

HAIL SITE DATABASE – OCTOBER 2014

FREQUENTLY ASKED QUESTIONS

What is the Council's HAIL site database?

It is a list of sites around Nelson that have the potential to be contaminated because of past or present land use. It has been compiled according to the Ministry for the Environment's guidelines. HAIL stands for Hazardous Activities or Industries List.

How does a site get included on the database?

A site is included on the database if Council information shows that the site has a past or present land use activity that is on the Ministry for the Environment's Hazardous Activity or Industry list (HAIL). This is a list of 53 activities that involve the use, storage or disposal of significant quantities of hazardous substances. You can see the list at www.mfe.govt.nz, search word HAIL.

Why do we have a HAIL Site database?

By identifying sites where hazardous substances have been used, stored or disposed of, we can ensure that the sites do not present a risk to human health when they are used or developed.

It informs land owners that there is potential for the land to be contaminated and that further investigation would be needed before constructing new buildings or changing the land use.

It helps Council and the community to comply with the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)

What do we mean by a Contaminated Site?

A site is considered contaminated when hazardous substances such as arsenic, oil or pesticides are present in the soil or water at levels that pose a threat to human or ecological health.

How does land become contaminated?

A site may become contaminated when hazardous substances are spilt or dumped during use of the site. Examples of sites that can be contaminated include service stations (e.g. petrochemicals), historic orchard land and glasshouses, sheep dips, chemical manufacturing sites (e.g. pesticides), timber treatment sites, landfills and scrap yards.

How do we manage the contamination?

The risks and the ways to manage contaminated sites vary from site to site. Generally the dangers are managed by

- restricting the range of land uses able to occur at the site;
- covering the site to isolate the contaminated soil from contact with rain, wind and people ("capping"); and/or
- removing the most dangerous contaminants.

How does Council know if the land is contaminated when the soil hasn't been tested?

Inclusion on the database does not necessarily mean that the land is contaminated. It does mean that there is information which indicates the land was used for an activity that can lead to soil contamination. To confirm if the land is contaminated the soil can be tested, but Council does not require this. For more information about soil testing see our website on <http://nelson.govt.nz/building-and-property/hail-sites>

What does this mean for the use of my property? Is it safe to grow vegetables?

Inclusion on the HAIL site database does not necessarily mean that your soil is contaminated. Using a raised garden bed for growing vegetables can be helpful if you are concerned about soil contamination.

If you are especially concerned or have reason to believe that your soil is definitely contaminated you can get it tested. For more information about soil testing see our website on

<http://nelson.govt.nz/building-and-property/hail-sites>

What if I want to sell my property?

The Council has an obligation to make information it holds available to the public, under the Local Government Official Information and Meetings Act 1987 and the Building Act. That means people can access information held by the Council about their property, and about any property they are considering buying. The Council will place a note on relevant land information memorandum (LIM) files to inform potential buyers that the property is listed in the Council's HAIL site database. The LIM statement is clear that inclusion on the database does not automatically mean the soil is contaminated.

I'm currently in the process of selling my property – do I need to tell the new owners?

It is desirable that you tell the prospective owner, but you should check your agreement to see if there is a specific obligation to disclose the information. If you are asked a specific question about it, you must provide the answer. It is important that purchasers do their own due diligence on any property they wish to buy.

What if I want to buy a property?

Information about whether a property is on the HAIL site database will be included on a Land Information Memorandum (LIM) for the property you are considering. A LIM is advisable when purchasing a property to ensure you are aware of the most accurate information we have relating to that property.

How does the HAIL site listing affect my property values?

The Council cannot make any comment about what the effect on property values may be because the impact will vary from site to site, depending on the previous land use and contamination status. If there was to be any impact on value as a result of the HAIL site information, this would be determined by sales evidence over a period of time.

How does the potentially contaminated site listing affect my insurance costs?

The Council cannot advise property owners about the effect this information may have on their ability to obtain insurance or on insurance premiums. Different insurance providers will have different policies, so they are better able to discuss this. Councils do this kind of work all over New Zealand so it is not a situation unique to Nelson or new to insurance providers.

What are the main points of the NESCS?

If you own land and want to subdivide or change the use of that land, you need to know about the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS). This environmental standard (under the Resource Management Act 1991) came into force on 1 January 2012. See more information for landowners at the end of the list of Frequently Asked Questions.

What if I want to build a new house or extend the existing one?

If your property is included on the HAIL site database you may need a building or resource consent which will be assessed against the requirements of the NESCS, and you may have to meet some special conditions if you want to do any earthworks or build on the site. However this will vary from case to case so it's important to talk to Council early in the process if you are planning to build.

If my property is included in the HAIL site database, what are my options for having it removed from that database?

Your property has been included on the database because we have information that indicates it is, or was, used for an activity on the HAIL. If that information proves to be incorrect, your property will remain on the database in the ERROR category to prevent the same mistake being made again in the future. However the property will not appear as a HAIL site and there will no HAIL site statement on the LIM for this property. If your soil proves not to be contaminated, or it was contaminated and you remediate it, then your property's database category will change to reflect this.

More information for landowners and developers about the NES

What does the NES mean for landowners and developers?

Five activities are controlled by the regulations in the NES if they are undertaken on specified 'at-risk' land. Depending on the level of potential exposure people may have to any contaminants present, the activity may be allowed as a permitted activity, or will require a resource consent.

To find out if the regulations apply to you, first check if your land is specified on Council's HAIL database, then check if the activity you want to do is one of the five activities.

Is my land covered by the NES?

The regulations **apply** to your land if it is used, or has been used, or is more likely than not to have been used, for one of 53 specified hazardous activities or industries, such as petrol stations, orchards, sheep dips, engineering workshops, and mining. These activities and industries, listed on the Hazardous Activities and Industries List (HAIL), are considered likely to cause land contamination.

Is my activity covered by the NES?

The regulations **apply** if your land is covered by the NES **and** you want to carry out any of the following activities:

- remove or replace an underground fuel storage system or any of its parts;
- sample the soil to determine contamination;
- disturb the soil (earthworks);
- subdivide the land (see exception below);
- change the use of the land.

The regulations **do not apply** to:

- existing uses (including consented activities before 1 January 2012) on HAIL land;
- subdivision of production land that does not stop being production land;
- sampling or disturbing soil on production land such as an orchard or market garden that is also HAIL land, unless the activity is near the house or involves removing or replacing a fuel storage system;
- land where a detailed site investigation exists and shows that contaminants in the soil are at or below background concentrations;
- changing the use of HAIL land to a use that is not reasonably likely to harm human health – this has to be confirmed by a Preliminary Site Investigation (PSI) as defined in the National Environmental Standard;
- land within your property that was not used for any purpose described on the HAIL. That is, the regulations only apply to the actual area that is HAIL land.

Will I need a resource consent?

If the NES regulations apply to your land, resource consent is not required providing certain requirements are met.

As a guide, the following examples are the types of things that need to be complied with:

- demonstrating to your council through a Preliminary Site Investigation (PSI), as defined by the NES, that it is highly unlikely that there will be a risk to human health given the intended **subdivision or proposed new use** (note soil samples are not necessarily required for this);
- ensuring earthworks are limited in extent and do not expose people to contaminated soil, and that all contaminated soil is taken to an approved facility when the activity involves **disturbing soil (earthworks)**;
- ensuring works associated with the **removal or replacing of an underground fuel storage system** have been done in accordance with the industry guideline.

If you cannot meet the requirements of a permitted activity you will need to apply for a resource consent. Your application must include a report of the results of a detailed site investigation, prepared by a specialist in contaminated land, and include the results of soil sampling.

