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Ms Susan Whitehead
Project Officer
NEPC Service Corporation
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ADELAIDE SA 5000

By email: swhitehead@ephc.gov.au

Dear Susan

Re: Assessment of Site Contamination NEPM Variation 2010

The Urban Development Institute of Australia (UDIA WA) is pleased to provide comment on the **Assessment of Site Contamination NEPM Variation 2010 (ASC NEPM)**. UDIA (WA) is the peak body representing the property industry in Western Australia with members engaged in a range of disciplines including land development, planning, environmental planning, urban design, infrastructure and engineering. The review of the above will likely impact on the activities of our members engaged in site assessment and UDIA is always mindful of the cost implications of increased requirements for assessment and reporting particularly as they relate to housing affordability. The review needs to balance the proposed amendments and whether they will result in sufficiently improved outcomes for human health and the environment against the impact on housing affordability.

General Comments

Overall, UDIA supports the proposed changes within NEPM however there is concern about the extent of investigation and documentation required for site assessments. The amendments seem to have increased the complexity of site investigations rather than decreasing them. Although the assessment of the risk contaminants pose rightly remains an integral part of the site assessment process, the use of "risk assessment" in terms of whether investigation of a site is actually needed, and the extent of site investigations required, seems to have disappeared potentially resulting in more investigations unnecessarily being undertaken. Although the investigation levels may be less conservative, the use of them has become more complicated and the process of site investigation has become more onerous. It is uncertain as to whether the proposed amendments will result in better outcomes in relation to protection of human health and the environment, or will just result in more documentation being required.

Impact Statement

Section 6.1.1 contains an overuse of repetition regarding information on the derivation of the current HILs; this derivation is discussed in the 4th, 6th and 7th paragraphs and should be edited to reduce the repetition.

Schedule B(1) - Investigation Levels

The amendments to this schedule have over-complicated the assessment of contaminated sites. It is understood that early in the consultation process, "look up tables" were requested. Twelve look up tables have been introduced and the specific instances when each should be used e.g. soil depths; EILs to 2 metres bgl; HILs to 3 metres bgl, and ESLs to 3 metres bgl which may result in confusion and misuse of the tables and therefore misinterpretation of data. This will result in increased auditor and regulator involvement, which will in turn increase the cost and duration of site investigations. Although flow charts and examples are provided, more clear guidance in the form of further flow charts as to when each table should be used may assist in reducing their misuse.

Specific comments:

- Section 2.2.1 definitions - refers to EILs as sometimes being referred to as "soil quality guidelines" - this may result in confusion as the EILs are not remediation levels.
- In relation to the application of the investigation levels: for the GILs and HSLs, if residents occupy the ground floor, the text states that HSL-B should be applied. If commercial activities are located on the ground floor with apartments above, then the HSL-D should be applied. Regarding soil contaminants, the text states that HIL-B is to be applied to high-rise buildings and flats. Application of the assessment levels would be made simpler if applied consistently. For example, an apartment block with commercial properties on the ground floor and residences above could have HIL-D as the appropriate criteria for both HILs and HSLs? Open space/paved areas associated with an apartment block would apply HIL-C.

Schedule B(2) - Site Characterisation

Specific comments:

- The components required to be included in a Conceptual Site Model (CSM) have become increasingly prescriptive and detailed. A CSM should identify the known or potential contaminants, their location, pathways for their migration and receptors. The list of CSM components in Section 4.2 includes information that would be located within a Preliminary Site Investigation (PSI). The concern from UDIA members focused on the possibility that the key issues at a site will get lost in the detail required in the CSM. The increased detail required may also result in the CSM becoming un-realistic in terms of identification of the actual pathways and receptors at a site, resulting in over-investigation.
- Section 6.1.2 refers to grid sampling being used "to cover the remainder of the site after judgemental sampling has been located". If a PSI has been done correctly, and all known and potential sources of contamination identified, then judgemental sampling of these sources should be all that is required. The necessity for grid sampling across areas where there is not thought to be any contamination is questioned in this instance. The inclusion of this statement will continue the practice of over-sampling of sites, and is not consistent with the site assessment process of sampling the areas of concern identified in the PSI.

- Within Section 6.5, information of the assessment of composite samples against the investigation levels should be included i.e where composite samples have been used, the assessment level should be divided by the number of samples included in the composite.
- Section 6.5 Makes reference to the use of clustered samples being possibly acceptable to regulatory agencies is ambiguous. The purpose of the NEPM is to standardise the requirements of all jurisdictions. If there is disagreement between jurisdictions, then they should not be accepted.
- Sections 6.3 and 6.6 both contain information on site investigation methods, these sections should be combined to reduce repetition.

Schedule B (8) Community Engagement and Risk Communication

This is a good document, detailed and thorough.

We thank you for the opportunity to comment and trust that they will be given due consideration when finalising the ASC NEPM variations.

Yours sincerely



Debra Goostrey
Chief Executive Officer