

# National Environmental Standards for Storing Tyres Outdoors

Evaluation report under section 32 of the Resource Management Act 1991



Ministry for the  
**Environment**  
*Manatū Mō Te Taiao*

New Zealand Government

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# Introduction

This report provides a section 32 evaluation for the proposed National Environmental Standards for Storing Tyres Outdoors (NES-STO or proposal). The Ministry for the Environment (the Ministry) has undertaken this evaluation, which has been prepared in accordance with section 32 of the Resource Management Act 1991 (RMA).

The report is structured in two parts.

## **Part 1 – Overview of the evaluation**

Part 1 provides background to the NES-STO, the purpose of the section 32 evaluation and the legislative requirements for section 32 evaluations and national direction under the RMA. It explains the approach used to undertake the section 32 evaluation for the NES-STO and includes an assessment of the scale and significance of the environmental, economic, social and cultural effects anticipated from the proposal's implementation.

## **Part 2 – Evaluation of the proposal**

Part 2 provides an evaluation of the NES-STO and is structured as follows:

- overview of relevant statutory and policy context that has informed the proposal
- overview of problems and resource management issues the proposal seeks to address
- assessment of the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA
- assessment of whether the provisions are the most appropriate way to achieve the objectives by:
  - identifying reasonably practicable options for achieving the objectives
  - assessing the benefits, costs, effectiveness and efficiency of the options and associated provisions, and the risks of acting or not acting where there is uncertain or insufficient information
- an overall conclusion summarising the reasons for the proposal.

# Executive summary

## National Environmental Standards for Storage of Tyres Outdoors

The storage of end-of-life tyres outdoors can pose significant adverse environmental and human health risks that are not effectively regulated under the Resource Management Act 1991 (RMA) at present. The storing and stockpiling of tyres no longer suitable for use on vehicles or equipment is increasing each year, and few options are available for reusing or recycling tyres once they reach the end of their usable life. This means end-of-life tyres are typically stored outdoors, because this is the most cost-effective solution, resulting in large volumes of tyres accumulating over time.

Effective regulation is currently lacking under the RMA to manage the adverse environmental effects and risks associated with outdoor tyre storage. Regional councils and territorial authorities have the ability to introduce plan rules for outdoor tyre storage under the RMA, but few regional or district plan rules specifically focus on outdoor tyre storage. The lack of specific provisions is preventing the effective management of this issue in some circumstances and regions. This is limiting the ability of councils to undertake effective and efficient compliance, monitoring and enforcement to address the risks posed by unmanaged outdoor tyre storage.

To address these issues, the Minister for the Environment proposes to introduce the National Environmental Standards for Storing Tyres Outdoors (NES-STO), pursuant to sections 43 and 43A of the RMA. The policy objectives of the NES-STO are to:

- (a) ensure the risks of harm to the environment, human health and local communities from outdoor tyre storage are appropriately managed
- (b) support more consistent management practices across New Zealand, filling gaps in regulatory settings that create incentives to move tyres between regions.

The NES-STO has been refined since it was originally consulted on in 2017, to ensure its provisions (rules and conditions) are efficient, effective and achieve the policy objectives by:

- providing nationally consistent rules that address the current regulatory gap in outdoor tyre storage rules nationally and removing incentives for transfer of tyres to regions with more favourable storage provisions
- establishing rules that permit all storage of tyres outdoors below 20 cubic metres (m<sup>3</sup>) and allow a permitted pathway for tyre piles 20 m<sup>3</sup> or more but less than 100 m<sup>3</sup>, provided specific conditions are complied with to manage the location, height and proximity of tyre piles to sensitive environments. This also includes exemptions from the upper volume thresholds for activities that have a legitimate need to store larger volumes of tyres on-site, for example, farmers storing tyres for use on silage stacks
- requiring resource consent for larger stockpiles of tyres 100 m<sup>3</sup> and above, in recognition of the increased environmental risks associated with larger volumes of tyres, or for tyre piles where permitted conditions are not complied with.

## Section 32 evaluation of the NES-STO

This report provides an evaluation of the NES-STO in accordance with section 32 of the RMA. Section 32 requires an evaluation of a proposal (including a proposed national environment standard) to determine whether:

- the proposal's objectives are appropriate to achieve the purpose of the RMA; and
- the proposal's provisions are the most appropriate to achieve those objectives based on an assessment of efficiency, effectiveness, benefits, costs and risks.

Several reasonably practical options were considered to achieve these policy objectives. The evaluation found that a National Environment Standard (NES) is the most appropriate option because the relatively narrow scope of the issue warranted a clear and targeted set of provisions rather than higher level policy guidance. An NES was found to be the most effective and certain option to provide greater national consistency, remove unwarranted variation and deliver economic and environmental benefits for both councils and the community.

The main findings of this evaluation are as follows.

### Policy objective

The policy objectives of the NES-STO are considered to be the most appropriate to achieve the purpose of the RMA.

The first policy objective seeks to appropriately manage the risks of harm to the environment, human health and local communities from outdoor tyre storage, consistent with the environmental directives in Part 2 of the RMA.

The second policy objective directly responds to a nationally important resource management issue, supporting consistent management practices across New Zealand with respect to storing tyres outdoors to avoid incentivising the movement of tyres between regions.

The combined policy objectives aim to achieve greater certainty and efficiency in the management of tyre piles stored outdoors under the RMA. This will enable councils to better respond to environmental risks and give certainty to tyre businesses to support their economic wellbeing, consistent with section 5(2) of the RMA.

### Effectiveness and efficiency assessment

The evaluation found that the NES-STO provisions will be 'effective' for maintaining or improving environmental outcomes and increase certainty in the management of outdoor tyre piles under the RMA. In particular, lowering the application of the NES-STO threshold to 20 m<sup>3</sup> would mean most potentially problematic tyre piles would be consistently regulated at a national level. This is the most likely option to reduce the risks that tyre piles present to the environment, human health and communities. An NES approach was also considered to be the most effective way to remedy the regulatory gap in regional plan rules for outdoor tyre storage and would have the benefit of addressing the issue of legacy stockpiles because section 20A, covering existing use rights for regional activities, would apply.

The evaluation also found that the NES-STO provisions will be 'efficient', based on an assessment of the benefits and costs anticipated from the implementation of the provisions. In particular, the NES-STO is a relatively straightforward regulatory solution that will be the most efficient way to address the regulatory gap and avoid the need for councils to develop their own rules. It provides regulatory certainty for businesses and land owners who need to store tyres outdoors and gives a clear framework within which regional councils can monitor compliance and enforce provisions when necessary. Costs associated with both applying for and processing resource consents are expected to be low because the rule regime is relatively simple to administer, and applicants are not required to provide extensive input from experts to complete their applications. It is anticipated that many businesses and property owners storing tyres will be able to comply with the permitted activity conditions, avoiding the need for a resource consent application and associated costs. Monitoring costs also expected to be minimal given the low numbers of resource consents anticipated.

### **Risks of acting where information is uncertain or insufficient**

The evaluation found that, at present, insufficient information is available to confirm the scale of outdoor tyre storage and the actual impact this is having on the environment at the national, regional and local level. Enough evidence is available, however, from local authorities showing there are issues with tyre piles and difficulties with addressing the environmental, human health and community effects to justify implementing a regulatory solution. The risks of acting, despite acknowledged information gaps, are considered to be low, particularly when considered against the 'do nothing' status quo option.

### **Summary**

Overall, this evaluation has shown that the NES-STO policy objectives are the most appropriate to achieve the purpose of the RMA. The NES-STO provisions will be effective and efficient to maintain or improve the environmental outcomes associated with the storage of tyres outdoors, while increasing efficiency and certainty in the management of these activities under the RMA.

# Part 1 – Overview

## Purpose of report

The report provides an evaluation of the proposed National Environmental Standards for Storing Tyres Outdoors (NES-STO) in accordance with section 32 of the Resource Management Act 1991 (RMA). The NES-STO will provide nationally consistent rules and standards for the storage of tyres outdoors to address the risks this can pose to the environment, human health and communities. The NES-STO provisions target the storage of end-of-life tyres, which are used tyres that are not or cannot be reused for their originally intended purpose, and are not retreaded.

End-of-life tyres stored outdoors can present particular risks to the environment when they are stockpiled and poorly managed, and these risks can be significant in the event of a fire. The current RMA framework does not address these environmental risks adequately, and the proposed NES-STO seeks to address the current regulatory gap in the management of outdoor tyre storage under the RMA.

The proposed NES-STO was prepared in accordance with sections 43 to 44 and 46A of the RMA, which set out the legislative requirements for National Environmental Standards (NES). Before recommending an NES to the Governor-General, the Minister for the Environment (the Minister) is required to prepare an evaluation report under section 32 of the RMA and have particular regard to that evaluation when deciding whether to recommend that standard (section 44(1)(b) and (c)). The legislative requirement to prepare section 32 evaluations under the RMA is to ensure all proposals are the most appropriate way to achieve the purpose of the RMA and that the provisions in the proposal are the most effective and efficient way to achieve the objectives. This report fulfils this legislative requirement.

## Background

In 2017, the Government consulted on a proposed NES for Outdoor Storage of Tyres (2017 NES). Thirty-five submissions were received on the 2017 NES, most of which were supportive of the proposal in principle. However, submissions identified several issues with the proposal. In particular, concerns were raised that the proposed threshold for resource consent (200 cubic metres (m<sup>3</sup>)) was too high and that the proposal did not adequately address the risks of smaller volumes of tyres.

The Ministry subsequently undertook further analysis and research to address issues identified with the 2017 NES. This led to the development of the proposed NES-STO. Consultation on the proposed NES-STO was undertaken from 25 February to 8 April 2020. Fifty submissions were received on the proposed NES-STO, with stakeholders generally supportive of the intent of the proposal and proposed changes from the 2017 NES.<sup>1</sup> Significant changes in the proposed NES-STO include changing responsibility for implementation from territorial authorities to regional

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<sup>1</sup> Further information on issues raised in submissions and recommendations can be found in Ministry for the Environment. 2020. *A Proposed National Environmental Standard for the Outdoor Storage of Tyres: Report on submissions and recommendations*. Wellington: Ministry for the Environment.

councils, introducing a permitted activity rule, reducing the resource consent threshold (from 200 m<sup>3</sup> to 100 m<sup>3</sup>), and introducing an exemption from the discretionary activity rule for farm silage tyres and businesses where the primary activity is the supply or servicing of tyres.

## Purpose and scope of the proposal

Around 4 million used car tyres and 1 million used truck and other tyres are generated annually in New Zealand, and the total number of tyres entering New Zealand each year is increasing. This is generating a large number of 'end-of-life' tyres. End-of-life tyres include all air-filled tyres for cars, motorcycles, trucks, buses, off-road vehicles, aircraft and so on, and certain solid tyres, such as forklift tyres. In New Zealand, truck tyres and larger tyres are retreaded (it is not currently commercially economical to retread car tyres). Some large, industry-specific tyres are retreaded several times. Once tyres can no longer be retreaded they are considered to be end-of-life tyres.

As noted, storing and stockpiling tyres outdoors can pose risks to the environment, human health and communities, particularly from toxic smoke and contaminated liquid discharged in the event of a fire or when leachate from stored tyres contaminates land or water bodies. Most end-of-life tyres are stockpiled outdoors because the market is limited for resource recovery of tyres once they reach the end of their usable life and it is more expensive to store these tyres indoors. As a consequence, end-of-life tyres accumulate and the incentives are to dispose tyres in the cheapest way possible.

Effective regulation is currently lacking under the RMA to manage the adverse environmental effects and risks associated with outdoor tyre storage. Regional councils and territorial authorities have the ability to introduce plan rules for outdoor tyre storage under the RMA to address effects that fall within their respective RMA functions. However, plan rules that specifically focus on outdoor tyre storage are absent. This is preventing the effective management of the issue in some circumstances and regions and limiting councils' ability to undertake effective and efficient compliance, monitoring and enforcement (CME) to address the risks posed by unmanaged outdoor tyre storage.

The NES-STO seeks to address this regulatory gap through introducing nationally consistent rules and standards to manage outdoor tyre storage. The objectives of the NES-STO are to:

- (a) ensure the risks of harm to the environment, human health and local communities from outdoor tyre storage are appropriately managed
- (b) support more consistent management practices across New Zealand, filling gaps in regulatory settings that create incentives to move tyres between regions.

The NES-STO seeks to achieve this through nationally consistent rules and standards that apply to the storage of tyres outdoors in any volume greater than 20 m<sup>3</sup> within a property.<sup>2</sup> The NES-STO is based on the following thresholds with specified exemptions.

- **Outdoor tyre storage less than 20 m<sup>3</sup>** – is a permitted activity and not subject to any permitted activity conditions.

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<sup>2</sup> Property is defined in the NES-STO as: "property means – (a) an allotment; or (b) 2 or more allotments taken together, if the allotments are adjacent to each other and owned or managed by the same person".

- **Outdoor tyre storage 20 m<sup>3</sup> or more but less than 100 m<sup>3</sup>** – is a permitted activity subject to compliance with general conditions (regulation 11) controlling the height of tyre storage and proximity to sensitive areas through minimum setback distances. Non-compliance with the permitted activity conditions will require resource consent as a restricted discretionary activity. A restricted discretionary activity status means the consent authorities' power to grant or decline a consent or impose conditions is restricted to the matters over which direction is restricted to (as set out in regulation 13 of the NES-STO).
- **Outdoor tyre storage 100 m<sup>3</sup> and greater<sup>3</sup>** – resource consent is required as a restricted discretionary activity. Discretion is restricted to the matters set out in regulation 13 of the NES-STO.

Regional councils are responsible for implementing the NES-STO in accordance with section 44A(7) and section 44(8) of the RMA. These sections require regional councils to observe the NES and enforce that observation to the extent that their powers enable them to do so. Regulation 14 of the NES-STO allows rules and bylaws to be more stringent as follows:

- regional rules, where these give effect to other national direction instruments
- district rules
- bylaws made by regional councils or territorial authorities.

Regulation 15 of the NES-STO enables regional councils to charge for the monitoring of permitted activities under the NES-STO in accordance with section 43A(8) of the RMA.

## Regulatory impact statement

In addition to this section 32 evaluation, a regulatory impact assessment has also been undertaken by the Ministry for the proposal. The assessment and associated regulatory impact statement (RIS) have been prepared to support Ministerial and Cabinet consideration of the regulatory proposals contained in the NES-STO. In contrast to this report, the RIS focuses on the overall policy package, provides a high-level summary of the problem(s) to be resolved, the options to address them along with their associated costs and benefits, the consultation undertaken and the proposed arrangements for implementation and review.

The RIS is available on the Ministry's website

<https://environment.govt.nz/publications/regulatory-impact-statement-nes-for-outdoor-storage-of-tyres/> and should be read in conjunction with this report.

