

Appendix M – Challenges in managing risks from lead-based paint contamination

Michelle Begbie, Waikato Regional Council

There are two main challenges in managing the effects of lead-based paint and these are:

1 Lack of triggers to identify contamination

Currently, the Ministry for the Environment's HAIL list does not include (or explicitly exclude) contamination from lead-based paint. The WasteMINZ Residential Lead Working Group prepared a submission on this document, and although no formal response has been received, anecdotally it appears that upon revision, the HAIL document will expressly exclude lead from lead-based paint unless it has already been discovered as contamination in soil.

This means there is no central government directive for local government to require soil testing to check for lead contamination; even though data shows that the mean of soil lead around houses built in the 1950s or earlier exceed soil contaminant standards by a factor of 7 (Stantec, 2023). The RMA (soon to be replaced) also has no specific provisions to trigger soil testing in relation to the use of lead-based paint; and neither does the Building Regulations Act 1992 (and associated Building Code) or District Plans.

Upon notification of a lead-affected person, Health Protection Officers are encouraged to investigate the source of exposure, which may, but is not required, to include soil sampling (Health NZ, 2024).

In summary, there is no direction nor ability for authorities to require residential soil to be tested for contamination from lead-based paint, despite data confirming its prevalence and scale.

2 Poor long-term management mechanisms

Currently, elevated lead in soil is discovered usually by chance, or by the notification of a lead-affected person and subsequent public health investigation. The latter do not share the findings of soil sampling with regional or district councils, and so any information about site contamination stays, and stops, with the current site occupiers.

Where soil sampling outside the public health system occurs, and providing that data is shared with the regional/district council, there is only the contaminated land framework provisions to manage risk to human health. This involves a 'site management plan' (CLMG #1) to be prepared, which is usually kept on the site file at the relevant district council. This site management plan is most commonly disseminated via:

- A Land Information Memorandum (LIM) process during sale and purchase. District Councils all charge for LIMs (usual >\$200) and so LIMs are not always obtained at point of sale and are almost never shared during new tenancy agreements.
- Consent notice on a title (for new subdivisions). Are most useful in a commercial/industrial setting where rigorous due diligence is engaged but poorly considered in residential transactions.
- Covenant on a title. While preferred by many as properties cannot be purchased without this being known, the mechanism is more complex and time-consuming. Rarely employed in our experience and is likely weak protection outside of property sales (e.g. tenancy arrangements).

Site management plans usually seek to reduce human exposure to contamination via controlling the consumption of produce, or by ensuring coverage of soil by paving or continuous, well maintained grass cover. ***It is our experience*** that the current owners/tenants of a property newly investigated are usually the most aware of the site condition, but as ownership and tenancy changes, knowledge is lost through the chain, and management practices become relaxed.

There is no enforcement or monitoring regime associated with site management plans. Adherence with the site management plan is totally up to the site user; so long as they are aware it exists.

In summary, any information notices are not useful to day-to-day site management and are only sometimes useful during point of sale or site redevelopment.

References

Health New Zealand, 2024. The Environmental Case Management of Lead-Exposed Persons: Guidelines for Public Health Officers. 23 February 2024. Available: <https://www.tewhatauora.govt.nz/publications/the-environmental-case-management-of-lead-exposed-persons-guidelines-for-public-health-officers>. Accessed: 11 March 2025.

Stantec, 2023. Residential Lead Paint Review. Report for Dunedin City Council, November 2023.
