



Ministry for the
Environment
Manatū Mō Te Taiao

A PROPOSED NATIONAL ENVIRONMENTAL
STANDARD FOR THE

Outdoor Storage of Tyres

SUMMARY OF SUBMISSIONS

This document may be cited as: Ministry for the Environment. 2018. *A Proposed National Environmental Standard for the Outdoor Storage of Tyres: Summary of Submissions*. Wellington: Ministry for the Environment.

Published in May 2018 by the
Ministry for the Environment
Manatū Mō Te Taiao
PO Box 10362, Wellington 6143, New Zealand

ISBN: 978-1-98-852549-5
Publication number: ME 1353

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Executive summary

From 22 June to 4 August 2017, the Ministry for the Environment consulted on a proposal to develop a National Environmental Standard (NES) for the outdoor storage of tyres in New Zealand. The Government proposed to do this by regulation under Part 5 of the Resource Management Act 1991 (RMA) and established a consultation process under section 46A(3)(b).

This report presents a summary of the views expressed in the 35 submissions received in this consultation process. It does not provide an analysis of those views, or recommendations in response to them. Any recommendations in response to these submissions will be made through policy advice to the Minister for the Environment.

The majority of submitters agreed with the Government's proposal to develop an NES for the outdoor storage of tyres. Submitters were generally satisfied with the scope of the regulations and the proposed timeframes and discretionary status for the standard.

Some submitters requested that the proposal be refined by clarifying the volume threshold and considering other matters to be mandated by the regulations or included in direction given to local authorities. Submitters held a variety of views on whether any activities should be exempted from the regulations.

Background to the consultation process

Currently, no national regulations relate specifically to the outdoor storage of tyres. The rules for storing tyres are determined by regional and district councils under the RMA and Local Government Act 2002. The Government has considered how best to manage the risks of harm to the environment, human health, and local communities from storing tyres.

The proposed NES would form part of a package designed to reduce the environmental harm caused by waste tyres. Alongside the proposed NES, the Government targeted the Waste Minimisation Fund towards growing markets for recycled tyre products. This funding initiative is directed at increasing New Zealand's rate of end-of-life tyre recycling.

We sought information on the proposal to develop an NES from local government, businesses and the public. Information about the consultation process was communicated through a variety of media, including social media, notices published in main newspapers, a Ministerial press release, information on our website, and emails to groups of stakeholders, such as district and regional councils, iwi groups, and industry bodies.

We received 35 submissions on the proposal from local government, businesses, district health boards (DHBs), individuals, one non-governmental organisation (NGO), one industry body, and one state owned enterprise.

Overall perspectives

The majority of submitters support the proposed NES

Table 1 breaks down the 35 submissions received by submitter type and general position on the proposal, in the responses to Question 1 of the consultation document.

Submissions are grouped into four categories:

1. Agree with the proposal
2. Agree so long as certain conditions are met
3. Disagree
4. Not answered or unclear answer.

Due to the nature of some submissions, some interpretation was necessary to apply these categories. Being in agreement does not mean that submitter did not offer suggestions for improvement in response to other questions. This only means that the submitter did not suggest that their support was contingent on those suggestions appearing in the final regulations.

Table 1: Breakdown of submissions by submitter type and general position

General position	Submitter type					Total
	Local government	Business / Industry	NGO	Individual	Other	
Agree	12	6	–	2	6	26
Agree with conditions met	–	4	–	–	–	4
Disagree	–	–	1	1	–	2
Not answered / unclear answer	–	1	–	2	–	3
Total	12	11	1	5	6	35

As shown in table 1, the majority of submitters (26 of 35, or 74%) agreed with the Government’s proposal to introduce an NES for the outdoor storage of tyres. Four submitters (11.4%) agreed with the proposal provided that certain conditions were met. Two submitters (5.7%) disagreed with the proposal. Three submitters (8.6%) were either unclear or did not answer the question.

Support by submitter groups

Local government

Twelve submissions were received from local government. All local government submitters were strongly supportive of the proposal and made a number of suggestions on how to improve it. Two submissions were received from Auckland Council; the first from the Landfill and Consents team, and the second containing extra detail from the Waste Solutions team.

Business/Industry

The Ministry received 11 submissions from business and industry groups. Six businesses agreed with the proposed NES, four agreed with the proposed NES provided that certain conditions were met, and the response of one submitter was unclear.

Individuals

Five individuals made submissions. Two individuals agreed with the proposed NES, a further two gave responses which were unclear, and the final individual disagreed.

Non-government organisations

One non-government organisation (NGO) made a submission. The NGO supported the policy intent of the proposed NES but thought that the proposal itself was flawed.

Other

Six additional organisations made submissions. Five were district health boards and the sixth was a representative body of the waste, resource recovery, and contaminated land sector.

Iwi

No submissions were received from iwi. Iwi were contacted through emails sent to specific iwi and a notice in the Ministry's Mana Taiao newsletter which is circulated to iwi.

Key themes

Overall, there was widespread support for the Government’s proposal to introduce an NES for the outdoor storage of tyres. Some of the questions included in the consultation document were largely uncontroversial, whereas others solicited a wide variety of responses. The themes that generated the most discussion were:

- the proposed volume threshold of 200m³
- whether any activities involving the outdoor storage of tyres should be exempt
- the matters on which direction could be provided to local authorities
- what, if any, other conditions could be mandated through the regulations.

