

Contaminated Land Management Guidelines No. 4

Classification and Information Management Protocols

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Executive Summary

This is the fourth in the Ministry for the Environment's Contaminated Land Management Guidelines series. The purpose of this guideline is to promote a practical, nationally consistent framework to assist local authorities to investigate and monitor contaminated land and manage the effects of land use. The guideline promotes best practice among local authorities for identifying and classifying sites, and for providing information to landowners and other interested parties.

After the introduction in chapter 1, chapter 2 provides a definition of contaminated land. The components of the information management system are described, including the use of a database or register, the principles of information management, and issues to consider when designing a data management system.

Chapter 3 outlines site classification and the Hazardous Activities and Industries List (the HAIL), published as *Contaminated Land Management Guidelines Schedule A* (Ministry for the Environment, 2004c). The HAIL highlights past and present activities involving hazardous substances. Sites associated with HAIL activities may warrant inclusion on a local authority register. Based on information available to local authorities, a site is classified according to its likely risk to people or adverse effects on the environment. Local authorities may then prioritise sites for further investigation or action. Site information may be provided to interested parties with an indication of the risk a particular site may pose.

The classification categories promoted in this guideline are:

- land-use information
- contaminated land
- error.

These categories have been created to cover the general groupings that sites fall into, distinguishing between sites where the land-use history is known or there is some analytical information about the presence or absence of hazardous substances, but there is no evidence that the site is contaminated land as defined in the Resource Management Act 1991 ('land-use information'), and sites that have been confirmed as contaminated ('contaminated land'). The 'land-use information' category will include information specific to a site; for example, that the site has been remediated or is being managed.

In addition to explaining the categories, chapter 3 sets out the process for information verification and site owner notification. Guidance is provided on the level of information required to place sites within particular categories, recommendations for transferring sites from one category to another, an owner notification and consultation process, and suggestions for dealing with special circumstances such as large multi-title and subdivided sites. Essential information to be collected for each site is outlined, and an explanatory flow diagram of the verification, registration and site owner notification process is provided.

Chapter 4 addresses information release and describes scenarios where data might be transferred between parties, including Property and Land Information Memoranda.

Finally, chapter 5 provides recommendations for effective information management to promote fair, consistent and secure methods for data collection, storage, updates and release. The appendices include sample notification letters and information release formats.

1 Introduction

This is the fourth in a series of five guidance documents for **contaminated land**¹ management produced by the Ministry for the Environment. The other four guidance documents are:

- *Contaminated Land Management Guidelines No. 1: Reporting on Contaminated Sites in New Zealand* (Ministry for the Environment, 2003a)
- *Contaminated Land Management Guidelines No. 2: Hierarchy and Application in New Zealand of Environmental Guideline Values* (Ministry for the Environment, 2003b)
- *Contaminated Land Management Guidelines No. 3: Risk Screening System* (Ministry for the Environment, 2004a)
- *Contaminated Land Management Guidelines No. 5: Site Investigation and Analysis of Soils* (Ministry for the Environment, 2004b).

Under the RMA, regional councils have the function of investigating land in order to identify and monitor contaminated land. Territorial authorities have the function of preventing or mitigating any adverse effects from the development, subdivision or use of contaminated land.

Both regional councils and territorial authorities acquire large amounts of information in the course of carrying out their functions. In addition, due to an increasing public awareness of land contamination issues, local authorities² receive enquiries for information, particularly associated with property transactions or development. The quality of information available, together with the legal liability issues that arise from inappropriate release or inaccurate interpretation of information, mean there is a need for careful information management.

1.1 Purpose

The purpose of this guideline is to promote a practical, nationally consistent framework to assist local authorities to investigate and monitor contaminated land. The guideline promotes best practice among local authorities for identifying and classifying **sites**, and for providing information to landowners and other interested parties.

The classification system promoted here groups sites according to the adverse effects or **risk** – or potential risk – they pose to the environment, including people. The system helps to identify sites that require investigation or remediation. Local authorities are encouraged to adopt the classification system and procedures provided. Having a nationally consistent system will enable everyone involved in the management of information about land contamination to ‘talk the same language’, and ultimately should encourage better outcomes for everyone involved in the sale, purchase, investigation, remediation and use of sites.