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<sup>3</sup> The 100 m<sup>3</sup> maximum threshold for a permitted activity has three exceptions: 1) storing tyres that are new or newly retreaded and are stored for the purpose of a business whose activities include the supply or servicing of new or newly retreaded tyres; 2) storing tyres awaiting retreading that are stored on a property that is owned or leased by the business that will undertake the retreading; and 3) the tyres are stored for use as weights to weigh down covers on silage stacks. These exempt activities are able to store more than 100 m<sup>3</sup> of tyres as a permitted activity, provided they can comply with the general conditions in regulation 12.

## Requirements under section 32

The overarching purpose of section 32 of the RMA is to ensure all proposed statements, standards, regulations, plans or changes are robust, evidence-based and are the most appropriate, efficient and effective means to achieve the purpose of the RMA. Section 5 sets out the purpose of the RMA, to “promote the sustainable management of natural and physical resources”, with sustainable management further defined in section 5(2) as:

Managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
- (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

In achieving this purpose, all those exercising functions and powers under the RMA are required to:

- recognise and provide for the matters of national importance in section 6
- have particular regard to other matters in section 7
- take into account the principles of Treaty of Waitangi (Te Tiriti o Waitangi) (section 8).

Sections 6 to 8 of the RMA are set out in full in the [appendix](#).

Sections 44(1)(b) and 44(1)(c) of the RMA require the Minister to prepare and have regard to an evaluation report prepared in accordance with section 32 of the RMA before deciding whether to recommend any proposed NES to the Governor-General. Section 32(1) of the RMA states that evaluation reports required must:

- (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and
- (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—
  - (i) identifying other reasonably practicable options for achieving the objectives; and
  - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
  - (iii) summarising the reasons for deciding on the provisions; and
- (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

When assessing the efficiency and effectiveness of the provisions in achieving the objectives of the proposal, section 32(2) of the RMA requires that the assessment:

- (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—

- (i) economic growth that are anticipated to be provided or reduced; and
- (ii) employment that are anticipated to be provided or reduced; and
- (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and
- (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

## National environment standards

NESs are regulations prepared in accordance with sections 43 to 44 and 46A of the RMA. NESs can prescribe technical and non-technical standards, methods or other requirements relating to land use and subdivision, use of the coastal marine area and beds of lakes and rivers, water take and use, and the discharge of contaminants.

NESs can apply nationally or within a specified part of New Zealand (section 43(4)). Under section 43A(1) of the RMA, NES may:

- (a) prohibit an activity
- (b) allow an activity
- (c) restrict the making of rules and granting of resource consents to matters specified in the standards
- (d) require a person to obtain a certification that an activity complies with the standards
- (e) specify the effect of the standards on existing rules
- (f) require local authorities to review existing permits or resource consents as soon as practicable or within specified timeframes.

Where an NES allows an activity, section 43A(6) enables an NES to specify whether the activity is:

- (a) a controlled activity and state the matters over which control is reserved
- (b) a restricted discretionary activity and state the matters over which discretion is restricted
- (c) a discretionary activity
- (d) a non-complying activity.

Every local authority and consent authority must observe an NES and enforce the observation of that NES, to the extent that their powers enable them to do so (sections 44A(7) and 44A(8)). NESs typically set out the functions of regional councils and territorial authorities in relation to the regulations to clarify their respective implementation requirements. Local authorities must also identify where a rule in their plan conflicts with or duplicates a provision in an NES and amend their plans to remove that duplication or conflict (section 44A(1)–(5)).

Before recommending an NES to the Governor-General, the Minister must comply with the following requirements under section 44(1):

- (a) comply with section 46A(3)
- (b) prepare an evaluation report for the standard in accordance with section 32
- (c) have particular regard to the evaluation report when deciding whether to recommend the making of the standard

- (d) publicly notify the report and recommendation made under section 46A(4)(c) or section 51(2), as the case requires (the report on submissions and recommendations).

Sections 43 to 44A are set out in full in the [appendix](#).

## Approach to evaluation

### Methodology

A structured approach to evaluating the proposed NES-STO has been applied, to ensure a consistent and proportionate assessment of the proposal. The approach to evaluating the NES-STO broadly comprises the following elements:

- analysing the relevant regulatory and policy context, including interactions with other national direction instruments
- identifying and analysing the relevant resource management issues relating to the topic and the problems the proposal seeks to address
- assessing the scale and significance of the anticipated environmental, economic, social and cultural effects anticipated from the implementation of the proposal
- evaluating the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA
- evaluating whether the provisions of the NES-STO are the most appropriate to achieve the objectives by:
  - identifying other reasonably practicable options for achieving the objectives
  - assessing the efficiency and effectiveness of the provisions in achieving the objectives (including an assessment of benefits, costs, risks)
  - summarising the reasons for deciding on the provisions.

### Scale and significance

Under section 32(1)(c) of the RMA, evaluation reports must:

Contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

In light of this requirement, table 1 provides an assessment of the scale and significance of the effects anticipated from the proposal against selected criteria.

**Table 1: Assessment of the scale and significance of the proposal**

Criteria	Assessment
<p><b>Relate to a matter of national importance or of significance in terms of the Treaty of Waitangi (Te Tiriti o Waitangi)</b></p>	<p>The proposal does not impede the ability of Māori to have a relationship with their ancestral lands, water and taonga or to exercise protected customary rights. The establishment of a regional regulatory framework is intended to reduce contamination risks associated with stockpiling tyres outdoors. Alongside the product stewardship scheme, the framework demonstrates a more active protection of the natural environment and Māori interests therein than the status quo.</p> <p>Two submissions were received from iwi on the proposed National Environmental Standards for Storing Tyres Outdoors (NES-STO) indicating support for the lower 100 m<sup>3</sup> threshold (compared with a higher 200 m<sup>3</sup> alternative) and the proposed permitted activity rule. This suggests a general preference for the more stringent requirements in the NES-STO compared with the 2017 National Environmental Standards for Outdoor Storage of Tyres (2017 NES).</p> <p>The NES-STO rules and standards do not deal with the cultural effects of outdoor tyre storage, meaning regional and district plans can continue to address these effects in accordance with section 43A(5)(b) of the Resource Management Act 1991 (RMA). This means, for example, that the proposed NES-STO will not affect how sites of significance to iwi and Māori, including wāhi tapu, are currently managed under the RMA. Local authorities also retain the ability to impose more stringent rules than the NES-STO if this is deemed necessary in their region or district, iwi and Māori will have the ability to be involved in the development of any such rules through the Schedule 1 process. As such, the proposal is assessed as having <b>low significance</b> in terms of Te Tiriti o Waitangi.</p>
<p><b>Relate to a matter that affects or potentially affects any structure, feature, place or area of national significance</b></p>	<p>Storing and stockpiling tyres outdoors pose a risk of harm to the environment through the discharge of contaminants, fire risk (a low probability event with the potential for significant adverse effects), visual and amenity effects, and pests. Outdoor tyre storage therefore has the potential to adversely affect structures, features, places and areas of national significance where current protections are inadequate to deal with outdoor tyre storage within or in close proximity to these places and areas.</p> <p>The likelihood of outdoor storage of tyres adversely affecting structures, features, places and areas of national significance is, however, low, both under the status quo and with the implementation of the proposal. This is because end-of-life tyres are generally stored and stockpiled in areas less visible to the public, such as more remote rural and industrial sites. Storing tyres near or within a structure, feature, place or area of significance is likely to attract a high-level of interest and concern from members of the public and could contravene underlying plan rules protecting the place or area (eg, rules relating to registered historic heritage sites). Although few plans specifically regulate outdoor tyre storage as an activity (either at a regional or district level), a proposal for a tyre stockpile in close proximity to a protected feature or place would still likely require consent under the rules designed to protect these areas. As such, tyre collectors are logically incentivised to avoid stockpiling tyres near or within structures, features and areas of national significance.</p> <p>Accordingly, the proposal is assessed as having <b>low significance</b> in terms of the potential effects on structures, features, places and areas of national significance.</p>

Criteria	Assessment
<p><b>Is required to maintain or enhance New Zealand’s interests and obligations concerning aspects of the national or global environment</b></p>	<p>The proposal is not directly related to any of New Zealand’s obligations in relation to the national or global environment. It will, however, help to solve the wider problem of managing and disposing of end-of-life tyres in New Zealand and help create a circular economy for tyres. The main initiative in this respect is the regulated product stewardship of tyres through the Waste Minimisation Act 2008 (WMA). Regulated product stewardship aims to make industry responsible for managing the whole-of-life environmental impacts of tyres. Tyres have been identified as one of the six priority products for regulated product stewardship under the WMA, which was subject to public consultation in 2019. The NES-STO will complement the work being done under the WMA by ensuring the environmental effects associated with outdoor tyre storage are managed in a nationally consistent manner, which is an important part of the tyre life cycle.</p> <p>Overall, the proposal is assessed as having <b>low significance</b> in relation to New Zealand’s interests and obligations in relation to the national or global environment. It will help support New Zealand’s wider interests and initiatives relating to waste minimisation and transitioning to a circular economy but is not required to meet any obligations in relation to the national or global environment.</p>
<p><b>Is required to resolve an issue that is localised or affects or potentially affects more than one region</b></p>	<p>Limited information is available on the extent of the problem of outdoor tyre storage within New Zealand and much of the evidence is anecdotal in nature. It is clear, however, from available evidence that this issue affects more than one region. For example, feedback from regional councils in 2019 indicated that outdoor tyre storage is a significant issue in four regions (Auckland, Waikato, Bay of Plenty and Canterbury) but is not in others (4Sight Consulting, 2019). Feedback from submitters in 2017 and 2020 has also confirmed that outdoor tyre storage is an issue in more than one region, although the scale of the issue remains unclear.</p> <p>No regional plans, and few district plans, have specific provisions relating to outdoor storage of tyres. A lack of specific plan provisions means the effectiveness of current regulatory approaches to manage the adverse effects of outdoor storage of tyres varies across the country. The proposal addresses this gap in the regulatory framework and provides a nationally consistent approach to address an issue that affects more than one region. This will help ensure the adverse environmental effects of outdoor tyre storage are more consistently managed throughout the country and provide more certain environmental outcomes.</p> <p>A nationally consistent approach is also important because anecdotal evidence provided by councils indicates that tyres are often transported from region to region when enforcement action by a council is taken or threatened (4Sight Consulting, 2019). Imposing the same rules in every region reduces the potential incentives to move outdoor tyre storage to a different region to avoid enforcement action.</p> <p>Overall, the proposal addresses an issue that affects more than one region but is not a significant issue in most regions. As such, is it assessed as having <b>low–moderate significance</b> in relation to this criterion.</p>

Criteria	Assessment
<p><b>Is required to resolve an issue that is of significance to or could impact on the nation due to its scale or the nature or degree of uncertainty or change to a community or to natural and physical resources</b></p>	<p>As discussed above, information is limited on the number of outdoor tyre storage piles nationally and the potential impacts they are having on natural and physical resources and communities within each region. This absence of information can be attributed to several factors, including a lack of proactive compliance monitoring of outdoor tyre storage at the local level and the fact that tyre collectors are indirectly incentivised to store tyres in areas less visible to the public and regulators.</p> <p>While evidence is lacking as to the scale of the problem, the potential adverse environmental effects from outdoor tyre storage can be significant in the event of a fire. For example, significant tyre fires have occurred in New Zealand, including one in Rolleston, Christchurch on 17 May 2020, two fires in three years at an illegal stockpile on a racecourse in rural Amberley in Canterbury (fires were lit in February 2018 and in January 2021, both the result of arson), and an accidental tyre fire on a farm in Taranaki. These fires resulted in significant adverse effects on the surrounding area from tyre smoke and run-off. Therefore, although the risk of tyre fires occurring is low, they are ‘low frequency, high impact’ events that can cause significant environmental effects when they occur.</p> <p>Overall, the proposal is assessed as being of <b>low significance</b> in terms of its potential impact on the nation due to its scale and degree of change. The proposal addresses adverse effects that are primarily local in nature rather than an issue that could impact on the nation at large. However, the scale of adverse effects affecting the local environment and community from outdoor tyre storage can be a significant issue in certain circumstances, as highlighted by the recent examples of significant tyre fires.</p>
<p><b>Involves a minor or major change to the current situation (the status quo)</b></p>	<p>Specific regional or district plan provisions to deal with outdoor tyre storage are currently lacking, and councils take variable approaches to compliance, monitoring and enforcement of unauthorised outdoor tyre storage. Feedback from regional councils suggests that outdoor tyre storage is not proactively monitored or enforced within regions, and councils often rely on the general enforcement provisions in the RMA to deal with outdoor tyre storage if necessary (4Sight Consulting, 2019).</p> <p>The proposal introduces new consenting and compliance monitoring functions for regional councils in relation to outdoor tyre storage over 20 m<sup>3</sup> within a property. The proposal is expected to result in more resource consents for outdoor tyre storage, compared with under existing plan provisions, although this is not expected to be significant and will vary considerably between regions. It will also require regional councils to more proactively monitor outdoor tyre storage through the general requirements in section 44A(7) and (8) of the RMA to observe an NES and enforce that NES to the extent that their powers enable them to do so. They will be able to recover their compliance monitoring costs both for tyre storage that requires a resource consent under the proposal and tyre storage that is a permitted activity under the proposal.</p> <p>Overall, the proposal introduces a more stringent regime for outdoor tyre storage than the status quo and imposes new consenting and compliance monitoring requirements for regional councils. As such, the magnitude of change anticipated from the proposal, compared with the status quo, is assessed as being of <b>low–moderate significance</b>.</p>
<p><b>Is likely to have a major impact on private property interests or associated compliance and/or administrative costs</b></p>	<p>The proposal introduces rules and permitted activity conditions for outdoor tyre storage that will affect property interests and businesses in different ways. The impacts on businesses and land owners who store tyres outdoors will vary based on their existing practices, the size of the operation and the environment they operate in.</p>

Criteria	Assessment
	<p>The groups most affected by the proposal will be end-of-life tyre collectors, processors and recyclers. Most of this sector would likely store volumes of tyres over the restricted discretionary activity resource consent threshold of 100 m<sup>3</sup> and would need to obtain a resource consent from the relevant regional council. However, the consenting costs (and monitoring costs likely recovered by the regional council) incurred under the proposal are not expected to have a major impact on these businesses. The NES-STO regulations are relatively straightforward and should generally not require expert input to apply for resource consent applications. Additional costs may be incurred if measures such as security fences, construction of impermeable platforms and so on are required, but these costs are not seen as unreasonable in the context of achieving best practice tyre storage.</p> <p>The impacts are not expected to be significant for tyre businesses that are already following appropriate management practices. A well-managed site would typically store tyres on an impervious surface with security against unauthorised access. It would ensure appropriate spacing between large tyre piles and would store tyres away from any water bodies or sensitive areas on-site. Many responsible businesses will have at least some of these measures in place already, whereas those stockpiling tyres would not. The implementation guidance for the proposal will also outline appropriate methods to store tyres outdoors, to help ensure consent conditions imposed under the proposal are appropriate and do not impose undue compliance costs on businesses. As such, although a cost may be involved for tyre businesses to obtain a resource consent if they store tyres over the permitted threshold, few practical implementation costs will be incurred, if businesses are already managing the site well.</p> <p>The implementation costs will fall primarily on regional councils, which will have the responsibility to implement and enforce the NES in accordance with sections 44A(7) and 44A(8) of the RMA. Resource consent processing and monitoring costs will be recoverable, and the proposal empowers regional councils to charge for monitoring activities that are permitted under the NES (section 43A(8) of the RMA). These costs would primarily be recovered from tyre collectors and other businesses with volumes of tyres stored outdoors over the discretionary activity resource consent threshold of 100 m<sup>3</sup>. The administrative and implementation costs for regional councils are therefore expected to be relatively minor and not have a major impact on consenting and compliance resources.</p> <p>A possible risk in response to the NES-STO is the short-term increase in dumping and abandonment of end-of-life tyres. The costs associated with this would fall on land owners and regional councils. This risk is mitigated by the expectation of a regulated product stewardship scheme starting in 2022 that will incentivise demand for end-of-life tyres.</p> <p>The proposal includes exemptions from the restricted discretionary activity volume threshold for storing tyres where the primary business is the supply or servicing of new or retreaded tyres, and for tyres used for silage stacks. This will help to mitigate the potential impacts of the proposal on businesses and farmers storing tyres for a legitimate purpose.</p> <p>Overall, the impact of the proposal on private property interests and associated compliance costs is assessed as being of <b>low significance</b>, and the administrative costs for regional councils are also assessed as being of <b>low significance</b>.</p>

Based on this assessment, the scale and significance of the environmental, economic, social and cultural effects anticipated from the proposal are considered to be **low** for the following reasons.