The majority of submitters considered that an NES was necessary due to the environmental, financial, legal, and health risks associated with outdoor tyre stockpiles. Submitters suggested refinements to the regulations to better achieve intended outcomes, avoid unintended consequences, and to clarify the proposed regulations.

A number of submissions related to specific situations. Transpower New Zealand Limited wanted the proposed NES to provide for the protection of National Grid assets. OceanaGold New Zealand Limited sought clarification on the treatment of large and extra-large vehicle tyres, and Federated Farmers of New Zealand submitted on the issue of tyres used to weigh down silage covers.

Overall agreement with proposal

Q1: Do you agree with the Government’s proposal to develop a national environmental standard to control the activity of storing tyres outdoors? Why / why not?

Need to change the *status quo*

The majority of submitters agreed with the Government’s proposal to develop an NES. They gave reasons why the current *status quo* needs to change:

- Environmental: Tyre stockpiles cause environmental harm, sometimes over a prolonged period, through contamination of land, soils, water, and air in the event of a tyre fire.¹
- Economic: The current situation is a waste of resources.² Private landowners face costs through cleaning up stockpiles whilst their land may be unusable³ and local authorities incur costs through prosecuting offenders and, frequently, cleaning up sites and dealing with nuisance.⁴
- Health: risks can arise from vermin and mosquitos living in tyres.⁵ Once ignited, tyre fires are hard to extinguish and can cause health issues.⁶

¹ Nelson Marlborough District Health Board, Canterbury District Health Board, Auckland Council Waste Solutions, Waikato Regional Council, Northland Regional Council, EnviroWaste Services Limited, WasteMINZ, Canterbury Mayoral Forum, Local Government New Zealand (LGNZ), Waste Management, Fletcher Concrete & Infrastructure Limited.

² EnviroWaste Services Limited.

³ Auckland Council Waste Solutions.

⁴ Canterbury Mayoral Forum, Tyre Removals, Auckland Council Waste Solutions, Far North District Council.

⁵ Paul Douglas, Hawke’s Bay District Health Board.

- Legal: there is a lack of clear national direction on managing tyres, meaning tyres are often relocated between regions.⁷

Benefits of the proposed NES

- Environmental: pollution and waste would be minimised,⁸ and the likelihood of environmental harm through fire or contamination of soil, air and water would be reduced.⁹ The sustainable recycling and disposal of tyres would be incentivised.¹⁰
- Economic: the proposed NES would reduce the financial burden to private landowners, and councils who dedicate resources and staff time to investigating stockpiles, cleaning up fly-tipping, and prosecuting.¹¹
- Health: community health would not be harmed by exposure to contaminants.¹²
- Legal: the proposed NES would result in better clarity for stakeholders and consistency in managing tyre stockpiles.¹³

One submitter thought the NES was necessary given that vehicle numbers are rising,¹⁴ another due to the sheer number of tyres disposed of annually in New Zealand.¹⁵

Adverse impacts of the proposed NES

One submitter agreed with the general proposal of developing consistent national regulation for the long-term storage of used tyres. However, the submitter recommended that short-term, temporary tyre stockpiles should not be subject to the same requirements under an NES as long-term tyre stockpiles.¹⁶ The submitter observed that the proposed NES would impose significant additional costs and uncertainty on tyre processing facilities which require short-term tyre storage. This would run counter to the Government's desire to see further investment in tyre recycling facilities.

Conditional agreement

Four submitters agreed only if certain conditions were met. One wished silage activities to be exempted,¹⁷ another wanted the NES to prevent pollution and minimise waste¹⁸, one wanted rogue operators controlled,¹⁹ and another wanted regulations to not be harsh on industry.²⁰

⁶ Paul Douglas.

⁷ Auckland Council Landfill and Consents, Transpower, Waikato Regional Council, WasteMINZ.

⁸ OceanaGold, Queenstown Lakes District Council.

⁹ LGNZ.

¹⁰ Nelson Marlborough District Health Board, EnviroWaste Services Limited.

¹¹ Auckland Council Waste Solutions, LGNZ, Tyre Removals, Canterbury Mayoral Forum, Nelson Marlborough District Council, Hawke's Bay District Health Board.

¹² Canterbury DHB.

¹³ LGNZ, Otago Regional Council, Federated Farmers.

¹⁴ Otago Regional Council.

¹⁵ Donald Sangster.

¹⁶ Waste Management.

¹⁷ Federated Farmers.

¹⁸ OceanaGold.

Disagreement or lack of or unclear response

Two submitters did not agree with the proposed NES. One said that tyres required disposal,²¹ and the other thought the policy intent was suitable but believed the proposal should be modified to such a degree that it could not agree with the proposal in its current form.²² Four submitters either did not respond or were unclear in their responses.²³

Proposed definition of tyres

Q2: Do you agree with the proposed definition of tyres (all pneumatic (air filled) tyres for cars, motorcycles, trucks, buses, off-road vehicles, aircraft, and certain solid tyres (forklifts), but not bicycle tyres)? Why / why not?

Submitters generally agreed with the proposed definition, although they made suggestions on clarifying the definition. No submitters believed the definition should be restricted.