¹ Terms in **bold** are defined in the Glossary.

² The term ‘local authority’ refers to regional councils, city and district councils (territorial authorities) and unitary authorities.

1.2 Scope

This guideline covers sites where **hazardous substances** are, or may be, present in the environment, and where there is the potential for those hazardous substances to pose risks to people or to have wider environmental effects.

The guideline does not cover environmental contaminants such as micro-organisms or radioactivity, although there may be some circumstances (eg, if the risks posed by the presence of contaminants on the site are not addressed in another way) when it is appropriate for information about such a site to be placed on the **register**.

Note that local authorities or other agencies may choose to address issues of widespread contamination, such as historical pesticide use or cadmium contamination, through specific strategies rather than by the systems in this guideline.

1.3 Relationship to other documents

Some regional councils and unitary authorities have developed information management strategies for land contamination linked to regional policy statements and plans. Such strategies typically:

- define the region's priority site types and preferred outcomes for sites
- provide policy and methods for site identification
- define the requirements for site investigation, risk assessment, site remediation and site management
- define information management policies and procedures, including database development and information entry, storage, manipulation, retrieval and release.

Territorial authorities may also have developed policies and plans to address potential land contamination, either in conjunction with regional councils or in the absence of regional land contamination policies.

This guideline is not intended to replace local authority strategies or policies, although parts of it may usefully replace sections of local authority documents where **site classification** systems and information management procedures are required. This guideline should be read in the context of the entire suite of Contaminated Land Management Guidelines produced by the Ministry for the Environment, along with some industry-specific guidelines, which are available on the Ministry for the Environment's website (www.mfe.govt.nz).

This guideline is not intended to provide a precise recipe for creating a particular type or form of database for storing information on land contamination. Rather, it provides an overall information management strategy that, together with a set of categories and procedures, can be applied to achieve consistency between local authorities.

2 Managing Information about Land Contamination

Land may be contaminated in a number of ways, but mainly as a result of the manufacture, transport, storage, use or disposal of hazardous substances. Industrial activity is the predominant cause, but commercial, agricultural and residential land uses or activities can also result in contamination. Contamination of an area of land may, in turn, result in contamination of other land, sediment, air, groundwater or surface water, both at the source of contamination and at locations remote from the source through migration of the hazardous substances.

The significance of land contamination (ie, the actual and potential adverse effects or risks it poses) varies according to:

- the concentrations of hazardous substances present, or whether they are present at all
- the scale, history, nature and location of hazardous substances relative to potential receptors (ecosystems, plants, animals, people)
- the presence of an exposure pathway between the hazardous substance and a potential receptor (eg, how a person might come into contact with a hazardous substance). Exposure pathways include direct contact, ingestion, absorption, inhalation or contact with vapours.

Contaminated land is defined in the RMA, as amended in 2005, as land of one of the following kinds:

- (a) *if there is an applicable national environmental standard on contaminants in soil, the land is more contaminated than the standard allows; or*
- (b) *if there is no applicable national environmental standard on contaminants in soil, the land has a hazardous substance in or on it that:*
 - (i) *has significant adverse effects on the environment; or*
 - (ii) *is reasonably likely to have significant adverse effects on the environment.*

Section 30(1)(ca) of the RMA assigns the following function to regional councils:

... the investigation of land for the purposes of identifying and monitoring contaminated land.

Section 31(1)(b)(iia) of the RMA gives territorial authorities the function of:

... the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.

Regional councils and territorial authorities have functions for controlling the use of land for the purposes of prevention or mitigation of any adverse effects of the storage, use, disposal or transportation of hazardous substances. Local authorities may also gain information about potentially contaminating activities through their responsibilities under the Hazardous Substances and New Organisms Act 1996 and the Health Act 1956. Territorial authorities may hold land contamination information to fulfil their responsibilities under the Building Act 2004

regarding **Project Information Memoranda** (PIMs) and under the Local Government Official Information and Meetings Act 1987 for **Land Information Memoranda** (LIMs).

