

27 March 2024

Ministry for the Environment
PO Box 10362
Wellington 6143
New Zealand

By email: HAILFeedback@mfe.govt.nz

To whom it may concern,

Thank you for the opportunity to comment on the 'Hazardous Activities and Industries List guidance' released March 2023. The WasteMINZ Residential Lead Working Group (see Appendix A for more information about the working group) recommends a new HAIL inclusion as follows:

"Land that has, or has had, a painted building on it prior to 1950"

Evidence shows that the halo surrounding buildings on such land are **more likely than not** to contain lead in excess of soil guideline values for human health. Some of that evidence was presented at the Working Group's workshop at the WasteMINZ annual conference 2023, which Ministry for the Environment staff attended, and is publicly available at [Residential lead \(wasteminz.org.nz\)](https://wasteminz.org.nz). We encourage the Ministry for the Environment to contact us for available literature.

We submit this land belongs on the HAIL list because:

- a. Paint on pre-1950s dwellings contained up to 5% w/w lead. Published work and data collected from independent practitioners shows that for pre-1950s buildings, in more cases than not, lead in surface soil exceeds the NESCS soil contaminant standard, SCSs(health) of 210 mg/kg. We believe this evidence is more substantive than that used to include other HAIL categories.
- b. There is less-compelling evidence to show that *post*-1950s wooden painted dwellings are more likely than not to result in elevated lead in soil. Controls on lead content in paint were implemented and became increasingly stringent post 1960.
- c. We estimate that up to 450,000 properties may fall into this proposed category. It is unknown how many of the 450,000 painted pre-1950s houses have high concentrations of lead in soil, but published studies suggest that **more often than not**. This is likely to be a more significant issue than many of the other HAIL activities already on the list.
- d. There is evidence that excess lead in residential soil impacts blood lead levels of New Zealand children. The Dunedin Longitudinal Study found with each incremental increase of blood lead in children, there was a measured drop in adult IQ. There is no determined 'safe' blood lead level.
- e. The HAIL is a trigger to investigate land prior to a more sensitive land use change or subdivision, ensuring the safety of future land users and appropriate excess soil disposal. There are no other triggers or regulatory mechanisms that identifies residential soil lead risks, or targeted prevention-based education.

- f. Disposal of residential soil at class 3, 4 and 5 cleanfills, managed fills and landfills which unknowingly contains excess lead is one of the leading causes of non-compliance at these sites. Including this land as HAIL will provide a trigger to check for contamination prior to waste generation and as a part of waste acceptance. Frequently these sites are located in spent quarry pits with direct discharges into aquifers.
- g. Although 'HAIL I' has been used in the past by practitioners, we do not believe it is a suitable long-term solution; because this category can only be used once excess soil lead is known; therefore, it cannot be used as a trigger category.¹

Our preference is for a new HAIL category. However, if the Ministry for the Environment decides against incorporating land that may be affected by historical lead-based paints as a separate HAIL activity, we expect that:

EITHER:

1. The *inclusion* of land that may be affected by historical lead-based paints is *specifically noted* in HAIL category I;²

OR:

2. The *exclusion* of land that may be affected by historical lead-based paints is *specifically noted* in the HAIL list and guidance; and,
3. The Ministry for the Environment identifies an alternative regulatory trigger to identify lead impacted residential properties to protect vulnerable communities and children; and,
4. The Ministry directs regional councils to mandate that HAIL is not an adequate tool for screening contamination risks in soil.

Thank you again for the opportunity to contribute. We look forward to further communication on this issue.

Ngā mihi,



Michelle Begbie

**Chair of the WasteMINZ Residential Lead
Working Group**

Michelle.Begbie@waikatoregion.govt.nz

¹We would prefer to see 'HAIL I' applicability notes modified with removal of note "it **has** been subject to a confirmed on-site release of hazardous substances or contaminants...."

² This is not our group's preferred option as we believe that 'HAIL I' should be reserved for exceptional circumstances only, situations that are either so rare not to be initially included or have recently emerged as potentially contaminated sites, for example carpet factories or radiological testing areas.

Appendix A – About the WasteMINZ Residential Lead Working Group

The WasteMINZ Residential Lead Working Group formed in 2018 and includes representatives from the health and public health sectors, lead awareness advocates, and the water, paint retail and trade industries. The group is concerned with the undetermined magnitude of health effects from multiple residential (non-occupational) sources of lead. Our purpose is to bring together people to identify and address gaps in knowledge and practice for the benefit of all New Zealanders.

The WasteMINZ Residential Lead Working Group recognises three major areas related to the exposure of residential lead that require urgent action:

1. **Leadership and coordination:** A multitude of entities and individuals have some role in lead exposure management (see Appendix 1). They are guided by a myriad of legislation and guidance, with no agency accountable for ensuring the whole system works, and no stated goal to protect New Zealanders against exposure to lead.
2. **Research and monitoring:** High level surveillance alongside prevalence testing (in high-risk areas with older housing or other risk factors) is needed to assess children’s current lead exposure. Blood lead level data is poor, almost solely occupational, and completely absent for children under 5.
3. **Advocacy and proactive measures:** Regulation and guidance is sporadic and often outdated. There are opportunities to raise awareness of lead to empower and protect tenants, homeowners, painters and most importantly children.