Agree with current definition

A number of submitters found the proposed definition acceptable in its current form. They said the definition was easy to understand, it incorporated tyres known to be a problem yet with reuse or recycling potential, and separated tyres from other rubber recycling processes.²⁴

Definition should be widened

Two submitters believed the definition should be widened, to cover respectively: all tyres including rubber products,²⁵ and solid and pneumatic wheel loaders and machinery tyres.²⁶

Perspectives on bike tyres

One submitter believed that bike tyres are not of a composition that requires them to be subject to an NES,²⁷ two classified them as rubber waste,²⁸ and two more said that they make a relatively small contribution to the issue.²⁹ Three submitters believed bike tyres should be

¹⁹ New Zealand Tyre Recyclers & Collectors Association (NZTRACA).

²⁰ Tyre Removals.

²¹ Individual Submitter no.1.

²² Environment and Conservation Organisations of Aotearoa New Zealand Incorporated (ECO). ECO's key criticisms of the proposal have been captured under other headings throughout this document.

²³ Wairua Dairies Limited, Shreemukh Industries, Owen Douglas, Rob Young.

²⁴ Canterbury Mayoral Forum, LGNZ, Far North District Council, Fletcher Concrete & Infrastructure Limited.

²⁵ Canterbury Mayoral Forum.

²⁶ EnviroWaste Services Limited.

²⁷ Waikato District Health Board.

²⁸ LGNZ, Otago Regional Council.

²⁹ OceanaGold, Far North District Council.

included, saying that they are oil-based³⁰ and pose similar risks to the environment,³¹ such as potentially creating hazardous emissions and providing habitats for mosquitos.³²

Proposed volume threshold

Q3: Do you think the proposed volume threshold of 200m³ is appropriate? Why / why not?

This question generated the most discussion from submitters. Responses have been grouped into six key themes, as provided by the headings below.

Threshold is appropriate

- Four submitters noted that, although 200m³ fell below the recommended maximum volume specified in the New Zealand Fire and Emergency draft³³ guidelines for the outdoor storage of tyres, environmental and visual amenity factors made the lower level appropriate.³⁴ One thought that operators wishing to stockpile more than 200m³ would either be dumping tyres or operating a business, in which case obtaining resource consent would not be too difficult but would greatly assist local authorities.
- One submitter believed that, at the proposed level, a tyre shop would be able to organise tyre pickups on a routine basis to comply with the regulations.³⁵
- Three submitters said that this level was suitable and represented a limited fire risk.³⁶

Volume threshold should be set higher than 200m³

- Three submitters considered it would be more consistent to align the volume threshold with 360m³ as specified by the Fire and Emergency draft guidelines.³⁷
- A 360m³ threshold was described as being “substantially higher” than 200m³.³⁸ One submitter reported being “not aware of any scientific evidence supporting justification for 200m³ rather than 360m³.” The submitter was content with the threshold being reviewed if evidence came to light supporting smaller volumes.
- The 360m³ threshold was preferable given that fire risk is a significant risk. A higher level was viewed as more appropriate for businesses storing extra-large and large vehicle tyres given that these take up more storage space.³⁹
- A 200m³ volume might inadvertently capture around 10-15% of New Zealand farmers. A 360m³ volume would reduce, though not eliminate, this occurrence.⁴⁰

³⁰ FV Evans & Sons Limited.

³¹ Canterbury Mayoral Forum.

³² Hawke’s Bay District Health Board.

³³ Fire and Emergency New Zealand has decided not to finalise the guidelines at the current time.

³⁴ Canterbury Mayoral Forum, Bay of Plenty Regional Council, WasteMINZ, LGNZ.

³⁵ Donald Sangster.

³⁶ Owen Douglas, Northland Regional Council, Otago Regional Council (said chemical release from burning tyres would significantly affect air pollution over a relatively large area).

³⁷ Waikato Regional Council, Tyre Removals, OceanaGold, Auckland Council Landfill and Consents.

³⁸ Waikato Regional Council. This sentiment was echoed by Auckland Council Landfill and Consents.

³⁹ OceanaGold (also wanted to ensure recycling programmes would be capable of managing larger tyres).

⁴⁰ Federated Farmers.

- A 200m³ volume would require some tyre processing facilities to obtain resource consent, imposing costs on businesses helping to solve the tyre issue. This could act as a barrier to further private investment in these facilities.⁴¹
- This threshold might stop small town businesses from starting tyre recycling ventures.⁴²

Threshold should be set lower than 200m³

- Two submitters believed the proposed threshold was too high given significant fire risks and the difficulty of extinguishing a fire.⁴³ A lower threshold would improve the ability to quickly deal with a fire, thereby decreasing any public exposure to chemical hazards.
- A lower threshold would reduce the harm caused by leachate, rodents and mosquitoes.⁴⁴ It would be appropriate for areas with a high risk of exotic mosquito incursion.⁴⁵
- The threshold was seen as being too high where it related to stockpiles close to National Grid assets, especially where tyres were stacked in high piles.⁴⁶
- The threshold was seen as too high in relation to shredded tyres, due to the extra bulk.⁴⁷
- Three submitters believed a range of thresholds would be necessary to tailor the regulations to different zoning areas, including sensitive areas (residential, rural residential, open space, conservation, and some commercial zones).⁴⁸ One thought the threshold was too high for coastal areas, unless visual amenity impacts were managed.⁴⁹

Threshold should specify number of stockpiles permissible per property

Eight submitters thought that under the proposed threshold, it could be possible to avoid the regulations by creating numerous discreet stockpiles up to 200m³. Comments included:

- The standard should be applied per property, not per stack.⁵⁰
- Individual farms and businesses may cover many different properties and titles and could potentially have several stockpiles below the volume threshold.⁵¹
- Multiple stockpiles would contaminate more sites.⁵²

⁴¹ Waste Management.