- Although outdoor tyre storage is not a significant issue in most parts of the country at present, it poses a significant issue in isolated cases with localised effects. It is also a 'low risk, high impact' issue with respect to outdoor tyre fires. Because outdoor stockpiles of tyres have the potential to be established in any region across New Zealand, it warrants a nationally consistent approach to managing these risks, to ensure tyre stockpiles are not moved between regions to avoid stronger regulations in certain areas.
- The implementation requirements and associated administrative costs for regional councils are not expected to be significant and are consistent with councils' standard RMA consenting, compliance monitoring and enforcement functions.
- The permitted activity conditions, thresholds for resource consent and exemptions will ensure the impacts on legitimate tyre businesses and farmers storing tyres for use on silage stacks are low.
- The proposal is not required to meet any obligation in relation to the national or global environment.
- The proposal is expected to have limited impact on any structure, feature, place or area of national significance.
- The proposal has low significance in terms of Te Tiriti o Waitangi.

Consequently, this evaluation report provides a corresponding level of detail when assessing the objectives and provisions in the proposal.

## Quantification of benefits and costs

Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs (environmental, economic, social and cultural) of a proposal are quantified. The requirement to quantify benefits and costs **if practicable** recognises it is often difficult and, in some cases, inappropriate to quantify certain costs and benefits through section 32 evaluations, particularly those relating to non-market values. Accurately quantifying the costs and benefits of provisions is particularly challenging for national direction because the costs and benefits of the provisions typically vary regionally and locally due to various factors (eg, existing provisions, implementation approach). Where quantified and/or monetised benefits and costs are included in a section 32 evaluation, it is important to clearly communicate all underlying assumptions and limitations and where information is insufficient or uncertain on the provisions.

As outlined above, the scale and significance of the effects anticipated from the implementation of the proposal have been assessed as low. Therefore, specific quantification of the benefits and costs of the provisions is not considered to be necessary for this evaluation report. It is also not practicable, given the uncertainties about the scale and extent of outdoor tyre storage in New Zealand, the environmental effects this is having at the regional and local level, and how tyre storage may change in the future in response to related waste initiatives to improve markets for end-of-life tyres (discussed further below). Rather, this evaluation report seeks to accurately describe the environmental, economic, social and cultural benefits and costs anticipated from the provisions in a qualitative manner. It also aims to assess how the proposal will affect different parties (regulators, businesses, communities and so on).

# Part 2 – Evaluation of the proposal

## Statutory and policy context

### Part 2 of the Resource Management Act

A fundamental requirement for any evaluation report under section 32 is an assessment of whether the proposal is the most appropriate to achieve the purpose and principles in Part 2 of the RMA. Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources. To achieve this purpose, all those exercising functions and powers under the RMA (including the Minister) are required to:

- recognise and provide for the “matters of national importance” in section 6
- have particular regard to the “other matters” in section 7
- take into account the principles of Te Tiriti o Waitangi (section 8).

### Section 6

The matters of national importance in section 6 of the RMA that are relevant to the proposal are set out in table 2.

**Table 2: Section 6 matters relevant to the proposal**

Section	Relevance
6(a)	<p><i>The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate, subdivision, use and development.</i></p> <p><b>Comment:</b> this section 6 matter is relevant to the proposal because inappropriate storage of tyres can adversely affect the natural character of the coastal environment, water bodies and their margins when located in proximity to these areas. A tyre fire close to either the coastal environment or water bodies could also have significant adverse effects on the natural character of these sensitive areas. The proposal helps recognise and provide for section 6(a) of the Resource Management Act 1991 through requirements for outdoor tyre storage to be set back from the coastal marine area (CMA) and water bodies.</p>
6(d)	<p><i>The maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers.</i></p> <p><b>Comment:</b> the proposal will help to maintain public access to and along the CMA, lakes and rivers through requirements for outdoor tyre storage to be set back from the CMA and water bodies.</p>

## Section 7

The “other matters” in section 7 of the RMA that are relevant to the proposal are set out in table 3.

**Table 3: Section 7 matters relevant to the proposal**

Section	Relevance
7(a) and (aa)	<p><i>(a) kaitiakitanga:</i> <i>(aa) the ethic of stewardship</i></p> <p><b>Comment:</b> The proposal is relevant to sections 7(a) and 7(aa) because it will encourage land owners to undertake good management practices for outdoor tyre storage and reduce the environmental risks associated with inappropriate storage and stockpiling of tyres (eg, storing tyres close to water bodies).</p>
7(c)	<p><i>(c) the maintenance and enhancement of amenity values:</i></p> <p><b>Comment:</b> The proposal does not directly address amenity effects because territorial authorities have the primary function of managing the adverse amenity effects of land use. The proposal may help to indirectly maintain amenity values through greater control of the location, volume and height of outdoor tyre storage (eg, avoiding large stockpiles through separation distances to manage fire risk).</p>
7(f)	<p><i>(f) maintenance and enhancement of the quality of the environment:</i></p> <p><b>Comment:</b> The proposal is directly relevant to this matter because tyres can result in adverse effects on the environment when stockpiled and stored in an inappropriate manner outdoors. The proposal seeks to improve the way tyres are stored outdoors, to reduce the risks this storage presents to the environment.</p>

## Section 8

The proposal is consistent with Te Tiriti principle of active protection (duty to protect Māori rights and interests) because it provides a national regulatory mechanism to reduce the risks that inappropriate outdoor tyre storage can present to the environment, human health and communities.

All iwi authorities were given notice of the proposed NES-STO in both 2017 and 2020, as per the requirements in section 46A, to allow them time and opportunity to make a submission on the proposal. This generated two submission responses from iwi in 2020 in support of the proposal. Granting of resource consents under the restricted discretionary activity rule will also be subject to an assessment of the impact on statutory acknowledgement areas contained in multiple settlements and to the requirements contained in any other applicable statutory document.

### *Ngāti Rangī Claims Settlement Act 2019*

This NES, as it relates to activities within Te Waiū-o-Te-Ika catchment that could affect the Whangaehu River, must recognise and provide for Te Mana Tūpua (acknowledgement that Te Waiū-o-Te-Ika is a living and indivisible whole from Te Wai ā-moe (crater lake) to the sea) and Ngā Toka Tūpua (the four values that represent Te Waiū-o-Te-Ika). The Minister, as decision-maker authorising the NES-STO, must have particular regard for Te Mana Tūpua and Te Waiū-o-Te-Ika. Discretionary activities under this proposal will trigger a resource consent process that must have regard for Te Tāhoratanga o te Waiū (the strategy to advance the health and wellbeing of the Whangaehu River catchment).

### *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017*

The legal framework for the river is Te Pā Auroa nā Te Awa Tupua. This recognises the legal status of Te Awa Tupua as a person and as an indivisible whole from the mountains to the sea. In making the NES under the RMA, we must recognise and provide for Te Awa Tupua (including the catchment as it affects the river) and Tupua Te Kawa. As above, discretionary activities will trigger local authority provision for Te Pā Auroa.

### *Waikato–Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and Ngāti Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 and Nga Wai o Maniapoto (Waipa River) Act 2012*

These Acts established Te Ture Whaimana o Te Awa o Waikato, Waikato River Strategy and Vision (which applies to activities within the Waikato River and the Waipā River catchments), and the co-management arrangements that provide for tangata whenua to exercise authority over their rivers. Regional and district plans must give effect to Te Ture Whaimana and it prevails over any conflicting provisions in national policy statements (NPSs), the New Zealand Coastal Policy Statement or a national planning standard. In making the NES, the Ministry and Minister must give Te Ture Whaimana particular regard, noting that Te Ture Whaimana has multiple strategies to achieve its objectives, including ensuring that the highest level of recognition is given to the restoration and protection of the Waikato River. The Waikato Regional Council would consider the NES against Te Ture Whaimana and the regional policy statement, so this evaluation and decision-making process should ensure their alignment.

With regard to the settlements above, the Ministry considered the minimum set back of 20 m<sup>3</sup> from water bodies in the NES-STO to be a high enough environmental standard for rivers in recognition of the protection values expressed in these settlement Acts. We consider this setback distance is appropriately balanced against the need to avoid unintended impacts of a stricter nationwide standard (such as dumping of tyres). As noted, when a particular tyre pile triggers the requirement for a resource consent, effects on settlement river values should be considered. In addition, the NES permits regional councils to make more stringent rules.

## **Section 30 – functions of regional councils**

Section 30 of the RMA sets out the functions of regional councils. Regional council functions under section 30(1) include:

- (c) the control of the use of land for the purpose of—
  - ...
  - (ii) the maintenance and enhancement of the quality of water in water bodies and coastal water:
  - (iii) the maintenance of the quantity of water in water bodies and coastal water:
  - (iiiia) the maintenance and enhancement of ecosystems in water bodies and coastal water:
  - ...
- (f) the control of discharges of contaminants into or onto land, air, or water and discharges of water into water.

The main adverse effects associated with outdoor tyre storage are more aligned with regional council functions to control land use for the purposes of water quality and the discharges of contaminants into land, air and water. Regional councils are also more actively involved in compliance monitoring and enforcement of unauthorised storage and disposal of tyres.<sup>4</sup> Regional councils, therefore, will be responsible for implementing and enforcing the NES-STO. Territorial authorities will still be able to manage effects of outdoor tyre storage that are not dealt with in the proposal and fall within their section 31 RMA functions, such as amenity and visual effects.

## National direction

### National policy statements

Five NPSs are currently in effect:

- New Zealand Coastal Policy Statement 2010
- NPS on Electricity Transmission 2008
- NPS for Renewable Electricity Generation 2011
- NPS for Freshwater Management 2020
- NPS on Urban Development 2020.

The NPSs and associated provisions relevant to the proposal are set out in table 4.

**Table 4: National policy statements relevant to the proposal**

NPS	Objectives/policies	Relevance
New Zealand Coastal Policy Statement 2010 (NZCPS)	Various	The proposal requires outdoor tyre storage to be set back from the coastal marine area. This is consistent with various objectives and policies in the NZCPS that seek to protect the natural character of the coastal environment, maintain coastal water quality and manage discharges to water in the coastal environment.
NPS on Electricity Transmission 2008 (NPS-ET)	Various	The proposal requires outdoor tyre storage to be set back from transmission lines and other National Grid infrastructure. This is consistent with the objectives and policies in the NPS-ET that seek to provide for the effective operation of the electricity transmission network.
NPS for Freshwater Management 2020 (NPS-FM)	Various	The proposal requires outdoor tyre storage to be set back from water bodies. This is consistent with the objectives and policies in the NPS-FM that seek to manage natural and physical resources in a way that prioritises the health and well-being of water bodies and freshwater ecosystems.

<sup>4</sup> This is reflected in the 2017 Waikato Regional Council guidance that involved input from the Local Government End of Life Tyre Working Group comprising primarily regional council representatives (Waikato Regional Council, 2017).

## National environment standards

Seven NESs are currently in effect:

- NES for Air Quality 2004
- NES for Sources of Human Drinking Water 2007
- NES for Electricity Transmission Activities 2009
- NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
- NES for Telecommunication Facilities 2016
- NES for Plantation Forestry 2017
- NES for Freshwater 2020.

The NESs and associated provisions relevant to the proposal are outlined in table 5.

**Table 5: National environmental standards relevant to the proposal**

NES	Regulation	Relevance
NES for Air Quality 2004 (NES-AQ)	7(1), 7(2)	<p>The NES-AQ prohibits the burning of tyres unless the tyres are burnt at industrial and trade premises that have:</p> <ul style="list-style-type: none"> <li>• a resource consent for the discharge produced</li> <li>• emission control equipment that is designed and operated to minimise emissions of dioxins and other toxics from the process.</li> </ul> <p>The proposal is relevant to the NES-AQ because it will encourage improved management of outdoor tyre storage, reducing the risk of a tyre fire.</p>
NES for Sources of Human Drinking Water 2007	Various	<p>The proposal requires outdoor tyre storage to be set back from any surface water body or bore that supplies drinking water to a registered drinking-water supply or a dwelling house. This is consistent with the overall objective of the NES for Sources of Drinking Water 2007 to protect sources of drinking water from becoming contaminated.</p> <p>The NES for Sources of Human Drinking Water 2007 is currently being reviewed. The review aims to strengthen the ability of regional councils and territorial authorities to manage risks to drinking water posed by activities in drinking water catchments.</p>
NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS)	<p>Hazardous Activities and Industries List (HAIL)</p> <p>Various</p>	<p>Several businesses are listed as HAIL activities under the NESCS that would likely store tyres outdoors, including motor vehicle workshops, transport depots or yards and automotive dismantling or scrap yards. Owners of these businesses may be required to take particular measures to manage the storage of tyres as part of a wider strategy to minimise the discharge of contaminants to soil under the NESCS from their operations. However, because the NESCS primarily targets hazardous substances that could discharge directly into or onto land, for example, petrol, diesel, oil, it is unlikely any management strategy under the NESCS would conflict with requirements imposed on the outdoor storage of tyres under the NES-STO.</p>

## Other relevant legislation

Table 6 summarises other legislation relevant to the proposal.