2.1 Information management system components

Any information system used by local authorities to manage land contamination information will consist of three components:

- a physical or electronic database or register ('the register')
- a technical procedure for classifying and registering a site (site classification)
- administrative procedures for information management (information management protocols).

The information management protocols have been further subdivided into recommendations for data transfer and release, and procedures defining good practice for data management and security. The register is described below, and site classification and information management protocols are detailed in chapters 3, 4 and 5.

2.2 The register

The register is that part of a set of physical files or electronic databases that stores site classification information relating to identifiable parcels of land. A **site** is an area of land, as defined by legal descriptions or part of a legal description. Site investigation refers to the collection of information about that area of land.

Regional councils and territorial authorities both need access to land contamination information to undertake their functions. This guideline recommends a single master register for each region, for greater accuracy and to avoid duplication of effort. We assume that the regional councils will hold master registers, in view of their functions under the RMA. Most regional councils already hold a considerable amount of information within dedicated regional registers. As holders of master registers, regional councils would be responsible for reviewing new information and for determining how sites are classified and described, initially or during reviews.

Nothing in this guideline precludes individual territorial authorities from holding a register for their district or city, with an up-to-date copy being held by the regional council. The important elements of registers are accuracy of data and processes, including information sharing and release, regardless of who administers the register. If a territorial authority and the regional council for a particular region agree that the territorial authority will maintain their own register, the recommended systems set out in this guideline should be modified accordingly. This arrangement will not alter the overall objectives of the guideline.

Additional information about a site may be held on property files and in electronic forms outside the register. This may include other databases used to manage site information, as well as detailed investigations, assessment reports and correspondence. However, until a site is entered onto the register (see chapter 3), such information is not considered to be part of the register, even if it refers to site contamination.

This guideline provides rules and procedures that all regional councils and unitary authorities can adopt, with sufficient flexibility to allow for differences within and between regions in how the recommendations are adopted. A particular database design or kind of software is not prescribed. The approach in this guideline applies irrespective of the actual means of information storage – whether in a sophisticated electronic database or a paper-based system.

If electronic, the register may be shared between local authorities with appropriate authorisations for altering data. A shared register would facilitate access to live, accurate information and lessen the need for requests and transfers of information between local authorities.

2.3 Information management principles

This guideline is based on the following principles for managing information.

1. *Transparency* – the purpose and procedures of site information collection, storage and management are clearly documented.
2. *Consistency* – the procedures described in this guideline are applied in all situations.
3. *Fairness* – site owners are given the opportunity to review, and object to or correct, information about to be placed on, or already held on, the register.
4. *Quality* – information will be verified in a timely manner.
5. *Security* – access to the register to view, add, alter or release information will only be given to authorised local authority officers.
6. *Accountability* – an audit trail will be kept of additions and changes to the register, information sharing with territorial authorities, and releases to other parties.

These principles are very important, because the entry of a particular site on a register may materially affect the ability of the owner to use or sell the property. Incorrect information may expose a local authority, or other parties, to legal liability.

3 Site Classification

The overall purpose of a classification system is to provide local authorities with a best practice means of managing information about sites associated with hazardous substances and providing that information to interested parties. The specific objectives of the classification system are to provide a way to:

- indicate what information is available about the adverse effects or risk a site poses, or may pose, to people or the wider environment, particularly whether the site is contaminated or not
- ensure similar sites are identified in a similar way, to promote consistency and fairness
- prioritise sites for further investigation, remediation or other action, or allocate resources
- track actions taken, or changes in site status
- record inaccuracies
- provide an incentive for site owners to carry out actions that will reduce risks posed by their site
- provide interested parties with an indication of the risks or adverse effects a particular site may pose.

The classification system consists of the following components:

- site categories and descriptions (including a set of activities and industries that are likely to have used, stored or disposed of hazardous substances (Hazardous Activities and Industries List, or HAIL, see section 3.1)
- a minimum set of information for each site and each category
- processes for transferring a site from one category to another, and for dealing with special circumstances such as large sites and subdivided sites
- recommended protocols for maintaining the register.

