



<b>Meeting date:</b>	07 APR 11
<b>Prepared by:</b>	Carl Reller, Environment and Urban Design manager
<b>Recommended by:</b>	Mark McCann, Professional Services manager
<b>Value Assurance Committee</b>	
<b>Subject:</b>	Auckland Harbour Bridge and Stokes Point contamination

## Purpose

- 1 Decide on the disagreement between national and regional office on the level of public engagement with a community that may be adversely affected by soil contamination and consent notification.

## Recommendations

- 2 That the VAC BUDMT:
  - a. **agrees** to implement the AHB Project Plan (attachment 1) including a door-to-door engagement with Stoke Pt residents to be followed up with sampling, analysis and remedial action if required;
  - b. **agrees** that the pending AHB maintenance consent be notified in order that affected persons can be engaged in a public participatory process.

## Strategic context

- 3 Resource Management Act [s17 (1)] Duty to avoid, remedy or mitigate adverse effects. *“Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of the person.”*
- 4 Land Transport Management Act 2003 [s96(1)] requires NZTA to *“exhibit a sense of social and environmental responsibility”*
- 5 Code of Conduct mandates NZTA *must “focus on the needs of customers, stakeholders and colleagues, respecting their rights and keeping them informed.”*
- 6 Public Engagement Policy demonstrates NZTA’s commitment to good practice public engagement by: *“providing genuine opportunities for public contributions, ensuring people are informed, adopting an inclusive and representative approach to public engagement and maintaining high professional public engagement standards.”*
- 7 Crown Entities Act (s50 & 56) states the Board’s statutory obligation is to ensure NZTA performs its functions *“in a manner consistent with the spirit of service to the public”* and for individual Board members to *“...exercise the care, diligence and skill that a reasonable person would exercise in the same circumstances.”*

## Key issues

- 8 The decision to engage and inform Stokes Point residents is significant because of number of people impacted, high social and environmental risk, precedent effect and residual risk.
- 9 AHB works has a poor compliance history. Following 10 years of work (increased from \$10M to \$70M), Total Bridge Services company owner commented “I’ve never seen this consent before and wouldn’t have been able to comply with it” (Discharge to Air consent.) Sampling is a scheduled work; thus, residents must be consulted with and reported to because contaminated land is a nuisance (Discharge to Air Consent 23 956: conditions 13 and 14.) AHB has 15 consents eight which have been non compliant for the last 10 years including consultation requirements.
- 10 Samples were collected twice; once at the beginning of the consent in 2001 and again near consent expiry in 2010. An increased level of contamination was found in 4 out of 5 samples taken from the same location.

Statutory maximum contaminate levels are exceeded up to 30 fold in 8 out of 20 samples for lead, benzo[a]pyrene (BaP), zinc and copper.

- 11 Lead poisoning risk is especially high for pregnant women and young children for whom exposure causes irreversible neurological damage. International guidelines recommend removing people from their home at residential levels exceeding 1,200 ppm (USEPA 2003.) We found lead up to 890 ppm in a public park near residential homes. Other contaminants are even more elevated: BaP is a strong human carcinogen; zinc and copper are toxic to plants and animals.
- 12 Zinc and chromium are strongly associated with bridge maintenance. Traffic releases zinc and copper. BaP comes from tyre wear and combustion by-products. The source of lead is unclear.

**Soil Contaminate Levels (mg/kg)**

Contaminate	Auckland background	2001 maximum finding	2010 maximum finding	Auckland Council soil criteria
lead	65	644	890	250
Chromium (total)	80	171	210	400
zinc	80	2,560	5,500	400
copper	45	no data	510	325
benzo[a]pyrene	<0.04	no data	8.6	0.27

(see attachment 2 for more information)

## Discussion

- 13 National and regional office initially agreed (19 NOV 10) to community engagement on 04 FEB. National office prepared a fact sheet, list of all property owners, sampling and analysis quality assurance and reporting plan. Public engagement was cancelled by the regional office because the Auckland COMs team was unprepared and rescheduled for 21 FEB at which time it was cancelled again. Since that time the regional and national offices have openly discussed their mutual viewpoints and are not been to resolve their differences.
- 14 NZTA legal advice makes it clear we are liable for civil and criminal actions and that *“...the Court would be likely to take into account whether or not the NZTA acted promptly enough to reduce the level harm caused as a result of the offence, and in considering this is likely to take into account whether any groups who are particularly vulnerable to contamination, such as children, were at risk.”* (attachment 3)
- 15 Auckland Regional Public Health Service requested NZTA to inform, engage and sample. In addition they advised in writing that *“further testing should be done across the wider community, consider covering any medical costs that may arise, volunteer the current resource consent to be notified, seek to identify high risk domestic situations such as vegetable gardens and sand pits, consider if there are any more NZTA locations that are likely to be contaminated, assess marine environment contamination, potential impacts on aquifers, NZTA should receive direct enquires from the public and be responsible to provide information on human health.”* (attachment 4)
- 16 Auckland Council Environmental Services has provided no written advice and are solely concerned with contamination on public lands; that is, Stokes Point and exercises no regulatory control over consents or private residences where no testing has been done.

## Attachments

- 17 There are 4 attachments to this paper:
  - Auckland Harbour Bridge Maintenance Stokes Point contamination project plan.
  - FACT SHEET #1 (ver 7) Auckland Harbour Bridge Maintenance Stokes Point contamination (reviewed and approved by national office PS manager, legal and communications)
  - Potential legal risks of deferring telling Stokes Point residents of possible contamination
  - Auckland Regional Public Health Service. (28 JAN 2011) Letter to NZTA.