**Table 6: Other legislation relevant to the proposal**

Legislation	Section(s)	Relevance
Waste Minimisation Act 2008 (WMA)	56(1)(a) 56(1)(b) 56(2)	The WMA seeks to encourage waste minimisation and decrease waste disposal, to protect the environment from harm and provide environmental, social, economic and cultural benefits. The WMA does not specifically enable the regulation of the <b>storage</b> of waste (including end-of-life tyres) but it does enable territorial authorities to make bylaws for the purposes of regulating the <b>deposition</b> of waste (section 56(1)(a)) and regulating the <b>collection and transportation</b> of waste (section 56(1)(b)). Any bylaw prepared under the WMA must be consistent with the territorial authority's waste management and minimisation plan (section 56(2)). To date, waste bylaws have tended to focus on regulating recycling operations rather than outdoor storage of waste.
Local Government Act 2002	145, 146	The Local Government Act 2002 provides territorial authorities with: <ul style="list-style-type: none"> <li>• general bylaw-making powers for the purposes of protecting and maintaining health and safety (section 145(b))</li> <li>• specific bylaw-making powers for regulating waste management (section 146(a)(ii)).</li> </ul> <p>These bylaw-making powers can potentially be used to regulate the disposal and storage of tyres (outdoors and indoors).</p>
Litter Act 1979	15	The Litter Act 1979 provides for the abatement and control of litter. Under section 15 of the Litter Act 1979, it is an offence to deposit litter in a public place or on private land without the consent of its occupier. People committing an offence under section 15 of the Litter Act 1979 are liable for fines up to \$5,000 to \$7,500 (individual) or \$20,000 to \$30,000 (body corporate).  Litter is defined in the Litter Act 1979 as "any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth, or waste matter, or any other thing of a like nature". Therefore, the deposition of tyres in a public place or on a private property without consent of occupier is an offence under the Litter Act 1979.
Fire and Emergency New Zealand Act 2017	65	The Fire and Emergency New Zealand Act 2017 sets out the role and powers of Fire and Emergency New Zealand, which has the principle objectives of: <ul style="list-style-type: none"> <li>• reducing the incidence of unwanted fires and the associated risk to life and property</li> <li>• protecting and preserving life, and preventing or limiting injury, damage to property, land and the environment.</li> </ul> <p>Section 65 of the Fire and Emergency New Zealand Act 2017 enables Fire and Emergency New Zealand to require occupiers to remove or destroy any "other thing" if it "is likely to endanger persons or property by increasing the risk of the outbreak or spread of fire". While this provision in the Fire and Emergency New Zealand Act 2017 could potentially be applied to tyres, evidence would be needed that a fire is likely to be lit, which is difficult to establish. This provision, therefore, has not been used in relation to tyres.</p>

Legislation	Section(s)	Relevance
Heritage New Zealand Pouhere Taonga Act 2014	42	Section 42 of the Heritage New Zealand Pouhere Taonga Act 2014 states that no one may modify or destroy any archaeological site without prior authority of Heritage New Zealand. This requirement would apply to any outdoor tyre storage regulated under the National Environmental Standards for Storing Tyres Outdoors (NES-STO). Further, heritage sites registered under the Heritage New Zealand Pouhere Taonga Act 2014 are often protected through rules in district plans, and the NES-STO would not override those protections (because they are addressing an effect not dealt with in the NES-STO).

## Resource management issues

This section outlines the current state of and approach to addressing outdoor storage of tyres under the RMA and the resource management issues relevant to the proposal.

### Current state

The number of tyres imported into the country each year is increasing. Data from the New Zealand Customs Service indicate the amount of car, truck and light truck tyres imported into New Zealand increased from around 2.5 million in 2007 to around 4 million in 2016. A more recent estimate from the Tyrewise Advisory Group (2020) suggests a larger increase in the volume of tyres entering New Zealand as follows:

- 2011 – 4.8 million tyres (units) = 7.7 million equivalent passenger units (EPUs) = 73,000 tonnes (new weight)
- 2019 – 6.3 million tyres (units) = 10.2 million EPUs = 96,000 tonnes (new weight).

Demand for tyres in New Zealand will continue to increase, because tyres are required for a growing vehicle fleet.

Tyres can be categorised as new, retread or ‘end-of-life’ tyres. End-of-life tyres are used tyres that are not or cannot be reused for their originally intended purpose. End-of-life tyres come from:

- retail tyre shops and garages when new tyres are put on vehicles
- auto dismantlers
- non-standard tyres on imported cars (unsuitable for New Zealand)
- retreaders and large vehicle companies, when the tyres can no longer be retreaded (some types are retreaded several times)
- farmers with silage tyres that have become surplus to requirements.

The total volume of tyres (car, truck, aircraft and so on) that come to the end of their useful life in New Zealand each year has been estimated to be over 7.75 million standard passenger tyre equivalents, which equates to around 73,700 tonnes (Tyrewise Advisory Group, 2020).

No clear data are available on where tyres go when they reach their end of life. Research in 2015 estimated around 70 per cent of end-of-life tyres in New Zealand go to landfill, stockpiles, are illegally dumped, or otherwise unaccounted for (KPMG, 2015). Subsequently, an increase

has occurred in overseas demand for waste tyres for energy recovery, although this market fluctuates according to the price of other fuels and evolving environmental regulations in importing countries (such as India).

Currently, when a new tyre is purchased in New Zealand, the price typically includes a disposal fee (this is a private arrangement). The fee is used to pay for someone to collect the tyre at the end of its life. However, the owner or collector has no specific obligation to dispose or store these tyres in an environmentally sound manner. Combined with the lack of markets for end-of-life tyres, this has created an incentive for some tyre collectors to store and dispose of tyres in the cheapest way possible. For example, numerous examples are available of tyre collectors storing tyres on leased rural land with a view to recycling or exporting them in the future. When tyres are disposed, stored and/or stockpiled in this manner, they can present significant risks to the environment, human health and communities, especially in the event of a fire. The main risks and issues associated with outdoor types of storage include:

- **fire risk** – from stockpiled tyres, which can result in toxic discharges and run-off and present a threat to properties, communities and water supplies (Firecone, 2004)
- **leaching of contaminants** – into the environment (soil, groundwater, water bodies), which can be toxic to certain fish species, invertebrates and algae (MWH New Zealand Limited, 2004)
- **financial liability** – costs for councils and land owners to remove tyres that have been dumped and abandoned on a site (MWH New Zealand Limited, 2004)<sup>5</sup>
- **visual and amenity issues** – for surrounding properties and communities, especially when tyres are deposited or stored in publicly visible places or near residential areas.

The above issues have been identified through research, two rounds of public consultation on two NES proposals in 2017 and 2020, and surveys with councils. However, significant evidence gaps remain on the extent and scale of outdoor tyre storage in New Zealand and the associated environmental issues at the national, regional and local level. The evidence indicates that the extent of the tyre storage problem varies across the country and tends to present significant issues in isolated cases and in certain regions within large urban centres. For example, feedback from regional councils in 2019 suggests outdoor tyre storage is a significant issue in four regions (Auckland, Waikato, Bay of Plenty and Canterbury), although these councils were not able to provide accurate data on the scale of the problem within their regions (4Sight Consulting, 2019).

## Current management approach

Existing legislation and interventions vary relating to tyres in New Zealand. This section focuses on current management approaches under the RMA as the main piece of legislation to address adverse environmental effects of outdoor tyre storage. It also provides an overview of proposed regulated product stewardship for tyres under the WMA.

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<sup>5</sup> The costs to remove tyres can range significantly from between \$8,000 and \$100,000, depending on volume and location.

## Resource Management Act 1991

Regional councils and territorial authorities have the ability to regulate the outdoor storage of tyres, to address adverse effects of tyre storage that relate to their respective statutory functions under sections 30 and 31 of the RMA. Regional council RMA functions include managing the discharge of contaminants into the environment (land, water, air, coastal marine area) and the control of land for certain purposes (eg, to maintain water quality). The primary function of territorial authorities (city and district councils) under the RMA is to manage the effects of land use, including amenity and visual effects associated with land-use activities.

While the RMA provides councils with the ability to develop and enforce rules to manage the adverse effects of outdoor tyre storage, few have developed specific regional or district rules that address this issue (4Sight Consulting, 2019).<sup>6</sup> Research has found that district plans often contain general rules relating to outdoor storage to manage amenity effects in certain zones, but the provisions are not targeted at outdoor tyre storage. Feedback from territorial authorities also indicates some district plans have no provisions allowing them to address outdoor tyre storage (4Sight Consulting, 2019).

Regional plans also do not specifically address outdoor tyre storage. Feedback from regional councils indicates they often rely on the general enforcement provisions in the RMA (for example, sections 15 and 17) to deal with unauthorised outdoor tyre storage. Reliance on the general enforcement provisions in the RMA, however, presents challenges because of the need to obtain evidence and the practical difficulties involved in this.<sup>7</sup> Feedback from councils indicates they have not been able to rely on the general enforcement provisions in the RMA to deal with outdoor tyre storage in some cases, which has resulted in costly, unsuccessful enforcement action (4Sight Consulting, 2019). Anecdotally, some enforcement actions have simply resulted in tyres being shifted to another part of the country.

Exact reasons for the lack of rules in council plans relating to outdoor storage of tyres remain unclear. Contributing factors are likely to be resourcing, competing priorities and variability in nature and scale of the issue within each region and district. The absence of specific rules on outdoor storage of tyres throughout New Zealand is resulting in variable management approaches and, in some cases, an inability to manage the adverse effects of outdoor tyre storage effectively and efficiently. Resourcing constraints and competing priorities for councils also mean proactive CME of outdoor storage of tyres tends to be avoided. The result is that poorly managed tyre storage and stockpiling can present risks to the environment, human health and communities, and these risks can be significant in the event of a fire.

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<sup>6</sup> A review of regional and district plans identified only three plans with specific rules relating to end-of-life tyre businesses and outdoor tyre storage (Auckland, Hastings, Napier).

<sup>7</sup> For example, section 17(3) of the RMA requires councils to show that the storage of tyres is likely to be noxious, dangerous, offensive or objectionable to such an extent it has or is likely to have an adverse effect on the environment, which can be difficult to show in practice.

## Waste Minimisation Act 2008

A problem contributing to the collection and stockpiling of end-of-life tyres is the lack of end uses and markets for them. A common solution overseas is product stewardship schemes, where the producers and industry across a supply chain take responsibility for managing the environmental impacts of their products.

The Government has declared that tyres are one of the priority products identified for regulated product stewardship under the WMA. A regulated product stewardship scheme would support good tyre collection practices. For example, a product stewardship scheme with a disposal fee that is paid when a tyre goes to an environmentally sound end would encourage responsible operators and could create an incentive to develop more uses for end-of-life tyres.

The Government undertook consultation during 2019 to set up the framework for regulated product stewardship under the WMA by confirming the priority products and guidelines for priority product stewardship schemes. The current phase is for government to work with industry to co-design options for regulated product stewardship schemes, receive accreditation applications for those schemes, and consult on the potential regulation to support those schemes. The scheme is expected to start running once regulations are in effect, potentially mid-2022.

## Relevant research and supporting information

To establish an evidence base to inform the development and evaluation of the proposal, the Ministry commissioned the research and technical advice outlined in table 7.

**Table 7: Research and technical advice supporting the development and evaluation of the proposal**

Title	Author	Description
Management of End-of-Life Tyres	Firecone (2004)	The Ministry commissioned Firecone to assess the nature and size of the problems associated with the current regime for managing end-of-life tyres, and the costs and benefits of potential solutions for addressing those problems. The research involved discussion with councils and identified weaknesses with the management regime for end-of-life tyres, including inadequate controls, dumping of tyres, enforcement difficulties and costs. The report suggests potential solutions to the identified issues, including greater controls in Resource Management Act 1991 plans and government guidelines for storing types, improved enforcement provisions and so on.
End-of-Life Tyre Management – Storage Options	MWH New Zealand Limited (2004)	This research examined options for best practice of storage of end-of-life tyres and involved: <ul style="list-style-type: none"><li>• reviewing relevant literature on end-of-life tyres and their management</li><li>• assessing in-ground and above-ground management solutions in the context of relevant New Zealand legislation and Ministry for the Environment guidelines</li><li>• identifying best practice in relation to in-ground and above-ground tyre storage.</li></ul>

Title	Author	Description
		The research found that, to manage end-of-life tyres, a nationally or regionally integrated system appears to be required for their collection and transport to specific storage facilities. It also found consistency in tyre storage overseas and recommended financial assurance mechanisms be used to minimise the financial risks associated with tyre storage.
Waste Tyres Economic Research: Report 3	KPMG (2015)	<p>This research focused on economic barriers to tyre recycling in New Zealand and identified:</p> <ul style="list-style-type: none"> <li>• economic drivers and barriers to investment in tyre recycling</li> <li>• potential government interventions to address the barriers</li> <li>• recommendations for implementation strategies.</li> </ul> <p>The report confirmed that investment in recycling is hampered by three main barriers: limited markets for recycled tyre products, a lack of scale and insufficient funding in the absence of markets. KPMG shortlisted three intervention options for which a cost-benefit analysis was completed: status quo, bounded free market and mandatory product stewardship.</p>
Outdoor tyre storage and the Resource Management Act 1991 – research report	4Sight Consulting (2019)	<p>This research involved discussion with regional councils and unitary authorities to better understand the scale and nature of outdoor tyre storage in their regions. It also reviewed a selection of district plans. The research highlighted:</p> <ul style="list-style-type: none"> <li>• a lack of knowledge about the extent and nature of outdoor storage of tyres throughout New Zealand</li> <li>• a high level of variation in the nature and scale of outdoor storage of tyres across the country</li> <li>• a general absence of specific rules to address outdoor storage of tyres in New Zealand</li> <li>• few district councils have rules specifically targeted at outdoor tyre storage, although this activity is captured by general discharge and amenity rules in some circumstances.</li> </ul> <p>Feedback from councils through this research indicates that outdoor storage of tyres is most prevalent in five regions (Auckland, Waikato, Bay of Plenty, Canterbury and, to a lesser extent, Northland) but does not present a significant issue for other regions. However, no council was able to provide accurate data on the number and scale of unauthorised outdoor tyre storage in their region.</p>

These reports are available on the Ministry’s website:

- [Management of End-Of-Life Tyres](#), Firecone (2004)
- [End-of-Life Tyre Management: Storage Options](#), MWH New Zealand Limited (2004)
- [Outdoor tyre storage and the Resource Management Act 1991 – research report](#), 4Sight Consulting (2019)

## Consultation undertaken and issues raised

In developing this proposal, the Ministry undertook two rounds of public consultation: 1) on the earlier NES proposal in 2017 (2017 NES) and 2) on the proposed NES-STO in 2020. Further details on the report on submissions for both proposals can be found on the Ministry’s website:

- **2017 NES** – [Summary of submissions](#)
- **Proposed NES-STO** – [Report on submissions and recommendations](#)

## Summary of relevant resource management issues

Table 8 summarises the resource management issues the proposal seeks to address based on the research, analysis and consultation outlined above.

