

How do we maintain a **credible & consistent** set of **contaminated land guidelines**?

By James Court, BP Remediation Manager, BP Oil New Zealand

The Ministry for the Environment (MfE) has recently released the *National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health* (NES). The application of the NES is supported by the existing national guideline set. It also specifically incorporates a number of them by reference, including the *Contaminated Land Management Guideline series* and the *Guidelines for Assessing and*

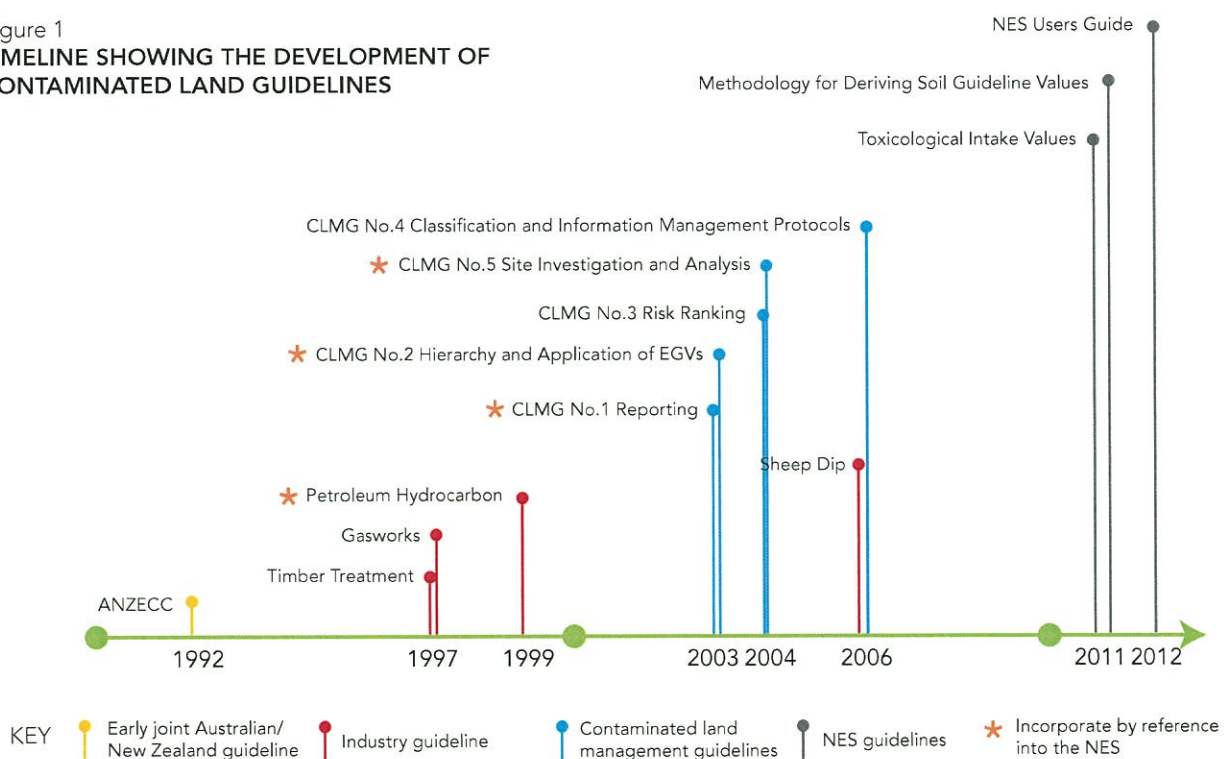
Managing Petroleum Hydrocarbon Contaminated Sites in New Zealand.

The inclusion of these guidelines in the NES significantly increases their regulatory importance. It is now more important than ever for these guidelines to be regularly reviewed and revised so that they are fit for purpose, credible, consistent, and as up to date as possible. But who should lead the review and revision of these documents, who needs to be

involved, and what process should be followed?