Local authorities obtain information about sites in a number of ways, and that information may be of varying quantity and quality. How a site is categorised and described depends on the presence or absence of hazardous substances and what risks or adverse effects those hazardous substances pose to the environment, including people. The following categories seek to ensure that sites are identified according to risk, and to acknowledge the variability of available information:

- land-use information
- contaminated land
- error.

The ‘land-use information’ category includes both historical or current land use and information about hazardous substances, where available. The ‘contaminated land’ category describes sites that are contaminated according to the definition of contaminated land in the RMA. The ‘error’ category is for sites that were mistakenly entered on the database.

These categories may be used with an additional tag, ‘under investigation’. The results of site investigations would either confirm the current category or result in a change of category. This tag can be applied to a site in any category.

3.1 Land-use information

This category is for sites for which some information is available about the land-use history, or the presence or absence of hazardous substances, or both. There may be a management plan in place or the site may have been remediated.

Note that sites in this category do not meet the RMA definition of contaminated land; sites that fit this definition are placed in the category ‘contaminated land’.

The following descriptions are intended as a guide to the kind of information about a site that people may be looking for when, for example, seeking to subdivide former horticultural land, or purchasing a property. Local authorities may wish to make use of the descriptions, where applicable, when communicating with interested parties about a specific site. The descriptions may assist decisions about the site’s use and suitability, and may indicate whether further action is advisable, such as a site investigation.

If a site has been associated with the Hazardous Activities and Industries List, it will be useful to indicate that:

- the relevant land-use history has not been confirmed. The site has been reported as one that appears on the Hazardous Activities and Industries List, but the reported use has not been confirmed
- the land-use history has been confirmed. The site has been confirmed as one that appears on the Hazardous Activities and Industries List.

The difference between these two points is explained in more detail below.

Hazardous Activities and Industries List

The Hazardous Activities and Industries List (HAIL) is a compilation of activities and industries that are known to have the potential to cause land contamination as a result of the use, storage or disposal of hazardous substances. The HAIL is a revision of the list of industrial activities first published in the *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites* (ANZECC, 1992). The HAIL is published as *Contaminated Land Management Guidelines Schedule A* (Ministry for the Environment, 2004c). An additional list, with typical hazardous substances for each HAIL category, is published as *Contaminated Land Management Guidelines Schedule B* (Ministry for the Environment, 2004d).

The HAIL is intended to help local authorities identify sites where contamination *might* have occurred. A listing on the HAIL does not indicate that the presence of a specific activity on a particular site will have resulted in the contamination of that site.

A generic activity involving hazardous substances may be listed irrespective of the industry (eg, petroleum storage). Alternatively, an industry may be listed on the basis that certain activities typical of that industry involve hazardous substances, and therefore all sites within that industry should be considered (eg, the timber treatment industry). Particular activities that are a small part of an industry and are generally localised within larger sites may be listed. For example, animal dip sites are listed, but farming is not, because dip sites are only a small part of a farm. Sites where hazardous substances have been used on a broad scale may fall within one of the specific HAIL listings (eg, HAIL No. 29 – areas where persistent agricultural chemicals have been used), or into HAIL No. 53 – any other facility or activity. However, as mentioned in section 1.2, local authorities may choose to address widespread contamination issues through their own strategies.

Describing a site as having the land-use history not yet confirmed identifies it for further attention. If the land-use history has not been confirmed, the site cannot be assumed to have been used for an activity or land use that has the potential to result in site contamination – that is, the activities described in the HAIL. The site cannot be assumed to have used hazardous substances until such information becomes available. There is no minimum information requirement for this description. Information sources may include a public complaint or unsubstantiated verbal history.