⁴² Tyre Removals.

⁴³ FV Evans & Sons Limited, Waikato District Health Board.

⁴⁴ Waikato District Health Board (recommended one pile up to 100m³ per property.)

⁴⁵ Hawke's Bay District Health Board.

⁴⁶ Transpower.

⁴⁷ Bay of Plenty Regional Council.

⁴⁸ Canterbury Mayoral Forum, Hawke's Bay District Health Board, LGNZ.

⁴⁹ Far North District Council.

⁵⁰ Western BOP RC, Northland Regional Council, ECO, EnviroWaste Services Limited, LGNZ.

⁵¹ Fletcher Concrete & Infrastructure Limited, Federated Farmers (noted that large scale farms, such as those that exist in the Waikato, are often the result of an amalgamation of contiguous or nearby land parcels).

⁵² ECO.

More clarity needed on the threshold

Some submitters believed more information was needed around the:

- number of baled tyres versus laced or loose tyres⁵³
- external dimensions of the pile⁵⁴
- placement of the pile above or below ground.⁵⁵

Other comments on the proposed threshold

- One submitter noted that hazards apply to any quantity of tyres.⁵⁶
- Stockpiles neighbouring existing buildings might not comply with the Building Code.⁵⁷

Discretionary status under the RMA

Q4: Do you agree with the Government's proposal to classify outdoor tyre stores of more than 200m³ as a discretionary activity under the Resource Management Act 1991 (instead of restricted discretionary activity). Why / why not?

Most submitters were comfortable with a discretionary activity classification on the basis that this would give councils a degree of autonomy when considering the effects of stockpiles.

Discretionary status is appropriate

Submitters who believed a discretionary status was appropriate stated:

- This would allow authorities to exercise autonomy, taking the particular characteristics of the site into account and allowing for a full assessment of effects.⁵⁸
- A restricted discretionary status would not give councils enough autonomy.⁵⁹
- Local authorities could cover areas where proposed regulations may not have sufficient depth, or where there were no relevant rules in regional or district plans.⁶⁰
- Councils would have the ability to decline applications.⁶¹
- Councils would be required to consider applications on environmental merit.⁶²

⁵³ Canterbury Mayoral Forum.

⁵⁴ Western BOP Regional Council, Tauranga City Council, LGNZ.

⁵⁵ EnviroWaste Services Limited.

⁵⁶ Paul Douglas.

⁵⁷ Far North District Council.

⁵⁸ Waikato Regional Council, Western Bay of Plenty District Council, Tauranga City Council, Waikato District Health Board, Nelson Marlborough District Health Board, Canterbury Mayoral Forum, LGNZ.

⁵⁹ Donald Sangster, Waikato District Health Board.

⁶⁰ Auckland Council Landfills and Consents team.

⁶¹ Northland Regional Council, Far North District Council.

⁶² EnviroWaste Services Limited.

Discretionary status is inappropriate

Submitters who thought a discretionary status was inappropriate noted:

- A comprehensive list for consent authorities to restrict their discretion to would be adequate and would provide certainty and consistency across the country.⁶³
- Renewing resource consents causes business uncertainty and costs the public.⁶⁴
- The standard was not strict enough.⁶⁵

Related points

One submitter also noted that councils may wish to make the storage of tyres a non-complying or prohibited activity in some areas, such as heritage precincts.⁶⁶ Two submitters believed that tyre reuse should be a permitted activity,⁶⁷ with one saying that indoor stockpiles could still pose economic risks even though environmental risks might be less pronounced.⁶⁸

Activities which could be exempt

Q5: Are you aware of any activities that may involve the storage of tyres outdoors which should be exempt from this proposal? If so, what are they and why should they be exempt?

Opinions diverged as to whether certain activities involving the outdoor storage of tyres should be exempt. The following activities were suggested as those warranting exemptions.

Activities suggested as warranting exemptions

- Tyres used at raceways (tyres sit on concrete and firefighting capability is available);⁶⁹
- As tree protectors from pests (an active use).⁷⁰
- For silage preparation and storage (represents an active use, leachate may be controlled and use is relatively clean and efficient, generally stored in smaller volumes).⁷¹
- Where there is a clear use of tyres for a specific function and there are permanent control provisions, such as firefighting, in place.⁷²
- Tyres stores associated with a lawful tyre processing or recycling facility.⁷³

⁶³ OceanaGold, Federated Farmers, Fletcher Concrete & Infrastructure Limited.

⁶⁴ Tyre Removals.

⁶⁵ ECO.

⁶⁶ Far North District Council.

⁶⁷ Tauranga City Council, Otago Regional Council.

⁶⁸ Tauranga City Council.

⁶⁹ Canterbury Mayoral Forum, LGNZ, Otago Regional Council.

⁷⁰ Canterbury Mayoral Forum.

⁷¹ Federated Farmers, Wairua Dairies Limited, Canterbury Mayoral Forum, Nelson Marlborough District Health Board.

⁷² Otago Regional Council, Canterbury Mayoral Forum.

⁷³ Waste Management (said this should be a permitted activity where located in an appropriate zone).