**Table 8: Summary of resource management issues**

Issue	Description
<p><b>Issue 1:</b> Outdoor tyre storage can present risks to the environment, human health and communities</p>	<p>Storing or stockpiling tyres outdoors inappropriately can pose risks to the environment, human health and local communities through the discharge of contaminants into soil, groundwater and other water bodies, and can have significant adverse effects in the event of a fire. Tyre fires are a low probability event with high potential impacts. Tyre fires cause air pollution through the discharge of dense and toxic smoke and ash as well as run-off containing carcinogenic compounds and toxic contaminants, including dioxins, furans, mercury and lead (Tyrewise Advisory Group, 2020). Tyre fires can require evacuation of nearby properties and residential areas, and can contaminate soil and water supplies (Firecone, 2014).</p> <p>Tyres are not easy to ignite but can be difficult to extinguish once alight (a tyre pile can burn for days, weeks or longer, depending on the size of the stockpile). In New Zealand, significant tyre fires have included one in Rolleston, Christchurch on 17 May 2020, two fires in three years at an illegal stockpile on a racecourse in rural Amberley in Canterbury (fires were lit in February 2018 and in January 2021, both the result of arson), and an accidental fire on a farm in Taranaki. These fires have resulted from inappropriate stockpiling of tyres, whereas for legitimate tyre businesses, the potential fire risk is generally more well managed.</p> <p>Inappropriate storage and stockpiling of tyres can also result in leaching of toxic material into the soil and, occasionally, into groundwater and other water bodies. The longer a tyre pile is exposed, the more contaminants will be released, particularly in damp conditions. The concentration of leaching is specific to the storage time and local conditions. Contaminants that can leach from tyres include cadmium, lead, aluminium, manganese and zinc. Laboratory tests suggest leachate from tyres can be toxic to some fish species (such as rainbow trout), invertebrates and algae (MWH New Zealand Limited, 2004).</p> <p>Illegal dumping and abandonment of tyre stockpiles can create a large financial liability for those required to remove the tyres and/or clean up the site. Removal of illegally dumped tyres can have significant costs for councils and land owners. The costs to remove tyres can range significantly, with estimates ranging from between \$8,000 and \$100,000, depending on volume and location (Firecone, 2014).</p>

Issue	Description
<p><b>Issue 2:</b> The regulatory gap for the management of outdoor tyre storage is resulting in inconsistent management practices</p>	<p>The absence of RMA plan provisions specifically targeted at managing the adverse effects of outdoor tyre storage means the effectiveness of current regulatory approaches to managing the outdoor storage of tyres varies across the country. This can create perverse outcomes. The lack of specific provisions can act as barrier for councils to undertake appropriate compliance, monitoring and enforcement (CME) action to address the adverse effects of outdoor tyre storage. For example, feedback from councils indicates they have not been able to rely on the general enforcement provisions in the RMA to deal with outdoor tyre storage and this has resulted in costly, unsuccessful enforcement action (4Sight Consulting, 2019). Anecdotal stakeholder feedback indicates some enforcement actions have simply resulted in tyres being shifted to another part of the country (Waikato Regional Council, 2017).</p> <p>Resourcing constraints and competing priorities for councils also mean proactive CME of outdoor storage of tyres within their region or district tends not to happen. Inconsistent management practices nationally means poorly managed tyre storage and stockpiling continues to present risks to the environment, human health and communities.</p>

## Evaluation of objectives

Section 32(1)(a) of the RMA requires the evaluation report to examine the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA: to promote the sustainable management of natural and physical resources. Section 32(6) states that where a proposal does not include objectives (ie, an NES) then the objectives are the purpose of the proposal.

The objectives of the proposal are to:

1. ensure the risks of harm to the environment, human health and local communities from outdoor tyre storage are appropriately managed
2. support more consistent management practices across New Zealand, filling gaps in regulatory settings that create perverse incentives to move tyres between regions.

An examination of the appropriateness of the objectives of the proposal to achieve the purpose of the RMA is given in table 9.

**Table 9: Criteria to assess the appropriateness of the objectives**

Criteria	Assessment
Relevance	<p>Is the objective directed to addressing a resource management issue(s)?</p> <p>Will it achieve one or more aspects of the purpose and principles of the Resource Management Act 1991 (RMA)?</p>
Usefulness	<p>Will it help local authorities to carry out their RMA functions?</p> <p>Is the intent of the objective clearly expressed?</p> <p>Does it offer sufficient direction to guide decision-making?</p>
Reasonableness	<p>Will the objective result in unjustifiably high cost being imposed on the public at large, specific areas of interest or discrete parts of the community?</p> <p>Is it consistent with identified outcomes sought by iwi and Māori and/or the wider public?</p>
Achievability	<p>Can the objective be achieved with tools and resources available, or likely to be available, to those charged with implementing the proposal?</p>

**Table 10: Assessment of Objective 1**

Objective 1: Ensure the risks of harm to the environment, human health and local communities from outdoor tyre storage are appropriately managed	
Criteria	Assessment
<b>Relevance</b>	<p>The objective is directly related to resource management issue 1 – that outdoor tyre storage can present risks to the environment, human health and communities. The National Environmental Standard (NES) seeks to reduce the environmental risks posed by outdoor tyre storage through appropriate management practices. The NES provisions that give effect to this objective will achieve this through introducing more stringent resource consent requirements for outdoor tyre storage and permitted activity standards that control the proximity of outdoor tyre storage to sensitive areas.</p> <p>The objective will help achieve and provide for several Part 2 Resource Management Act 1991 (RMA) matters, in particular:</p> <ul style="list-style-type: none"> <li>• section 5(2) – which seeks to ensure tyres are managed in a way that provides for the health and safety of people and communities (eg, through storage practices that reduce fire risk and associated adverse effects for nearby properties and communities)</li> <li>• section 5(2)(b) – which will help safeguard the life-supporting capacity of air, water, soil and ecosystems through controlling the proximity of tyres to sensitive receiving environments (ie, water bodies and coastal marine areas)</li> <li>• section 5(2)(c) – which will help avoid, remedy and mitigate adverse effects of outdoor tyre storage on the environment through improved management practices</li> <li>• section 6(a) – which will help to preserve the natural character of the coastal environment and water bodies and their margins through requirements for outdoor tyre storage to be set back from these areas</li> <li>• section 7(f) – which will help maintain the quality of the environment through more appropriate management of outdoor tyre storage.</li> </ul> <p>As such, the objective is assessed as being directly relevant to addressing the identified resource management issue and helping to achieve several matters within the purpose and principles of the RMA.</p>
<b>Usefulness</b>	<p>The objective and implementing provisions will help regional councils carry out their statutory functions under section 30 of the RMA to maintain water quality and control the discharge of contaminants into land, air and water. The provisions that implement the objective will address a regulatory gap under the RMA in relation to outdoor tyre storage, by introducing nationally consistent rules and standards for outdoor tyre storage. The introduction of nationally consistent regulation for outdoor tyre storage will enable regional councils to manage this storage more proactively within their regions, to reduce the risks of adverse environmental effects. It will also enable regional councils to undertake compliance, monitoring and enforcement (CME) more effectively and efficiently, compared with relying on the general restrictions and enforcement provisions in the RMA. Feedback from regional councils has generally been supportive of the introduction of nationally consistent regulation for outdoor tyre storage because it will enable them to manage the issue more effectively and efficiently, and avoid the need for individual plan changes.</p> <p>The intent of the objective is clear: reduce the risks that outdoor tyre storage can present to the environment, human health and communities. This intent directly responds to the resource management issues the proposal seeks to address. It also makes it clear that outdoor tyre storage presents several risks to the environment, people and communities that need to be managed.</p> <p>The objective is the purpose of the proposal (in accordance with section 32(6) of the RMA) and is therefore not intended to directly guide decision-making.</p>

**Objective 1: Ensure the risks of harm to the environment, human health and local communities from outdoor tyre storage are appropriately managed**

Criteria	Assessment
	<p>This policy objective for the proposal will provide useful direction to regional councils on the intent of provisions (rules and standards) and how these should be implemented. This will be clarified further through implementation guidance for the proposal.</p>
<b>Reasonableness</b>	<p>The NES provisions that implement the objective will impose costs on some businesses by introducing more stringent requirements to manage the environmental effects of outdoor tyre storage. This will include new requirements to obtain resource consent for outdoor tyre storage over 100 m<sup>3</sup> and the introduction of permitted activity standards for outdoor tyre storage 20 m<sup>3</sup> or greater within a property. These requirements will result in some compliance costs for businesses, for example, resource consent costs, costs to comply with consent conditions and, in some circumstances, costs to comply with permitted activity standards. The costs of the proposal are not, however, expected to be unjustifiably high on businesses, communities or the public at large because:</p> <ul style="list-style-type: none"> <li>• consent compliance costs will primarily be incurred by tyre collectors, processors and end-of-life tyre recyclers, of which no more than 77 are estimated to be in New Zealand. The cost to obtain a resource consent is not expected to significantly impact these businesses. Council consent processing fees are likely to be between \$1,200 to \$3,800<sup>8</sup> along with the time and costs to prepare the application</li> <li>• it is expected most tyre businesses with storage capacity between 20 m<sup>3</sup> to 100 m<sup>3</sup> will be able to comply with the permitted activity standards without incurring any additional costs. The permitted activity standards are reasonable and relatively straightforward to understand and comply with. Therefore, those operators already undertaking environmentally responsible tyre storage practices (eg, storing tyres on impervious areas away from water bodies) are expected to comply without incurring further costs</li> <li>• the provisions that implement the objective include exemptions to the discretionary activity rule (ie, for outdoor storage of tyres over 100 m<sup>3</sup>) for farm silage tyres and businesses that sell and supply tyres. This will help ensure legitimate tyre businesses and farmers who store tyres outdoors for silage do not incur undue compliance costs, while ensuring they comply with permitted activity standards.</li> </ul> <p>The objective is consistent with stakeholder outcomes identified through two rounds of public consultation in 2017 and 2020 and targeted engagement with key stakeholders. While stakeholders have had some mixed views, the general recognition from both stakeholders and submitters is that outdoor tyre storage poses risks to the environment and human health and warrants more effective regulation under the RMA. Stakeholders have also been generally supportive of a nationally consistent approach to address the risks of outdoor tyre storage to avoid the need for individual plan changes.</p> <p>Limited feedback was received from iwi and Māori on the proposal. However, the iwi who did submit on the proposal were broadly supportive of the intent of this objective to better manage the environment risks associated with outdoor tyre storage.</p>
<b>Achievability</b>	<p>Regional councils will be responsible for implementing the provisions that give effect to this objective. This is a change from the 2017 NES, which proposed that territorial authorities be responsible for implementation. One of the reasons for the change in responsibility is that regional councils have more capacity and expertise to implement the proposal and generally have more comprehensive monitoring and enforcement regimes. This makes them well placed to deal with complaints and take proactive action. Regional councils are also more actively involved in compliance monitoring and</p>

<sup>8</sup> Most consent processing fees fall between this range, with the median fee being \$2,141 (Ministry for the Environment, 2020).

Objective 1: Ensure the risks of harm to the environment, human health and local communities from outdoor tyre storage are appropriately managed	
Criteria	Assessment
	<p>enforcement of unauthorised storage and disposal of tyres.<sup>9</sup> Of submitters on the proposal, 73 per cent support the change in responsibility to regional councils.</p> <p>The implementing provisions for the objective are expected to help regional councils manage the risks of outdoor tyre storage more effectively and efficiently, compared with the status quo. The proposal will provide targeted rules and standards for outdoor tyre storage, which will allow more efficient and effective CME, compared with relying on the general restrictions and enforcement provisions in the RMA. Implementation guidance for the NES will also provide detailed information on appropriate management practices for outdoor tyre storage (eg, setbacks, separation distances), which will help councils when assessing resource consents and imposing resource consent conditions. Further, the proposal will enable regional councils to set charges for compliance monitoring of permitted activities under the proposal, to ensure their costs are fully recoverable for both consented and permitted activities.</p> <p>Overall, the level of certainty is high that objective and implementing provisions are achievable within the existing powers, tools and resources of regional councils.</p>

**Table 11: Assessment of Objective 2**

Objective 2: Support more consistent management practices across New Zealand, filling gaps in regulatory settings that create perverse incentives to move tyres between regions	
Criteria	Assessment
<b>Relevance</b>	<p>The objective is directly related to resource management issue 2: the regulatory gap for outdoor tyre storage is resulting in inconsistent and, at times, ineffective management practices. The objective seeks to address this issue through introducing nationally consistent provisions (rules and standards) to manage outdoor tyre storage that each regional council will be responsible for implementing and enforcing. This will support more consistent management practices between regions and help ensure there are no incentives for tyre collectors to shift tyres between regions.</p> <p>The objective is relevant to several Part 2 Resource Management Act 1991 (RMA) matters because it addresses the gap under the RMA for the management of outdoor tyre storage. This will lead to more consistent management and improved environmental outcomes over time and is relevant to the following Part 2 matters:</p> <ul style="list-style-type: none"> <li>• section 5(2)(c) – the objective will help to avoid, remedy and mitigate adverse effects of outdoor tyre storage on the environment through improved management practices</li> <li>• section 7(f) – the objective will help to maintain the quality of the environment through better management of the environmental risks of outdoor tyre storage.</li> </ul> <p>As such, the objective is assessed as being directly relevant to addressing the identified resource management issue and helping to achieve some of the matters in the purpose and principles of the RMA.</p>

<sup>9</sup> This is reflected in the 2017 Waikato Regional Council [Guidance for Storage and Stockpiling End of Life Tyres for Local Government](#), which involved input from the Local Government End of Life Tyre Working Group comprising mainly regional council representatives (Waikato Regional Council, 2017).

