

Sir/Madam

I would like to make this private submission. I have copied Section 6.3 from the NES document (bold font) and then attached my comments (normal font).

What is the problem?

1. **Have the priority problems been defined correctly?**
2. **Are there other problems you can think of that need to be addressed as a priority?**
3. **Do you agree with the policy objective?**
4. **Should the objective be limited to ensuring that land is safe for human use? If not, why not?**

Contaminated land is a problem. The reason behind the preparation of this NES (section 2.2) appears to be the failings of both the Regional and Local Councils. I'm sure the lack of MfE guidance and guidelines during the first round of plan preparation had nothing to do with the findings in section 2.2.1 of the NES.

Looking forward, I believe this NES will provide little benefit. Councils already keep a register of contaminated sites which is based on the HAIL list. If a site is not already on the register of contaminated sites why would it not slip past this NES? Any sites on the register of contaminated sites already trigger a need for reports for both Local and Regional Councils.

This NES is focused exclusively on territorial authorities. I appreciate the pragmatism of requiring a preliminary site investigation for any HAIL listed sites during a change of land use. But what about the Regional Councils responsibility under S20(1)(ca) of the RMA? How many sites of the type mentioned in Section 2.1 of the NES (i.e. pesticide manufactures, gas works, historic mining, timber treatment, or sheep dips) has the Regional Councils failed to identify since the RMA was enacted in 1991?

The issues and reasons identified by the Ministry for the Environment for this national environmental standard for assessing and managing contaminants in soil are:

- 1) compliance with the Ministry for the Environment guidelines are voluntary;
- 2) councils may vary from the prescribed approach; and,
- 3) because of the planning cycle there may be a lengthy transition time between the publication and uptake of guidelines.

This proposed national environmental standard will not achieve consistent use of environmental standards at the regional government level throughout New Zealand. The proposed national environmental standard contains current toxicological data, but in five years this standard will still be use however the data will be out of date.

Both Local and Regional Councils are interested in contaminated sites, so ensuring that land is safe for human use has limited benefit. Discharge consents will incorporate ecological considerations, so it is not obvious to me how this standard is a significant improvement over the existing situation.

What are the options?

5. **Do you agree with the preferred option?**
6. **Is there an alternative option that has not been considered?**
7. **Are you aware of any other costs or benefits of the alternative options?**

I believe non-regulatory guidance is the best option. Non-regulatory guidance becomes de facto best practice and is quickly up taken. The soil guideline values are valuable and will quickly be uptaken.

An alternative approach could be to utilise the Ministry for the Environment as specialist independent technical reviewers for human health and environmental issues. For example, completed assessment of environmental effects or preliminary site investigation could be submitted for the MfE's review and comment. If all human or environmental health issues were reviewed then this would provide national

consistency. In addition, the environmental and human health data upon which decisions are made could be kept up to date by the Ministry for the Environment. This would provide territorial authorities unparalleled technical information upon which to make decisions for controlling the effects of land use. This is similar to the process used in Australia.

Technical information submitted to council is peer reviewed. If the MfE review was accepted without the need for an 'in-house council review' then I would expect there would be no appreciable additional cost.

The proposed NES

8. **Do you see any problems complying with the proposed NES or with enforcing it?**
9. **Are the thresholds for determining whether resource consent is required clear and appropriate?**

The thresholds for the NES are clear and there should be little problem enforcing it. However, applicants must be made aware that compliance with the NES is only a part of the consent process. Regional Council is likely to impose conditions far more conservative than the NES to protect non-human ecology.

Questions 10–16 are supported by discussion and more specific questions in the text of section 4.

10. **Is the *permitted activity – subsurface investigation* requirement to provide a site investigation report appropriate?**
11. **Have we adequately defined the land that should be subject to a condition requiring site investigation?**
12. **Have we adequately provided for activities that should not be caught by the requirements of this NES?**
13. **How do you think the NES should ensure the adequacy of site investigation?**
14. **Is the *permitted activity – use, development and subdivision* better provided as a controlled activity or another alternative?**
15. **How should the NES address site-specific assessment for produce consumption?**
16. **How should the NES address naturally occurring elements in soil?**

The affect of a site on human health occurs whether the site is impacted by human activity or naturally occurring elements in the soil. The soil guideline values should apply to all sites regardless of the genesis of the contamination.

Costs and benefits

17. **Have we accurately reflected the range of costs and benefits arising from the proposals for an NES, and who might bear the costs or receive the benefits?**
18. **Are there any costs and benefits we have overlooked?**
19. **Do you have information that you would like to see included in the cost-benefit analysis that will be carried out after the submissions are received and analysed?**

The costs associated with implementation of the proposed NES seem reasonable.

Regards
Mr. Kevin Wood