No activities should be exempt

Submitters who believed that no activities should be exempt wrote that:

- The volume threshold already allowed for legitimate uses. If more tyres were required, operators should be subject to scrutiny to ensure there were no adverse effects.⁷⁴
- All activities should be included for the sake of consistency.⁷⁵
- The chemical composition and heavy metals contained in tyres are always the same.⁷⁶
- Existing lawfully established premises would not be affected anyway.⁷⁷

Direction for consent authorities

Q6: Do you think it is appropriate to provide direction to consent authorities when processing consents in the NES? What do you think of the matters proposed to be considered in table 1?

No submissions indicated that it was inappropriate to provide direction to consent authorities. Submitters believed direction would improve consistency across regions.

Additional matters for consent authorities

Submitters suggested a number of additional matters for consent authorities to consider:

- Mechanisms for the control of leachate.⁷⁸ Mechanisms for the control of stormwater (including avoidance of overland flood paths).⁷⁹
- Separation distances between stockpiles (for sites with more than one stockpile).⁸⁰
- Setback from waterbodies,⁸¹ ports, airports and ground water supplies,⁸² and community drinking water supplies.⁸³
- Control of firefighting runoff.⁸⁴ Access to the site (including for fire services).⁸⁵
- Visual and amenity effects including the need for screening.⁸⁶
- The requirement of a bond.⁸⁷ Submitters suggested possible criteria for any bond required by a council, such as payment for the removal of tyres, gaining resource consents and any necessary site remediation.⁸⁸

⁷⁴ Western BOP Regional Council, Tauranga City Council.

⁷⁵ WasteMINZ.

⁷⁶ Waikato District Health Board.

⁷⁷ Far North District Council.

⁷⁸ Auckland Council Landfill and Consents team, LGNZ.

⁷⁹ Canterbury Mayoral Forum, Western Bay of Plenty Regional Council, Tauranga City Council, LGNZ.

⁸⁰ Waikato Regional Council, LGNZ, Northland Regional Council, Fletcher Concrete & Infrastructure Limited, WasteMINZ, Nelson Marlborough District Health Board.

⁸¹ Auckland Council Landfill and Consents team, Canterbury Mayoral Forum, LGNZ.

⁸² Nelson Marlborough District Health Board, Hawke's Bay District Health Board. ECO (implied).

⁸³ Canterbury Mayoral Forum, LGNZ.

⁸⁴ Auckland Council Landfill and Consents team; Canterbury Mayoral Forum.

⁸⁵ Western Bay of Plenty District Council, Tauranga City Council, LGNZ.

⁸⁶ Western BOP Regional Council, Tauranga City Council, LGNZ.

⁸⁷ Western BOP Regional Council.

- Roof cover requirements (to reduce leaching).⁸⁹ Ground cover requirements.⁹⁰
- Turnover rates or time limits on stockpiles.⁹¹
- Tyres stored for future use to be kept clean and within a confined area.⁹²
- Threshold limits for impacts on the environment under certain exposure conditions.⁹³
- Provisions for the way that tyres are stored (whole, shredded or crumbed).⁹⁴
- Provision for local authorities to retain the discretion to consider section 6 RMA matters, such as effects on sites of significance to Māori.⁹⁵

Additional comments made by submitters

Submitters suggested that explicit reference be made to Fire and Emergency guidelines, and that Fire and Emergency undertake site audits and ensure adequate water supply.⁹⁶ Two submitters believed that the NES could include either guidance or controls for piles less than the 200m³ threshold. One submitter believed that the NES should specify circumstances where notification or limited notification of resource consent would be prevented.⁹⁷

Impact on businesses

Q7: Do you currently store tyres outdoors? If so, how many?

This question only solicited three responses. One submitter stored less than 50 tyres⁹⁸, the volume stored by another is site-specific⁹⁹, and the New Zealand Tyre Recyclers & Collectors Association noted that its members are required to operate in accordance with industry best practice including fire safety. This submitter requested that the NES allow for fluctuations in the market which can result in temporary stockpiles of up to 2000 tyres.¹⁰⁰

Q8: Do you anticipate the introduction of the NES would have either positive or negative impacts for you or your business? If yes, please explain.

Q9: Do you anticipate the introduction of the NES would have a cost impact on you or your business? If yes, please explain.

⁸⁸ LGNZ, Northland Regional Council.

⁸⁹ Waikato Regional Council, Northland Regional Council.

⁹⁰ WasteMINZ.

⁹¹ Fletcher Concrete & Infrastructure Limited, Auckland Council Landfill and Consents team.

⁹² Northland Regional Council.

⁹³ Auckland Council Waste Solutions, ECO (implied).

⁹⁴ Waikato Regional Council, Northland Regional Council, LGNZ, WasteMINZ, ECO (implied). Evidence suggests that the rate at which contaminants leach from tyres increases where tyres are shredded to expose more surface area.

⁹⁵ Far North District Council.

⁹⁶ Waikato Regional Council (guidelines), FV Evans & Sons Limited (audits), Waikato District Health Board (water supply).

⁹⁷ OceanaGold.

⁹⁸ FV Evans & Sons Limited.

⁹⁹ OceanaGold.

¹⁰⁰ NZTRACA.

