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9.0 CONTAMINATED SITES

9.1 Introduction

Through out the district there are a number of sites which have become contaminated as a result of the manufacture, use, storage and disposal of hazardous substances. Assessment of sites throughout the District which have been associated with hazardous substances has been undertaken. This has resulted in the identification of sites with known levels of contamination. The contaminated sites within the Gisborne district are identified on the Urban and Rural planning maps and listed in Appendix 15. Identification of sites in the Gisborne district which are contaminated is an ongoing exercise. Additional sites which are verified as contaminated sites will be identified as such through a plan change process.

Refer to Urban and Rural planning maps and Appendix 15 - Gisborne District Contaminated Sites Schedule.

Contaminated sites are those sites where hazardous substances occur at concentrations above background levels and where assessment indicates it poses or could potentially pose an immediate or long-term hazard to human health or to the environment. Contaminated sites may cause actual or potential harm to human health or the environment when the contaminant on the site becomes exposed to an organism or natural or physical resource which is sensitive to the adverse effects of the contaminant. Exposure to contaminants may occur on the site of contamination and/or as a result of contamination being discharged off the site.

Any discharge of contaminants off the site is a regional matter and provisions controlling these activities are contained in the Regional Plan for Discharges to Land and Water, Waste Management and Hazardous Substances and the Regional Air Quality Management Plan. However, for some land use activities it may be appropriate to establish conditions on consents which control incidental or consequential discharges from the site in association with the activity. The handling of hazardous substances by hazardous facilities also contains provisions controlling those activities which may result in the contamination of existing or additional sites.

Refer to Chapter 9A.

A National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 ("NES") took effect on 1 January 2012. The objective of the NES is to ensure that land affected by contaminants in soil is appropriately identified and assessed at the time of being developed and, if necessary, remediated or the contaminants contained to make the land safe for human use. In particular the NES:

- establishes regulations for relevant activities ensuring that all district5 planning controls relevant to assessing and managing public health risks from contaminants in soil are appropriate and nationally consistent;
- establishes soil contaminant values protective of human health for a range of land uses, requiring their use when decisions are made under the NES; and
- ensures best practice and consistent reporting on land affected, or potentially affected by contaminants is applied that enables efficient information gathering and consistent decision-making.

It is important to note that the Regional Plan for Discharges to Land and Water, Waste Management and Hazardous Substances deals with issues relating to the on-site and off-site ecology, the on-site and off-site effects on surface water and the effect of contaminants discharged to water – including sources of human drinking water.

9.2 Issues

9.2.1 Use and development of contaminated sites, or change of use or intensity of use of contaminated sites could potentially or actually adversely affect human health.

Human health may be affected by on site contamination or discharge of contaminants off the site.

- 9.2.2 Contamination may adversely affect the biological and physical environment of the site of contamination. If subsequent discharge or movement of the contaminant occurs off site, adverse environmental effects may occur across a wider area.
- 9.2.3 In some circumstances, the occurrence or extent of contamination, and the nature of the adverse effects of contamination on any particular site may be uncertain.

9.3 Objectives

1. Adverse effects of use and development of contaminated sites on human health are reduced to acceptable levels or prevented.
2. Contaminated sites are used and developed in a way that ensures adverse effects on the environment are avoided, remedied or mitigated.
3. Contaminated sites are managed in a manner which:
 - Provides for long term appropriate and acceptable uses of the site given the extent of the contamination; *and*
 - Which maximises options for potential uses of the site.
4. The establishment and maintenance of a comprehensive and accurate record of known contaminated sites within the District.

Principal reason (1 and 2): The extent of research undertaken regarding the effects of contaminants on human health and the environment varies between substances. The exposure pathways, levels of acceptable exposure and susceptibility of people and the environment to the effects of chemicals differs from case to case. In some instances information on contaminants is well known and can be used to assist with management of the sites. For example, guidelines for levels of exposure for some substances are established. Where this information is not available prevention of human exposure to the contaminant is prudent.

Principal reason (3): Contamination of a site does not preclude use and development of these areas. However, the type of activities undertaken must be appropriately controlled to ensure that this is done with due caution. As technology improves and the market for de-contamination techniques expands, sites may be able to be cost effectively cleaned up to a higher standard. In future contaminated sites may be appropriate locations for a wider range of uses.

Principal reason (4): Identifying and investigating contaminated sites within the District is an ongoing process. Research performed to date has identified a number of known sites which have subsequently been mapped on the Urban and Rural planning maps. Research is not complete and an ongoing commitment to continue to undertake investigation is required.

9.4 Policies

1. To ensure that contaminated sites are utilised in a manner appropriate for the level and type of contamination by relying on guidelines where appropriate, to assist in decision-making with respect to management of the site.
2. When assessing applications for resource consents or plan provisions for use or development of known contaminated sites, regard shall be had to the following assessment criteria as appropriate:
 - the zone provisions of the site and any potential alternative uses for the site consistent with zone providers;
 - the extent that the proposed activity may increase the risk that the contaminated site poses to the community or the environment including consideration of:

- * level, location and type of contaminants on the site, including the toxicity of contaminants;
- * whether the activity will establish or increase the means of exposure between the contaminants on the site and the community or environment. Consideration shall include assessment of the extent that activities may exacerbate the likelihood of sensitive natural resources (e.g. groundwater) being exposed to contaminants;
- * the sensitivity of humans and the environment exposed (directly or indirectly, such as through bioaccumulation) to the contaminants;
- * the extent the activity exacerbates the adverse effects of the contaminant on site or disperses the contaminant off site.

