



Julia Harker Solicitor

Government seeks submissions on managing contaminated land

Before Christmas the Ministry for the Environment (MfE) released a discussion paper entitled *Working Towards a Comprehensive Policy Framework for Managing Contaminated Land*. This paper draws together all the current measures that make up New Zealand's contaminated land policy framework, evaluates them to identify any gaps that exist in the management of contaminated land, and suggests possible solutions – including national environmental standards and best practice guidance.

MfE acknowledges that past initiatives have resulted from working in close partnership with local government and industry and would like to continue working together with stakeholders to develop tools that are useful and technically robust.

MfE has highlighted the following issues within the contaminated land policy framework as requiring attention:

- a widely variable approach to the management of contaminated land at the territorial and regional level;
- a lack of nationally consistent methods and numerical values for soil contaminants; and
- barriers to identifying contaminated land and recording information about contaminated land.

Proposed initiatives

MfE has identified specific opportunities for a more comprehensive framework, ranking them as high, medium and low priority. Opportunities identified as high and medium priority will be included in any short to medium term (one to three years) work programme.

A lack of nationally consistent soil values has been identified as a high priority. MfE proposes that the development of nationally consistent numerical values and methods for assessing contaminated land will fill an urgent gap in existing policy. A national overarching guideline combined with a supporting National Environmental Standard (either numerical or method based) is expected to help local government provide for better protection of human health through nationally consistent methods and soil contaminant values.

Another high priority is the expansion of the successful Contaminated Sites Remediation Fund (CSRF) through additional promotion and funding so that more ambitious projects are possible. A potentially important medium priority issue for industry is confirmation of the absence of a pre-1991 liability regime for contaminated land.

“A lack of nationally consistent soil values has been identified as a high-priority.”

While MfE identifies the establishment of a liability regime as an obvious solution to this lacuna, it admits that policy initiatives focused on actions to clean up contaminated sites (for example, an expanded and modified CSRF) may be a better and more achievable strategy.

The clarification of roles and responsibilities of local government with respect to the management of contaminated land is also on the medium priority agenda. This will include the provision of recommended roles for regional councils, district councils and unitary authorities.

Other medium priority opportunities identified include:

- the collection of national information on the total area and status of contaminated land;
- the introduction of a requirement to use WasteTRACK to track the disposal and transport of contaminated soil and waste; and
- support for industry-initiated guideline revisions.

Opportunities

The release of this discussion paper provides an excellent opportunity for both industry members and local authorities to be involved in the development of contaminated land policy. Please contact us for a copy of the discussion paper or download a copy from <http://www.mfe.govt.nz/issues/hazardous/contaminated/index.html>.

If you would like to be involved in this process, we can assist with preparing submissions on the discussion paper. The closing date for submissions is **28 February 2007**.

PCE20 event

Bell Gully is pleased to announce an upcoming cocktail event to be hosted in our Auckland office on 6 March 2007. The event follows a two day forum to be held in Wellington on 1 and 2 March 2007 to celebrate the Parliamentary Commissioner for the Environment's 20 year contribution to environmental sustainability in New Zealand.

The forum has attracted a line-up of international experts on environmental sustainability who will be taking part in the discussion. Some of the visiting international experts include:

- Dr Guenther Bachmann, Director of the German Council for Sustainable Development;
- Dr Ingeborg Niestroy, Secretary General of the European Environment and Sustainable Development Advisory Councils;
- Dr Ian McPhail, Commissioner for Environmental Sustainability in Victoria, Australia; and
- Tim Jackson, Professor from the Centre for Environmental Strategy, School of Engineering, University of Surrey, U.K.

Representatives from central and local government will also be in attendance, including the Honourable David Parker, Minister for Climate Change Issues, the Honourable Nick Smith MP, National's Environment Spokesperson, and the Honourable Jeanette Fitzsimons, co-leader of the Green Party.

If you are interested in the cocktail event please contact us or for further information about the forum visit www.pce.govt.nz/anniversary/forum.

“Green MP Nandor Tanczos, the sponsor of the Waste Management (Solids) Bill, states that the Bill seeks to discourage landfilling, and encourage recycling and producer responsibility.”

The Waste Management Bill

Green MP Nandor Tanczos, the sponsor of the Waste Management (Solids) Bill, states that the Bill seeks to discourage landfilling, and encourage recycling and producer responsibility. Submissions on the Bill closed in September 2006 and the report of the Select Committee currently considering the Bill is expected by June 2007.

The Bill may have serious ramifications for industry. In essence, it removes responsibility for reducing and disposing of waste from district councils and ratepayers, and places that responsibility on producers and consumers. It replaces the recycling focus of kerbside collections with a regime of multiple recycling facilities at points of sale or within 5km of each seller's premises.

The Bill proposes a number of measures of potential concern to business. The report from the Select Committee and the Bill's subsequent progress will therefore be of great interest to Bell Gully and its clients.

The Environment Court goes beyond the RMA in protecting heritage

Protection of our architectural heritage is a key concern addressed by the Resource Management Act 1991 (RMA). Section 6 of the RMA recognises protection of our historic heritage as a matter of national importance and provides protection from inappropriate use and development.

In a recent case, *Pick v Far North District Council*, the Environment Court acknowledged the novelty of the issues involved in seeking higher protection under section 6 for historic heritage buildings scheduled in a district plan. Pick sought greater protection in the district plan for the general heritage values and special character of the areas beyond the immediate area of the historic precincts of the township of Russell in the Bay of Islands.

The Environment Court issued an interim decision concluding that the level of heritage protection in the council's district plan was not sufficient. The court accepted that the council's minimal intervention approach, while appropriate for general urban areas, was inadequate to protect historic heritage.

Introducing...

Bell Gully is pleased to announce the appointment of new solicitor Julia Harker.

Julia joins the Commercial Services team in Auckland after working as a Judges' Clerk at the Auckland High Court for the past two years.

At Bell Gully, Julia's key practice areas include resource management and environmental due diligence.

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