**Objective 2: Support more consistent management practices across New Zealand, filling gaps in regulatory settings that create perverse incentives to move tyres between regions**

Criteria	Assessment
<p><b>Usefulness</b></p>	<p>The objective is directly aimed at helping regional councils carry out their statutory functions to control the discharge of contaminants and the use of land for the purposes of maintaining water quality. It will achieve this by addressing the regulatory gap under the RMA in relation to outdoor tyre storage through the introduction of nationally consistent rules and permitted activity standards that regional councils will be responsible for implementing and enforcing. This will enable regional councils to manage the issue more directly, effectively and efficiently, compared with relying on the general restrictions and enforcement provisions in the RMA. Regional councils have been broadly supportive of the introduction of nationally consistent regulation for outdoor tyre storage under the RMA because it will help them carry out their functions and avoid the need for individual plan changes.</p> <p>The intent of the objective is clear: address the regulatory gap for outdoor tyre storage and support more consistent management practices to ensure there are no incentives to move tyres between regions. It also clarifies that improved regulation and management practices are needed to achieve the desired outcomes in relation to outdoor tyre storage, that is, a resource consent requirement in itself does not necessarily improve outcomes. Implementation guidance for the proposal will outline appropriate management practices for outdoor tyre storage, to ensure the desired outcomes are achieved.</p> <p>The objective is the purpose of the proposal (in accordance with section 32(6) of the RMA) and is therefore not intended to directly guide decision-making. However, this policy objective for the proposal will provide useful direction to regional councils on the intent of provisions (rules and standards) and how these should be implemented. This will be further clarified through implementation guidance.</p>
<p><b>Reasonableness</b></p>	<p>The objective will not impose unjustifiably high costs on the community, businesses or regional councils. Rather, the intent is to support more consistent management practices through a targeted, administratively efficient regulatory framework to better manage the adverse effects of outdoor tyre storage under the RMA. The implementing provisions for the objective are expected to be relatively straightforward to implement and enforce, and regional councils will be able to recover their consenting processing and monitoring costs under sections 36(1)(c) and (cc) of the RMA. The objective will also help to reduce overall implementation costs by addressing a regulatory gap through a nationally consistent approach, which avoids the need for individual plan changes. Implementation costs are therefore not expected to be unjustifiably high for regional councils, communities or businesses.</p> <p>The objective is consistent with stakeholder outcomes identified through two rounds of public consultation in 2017 and 2020 and targeted engagement with key stakeholders. General support has been indicated in submissions for a proposal that addresses the regulatory gap in the management of outdoor tyre storage under the RMA in a nationally consistent manner that avoids the need for individual plan changes. Submitters have also highlighted the risks of inconsistent regulation and management of outdoor tyre storage, including perverse incentives for tyre collectors to move tyres between regions to avoid enforcement action. The objective is directly focused on addressing this issue.</p> <p>Limited feedback was received from iwi and Māori on the proposal. However, the two iwi that did submit on the proposal were broadly supportive of the intent of this objective to support more consistent management of outdoor tyre storage at a national level.</p>
<p><b>Achievability</b></p>	<p>Regional councils will be responsible for implementing the provisions that give effect to this objective. This is a change from the 2017 NES proposal, which proposed that territorial authorities would be responsible for implementation. One of the reasons for this change to regional council responsibility is that they have more capacity and expertise to implement the proposal and generally have more comprehensive monitoring</p>

**Objective 2: Support more consistent management practices across New Zealand, filling gaps in regulatory settings that create perverse incentives to move tyres between regions**

Criteria	Assessment
	<p>and enforcement regimes. Regional councils are also more actively involved in compliance monitoring and enforcement of unauthorised storage and disposal of tyres. Of submitters on the proposal, 73 per cent support the change to regional councils being responsible for implementing and enforcing the proposal.</p> <p>The objective and implementing provisions will help regional councils manage the risks of outdoor tyre storage more consistently and effectively, compared with relying on the general restrictions and enforcement provisions in the RMA. Implementation guidance for the National Environmental Standard will also provide more detailed guidance on appropriate management practices for outdoor tyre storage. This will help ensure consistent management practices are considered by regional councils when assessing resource consent applications for outdoor tyre storage and imposing consent conditions.</p> <p>Overall, the level of certainty is high that objective and implementing provisions are achievable within the existing powers, tools and resources of regional councils.</p>

## Summary

The two objectives of the NES-STO are considered to be the most appropriate way of achieving the purpose of the RMA. The aim of appropriately managing the potential harm associated with outdoor tyre storage and achieving consistent management practices are both relevant resource management issues, particularly relating to achieving the sustainable management of natural and physical resources. Using a national direction instrument is a useful and efficient way to address the regulatory gap around storing tyres outdoors and is a regulatory method familiar to regional councils. Some costs are anticipated for both tyre storage businesses and councils, but these costs are considered to be reasonable because the affected markets are small and compliance with the permitted standards is likely to be achievable for many operators. Feedback through the consultation process confirmed most stakeholders were broadly supportive of further regulation in this area and the use of a targeted NES to achieve national consistency in the management of tyres stored outdoors. As such, the proposed objectives are the most appropriate way to achieve the purpose of the RMA.

## Evaluation of provisions

Section 32(1)(b) requires the evaluation report to examine whether the provisions are the most appropriate way to achieve the objectives by:

- (i) identifying other reasonably practicable options for achieving the objectives; and
- (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
- (iii) summarising the reasons for deciding on the provisions.

Therefore, as part of examination of the provisions, reasonably practicable options to achieve the objectives must be identified. “Reasonably practicable” is not defined in the RMA, but can include options that:

- are regulatory and non-regulatory
- are targeted towards achieving the stated objectives

- are within the resources, duties and powers of those responsible for implementing the option
- represent a reasonable range of possible alternatives.

Case law has confirmed that the requirement to identify reasonably practicable options will always involve at least two options and a choice always needs to be made between doing nothing and doing something.<sup>10</sup>

When assessing the efficiency and effectiveness of the provisions in achieving the objectives of the proposal in accordance with section 32(1)(b)(ii), section 32(2) of the RMA requires that the assessment:

- (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—
  - (i) economic growth that are anticipated to be provided or reduced; and
  - (ii) employment that are anticipated to be provided or reduced; and
- (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and
- (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

Given these requirements, reasonable options and associated provisions (rules and standards) to achieve the objectives of this proposal have been identified. An assessment of each option has been undertaken to identify the benefits, costs, effectiveness and efficiency, along with the risks of not acting or acting when information is uncertain or insufficient. For the purposes of this assessment:

- **effectiveness** assesses how successful the provisions are likely to be in achieving the objectives and addressing the identified issues
- **efficiency** measures whether the provisions will be likely to achieve the objectives at the least cost or highest net benefit to society.

The sections below describe and assess each option in accordance with the requirements in sections 32(1)(b) and 32(2) of the RMA.

## Identification of reasonably practicable options

Three reasonably practicable options have been identified to achieve the policy objectives:

- Option 1: status quo
- Option 2: the 2017 NES
- Option 3: the proposed NES-STO.

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<sup>10</sup> *Whakatane District Council v Bay of Plenty Regional Council*, CIV-2007-463-000606 (HC), para 40(iii).

## Option 1: Status quo

The status quo is the 'do nothing' option. That is, the current regulatory framework under the RMA for the outdoor storage of tyres would continue with no intervention. Regional councils and territorial authorities would continue to manage the adverse effects of the outdoor storage of tyres through plan provisions, the general restrictions and enforcement provisions in the RMA, or via non-regulatory means.

Based on the available evidence and feedback from councils, the status quo is likely to see a continued absence of specific provisions in RMA plans to directly deal with the unauthorised storage of tyres outdoors. As a result, the effectiveness of regulatory approaches will continue to vary as will the proactiveness and effectiveness of CME efforts to address adverse effects of outdoor tyre storage.

## Option 2: 2017 NES

In 2017, the Government consulted on a proposed National Environment Standard for Outdoor Tyre Storage. The 2017 NES is a straightforward regulation targeted at large volumes of tyres. The 2017 NES was described in the consultation document (Ministry for the Environment, 2017, p 5) as:

This straightforward regulation simply requires a council consent for significant outdoor stockpiles of tyres. This gives the council the opportunity to put in place site appropriate conditions to manage the environmental issues, and to require a bond to protect ratepayers from a potential future liability.

The main features of the 2017 NES are as follows:

- territorial authorities would be responsible for implementation and enforcement
- large quantities of storage (200 m<sup>3</sup> and above) would require a resource consent for a discretionary activity
- there would be no controls on tyre storage under 200 m<sup>3</sup>
- the NES would expressly allow district plan rules to be more stringent than the regulations
- it would not apply to existing tyre piles where these can meet the tests for existing use rights under section 10 of the RMA (including being lawfully established through plan rules or a resource consent when the NES comes into force).

From 22 June to 4 August 2017, the Ministry for the Environment consulted on the 2017 NES and 35 submissions were received. Feedback was broadly supportive of the introduction of an NES in principle, although submitters expressed mixed views and had concerns about specific aspects of the proposal. For example, a large number of submitters considered the 200 m<sup>3</sup> threshold to be too high and that more stringent requirements were needed to manage outdoor tyre storage near sensitive environments. Some concern was expressed that the 2017 NES could have the unintended consequence of permitting tyre storage up to the 200 m<sup>3</sup> threshold. Submitters also raised concerns that the 2017 NES would not address existing stockpiles due to existing use rights under section 10 of the RMA.

### Option 3: Proposed NES-STO

The proposed NES-STO is consistent with the intent of the 2017 NES and will provide a targeted regulatory solution to address an identified gap in the management of outdoor tyre storage. The proposed NES-STO includes several changes to address issues raised with the 2017 NES, following further consideration of submissions, research and analysis of options to address the identified resource management issues. The main features of the proposed NES-STO (compared with the 2017 NES) are as follows.

- Regional councils would be responsible for implementation and enforcement, as opposed to territorial authorities.
- The NES-STO does not apply if less than 20 m<sup>3</sup> of tyres are being stored outdoors on a single property.<sup>11</sup>
- Storing 20 m<sup>3</sup> or more tyres, but less than 100 m<sup>3</sup> of tyres outdoors is a permitted activity, subject to compliance with conditions.
- Outdoor tyre storage of 100 m<sup>3</sup> and above within a single property<sup>12</sup> would require a resource consent for a restricted discretionary activity (the 2017 threshold was 200 m<sup>3</sup>). The only exemptions to this 100 m<sup>3</sup> threshold are if:
  - (a) the tyres are new or newly retreaded and are stored for the purpose of a business whose activities include the supply or servicing of new or retreaded tyres; or
  - (b) the tyres are awaiting retreading and are stored on a property that is owned or leased by the business that will undertake the retreading; or
  - (c) the tyres are stored for use as weights to weigh down covers on one or more silage stacks.
- General permitted activity conditions for tyre storage on a property over 20 m<sup>3</sup>:
  - (a) the tyres must not be piled more than 3 metres high
  - (b) the tyres must be at least 50 metres from—
    - (i) the centre line of any overhead transmission line
    - (ii) any other part of the National Grid that is above ground
  - (c) the tyres must be at least 50 metres from any surface water body or bore that is used to supply drinking water to:
    - (i) a registered drinking-water supply
    - (ii) directly to a dwelling house
  - (d) the tyres must be at least 20 metres from:
    - (iii) any other surface water body
    - (iv) any other bore that connects to an aquifer
  - (e) the tyres must be located at least 1 metre above the water table of any aquifer

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<sup>11</sup> The 2017 NES was unclear as to whether the volume threshold applied per property or per tyre pile. The proposed NES-STO addresses this uncertainty through specific reference to property in the rules and specific definition of property that includes adjacent allotments under the same ownership or management.

<sup>12</sup> Ibid.

- (f) the tyres must be at least 50 metres from the CMA.
- Additional permitted activity conditions for tyres for silage stack covers:
  - (a) the tyres must be stored next to the pits or other areas where the silage stacks are regularly made; and
  - (b) the volume of tyres next to each pit or other area must be no more than needed to cover the silage stack in a single layer of whole tyres.
- Ability for regional councils to make more stringent plan rules, but only if the rule gives effect to an NES, an NPS or an NZCPS. District plan rules and regional and district bylaws can also be more stringent.

The proposed NES-STO also clarifies several aspects of the proposal, including that:

- it applies to tyres stored in all states (whole, chipped or shredded, baled and includes a tyre casing without tread but not a tyre inner tube)
- it does not apply to tyres stored indoors
- it applies to tyres deposited outdoors, whether they are being stored or are in active use (eg, recreational, engineering, landscaping), with the exception of such uses in constructions lawfully established at the time the NES comes into force
- it applies to tyres stored outdoors for more than 72 hours that are not fitted to a vehicle, machinery, equipment, or other thing that is designed to be fitted with a tyre
- it does not apply within the CMA but effects on the coastal environment relating to storing tyres outdoors can be considered
- territorial authorities will still be able to address amenity and visual effects that are not addressed in the proposed NES-STO in accordance with section 43A(5)(b) of the RMA.<sup>13</sup>

From 25 February to 8 April 2020, the Ministry for the Environment consulted on the proposed NES-STO. Fifty submissions were received. While mixed views were expressed in the submissions, most submitters continued to support the general intent of the proposed NES-STO to provide a clear, nationally consistent regulatory framework to manage the adverse effects of outdoor tyre storage. Submitters were also broadly supportive of the changes in the proposed NES-STO compared with the 2017 NES.

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<sup>13</sup> Section 43A(5)(b) of the RMA enables plan rules to deal with effects of an activity that are different from those addressed in an NES.

## Assessment of reasonably practicable options

Table 12 provides an assessment of the reasonably practicable options available.