Explanation and Principle reason (1): A number of guidelines have been and are being developed including: ANZECC guidelines, MfE guidelines and industry codes of practice/guidelines which should be utilised in the management of these areas where appropriate. Due to the site-specific nature of management of contaminated sites and the range of possible end uses of the site, it is appropriate to utilise established guidelines and to assess each site on a case-by-case basis.

Explanation and Principal reason (2): Contaminated sites must be managed in a manner which ensures that the adverse effects on humans and the wider environment are controlled. It is particularly important when assessing resource consents for activities on a contaminated site that associated consequential discharges are not overlooked. Integration of planning provisions, including the Regional Air Quality Management Plan and the Regional Plan for Discharges to Land and Water, Waste Management and Hazardous Substances, is therefore important.

9.5 METHODS OF IMPLEMENTATION

9.5.1 Information

1. Council will supply information known about the sites to interested members of the public via Project Information Memorandum and Land Information Memorandum statements as requested.
2. Assessment and monitoring of sites known to have been historically or currently been used for manufacture, use, storage, or disposal of hazardous substances will be conducted in order to determine if these sites are contaminated.

Principal reason (1): Council has a legal obligation under the Building Act 1991 and Local Government Official Information and Meetings Act 1987 to provide information held to persons requesting such information. Release of information will be performed in a manner consistent with the provision of the Privacy Act 1993.

Principal reason (2): The gathering of this information will assist in the development of an accurate database of contaminated sites within District. This information is important to ensure that all contaminated sites are managed in an appropriate manner.

9.5.2 Advocacy

1. The extent and amount of advocacy Council undertakes will be determined by the Annual Plan.
2. Encourage appropriate use, development and management of contaminated sites by:
 - a) Providing advice to parties undertaking activities on contaminated sites to ensure that adverse effects of contamination or the landuse of that site are appropriately addressed. Advice may include information on remediation options for cleanup of the site and supplying information on land use options given the level of contamination of the site;
 - b) Promoting, where appropriate, the development of a management plan for the use of the site to ensure that adverse effects are addressed;
 - c) Submitting on policy related to contaminated site management produced by government departments, industry and interest groups;
 - d) Encouraging appropriate cleanup initiatives that are undertaken by owners or occupiers of contaminated sites.

Principal reason (1 and 2): Advocacy supports and complements the regulatory mechanisms used by Council to manage land use on contaminated sites. This proactive mechanism will assist in managing sites in a manner consistent with the objectives of this chapter. Supplying information to owners and occupiers of sites is effective as these are the parties directly involved in landuse decisions regarding contaminated sites. Contaminated site management policy in New Zealand is still being developed. It is, therefore, appropriate that Council participate in policy development.

9.5.3 Regulation

1. District rules have been developed controlling the subdivision, use and development of contaminated sites.
2. A contaminated sites overlay has been developed. The purpose of the overlay is to map and define the boundaries of contaminated sites to guide the subdivision, use

and development of identified sites. Underlying zones will be retained and any activity should be assessed in accordance with requirements of both the zone provisions and contaminated site rules.

Principal reason (1 and 2): The potential consequences of inappropriate activities undertaken on contaminated sites are such that regulatory approaches to planning for these sites are necessary. Rules guiding management of sites provide certainty and specificity of outcomes. Use of an overlay is a means by which sites may be managed in accordance with the zone requirements of the site while providing for additional consideration of contaminated site management.

9.5.4 Identification of Known Contaminated Sites

1. Known contaminated sites have been marked on Urban and Rural planning maps and listed in Appendix 15.
2. The Urban and Rural planning maps, and Appendix 15, will be reviewed regularly and may be updated by way of a plan change, as appropriate, to reflect the changing status/classification of the mapped and listed sites.

Principal reason (1): Mapping of sites is an effective way of identifying areas where policies and rules for contaminated sites will apply.

Principal reason (2): The Regional Discharges Plan establishes a framework for classifying sites on the contaminated site database relative to their contamination/remediation status. The maps and appendices of the Proposed District Plan should actively reflect the dynamic status of these sites in relation to remediation, as well as the addition of new sites.

9.6 RULES FOR CONTAMINATED SITES

9.6.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011

- a) Notwithstanding any other rules in the plan, all activities relating to the subdivision, use and development of contaminated sites as identified on Urban Planning maps and listed in Appendix 15 of this plan, and any potentially contaminated sites (refer to the Hazardous Activities and Industries List 2011, must comply with the National Environmental Standards for Assessing and Managing Contaminants in Soil 2011. No rule in any chapter of this plan that duplicates or conflicts with the National Environmental Standard shall apply.
- b) The NES applies in addition to the zone rules for the area and rules for the subdivision.

9.7 ANTICIPATED ENVIRONMENTAL RESULTS

- a) Subdivision, use and development of contaminated sites to occur in a manner which:
 - i) reduces the risk to human health to an acceptable level in accordance with information available;
 - ii) ensures adverse effects on the environment are avoided, remedied or mitigated;
 - iii) provides for the use and development of contaminated sites in a manner which maximises current and future options for use and development of the site consistent with zone provisions.