Confirming the land-use history does not mean there is any evidence of the presence or absence of hazardous substances. Sites that are confirmed as being on the HAIL, if accorded sufficient priority, should be further investigated. If further information indicates that a site has been mistakenly associated with the HAIL, the site should be moved to category ‘error’. The evidence that confirms the land-use history, including sources, should be recorded. The information held should include one or more of the following:

- personal knowledge, preferably a record of a visual inspection of the site by a suitably qualified or experienced local authority officer, and accompanied by a justification for inclusion in this category
- documented evidence of the site use (eg, phone directory, trade directory, photographs, company information, community histories, local authority records) from two sources, defining both the location and use; one source may be adequate if the information is such that the location and use are certain, but a single phone directory entry would not normally be sufficient
- documented evidence from past owners, workers, neighbours, hazardous substance suppliers or business customers, preferably with independent corroboration. Where the evidence is deemed to be sufficiently certain (affidavits may give greater confidence), independent corroboration would not be required. Where a report is from a seemingly unrelated party, or perhaps a competitor, independent corroboration would be important.

If a site has been investigated and some analytical information is available about the presence or absence of hazardous substances, providing a summary of the level of information held and what that information reveals about the site is useful. The date of the investigation(s) should be referenced every time information about the site is released. This ensures that recipients of the information are aware that concentrations of hazardous substances on the site may have changed after the investigation was undertaken because of activities on the site. If there is information available about both the land-use history and investigations of a site, both aspects can be provided or discussed together.

In assessing the information provided it is particularly important to check that the information held adequately considers both the on- and off-site land uses, because hazardous substances may migrate. The most sensitive exposure pathway and receptor combination should be considered. For example, an industrial site with on-site contamination that is within industrial guidelines may have off-site migration of hazardous substances in groundwater that renders a water supply on an adjacent site unacceptable. The source site would be likely to be placed in the ‘contaminated land’ category in this situation.

The following descriptions may provide a starting point.

- The site has been investigated. Investigations indicate that there are no hazardous substances present at the site. The site was associated with an activity or industry that uses,

stores or disposes of hazardous substances, but investigations indicate that hazardous substances are at **background concentrations** or below.

- The site has been investigated. Investigations indicate that there are no hazardous substances present at the site. The site previously had hazardous substances present, but the site has been remediated to reduce concentrations of those hazardous substances to background concentrations or below.

Sites would be described as remediated and having no hazardous substances present via one of two mechanisms.

1. The site has not previously been registered, and although an investigation report has been received by the local authority that demonstrates that the site had hazardous substances present, these have all been removed or destroyed.
2. The site had previously been registered as 'contaminated land' or 'land-use information' but remediation (or further remediation) has been carried out and a site validation report has been received that indicates that there are no hazardous substances left on the site above background concentrations.

The information on the register should state that remediation has been undertaken at the site and that the site validation report indicates that the previous contamination has been eliminated and that any imported fill is free of hazardous substances.

For a site to be described as having no hazardous substances present, remediation would have to consist of destruction or removal of the hazardous substances. Immobilisation of the hazardous substances would not be sufficient, because in this instance the risks are being managed, rather than remediated.

The site has been investigated. Investigations indicate that there are hazardous substances present at the site, but indicate that any adverse effects or risks to people and the environment are considered to be so low as to be acceptable. This may apply where:

1. The site has not been previously noted on the register, and although an investigation report has been received that shows the site has hazardous substances present, the report shows that the concentrations are so low as to be considered acceptable.
 2. A site has previously been noted on the register and investigations have revealed the presence of hazardous substances. The information indicates that the concentrations of hazardous substances are so low as to be considered acceptable.
 3. A site has previously been registered as 'contaminated land' but remedial action has been taken and a report demonstrates that any adverse effects or risks are so low as to be considered acceptable.
 4. A site has previously been described as having no hazardous substances present, and further information has become available that shows that an incident (eg, a spill) has resulted in the presence of hazardous substances. However, the concentrations of hazardous substances are so low as to be considered acceptable.
- The site has been investigated. Investigations indicate that there are hazardous substances present at the site, but indicate that any adverse effects or risks to people and the environment are managed.

A management plan is a risk-management technique that seeks to ensure people do not come into contact with hazardous substances at a site. New owners of a site should be made aware of any restrictions on the site's use. The date of the investigation(s) should be referenced every time information about the site is released. This ensures that recipients of the information are aware that concentrations of hazardous substances on the site may have changed after the investigation was undertaken because of activities on the site.

