

From: [Councillor Support](#)
To: [Andrew Whiley](#)
Cc: [Council 2022-2025 \(Elected Members\)](#)
Subject: RE: Lead in the soil letter to MfE
Date: Tuesday, 16 September 2025 03:25:00 p.m.
Attachments: [20250903 Letter to James Palmer, MfE - Request for Urgent Guidance on Interpretation of the NES-CS.pdf](#)
[image001.png](#)

Kia ora Cr Whiley,

As requested, attached is a copy of the letter sent to the Ministry for the Environment.

DCC have received an email from MfE acknowledging receipt of the letter advising it is being reviewed by the relevant team within MfE.

Kā mihi,

Jackie Harrison
Manager Governance
Governance Support Office
P 03 477 4000 | DDI 03 474 2139 || M 021 1919538 E jackie.harrison@dcc.govt.nz

Te Kaunihera a Rohe o Ōtepoti / Dunedin City Council
50 The Octagon
PO Box 5045, Dunedin 9054
New Zealand
www.dunedin.govt.nz

From: Andrew Whiley <Andrew.Whiley@dcc.govt.nz>
Sent: Monday, 15 September 2025 5:16 p.m.
To: Jackie Harrison <Jackie.Harrison@dcc.govt.nz>
Subject: Lead in the soil letter to MfE

Dear Jackie,

Can you please advise me if any thing has been heard back yet?

I would also appreciate a copy of the letter that was sent to MfE that was sent on the 3rd September.

Cheers
Andrew

From: Jackie Harrison <Jackie.Harrison@dcc.govt.nz>
Sent: Thursday, 4 September 2025 10:57 am
To: Andrew Whiley <Andrew.Whiley@dcc.govt.nz>
Subject: RE: Vote passed for urgent review by MfE

Kia ora Cr Whiley,

A letter dated 3 September 2025 has been sent to the Chief Executive, Ministry for the Environment requesting urgent formal guidance from the Ministry on the interpretation of the NES-CS in relation to residential lead paint contamination in soil.

Kā mihi,

Jackie Harrison
Manager Governance
Governance Support Office
P 03 477 4000 | DDI 03 474 2139 || M 021 1919538 E jackie.harrison@dcc.govt.nz

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50 The Octagon
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From: Andrew Whiley <Andrew.Whiley@dcc.govt.nz>
Sent: Wednesday, 3 September 2025 1:42 p.m.
To: Jackie Harrison <Jackie.Harrison@dcc.govt.nz>
Subject: Fwd: Vote passed for urgent review by MfE

Hi Jackie,

Can you please advise re below?

Cheers
Andrew

Sent from my iPhone

Begin forwarded message:

From: Leon Hallett <Leon.Hallett@patersons.co.nz>
Date: 3 September 2025 at 12:03:41 PM NZST
To: Darryl Sycamore <darryl@terramark.co.nz>, Andrew Whiley <andrew.whiley@dcc.govt.nz>
Subject: RE: Vote passed for urgent review by MfE

Hi Andrew,

Can you give us any indication of what the review will look like?

1. Who would be doing it?
2. What sort of time frames are we looking at?

Ngā mihi nui

Leon Hallett
Principal, Licensed Cadastral Surveyor
BSurv, MS+SNZ, CSLB

027 321 2615 | leon.hallett@patersons.co.nz | patersons.co.nz

Dunedin Office
03 477 3245
229 Moray Place
Dunedin 9058



Please consider the environment before printing this email.

3 September 2025

James Palmer
Chief Executive
Ministry for the Environment
PO Box 10362
Wellington 6143

By email: james.palmer@mfe.govt.nz

Copy to:

HAILFeedback@mfe.govt.nz

info@mfe.govt.nz

James.Mitchell@mfe.govt.nz

Dear Mr Palmer

Request for Urgent Guidance on Interpretation of the NES-CS in Relation to Residential Lead Paint Contamination in Soil

The Dunedin City Council (DCC) is seeking assistance from the Ministry for the Environment on the correct interpretation of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 (NES-CS) in relation to lead paint on residential sites.