**Table 12: Assessment of reasonably practicable options**

Costs	Benefits	Risk of acting or not acting if information is uncertain or insufficient
<b>Option 1: Status Quo</b>		
	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>• The status quo is likely to result in a continued lack of specific provisions in Resource Management Act 1991 (RMA) plans to directly deal with the adverse environmental effects of outdoor tyre storage.</li> <li>• National inconsistency in the regulation of outdoor tyre storage under the RMA will likely result in:               <ul style="list-style-type: none"> <li>– outdoor tyre storage continuing to present risks to the environment</li> <li>– the movement of tyres between regions to areas with more permissive provisions</li> <li>– continued difficulties for councils to undertake effective compliance, monitoring and enforcement (CME) action to address unauthorised outdoor tyre storage</li> <li>– continued instances of unsuccessful enforcement action taken under the general enforcement provisions of the RMA because these provisions are not specific enough to support effective and efficient enforcement action unless the environmental effects are significant.</li> </ul> </li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>• Not applicable.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• Fewer compliance costs for end-of-life tyre collectors, recyclers and processors (compared with other options).</li> <li>• Less administrative costs for regional councils (compared with other options). However, this is potentially offset by higher enforcement costs due to the challenges of relying on general enforcement provisions in the RMA.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>• Not applicable.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>• Not applicable.</li> </ul> <p>Significant gaps exist in the evidence on the extent and scale of outdoor tyre storage and the actual impact this is having on the environment at the national, regional and local level. The available information on outdoor tyre storage remains largely anecdotal, despite research undertaken to obtain more detailed information, including surveys of regional councils. Feedback from regional councils in 2019 suggests outdoor tyre storage is a significant issue in some regions (Auckland, Waikato, Bay of Plenty and Canterbury) but not others throughout New Zealand.</p> <p>While information on the extent of the problem is insufficient, the risk of not acting is potentially significant in certain circumstances. Unmanaged outdoor tyre storage can present significant risks to the environment and human health, especially in the event of a fire, as evidenced by a number of large tyre pile fires in recent years. Environmental issues may also increase in frequency and severity over time as the volume of tyres imported into New Zealand continues to increase, likely resulting in increased numbers of outdoor tyre stockpiles.</p>

	Costs	Benefits	Risk of acting or not acting if information is uncertain or insufficient
	<ul style="list-style-type: none"> <li>Environmental costs may increase over time. Demand for tyres is expected to continue to rise in New Zealand. This is likely to result in a growing volume of tyres annually that need to be stored or disposed of in the absence of improved markets for end-of-life tyres.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Absence of specific plan provisions relating to outdoor tyre storage may result in more costly CME action for councils because it is often more expensive to take enforcement action against an operator if no specific plan rules are being breached.</li> <li>Costs of dealing with unauthorised stockpiles may fall on councils and land owners, rather than those responsible for the creation of the stockpile.</li> <li>Responsible tyre collectors may continue to be undercut by irresponsible ones if there are few or no consequences for failing to manage an outdoor tyre stockpile in accordance with best practice and it is cheaper to store the tyres in inappropriate locations or formations.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Continued risks to the community and human health from tyre fires, adverse visual and amenity effects, and pests from unmanaged outdoor tyre storage.</li> </ul>		<p>The cost of not acting under the status quo option is therefore potentially significant in certain circumstances and likely to increase over time.</p>

	Costs	Benefits	Risk of acting or not acting if information is uncertain or insufficient
	<p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>Unmanaged tyre storage may present risks to water bodies and other sites of significance to Māori.</li> </ul>		
<b>Effectiveness and efficiency</b>	<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks, Option 1 is not considered to be the most effective means to achieve the objectives of the proposal because:</p> <ul style="list-style-type: none"> <li>the status quo is likely to result in a continued lack of specific provisions in RMA plans to directly deal with the unauthorised storage of tyres outdoors</li> <li>the effectiveness of regulatory approaches to appropriately manage outdoor tyre storage will continue to vary as will the proactiveness and effectiveness of CME efforts</li> <li>the option will not: <ul style="list-style-type: none"> <li>support more consistent management practices across New Zealand</li> <li>ensure that the risks of outdoor tyre storage to the environment, human health and communities are appropriately managed</li> </ul> </li> <li>the option is less likely to be consistent with Part 2 of the RMA with respect to providing for the health and safety of communities and safeguarding the life-supporting capacity of air, water, soil and ecosystems when compared with options 2 and 3.</li> </ul>	<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, Option 1 is not considered to be the most efficient means to achieve the proposed objectives because:</p> <ul style="list-style-type: none"> <li>the environmental, economic, social and cultural costs of the option outweigh the benefits</li> <li>it does not enable councils to undertake efficient and effective CME of outdoor tyre storage where necessary</li> <li>it will likely result in the continued movement of tyres around the country to avoid enforcement issues, as opposed to encouraging the setup of well-designed, site-appropriate tyre storage facilities.</li> </ul> <p>If several councils decide to develop specific provisions to manage outdoor storage of tyres, then the aggregate plan change costs for councils are likely to exceed the costs of a single national regulatory solution (options 2 and 3).</p>	
<b>Overall evaluation</b>	<p>On balance, Option 1 is not considered to be appropriate because:</p> <ul style="list-style-type: none"> <li>it will result in the continued inconsistent regulation and management of outdoor tyre storage, which can create perverse incentives for tyre collectors to move tyres between regions</li> <li>outdoor tyre storage will continue to present risks to the environment, human health and communities</li> <li>it will continue to be difficult to undertake CME of unauthorised outdoor tyre storage and result in inconsistent approaches between regions</li> <li>it does not achieve the objectives of the proposal.</li> </ul>		

Costs	Benefits	Benefits	Risk of acting or not acting if information is uncertain or insufficient
<b>Option 2: Proposed 2017 NES</b>			
<p><b>Rules:</b> Discretionary activity rule for tyres over 200 m<sup>3</sup> stored on property</p> <p><b>Conditions:</b> Not applicable</p> <p><b>Responsibility:</b> Territorial authorities</p>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Does not address the adverse effects of smaller volumes of tyres or storage in sensitive areas.</li> <li>Does not directly address the adverse effects of outdoor tyre storage that are primarily regional council functions, including the discharge of contaminants into soil, water and air.</li> <li>May have a perverse environmental outcome in that councils and tyre storage operators consider no adverse effects are present or worth managing for stockpiles less than 200 m<sup>3</sup> because they are a permitted activity. This may also set a higher permitted baseline test than appropriate given adverse environmental effects are still associated with smaller tyre stockpiles outdoors.</li> <li>No ability to address adverse environmental effects from existing outdoor tyre stockpiles over 200 m<sup>3</sup> because many are likely to rely on existing use rights under section 10 of the RMA to avoid complying with the new NES.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Businesses with large volumes of tyres stored outdoors may incur costs associated with obtaining a resource consent (and subsequent compliance costs associated with complying with imposed consent conditions).</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>Will enable territorial authorities to better manage and enforce the adverse effects of large volumes of outdoor tyre storage through a resource consent process and appropriate consent conditions. This will help reduce the risks that large volumes of outdoor tyre storage present to the environment.</li> <li>Provides a relatively straightforward regulatory response to implement and enforce that will allow council efforts to target the most high-risk sites.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>A specific discretionary activity rule for large volumes of outdoor tyre storage will enable territorial authorities to undertake more efficient CME for larger operators.</li> <li>Avoids (or reduces) the need for councils to introduce rules to manage outdoor tyre storage and associated costs.</li> <li>Would reduce the risk of financial liability for addressing large tyre stockpiles falling on councils and land owners.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>Will enable the risks to human health and communities from large outdoor tyre storage to be more effectively managed.</li> </ul>	<p>As discussed in relation to Option 1, the information available is insufficient to confirm the scale of outdoor tyre storage and quantify or qualify the actual impact this is having on the environment at the national, regional and local level. The available evidence and feedback from councils does indicate that the adverse effects from outdoor tyre storage can be significant in certain circumstances, particularly in the event of a fire, and that outdoor tyre storage is a significant issue for some regions.</p> <p>This option provides a simple solution to address large volumes of outdoor tyre storage. It is an administratively straightforward regulatory solution and presents minimal implementation risks for territorial authorities. As such, the risks of acting through this option are considered to be low, it will simply enable territorial authorities to better manage and enforce larger volumes of outdoor tyre storage. The risks of not acting (Option 1) are greater than this option.</p>

		Costs	Benefits	Risk of acting or not acting if information is uncertain or insufficient
		<ul style="list-style-type: none"> <li>• Territorial authorities will incur some administrative costs in implementing and enforcing the NES. These costs are expected to be minimal given the limited number of properties with more than 200 m<sup>3</sup> of outdoor tyre storage. It is also expected to be an administratively simple and efficient NES to implement because there are no permitted activity conditions to interpret.</li> <li>• The option is not expected to have any material impact on opportunities for economic growth or employment.</li> <li>• Costs for central government to develop implementation guidance (around \$30,000).</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>• Outdoor tyre storage under 200 m<sup>3</sup> will continue to present risks to human health and communities.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>• Outdoor tyre storage under 200 m<sup>3</sup> may present risks to water bodies and other sites of significance to Māori.</li> </ul>	<p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>• Potential to better control the adverse effects of large volumes of tyres on water bodies and other sites of significance to iwi and Māori.</li> </ul>	
<b>Effectiveness and efficiency</b>	<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks, Option 2 is not considered to be the most effective means to achieve the objectives of the proposal because:</p> <ul style="list-style-type: none"> <li>• it does not address the adverse effects from outdoor tyre volumes less than 200 m<sup>3</sup>, the effects of which can be significant when located within or near sensitive areas</li> </ul>		<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, Option 2 is not considered to be the most efficient means to achieve the objective of the proposal because:</p> <ul style="list-style-type: none"> <li>• while it is a straightforward regulatory solution with limited uncertainty and risk, which is better than the status quo, it does not provide greater overall benefits to society compared with Option 3, because it does not</li> </ul>	

	Costs	Benefits	Risk of acting or not acting if information is uncertain or insufficient
	<ul style="list-style-type: none"> <li>inconsistencies would still exist in the regulation and management of outdoor tyre volumes less than 200 m<sup>3</sup></li> <li>it does not directly address the adverse effects of tyre storage that are primarily regional council functions (ie, discharge of contaminants to land, water, air)</li> <li>it is unable to address the adverse effects from existing outdoor stockpiles of tyres that will be able to rely on existing use rights under section 10 of the RMA.</li> </ul>		address the adverse environmental, economic, social and cultural effects that may arise from small- to medium-sized tyre piles, and it would not resolve the issue of legacy stockpiles.
<b>Overall evaluation</b>	<p>On balance, Option 2 is not considered to be appropriate because:</p> <ul style="list-style-type: none"> <li>it only partly achieves the objectives because it only addresses adverse effects from large volumes of outdoor tyre storage. It does not recognise that smaller volumes of tyres stored outdoors can also present significant risks to the environment, human health and communities. It may also perversely legitimise these adverse effects by classifying the outdoor storage of tyres in stockpiles less than 200 m<sup>3</sup> as a permitted activity</li> <li>it does not directly address the main adverse effects associated with outdoor tyre storage that are primarily regional council functions</li> <li>inconsistent regulation and management of outdoor tyre volumes less than 200 m<sup>3</sup> will still occur</li> <li>it does not resolve the issue of legacy stockpiles so has limited usefulness in addressing existing adverse environmental effects.</li> </ul>		
<b>Option 3: Proposed NES-STO</b>			
<p><b>Rules:</b></p> <p>Permitted activity rule for tyres between 20 m<sup>3</sup> to 100 m<sup>3</sup> stored on property, subject to conditions</p> <p>Restricted discretionary activity rule for tyres over 100 m<sup>3</sup> stored on property (unless activity is exempt from the volume threshold)</p>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The option does not regulate outdoor tyre storage with a volume of less than 20 m<sup>3</sup> on a property. The risk is that this small amount of outdoor tyre storage could result in adverse environmental effects if stored in inappropriate locations (eg, adjacent to water bodies).</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>It will impose compliance costs for end-of-life tyre collectors, recyclers or processors (as the activities most likely to stockpile tyres over</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The proposal provides a more targeted approach to managing the adverse effects of outdoor tyre storage above 20 m<sup>3</sup> through a combination of rules and permitted activity conditions. This will enable regional councils to better manage the environmental risks associated with small, medium and large volumes of tyres, including all environmental effects that fall within the jurisdiction of regional councils, for example, discharges to land, water and air.</li> </ul>	<p>As discussed in relation to Option 1, the information is insufficient to confirm the scale of outdoor tyre storage and the actual impact this is having on the environment at the national, regional and local level. However, the available evidence and feedback from councils indicates that the adverse effects from outdoor tyre storage can be significant in certain circumstances, particularly in the event of a fire, and that outdoor tyre storage is a significant issue for some regions.</p> <p>This option provides more targeted provisions to manage large volumes of outdoor tyre storage and control the proximity of smaller volumes of outdoor</p>

	Costs	Benefits	Risk of acting or not acting if information is uncertain or insufficient
<p>and/or where permitted activity conditions are not complied with</p> <p><b>Conditions:</b> Permitted activity conditions controlling height of tyre stacks and proximity to transmission lines, National Grid infrastructure, surface water bodies, bores and coastal marine area. Additional conditions for tyres used for silage stacks</p> <p><b>Responsibility:</b> Regional authorities</p>	<p>100 m<sup>3</sup>) to obtain resource consent or comply with the NES. It is estimated no more than 77 of these businesses exist nationally. The costs to obtain consent are not expected to be significant for these businesses. Compliance costs for monitoring are also likely to be passed on to these businesses from councils but again are unlikely to be significant.</p> <ul style="list-style-type: none"> <li>• Tyre retailers, retreaders and farmers will need to comply with the permitted activity conditions, which may result in compliance costs in some circumstances. However, those already undertaking environmentally responsible tyre-storage practices (eg, on impervious areas away from water bodies) are likely to be compliant with the permitted activity conditions without incurring any additional compliance costs.</li> <li>• Regional councils will have some administrative costs to implement the NES. However, these will largely be recovered from those businesses and land owners storing tyres. Further, the number of resource consents required under the NES is expected to be low.</li> <li>• Costs for central government to develop implementation guidance (around \$30,000).</li> <li>• The option is not expected to have any material impact on opportunities for economic growth or employment.</li> </ul>	<ul style="list-style-type: none"> <li>• The permitted activity conditions will help ensure sensitive receiving environments (eg, surface water bodies, sources of drinking water) are protected from the effects of outdoor tyre storage through minimum setback distances.</li> <li>• The targeted rules and conditions will enable more effective CME of outdoor tyre storage to reduce the risks this presents to the environment.</li> <li>• Because the responsibility for administering the NES-STO lies with regional councils, section 20A of the RMA will apply as opposed to section 10. This means lawfully established outdoor tyre stockpiles will only be able to rely on existing use rights for six months after the NES-STO comes into effect, after which they will either need to comply with the NES-STO or apply for a resource consent.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• The proposal addresses a regulatory gap through nationally consistent rules and permitted activity conditions. This is a more cost-effective approach than councils individually developing their own rules.</li> <li>• Provides a relatively straightforward regulatory solution that is expected to be fairly efficient to implement and enforce.</li> <li>• Accessible, nationally consistent and easily understood rules provide greater operational certainty for businesses with outdoor tyre storage.</li> </ul>	<p>tyres to sensitive areas and receiving environments. The rules and conditions provide a relatively straightforward regulatory solution, and it is expected regional councils will be able to implement this option with limited risks. The level of certainty is high that this option will help reduce the risks that outdoor tyre storage presents to the environment, human health and communities.</p> <p>As such, the risks of acting through this option are considered to be low; it will enable regional councils to better manage and enforce outdoor tyre storage. The risks of not acting (Option 1) are greater than acting through the NES-STO.</p>

