

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an application to Hamilton City Council for Private
Plan Change 7 to the Hamilton City District Plan by
Green Seed Consultants Limited

**SUMMARY STATEMENT OF
ADAM MICHAEL GRAY (CONTAMINATED LAND)**

Dated 27 October 2021

INTRODUCTION

1. My full name is Adam Michael Gray.
2. I am a Technical Director at GHD. I have 16 years' experience in the contaminated land sector, which includes site investigation and monitoring, risk assessment, and soil and groundwater remediation. This experience has been gained in Australia, United Kingdom and New Zealand working for environmental consultants and environmental regulators.
3. I have a bachelor's degree in Applied Science from RMIT University, Australia and a Post Graduate Diploma Planning from Massey University, New Zealand.
4. My role in relation to Plan Change 7 - Rotokauri North Private Plan Change (PC7) is as an advisor on contaminated land matters. I authored the part of the GHD peer review report dated 3 September 2021 dealing with contaminated land matters which is included in Appendix D to the s 42A report.

CODE OF CONDUCT

5. I have read the Environment Court Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014 and agree to comply with it. I confirm that the opinions expressed in this statement are within my area of expertise except where I state that I have relied on the evidence of other persons. I have not omitted to consider materials or facts known to me that might alter or detract from the opinions I have expressed.

SCOPE OF EVIDENCE

6. I have prepared this summary statement in relation to my review of the following documents:
 - a) The **Preliminary Site Investigation** submitted as part of the Plan Change proposal ("Rotokauri North SHA, Preliminary Site Investigation, 11 July 2018, HD Consultants NZ Limited").
 - b) The **Evidence** from the proponents contaminated land consultant submitted as part as part of the Plan Change proposal ("Statement of Evidence (Teresa (Terre) Nicholson", dated 24 September 2021).
7. I have not read the Detailed Site Investigation, referenced in the **Evidence**, as it was not provided to me or available on the **PC7** website.

STATUTORY FRAMEWORK

8. As summarised in the GHD report, Regulation 5(1) of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 (the **NES Soil**) defines the land and the activities controlled by the **NES Soil**. It states that the regulations "apply when a person wants to do an activity described in any of subclauses (2) to (6) on a piece of land described in subclause (7) or (8)".
9. Regulation 6 of the **NES Soil** prescribes two methods for establishing whether or not a piece of land is as described in Regulation 5(7). One of these methods, as described in Regulation 6(3) of the **NES Soil** is by relying on a preliminary site investigation:
 - a) Stating that an activity or industry described in the current version of the Ministry for the Environment Hazardous Activities and Industries List (**HAIL**) is, or is not, being undertaken on the piece of land; or

- b) stating that an activity or industry described in the **HAIL** has, or has not, been undertaken on the piece of land; or
 - c) stating the likelihood of an activity or industry described in the **HAIL** being undertaken, or having been undertaken, on the piece of land.
10. Pursuant to Regulation 5(8), the **NES Soil** also applies if a 'piece of land' is identified to be on 'production land'. Production land is defined in section 2 of the Resource Management Act 1991 as:
- a) "Means any land and auxiliary buildings used for the production (but not processing) of primary products (including agricultural, pastoral, horticultural, and forestry products):
 - b) does not include land or auxiliary buildings used or associated with prospecting, exploration, or mining for minerals."

FINDINGS OF DOCUMENT REVIEW

11. In my opinion, the **Preliminary Site Investigation** have established that it is more likely than not that potentially contaminating activities or industries listed in the **HAIL** have been undertaken on portions of the land associated with **PC7**. Therefore, in my opinion, the **NES Soil** will be applicable on any 'piece of land', within the area subject to **PC7**, if activities regulated under the **NES Soil** are undertaken (e.g. soil disturbance or subdivision).
12. In my opinion the **Preliminary Site Investigation** includes information that identifies that the land associated with **PC7** is being used for the production of primary products. Therefore, in my opinion, Regulation 5(8) of the **NES Soil** is applicable where a 'piece of land' is identified in 'production land' areas.
13. In my opinion, the **Evidence**, has identified that:

- a) Some areas of land subject to **PC7** remain un-investigated and these areas will not be further assessed prior to the proposed plan change. The rationale for this is, that they are still occupied and used as production land and as a consequence, further contaminating activities (e.g. accidental spills) may occur following the proposed plan change and prior to development. Therefore the findings of any investigation undertaken prior to the ceasing of production land activities may be invalidated.
- b) Some areas of land subject to PC7 have concentrations of lead in soils that are recommended to be properly managed on-site or disposed of off-site

CONCLUSION

14. In my opinion:

- a) Contaminated land investigations to date have established that it is more likely than not that potentially contaminating activities have been undertaken on portions of the land subject to **PC7**. Therefore, the **NES Soil** will apply at the time of future development works e.g. soil disturbance and subdivision.
- b) The management of potential adverse effects associated with potentially contaminated land issues, can be addressed through investigation and / or documentation and implementation of management or remedial approaches, prior to future development works e.g. soil disturbance and subdivision, utilising the processes and controls within the **NES Soil**.

15. I have not read the Detailed Site Investigation which supports the **PC7**; and therefore provide no comment in relation to this.

Adam Michael Gray

27 October 2021