Sites will usually be identified as being managed by one of four routes:

1. The site has not previously been noted on the register, and although an investigation report has been received that shows the site has hazardous substances present, information indicates that a management plan has been implemented.
2. A site has previously been noted on the register and further investigation has revealed the presence of hazardous substances, but a management plan has been implemented.
3. A site has previously been registered as 'contaminated land', but some management action has been taken and a report demonstrates that any adverse effects or risks are so low as to be considered acceptable.
4. A site has previously been registered as having no hazardous substances present, and although an incident (eg, a spill) has resulted in the presence of hazardous substances, a management plan has been implemented.

- The site has been partially investigated. Investigations indicate that there are hazardous substances present at the site; however, there is insufficient information to quantify any adverse effects or risks to people or the environment. Reasons for considering the information insufficient may include:
 - the investigation undertaken does not address all the issues of concern on the site, such as all relevant environmental media (eg, groundwater, sediments)
 - the investigation was for only part of the site (eg, if the tank pits on a service station site were investigated, with no consideration given to other potential hazardous substance sources)
 - analysis for all likely hazardous substances associated with the present or past land use has not been undertaken (eg, copper, chromium and arsenic might have been investigated on a timber treatment site, but not pentachlorophenol (PCP), even though there has been documented use of the product on the site)
 - hazardous substances are known to have migrated onto the site from an adjacent site, but no investigation has been done to quantify the effects.

In rare circumstances, visual evidence may be considered sufficient to describe a site as partially investigated, such as where there is obvious extensive staining on, or in, the ground over an area known to have stored visually distinctive chemicals, or where chemicals are known to have been spilled.

Any information released about the site must clearly state what investigations have been undertaken on the site, as well as specifying what aspects of the site have *not* been investigated.

3.2 Contaminated land

This category is for sites where there are hazardous substances present that have, or are reasonably likely to have, significant adverse effects on the environment. Sites in this category fit within the RMA definition of contaminated land (see section 2). Local authorities must be

satisfied that the evidence available is sufficient for a site to be placed in this category. The site may or may not have previously been on the register.

The following scenarios are likely to result in classification of land as contaminated:

1. An investigation report shows the site has hazardous substances present that have, or are reasonably likely to have, significant adverse effects on the environment.
2. The site has previously been registered as 'land-use information' and further investigation has identified hazardous substances present that have, or are reasonably likely to have, significant adverse effects on the environment.
3. The site has previously been registered as 'land-use information', but a change to the site's use means that the site now has, or is reasonably likely to have, significant adverse effects on the environment.
4. A site has previously been registered as 'land-use information', but as a result of site activities (ie, the release of hazardous substances), a report has identified the presence of hazardous substances that have, or are reasonably likely to have, significant adverse effects on the environment.
5. Management measures put in place to control access to hazardous substances for a site registered as 'land-use information' are inadequate. The hazardous substances have, or are reasonably likely to have, significant adverse effects on the environment.

Determining whether a site is contaminated involves a thorough assessment of all exposure pathways in order to determine that the site has hazardous substances present and that those hazardous substances have, or are reasonably likely to have, significant adverse effects on the environment. The evidence required (such as a site investigation) and sampling and analysis should be in keeping with Ministry for the Environment guidelines. Where the local authority does not hold the expertise to evaluate a report, it is advisable to seek an independent peer-review.

3.3 Error

This category is for sites that have been entered on the register in error. Information shows that the site has never been associated with any of the specific activities or industries on the Hazardous Activities and Industries List.

When a site is initially identified as 'land-use information', the information held needs to be reviewed. If further information or investigations clearly show the initial registration was incorrect, then the site would be assigned to 'error'. The 'error' category is for the discovery of mistakes at any point, from any category, not just at the verification stage (eg, to reclassify a duplicate entry for a site that has erroneously been entered on the register).

Where certain details about a site are entered incorrectly (eg, the wrong street address or occupier's name), it may be more appropriate to amend these details (rather than categorise the site as 'error') and re-enter the same site with the correct details. Good data management protocols should ensure that amendments are recorded and explained. Enquiries about sites registered under this category should be responded to with 'no evidence about past or present hazardous activities or industries is held'.