Positive impacts on businesses

So long as the NES controlled operators that currently gain a commercial advantage by taking environmental shortcuts, one submitter believed it would make a positive impact.¹⁰¹ Another was comfortable with businesses incurring costs and thought impacts would be positive where tyres were containerised.¹⁰²

Negative impacts on businesses

Two submitters described the impacts of the NES on their business as being negative or significantly negative.¹⁰³ Both believed they would be required to obtain further resource consent, creating costs and uncertainties. One felt that the NES ran counter to the Government's investment in schemes to divert tyres from landfill, given that consenting costs might make future development of tyre facilities uneconomic.¹⁰⁴ Three submitters were concerned that councils might develop stricter interpretations of the standard, possibly leading to expensive court cases.¹⁰⁵ One submitter expressed concern around any bonding obligations,¹⁰⁶ another said councils had no basis to request bonds since business owners were taking a risk and third party insurance should cover costs.¹⁰⁷ One reported that any mandatory chain of custody would entail high compliance costs for farmers.¹⁰⁸

Limited or mixed impacts on businesses

Two submitters believed the NES would have no cost impact on businesses, one due to existing land-use rights.¹⁰⁹ Another noted that, whilst businesses would incur labour costs, there would be positive outcomes for transparency and the environment.

Workability of the proposal

Q10: Do you consider the proposal to be workable in practice, that is, would your organisation be able to issue consents, monitor activities, and enforce the proposed NES?

The councils who answered this question agreed that the proposal was workable, saying:

- Councils would not be required to demonstrate adverse environmental impact (difficult due to the slow release of contaminants) before requiring tyre removal.¹¹⁰
- It would be workable subject to certain conditions: guidance on controls and consent duration,¹¹¹ inclusion of legacy sites,¹¹² criteria being easy to apply so as to avoid costly legal challenges,¹¹³ and the development of best practice guidelines.¹¹⁴

¹⁰¹ NZTRACA.

¹⁰² Recycling New Zealand.

¹⁰³ OceanaGold, Waste Management.

¹⁰⁴ Waste Management.

¹⁰⁵ OceanaGold, Waste Management, NZTRACA.

¹⁰⁶ OceanaGold.

¹⁰⁷ Tyre Removals.

¹⁰⁸ Federated Farmers.

¹⁰⁹ FV Evans & Sons Limited, NZTRACA.

¹¹⁰ Bay of Plenty Regional Council.

¹¹¹ Canterbury Mayoral Forum, LGNZ.

Additional conditions that could be mandated

Q11: What additional conditions do you consider should be mandated, if any, by the NES?

A number of responses to question six on the appropriateness of providing direction to consent authorities when processing consents were phrased as requirements and have been recorded here. Additional considerations suggested by submitters related to the scope of the proposed NES, location of tyre stockpiles, documentation and monitoring, and other considerations.

Scope of the proposed NES

- The proposed NES should apply to tyres in all states (whole / chipped / shredded). It should apply to other applications of tyres, such as crumbed rubber.¹¹⁵
- It should apply to tyres stockpiled both above and below ground.¹¹⁶
- The definition of 'tyre storage' should be clarified to explicitly include tyres that have been dumped, disposed of, or stockpiled with no apparent future use.¹¹⁷

Location of tyre stockpiles

- Stockpiles over the proposed volume threshold should be set back from Department of Conservation estate and commercial forestry. Stockpiles should be set back a minimum of 50m from the coastal marine area and freshwater bodies.¹¹⁸
- Stockpiles are set over 30m apart and over 50m from a site boundary.¹¹⁹
- The site should be reasonably accessible to Fire and Emergency services.¹²⁰
- Storage of tyres within 400m of ports should be classed as a prohibited activity, based on the World Health Organization's International Health Regulations 2005 to which New Zealand is a signatory.¹²¹ This would limit the risks of any exotic mosquitos that have entered the country breeding in tyre piles and spreading throughout New Zealand.

¹¹² Northland Regional Council, Waikato Regional Council (said s10 RMA would not apply as existing stockpiles were not lawfully in existence).

¹¹³ Western Bay of Plenty District Council and Tauranga City Council.

¹¹⁴ Far North District Council.

¹¹⁵ Bay of Plenty Regional Council.

¹¹⁶ Waikato Regional Council, LGNZ, WasteMINZ. This would exclude tyres disposed of to landfills.

¹¹⁷ Waikato Regional Council, LGNZ, Auckland Council Landfill and Consents team, Bay of Plenty Regional Council.

¹¹⁸ Northland Regional Council, Canterbury District Health Board.

¹¹⁹ Owen Douglas.

¹²⁰ Northland Regional Council.

¹²¹ Canterbury District Health Board. Under Annex 5 of the International Health Regulations 2005: Specific Measures for Vector-Borne Diseases, states parties are obliged to "establish programmes to control vectors that may transport an infectious agent that constitutes a public health risk to a minimum distance of 400 metres from those areas of point of entry facilities that are used for operations involving travellers, conveyancers, containers, cargo and postal parcels, with extension of the minimum distance if vectors with a greater range are present."