At the DCC full Council meeting on 26 August 2025, elected members passed the following Notice of Motion:

- a. **Notes** the concerns regarding the Council's current interpretation of the NESCS as it relates to lead in soil for residential development.
- b. **Requests** staff to seek urgent formal guidance from the Ministry for the Environment on how the Council should interpret and apply the NESCS.
- c. **Requests** an urgent Council report on the application of the Ministry for the Environment guidance to residential development across Dunedin City.

It is part b. which we seek your urgent formal guidance.

Background

The potential health impacts of lead contamination in soil in residential settings is well documented. However, there has been a general lack of national guidance on whether potential lead paint contamination should be subject to the NES-CS. For the first ten years or so of the NES-CS being in force, DCC had not treated such properties as falling under the Hazardous Activities and Industries List (HAIL).

In March 2023, the Ministry for the Environment published a document entitled *Hazardous Activities and Industries List guidance: Identifying HAIL land*. The guidance referenced on page 279 'Any other land that has been subject to the intentional or accidental release of a hazardous substance in sufficient quantity that it could be a risk to human health or the environment'.

To obtain clarity, DCC commissioned advice from Stantec New Zealand Ltd to:

- Review the available information and data about the potential for soil contamination resulting from use of lead-based paint on residential buildings;
- Provide guidance around when such contamination constitutes HAIL activity; and,
- Provide recommendations for consenting requirements.

Stantec's advice was received in November 2023. In short, Stantec concluded that residential sites with known existing or historic weatherboard or painted plaster buildings (including ancillary structures such as garages or sheds) constructed prior to 1945 may be considered potential or unverified HAIL sites, with the main area of concern being a 2m halo from the building.

Stantec were satisfied that the halo of such buildings would, more likely than not, have lead paint contamination in sufficient quantity such that Category I on the HAIL was potentially applicable.

The Council's Current Process

Following the Stantec advice, resource consent and building consent applications involving pre-1945 painted residential buildings have subsequently been assessed as potentially triggering the NES-CS. Applicants can either accept the halo as a HAIL site, or commission expert advice to demonstrate that Category I is not applicable.

For resource consent applications under the NES-CS involving potential lead paint contamination, we typically impose a condition requiring testing of soils prior to works taking place. If the development is for standard residential activity, the site will become a verified HAIL site if any of the test results are above the 210mg/kg inorganic lead limit, with high-density residential properties only being treated as verified HAIL if the testing results exceed 500mg/kg.

In such situations, conditions on the resource consent will usually require a Site Management Plan to ensure soil disturbance is carried out correctly and, if taken offsite, disposed to an appropriate landfill. If the applicant is proposing to remediate the site, then a Remedial Action Plan and a Site Validation Report may be required under further conditions. If an applicant is intending to leave contamination on the site, then the need for an Ongoing Site Management Plan may be imposed as a condition, potentially along with a Site Validation Report if containment measures are to be installed.

Some of the concerns voiced by some Councillors is that the DCC approach:

- is unique apart from one other council,
- imposes high costs on the development of new housing and the alterations to existing housing,
- is an overreaction to the risk posed by legacy lead paint in residential settings,
- is not supported by the Ministry for the Environment.

Request for formal guidance

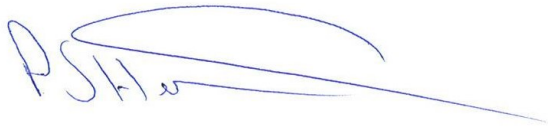
In line with the Council motion, DCC asks for urgent formal guidance from the Ministry for the Environment on how DCC should interpret and apply the NES-CS specifically regarding the Council's current interpretation of the NES-CS as it relates to lead in soil for residential development.

To assist with your review, below are links to relevant information.

- [Stantec NZ Residential Lead Review – November 2023](#)
- Link to the Council's webpage on HAIL and lead from paint:
<https://www.dunedin.govt.nz/services/resource-consents/hail-and-lead-from-paint>
- [HAIL Status Assessment and Development Scenario Flow Chart](#)

For information only, DCC have also been tabulating soil testing results since adopting our procedure and details on our findings are available if required.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'PSH', followed by a long, sweeping horizontal line that extends to the right.

Paul Henderson
ACTING GENERAL MANAGER CUSTOMER AND REGULATORY