Before suggesting answers, it is important to understand the background to the existing guideline set, why they were developed and the context in which they were developed. MfE between 1997 and 2012 developed 12 contaminated land guidelines (refer figure 1).

Figure 1
TIMELINE SHOWING THE DEVELOPMENT OF
CONTAMINATED LAND GUIDELINES



Collectively these guidelines along with the NES form NZ's contaminated land management framework and can be broadly grouped into three types:

1. *The Industry Guidelines (1997–2006)*. Developed in response to a growing awareness by government and the community of the presence and effects of historical industrial (and later agricultural) contaminated sites in New Zealand.
2. *The Contaminated Land Management Guidelines (2003–2006)*. Building on the policy foundation established under ANZECC (1992), these guidelines provide a theoretical framework for contaminated land management and support local government functions under the RMA.
3. *The NES guidelines (2012)*. Guidelines specific to the development and implementation of the NES.

Almost all of the guidelines continue to form an important role in a post NES world. The NES incorporates a subset of the guidelines by reference. This means they apply nationally and are legally enforceable in the context of the regulations. They play a critical role in the NES by defining in more detail than the regulation is able, the standard and content to which various reports should be written, how potentially contaminated land is identified, how underground fuel storage systems are to be removed, and which soil guideline values are applicable.

However, while there have been some minor cosmetic changes to these guidelines to integrate them with the NES, they are largely still the same unrevised guidelines that existed prior to the NES coming into force. The guidelines referenced in the NES contain out of date content and were arguably never written with the intent to be legally enforceable. It is also

important not to forget about the non-referenced guidelines; the majority of which still contain relevant information and guidance.

HOW DO WE MAINTAIN A CREDIBLE AND CONSISTENT SET OF GUIDELINES?

Due to the number of guidelines, their increasing age, and their benefit and importance to the contaminated land sector, it is now critical that a long term vision be developed to monitor, review, prioritise and revise our guideline set.

I consider that a permanently established guideline working group, that act as stewards of the guideline set, needs to be established. The group would include membership from central and local government, industry and practitioner groups. Their tasks would include prioritising and agreeing review cycles for each guideline, recommending revisions (if necessary), considering feedback from consultation, and submitting a final revised version for endorsement and publication.

WHO SHOULD LEAD THIS?


MfE led

In an ideal world I believe MfE should lead this work. MfE discussion documents¹ identified the review and development of guidelines as a priority and foresaw the need to review the guidelines early after developing the NES to ensure policy consistency and regularly thereafter. While MfE has been responsible for producing the guidelines in close consultation with local government, they have a less than exemplary record of reviewing and revising guidelines. It is therefore reasonable to expect that this will continue. That is not a criticism; MfE has many competing priorities and we must understand that contaminated land will not always be high on the policy agenda.

¹ Working Toward A Comprehensive Policy framework for Managing Contaminated Land in New Zealand (MfE, 2007)

Sector led

A sector led approach, may be best suited to maintaining a credible and consistent set of guidelines.

In effect the end users taking more ownership. This is not a new concept: the oil industry guidelines and biosolids guidelines were developed following a similar process. For a sector led approach to be viable, MfE support and inclusion is absolutely critical if the output of the working group is to be endorsed or gazetted. 

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James Court manages BP Oil New Zealand's soil and groundwater environmental responsibilities. James has over 17 years' resource management experience. Prior to BP, James spent 10 years at the Ministry for the Environment where he led the development of water quality guidelines, contaminated land guidelines and national environmental standards, including the recent standard for assessing and managing contaminants in soil to protect human health.

How do you think we can maintain a credible and consistent set of guidelines?

A half day workshop in October immediately following the WasteMINZ conference will focus on 'Coming to terms with the NES'. The issue of guidelines and how they support the NES is sure to come up. Anyone with an opinion to share on the NES or guidelines should ensure they attend this workshop and help contribute to shaping the direction of their industry.