- The location and layout of tyre stockpiles in relation to National Grid assets should be considered in assessment criteria.¹²²

Documentation and monitoring

- All end-of-life tyre transactions should be documented (to encourage compliance within the industry and to expose illegal activity).¹²³
- Monitoring of contaminants in stormwater and ground water should be undertaken.¹²⁴
- Councils able to request data on the volumes of tyres intended to be stockpiled, to compare with actual volumes. Facility operators required to prove a tyre market.¹²⁵
- Licensing should be mandatory (impliedly for tyre facility operators.)¹²⁶

Other considerations

- All stockpiled tyres are containerised.¹²⁷
- Tyres should not be accepted in cleanfills.¹²⁸
- Tyres should be stored on concrete and in piles of no more than 2500 tyres. A fire retardant should be stored in sufficient quantity.¹²⁹

Considerations were suggested for stockpiles below the volume threshold

- Stockpiles are set back 50m from the coastal marine area and freshwater bodies. Piles of shredded or chipped tyres are covered and stored on an impermeable surface.¹³⁰
- It should be possible for councils to recover costs of monitoring permitted activities.¹³¹

Consideration was also given to tyres stored indoors

- A licensing process is implemented for the warehousing of stockpiled tyres.¹³²

¹²² Transpower. This submission made more detailed recommendations about stockpile setback distances from the National Grid. Please see page 22 of this document for more information.

¹²³ Canterbury Mayoral Forum, LGNZ, NZTRACA, FV Evans & Sons Limited(suggested all sites and collectors are registered, have a business plan and are subject to inspections).

¹²⁴ Auckland Council Landfill and Consents team.

¹²⁵ Auckland Council Waste Solutions team.

¹²⁶ Tyre Removals.

¹²⁷ Recycling New Zealand.

¹²⁸ Waikato Regional Council, LGNZ, WasteMINZ, Waste Management (submitted that tyres disposed of to cleanfills risked leaching contaminants into the soil or groundwater).

¹²⁹ Owen Douglas.

¹³⁰ Northland Regional Council.

¹³¹ LGNZ.

¹³² WasteMINZ.

Additional information about impacts

Q12: Do you have any additional information about the impacts from storing tyres on the environment, economy or communities?

One council reported it had received tens of thousands of tyres transferred from other regions.¹³³ Another had hundreds of thousands of tyres stockpiled in its region alone.¹³⁴ A non-council respondent noted that, if a fire broke out in a substantial stockpile, runoff could contaminate neighbouring waterways and the smoke might be visible from outer space.¹³⁵

Timeframe for the proposed NES

Q13: What are your views on the Government’s proposed timeframe for entry-into-force of the NES under part 5 of the RMA?

Views on the proposed timeframe

Of the 14 submitters who responded to this question, 11 supported the timeframe. Submitters thought an early timeframe was necessary and acceptable where the NES applied to new rather than existing sites. Of the two submitters unsatisfied with the timeframe, one felt the timeframe was rather short. Councils could be part-way through second generation plans and end-users of tyres would need to comply before tyre disposal options had become widely available. The other submitter believed regulations should come into effect sooner. One submitter wrote that mid-2018 “seems reasonable but possibly short of time for those with large stores.”

Q14: Are there any issues about the proposed timeframe for entry-into-force of the NES that the Government should consider?

Most submitters did not respond to Q14. Of the submitters that did give substantive answers:

- Five identified legacy stockpiles as an issue. Two believed an additional two-year phase in period for legacy sites would be appropriate.¹³⁶ One noted that reusing tyres may prove uneconomical where removal and transportation costs are high.¹³⁷
- Two raised as an issue the need to develop appropriate documentation.¹³⁸
- One believed that the main issue for New Zealand is fire.¹³⁹
- Two implied that the timeframe could be too short. The first stated that, unless the Ministry’s Regulatory Impact Statement concluded that the suggested timeframe was appropriate, more evaluation was needed.¹⁴⁰ Another echoed this view, saying “more work is needed in matters needing to be specified in the NES – many conditions are technical and there is no point in each council researching this again.”¹⁴¹

¹³³ Bay of Plenty Regional Council.

¹³⁴ Waikato Regional Council.

¹³⁵ FV Evans & Sons Limited.

¹³⁶ Waikato Regional Council, LGNZ.

¹³⁷ Auckland Council landfills team.

¹³⁸ Waikato Regional Council and LGNZ.

¹³⁹ FV Evans & Sons Limited.

¹⁴⁰ OceanaGold.

¹⁴¹ ECO.

Helping stakeholders prepare for the regulations

Q15: Are there ways the Government could help businesses, consumers and local government to prepare ahead of the regulations entry-into-force?

Submitters had a number of ideas about ways in which the Government could support stakeholders. Ideas centred on a government communications plan, including a guidance document (which one submitter requested should address legacy farm dumps), national workshops, and a question and answer forum to allow stakeholders to ask officials questions¹⁴² Most submitters envisaged that government communications should:

- target tyre sellers and recyclers, the automotive industry, local authorities, users storing large quantities of end-of-life tyres, farmers, and consumers of tyres
- explain the new regulations and obligations on different sectors to help tyre users prepare to implement the regulations and to help local authorities interpret and apply the regulations.

Further information

Q16: Do you have any further comments you wish to make about the Government's proposal?

The points that follow are only those which have not been captured elsewhere in this summary.

- Seven submitters thought the proposed NES would work best in conjunction with a product stewardship scheme.¹⁴³
- Four wanted the proposed NES to address legacy stockpiles.¹⁴⁴
- One encouraged the development of complementary schemes such as a tyre refund or incentive payment system.¹⁴⁵ The same submitter noted that biosecurity had not sufficiently been addressed. In addition, the spread of latex should be controlled as people with allergies could suffer anaphylaxis.
- One believed the import of used tyres on second-hand vehicles should be banned, as well as any deliberate destruction of tyres.¹⁴⁶
- One noted that existing district plans should be not be undermined by the proposed NES.¹⁴⁷ One thought it should not be simpler under the NES to dispose of tyres compared with obtaining a landfill consent.¹⁴⁸

¹⁴² Auckland Council Landfill and Consents, Canterbury Mayoral Forum, Bay of Plenty Regional Council, Waikato Regional Council, LGNZ, EnviroServices, NZTRACA, Donald Sangster, WasteMINZ, Auckland Council Waste Solutions, Tauranga City Council, OceanaGold, Northland Regional Council and the Western Bay of Plenty District Council.