	Costs	Benefits	Risk of acting or not acting if information is uncertain or insufficient
	<p><b>Social</b></p> <ul style="list-style-type: none"> <li>• Not applicable.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>• Not applicable.</li> </ul>	<ul style="list-style-type: none"> <li>• Reduced risk that councils and/or land owners become financially liable for abandoned tyre stockpiles.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>• The proposal provides a more targeted approach to managing the adverse effects of tyre storage above 20 m<sup>3</sup> through rules and permitted activity conditions. This will enable regional councils to better manage the risks that small, medium and large volumes of tyres present to human health and communities compared with options 1 and 2.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>• May better address the adverse effects of outdoor tyre storage on water bodies and other sites of significance to iwi and Māori compared with options 1 and 2.</li> </ul>	
<b>Effectiveness and efficiency</b>	<p><b>Effectiveness</b></p> <p>Based on the above examination of costs, benefits and risks, Option 3 is considered to be the most effective means to achieve the objectives of the proposal because:</p> <ul style="list-style-type: none"> <li>• it provides a more effective approach (compared with options 1 and 2) to managing outdoor tyre storage above 20 m<sup>3</sup> to reduce the risks this presents to the environment, human health and communities</li> <li>• it will ensure more nationally consistent regulation and management of outdoor tyre storage above 20 m<sup>3</sup></li> <li>• it addresses the regulatory gap in regional plan rules for outdoor tyre storage effectively and efficiently</li> </ul>	<p><b>Efficiency</b></p> <p>Based on the above examination of costs, benefits and risks, Option 3 is considered to be the most efficient means to achieve the objectives of the proposal because:</p> <ul style="list-style-type: none"> <li>• it is a relatively straightforward regulatory solution with limited uncertainty and risk, and it is expected it will be efficient to implement and enforce</li> <li>• it provides an efficient approach to address a regulatory gap under the RMA in relation to outdoor tyre storage and avoids the need for councils to develop their own rules</li> <li>• it provides regulatory certainty for businesses and land owners who store tyres outdoors</li> </ul>	

	Costs	Benefits	Risk of acting or not acting if information is uncertain or insufficient
	<ul style="list-style-type: none"> <li>it will help with more consistent, effective CME of outdoor tyre storage above 20 m<sup>3</sup></li> <li>it will address the issue of adverse environmental effects from legacy stockpiles because section 20A of the RMA covering existing use rights for regional activities will apply.</li> </ul>		<ul style="list-style-type: none"> <li>the costs associated with both applying for and processing resource consents for outdoor tyre storage are expected to be low. Monitoring costs are also expected to be minimal. These low costs, which are more likely to fall on the largest operators, mean the option is both an efficient and fair way of allocating costs associated with environmental compliance</li> <li>it will help with more consistent, efficient CME of outdoor tyre storage above 20 m<sup>3</sup>.</li> </ul>
<b>Overall evaluation</b>	<p>On balance, Option 3 is considered to be most appropriate because:</p> <ul style="list-style-type: none"> <li>it is the most effective at achieving the proposed objectives: <ul style="list-style-type: none"> <li>it is better at addressing the risks that outdoor storage of tyres over 20 m<sup>3</sup> present to the environment, human health and communities through a more targeted and effective set of rules and permitted activity conditions, when compared with options 1 and 2</li> <li>it will result in more consistent regulation and management of outdoor tyre storage over 20 m<sup>3</sup>, when compared with options 1 and 2</li> </ul> </li> <li>it provides a relatively straightforward regulatory solution with limited uncertainty and risk and so is expected to be efficient to implement and enforce.</li> </ul>		

## Conclusion

This evaluation has been undertaken in accordance with section 32 of the RMA to identify the need, benefits, costs and appropriateness of the proposal regarding its effectiveness and efficiency relative to other means in achieving the purpose of the RMA. The evaluation shows that the proposed NES-STO is the most appropriate option for the following reasons.

- The outdoor storage of end-of-life tyres, particularly when stockpiled and poorly managed, can pose risks to the environment, human health and communities. Some of the most significant environmental impacts are a result of tyre fires, which are low-frequency but high-impact events. The current RMA framework does not adequately address these environmental risks, and the proposed NES-STO seeks to address the current regulatory gap in the management of outdoor tyre storage under the RMA.
- A national environmental standard is the most appropriate mechanism to address this regulatory gap because responding to the identified resource management issues requires detailed regulation at the regional rule level to ensure each council is addressing the problem in the same manner. This is particularly important for removing any incentives to operators from moving tyres between regions to take advantage of more favourable regulatory settings. Making regional councils responsible for the NES-STO's implementation is also appropriate because the significant adverse effects associated with outdoor tyre storage are more aligned with regional council functions. Regional councils are also more actively involved in compliance monitoring and enforcement of unauthorised storage and disposal of tyres.
- The proposed NES-STO introduces clear and easily implemented rules and standards that apply to the outdoor storage of tyres within a property in any volume greater than 20 m<sup>3</sup>. The rules provide a pathway for tyre operators to achieve permitted activity status for tyre piles 20 m<sup>3</sup> or more but less than 100 m<sup>3</sup>, to reduce the potential compliance burden on smaller operators when they follow best practice. Outdoor tyre storage 100 m<sup>3</sup> and greater requires resource consent for a restricted discretionary activity, which reflects the increased environmental risks associated with larger piles of tyres.
- Exemptions are provided, where appropriate, for example, exemption from the volume thresholds for farmers storing tyres for use on silage stacks. The proposed exemptions recognise the different needs of legitimate end-of-life tyre users and ensure the proposed NES-STO is a practical, fit-for-purpose instrument.
- The implementation requirements and associated administrative costs for regional councils are not expected to be significant and are consistent with their standard RMA consenting, compliance monitoring and enforcement functions. Similarly, the compliance costs for industries are considered to be reasonable given the available pathways to a permitted activity status when best practice methods are implemented.
- The proposed NES-STO is considered to be the most efficient and effective option, compared with either the status quo or the 2017 NES. It will result in more consistent regulation and management of outdoor tyre storage above 20 m<sup>3</sup>. It also addresses the risks that outdoor storage of tyres over 20 m<sup>3</sup> presents to the environment, human health and communities through a targeted and effective set of rules and permitted activity conditions.

# Appendix – Relevant RMA provisions

## Section 6

### Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
- f) the protection of historic heritage from inappropriate subdivision, use, and development:
- g) the protection of protected customary rights:
- h) the management of significant risks from natural hazards.

## Section 7

### Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- a) kaitiakitanga:
  - aa) the ethic of stewardship:
- b) the efficient use and development of natural and physical resources:
  - ba) the efficiency of the end use of energy:
- c) the maintenance and enhancement of amenity values:
- d) intrinsic values of ecosystems:
- e) *[Repealed]*
- f) maintenance and enhancement of the quality of the environment:
- g) any finite characteristics of natural and physical resources:

- h) the protection of the habitat of trout and salmon:
- i) the effects of climate change:
- j) the benefits to be derived from the use and development of renewable energy.

## Section 8

### Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

## Section 43

### Regulations prescribing national environmental standards

- 1) The Governor-General may, by Order in Council, make regulations, to be known as national environmental standards, that prescribe any or all of the following technical standards, methods, or requirements:
  - a) standards for the matters referred to in section 9, section 11, section 12, section 13, section 14, or section 15, including, but not limited to—
    - i) contaminants:
    - ii) water quality, level, or flow:
    - iii) air quality:
    - iv) soil quality in relation to the discharge of contaminants:
  - b) standards for noise:
  - c) standards, methods, or requirements for monitoring.
- 2) The regulations may include:
  - a) qualitative or quantitative standards:
  - b) standards for any discharge or the ambient environment:
  - c) methods for classifying a natural or physical resource:
  - d) methods, processes, or technology to implement standards:
  - da) non-technical methods or requirements:
  - e) exemptions from standards:
  - f) transitional provisions for standards, methods, or requirements.
- 3) Section 360(2) applies to all regulations made under this section.
- 4) Regulations made under this section may apply—
  - a) generally; or
  - b) to any specified district or region of any local authority; or
  - c) to any specified part of New Zealand.

## Section 43A

### Contents of national environmental standards

- 1) National environmental standards may—
  - a) prohibit an activity:
  - b) allow an activity:
  - c) restrict the making of a rule or the granting of a resource consent to matters specified in a national environmental standard:
  - d) require a person to obtain a certificate from a specified person stating that an activity complies with a term or condition imposed by a national environmental standard:
  - e) specify, in relation to a rule made before the commencement of a national environmental standard,—
    - i) the extent to which any matter to which the standard applies continues to have effect; or
    - ii) the time period during which any matter to which the standard applies continues to have effect:
  - f) require local authorities to review, under section 128(1), all or any of the permits or consents to which paragraph (ba) of that subsection applies as soon as practicable or within the time specified in a national environmental standard.
- 2) A national environmental standard that prohibits an activity—
  - a) may do one or both of the following:
    - i) state that a resource consent may be granted for the activity, but only on the terms or conditions specified in the standard, including the duration of a consent; and
    - ii) require compliance with the rules in a plan or proposed plan as a term or condition; or
  - b) may state that the activity is a prohibited activity.
- 3) If an activity has significant adverse effects on the environment, a national environmental standard must not, under subsections (1)(b) and (4),—
  - a) allow the activity, unless it states that a resource consent is required for the activity; or
  - b) state that the activity is a permitted activity.
- 4) A national environmental standard that allows an activity—
  - a) may state that a resource consent is not required for the activity; or
  - b) may do one or both of the following:
    - i) state that the activity is a permitted activity, but only on the terms or conditions specified in the standard; and
    - ii) require compliance with the rules in a plan or proposed plan as a term or condition.

- 5) If a national environmental standard allows an activity and states that a resource consent is not required for the activity, or states that an activity is a permitted activity, the following provisions apply to plans and proposed plans:
  - a) a plan or proposed plan may state that the activity is a permitted activity on the terms or conditions specified in the plan; and
  - b) the terms or conditions specified in the plan may deal only with effects of the activity that are different from those dealt with in the terms or conditions specified in the standard; and
  - c) if a plan's terms or conditions deal with effects of the activity that are the same as those dealt with in the terms or conditions specified in the standard, the terms or conditions in the standard prevail.
  
- 6) A national environmental standard that allows a resource consent to be granted for an activity
  - a) may state that the activity is—
    - i) a controlled activity; or
    - ii) a restricted discretionary activity; or
    - iii) a discretionary activity; or
    - iv) a non-complying activity; and
  - b) may state the matters over which—
    - i) control is reserved; or
    - ii) discretion is restricted.
  
- 7) A national environmental standard may specify the activities for which the consent authority—
  - a) must give public notification of an application for a resource consent:
  - b) is precluded from giving public notification of an application for a resource consent:
  - c) is precluded from giving limited notification of an application for a resource consent.
  
- 8) A national environmental standard may empower local authorities to charge for monitoring any specified permitted activities in the standard.

## Section 43B

### Relationship between national environmental standards and rules or consents

- 1) A rule or resource consent that is more stringent than a national environmental standard prevails over the standard, if the standard expressly says that a rule or consent may be more stringent than it.
- 2) For the purposes of subsection (1),—
  - a) a rule is more stringent than a standard if it prohibits or restricts an activity that the standard permits or authorises:

- b) a resource consent is more stringent than a standard if it imposes conditions on an activity that the standard does not impose or authorise.
- 3) A rule or resource consent that is more lenient than a national environmental standard prevails over the standard if the standard expressly says that a rule or consent may be more lenient than it.
- 4) For the purposes of subsection (3), a rule or resource consent is more lenient than a standard if it permits or authorises an activity that the standard prohibits or restricts.
- 5) A land use consent or a subdivision consent granted under the district rules before the date on which a national environmental standard is notified in the *Gazette* prevails over the standard.
- 6) The following permits and consents prevail over a national environmental standard:
  - a) a coastal, water, or discharge permit:
  - b) a land use consent granted in relation to a regional rule.
- 6A) Subsection (6) applies—
  - a) if those permits or consents are granted before the date on which a relevant national environmental standard is notified in the *Gazette*:
  - b) until a review of the conditions of the permit or consent under section 128(1)(ba) results in some or all of the standard prevailing over the permit or consent.
- 7) This subsection applies to a resource consent not covered by subsection (5) or (6). The consent prevails over a national environmental standard if the application giving rise to the consent was the subject of a decision on whether to notify it before the date on which the standard is notified in the *Gazette*. However, the consent does not prevail if the standard expressly provides otherwise.
- 8) *[Repealed]*
- 9) If a national environmental standard requires a resource consent to be obtained for an activity, sections 10, 10A, 10B, and 20A(2) apply to the activity as if the standard were a rule in a plan that had become operative.

## Section 43E

### Relationship between national environmental standards and bylaws

- 1) A bylaw that is more stringent than a national environmental standard prevails over the standard, if the standard expressly says that a bylaw may be more stringent than it.
- 2) For the purposes of subsection (1), a bylaw is more stringent than a standard if it prohibits or restricts an activity that the standard permits or authorises.
- 3) A bylaw may be more lenient than a national environmental standard if the standard expressly specifies that the bylaw may be more lenient.
- 4) For the purposes of subsection (3), a bylaw is more lenient than a standard if it permits or authorises an activity that the standard prohibits or restricts.
- 5) In this section, **bylaw** means a bylaw made under any enactment.

## Section 43F

### Description of discharges in national environmental standards for discharges

A national environmental standard for an activity that is a discharge may describe the discharge by referring to—

- a) particular contaminants or sources of contaminants in a discharge; or
- b) the circumstances or sources of a discharge.

## Section 44

### Restriction on power to make national environmental standards

- 1) Before recommending the making of a national environmental standard to the Governor-General, the Minister must—
  - a) comply with section 46A(3); and
  - b) prepare an evaluation report for the standard in accordance with section 32; and
  - c) have particular regard to that report when deciding whether to recommend the making of the standard; and
  - d) publicly notify the report and recommendation made under section 46A(4)(c) or 51(2), as the case requires.
- 2) *[Repealed]*
- 3) The Minister need not follow the steps in section 46A if the Minister is recommending the making of an amendment—
  - a) that has no more than a minor effect; or
  - b) that corrects errors or makes similar technical alterations.

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# Abbreviations

2017 NES	National Environmental Standards for Outdoor Storage of Tyres
CMA	Coastal marine area
CME	Compliance, monitoring and enforcement
HAIL	Hazardous Activities and Industries List
m <sup>3</sup>	Cubic metres
Ministry	Ministry for the Environment
NES	National environmental standard(s)
NESCS	NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
NES-STO	National Environmental Standards for Storing Tyres Outdoors
NPS	National policy statement
NPS-ET	NPS on Electricity Transmission 2008
NPS-FM	NPS for Freshwater Management 2020
NZCPS	New Zealand Coastal Policy Statement
RIS	Regulatory impact statement
RMA	Resource Management Act 1991
WMA	Waste Minimisation Act 2008