by previous activities has been confirmed as not being contaminated following appropriate subsurface investigations. This provision should be read in conjunction with other District Plan controls.

32.2 Discretionary Activities (Restricted)

Section 32.2 describes which activities are Discretionary Activities (Restricted). Consent may be refused or granted subject to conditions. Grounds for refusal and conditions will be restricted to the matters specified in rule 32.2.1.1 – 32.2.1.4. The decision on whether or not a resource consent application will be notified will be made in accordance with the provisions on notification in the Act.

32.2.1 Except as provided for in the Airport Precinct Rules, the remediation, use, development and subdivision of any contaminated land, or potentially contaminated land (unless it has been confirmed as not being contaminated through investigations in a report forwarded in accordance with Rule 32.1.3.1), is a discretionary activity (restricted) in respect of:

32.2.1.1 The level, nature and extent of contamination in relation to the proposed use, development or subdivision

32.2.1.2 The methods to address the risks posed by contaminants to public health and safety

32.2.1.3 The effects of contamination on built structures, ecological and amenity values, soil quality and the wider environment

32.2.1.4 The approach to the remediation and / or on-going management of the contaminated land and the mitigation measures (including monitoring) proposed to avoid adverse effects on public health, safety and the environment including the provision of a Remediation Plan or a Site Management Plan

Non-notification

The written approval of affected persons will not be necessary in respect of items 32.2.1.1 to 32.2.1.4. Notice of applications need not be served on affected persons and applications need not be notified.

Assessment Criteria

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to, but will not be limited to, the following criteria:

32.2.1.5 The proposed methodology for the remediation of the land, including as appropriate the provision of a Remediation Plan that addresses:

- How any adverse effects on the surrounding environment resulting from earth moving or removal and any potential discharges from the site will be managed (eg sediment control, site covering and dust control),
 - Where soil is to be removed from the land, the appropriate tracking and safe transport to land that is authorised and / or consented for the disposal of any contaminated soils.
 - How the health and safety of the workers and the wider community will be provided for during works, including, if necessary, the presence of public exclusion zones, site security and location of worker amenity facilities.
 - The standard of remediation on completion.
 - The potential for recontamination to occur, where the land may become contaminated due to the presence of contamination on adjacent land or sites.
 - Any alternatives to remediation, where there are more appropriate mitigation techniques to remediation that will avoid risk to public health and safety and prevent exposure to the contaminated soil.
 - Any potential long-term or cumulative effects of discharges from the land.
- 32.2.1.6 The extent to which any proposal for the remediation and / or ongoing management of contaminated land meets the Ministry for the Environment's Contaminated Land Management Guidelines 1 to 5, any relevant Ministry for the Environment industry-specific contaminated land guidelines, the Ministry of Health's Guidelines for Public Health Services for Managing Lead Exposed Persons and the Management of Asbestos in the Non-Occupational Environment, and the Department of Labour's Health and Safety Guidelines on the Cleanup of Contaminated Sites.
- 32.2.1.7 The extent to which any potential adverse effects of remediation and / or ongoing management are acceptable.
- 32.2.1.8 The suitability of the land for its proposed end use, including whether adequate measures are proposed to ensure the on-going safe use of the land.
- 32.2.1.9 The nature of any relevant Regional Council requirements or consent conditions.

Activities on contaminated land are controlled for two reasons. First, to prevent the contamination adversely affecting occupiers of the land, the community or the environment, and second, to ensure that such land is remediated and / or managed as appropriate to a degree that is suitable for its future intended use.

Applications for consents relating to contaminated land will probably become more common in Wellington as it is discovered through the environmental monitoring procedures of both the City and Regional Councils and as land that may be potentially contaminated through past practices is identified through the use of the Ministry for the Environment's Hazardous Industries and Activities List (HAIL).

While the use, development and subdivision of contaminated land is a Discretionary Activity (restricted), this will not be used as a barrier to the remediation of the land. Council desires to see such land remediated and / or ongoing management as appropriate and will facilitate this process to the best of its ability. Council will seek remediation in accordance with the guidelines of the Ministry for the Environment, Ministry of Health and Department of Labour.