¹⁴³ WasteMINZ, Auckland Council Waste Solutions, Bay of Plenty Regional Council, Western Bay of Plenty District Council, Tauranga City Council, NZTRACA, Canterbury Mayoral Forum (supported alignment with product stewardship principles).

¹⁴⁴ Auckland Council Landfill and Consents team, Auckland Council Waste Solutions, Bay of Plenty Regional Council, WasteMINZ. One member of the Canterbury Mayoral Forum wanted existing operators subject to the same standard.

¹⁴⁵ ECO.

¹⁴⁶ Donald Sangster.

¹⁴⁷ Fletcher Concrete & Infrastructure Limited.

- The proposed NES should specifically include cleanfills and landfills.¹⁴⁹
- The proposed NES could establish a secure central database whereby local authorities could share information about consent applications in train and non-compliant operators.¹⁵⁰
- One submitter recommended harsher penalties for offenders who dump tyres.¹⁵¹

Transpower New Zealand Limited submission

Transpower New Zealand Limited (Transpower) wanted to ensure the proposed NES would not adversely affect National Grid assets. Given that this submission related to a specific situation, it has been summarised here separately.

Transpower agreed with the overall rationale for an NES. It suggested amendments to mitigate any adverse effects of tyre stockpiles on the National Grid (New Zealand's high voltage electricity transmission network). The importance of protecting the National Grid from adverse environmental effects is recognised in the National Policy Statement on Electricity Transmission. Transpower submitted photos of tyre stockpiles in close proximity to transmission lines.

In its submission, Transpower noted that tyre stockpiles close to National Grid assets pose risks, including safety risks to the public from electrical hazards caused by reduced clearance between wires and the ground, damage to National Grid assets in the event of a fire with ensuing risks to security of electricity supply, the potential for a circuit flashover caused by smoke from a fire with the same supply risks, and constrained access to National Grid assets.

Transpower was particularly concerned about the height of tyre stockpiles, as well as horizontal separation distance from transmission lines. It requested that:

- assessment criteria for tyre stockpiles over 200m³ consider the location and layout of tyre stockpiles in relation to National Grid assets
- tyre stockpiles <200m³ within 32m of the centreline of a 110kV or lower voltage National Grid transmission line or within 37m of the centreline of a 220kV National Grid transmission line are subject to the same activity status and assessment criteria as tyre stockpiles over the proposed volume threshold
- Transpower is notified by the council of any resource consent application for tyre stockpiles within the 32m and 37m distances
- tyre stockpiles of any size, and any person or object on top of a tyre stockpile, comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances.

¹⁴⁸ Auckland Council Landfill and Consents team.

¹⁴⁹ Bay of Plenty Regional Council.

¹⁵⁰ Auckland Council Waste Solutions.

¹⁵¹ Tyre Removals.

Federated Farmers of New Zealand submission

Federated Farmers of New Zealand (Federated Farmers) requested that the proposed NES exempt tyres stockpiled for silage activity. In its submission, it provided case studies showcasing how tyres are used to weigh down silage covers. Key points made by Federated Farmers on this topic are summarised here.

- The proposed 200m³ volume threshold would inadvertently capture 10-15% of farms, particularly farms with large herd sizes in Southland, Otago, Mackenzie and the Wairarapa. A 360m³ limit would still have significant effects in these regions.
- An average Mackenzie Country sheep/beef station produces up to 4000T of silage a year, using approximately 400m³ of tyres for silage cover. A Wairarapa dairy farm might use around 240m³ of tyres and a Southland dairy farm might have 800-1150m³ of tyres.
- The majority of farmers in other regions would meet the 200m³ volume threshold, although an estimated 40–60 larger farms per region could still be affected.
- The higher the irrigation uptake, the less need there is for silage. In areas where irrigation has become more widespread, tyres are no longer needed to secure silage.
- Silage pits are subject to best practice guidelines and regional council regulation. This includes leachate management, pest management, and proximity to sensitive activities.
- All dairy farmers must conduct vertebrate pest control on their silage stack as part of their milk supply agreement. Other pests, such as rodents, are actively controlled.
- Tyres waiting to be reused as silage covers are often, but not always, placed in long thin piles alongside silage pits, which mitigates the fire risk.
- Alternative silage cover materials have not proven as effective as tyres.
- Farmers and contractors wish to be able to access safe, economical and appropriate disposal methods for tyres once tyres are no longer needed as silage weights.

Conclusion

The vast majority of the submissions received agreed with the Government's proposal to develop an NES for the outdoor storage of tyres.

Submitters were generally satisfied with the scope of the regulations, the timeframes proposed and the discretionary status proposed for the standard.

Submitters requested that the proposal be refined by clarifying the volume threshold and considering other matters on which direction could be provided to local authorities and what other conditions could be mandated.

Submitters held a variety of views on whether any activities should be exempted from the regulations.