Keeping a record of a site entered onto the register by mistake should ensure it is not re-identified in the future. The reasons for the original entry and reasons for the change to this

category must be given. If sufficient evidence is available, a landowner may prefer the site to be registered as 'land-use information' to show that the absence of hazardous substances has been verified.

Other relevant local authorities should be made aware of sites assigned to 'error' to ensure any misinformation is corrected. Territorial authority files may need to be altered to correct any mistakes.

3.4 Sites adjacent to registered sites

When information is received indicating that a site should fall within a 'contaminated land' or 'land-use information' category, a decision must be made as to whether adjacent sites might have been affected by hazardous substances migrating across site boundaries and whether those adjacent sites should be recorded on the register. Migration of hazardous substances could occur by:

- transport of dust by wind
- transport of sediment by stormwater
- flow of a spilled liquid across a boundary
- migration of vapours or gases through the ground or above the ground
- migration of non-aqueous-phase liquids, otherwise referred to as phase-separated product, in or on groundwater
- migration of dissolved hazardous substances in groundwater
- physical movement (eg, digging and removal of soil or wastes) across a boundary.

Adjacent sites could be noted as falling within HAIL No. 52 (any site that has been, or could have been, subject to the migration of hazardous substances from hazardous substances present on adjacent sites) and categorised as 'land-use information' and described as follows:

- the land-use history is not confirmed – if an investigation report suggests that migration is reasonably likely to have occurred, or
- the site has been partially investigated – if there is evidence of migration of hazardous substances (eg, a spill extending onto an adjacent site, which has been verified through testing), but no information about whether the hazardous substances have, or are reasonably likely to have, significant adverse effects on the environment.

In either instance, flagging the site for further investigation would be warranted.

If sampling is undertaken on the adjacent site, and hazardous substances are present and are having or are reasonably likely to have, significant adverse effects on the environment, it may be appropriate to register the adjacent site as 'contaminated land'. Where sampling the adjacent site shows the presence of hazardous substances at concentrations unlikely to have significant adverse effects on the environment, registration as 'land-use information' would be appropriate. If the sampling is not representative of the entire site, the site should be registered as 'land-use information' and noted as being partially investigated.

For sites further away from the source site than the immediately adjacent site (ie, remote sites), there is no justification for registration unless there is clear evidence that migration has occurred across the adjacent site and is affecting more remote sites. However, if a risk assessment of a

major spill shows that remote sites are at risk, it may be prudent to note such sites on the register as ‘land-use information’, noting that the land-use history is not confirmed and pending further investigations. The remote sites would not be considered to be ‘contaminated land’ unless further investigations indicate that hazardous substances are present and are having, or are reasonably likely to have, significant adverse effects on the environment.

3.5 Multi-title or subdivided properties

New Zealand’s land tenure system is based on a unique legal description or title for each parcel of land. Many properties will consist of a single parcel of land with a single legal description. However, some properties, particularly larger ones, may consist of several ‘lots’, each with a title.

For the purposes of this guideline, a site can contain one or many lots. For a site with multiple lots (and therefore multiple legal descriptions), each legal description should be recorded on the register. A site number (or similar) will indicate there is one site comprising multiple lots.

Where a multi-title block of land has been used by one company, but an investigation shows that hazardous substances were used, stored or disposed of only on some lots within that block of land, only the affected or associated lots should be identified in the site record. A note could be made in the site details listing the extent of the whole site, but clearly stating that only some of the lots within the block are registered.

Similarly, large blocks of land consisting of a single title may not have been affected over the whole site (eg, a farm). Using the title to identify the site means that the whole site must be given the same classification. To overcome this, the register entry should clearly note that just a limited area is affected. The affected area should then be delineated using a map reference from a topographical map (1:50,000) and any other appropriate information.

Subdivision of a large site will create several new sites, each identified by a new title. Where a site originally contained multiple lots, sale of individual lots to new owners would necessitate the creation of new sites to represent this. If a site was on the register at the time of subdivision, a decision must be made how to classify each of the new titles, and how to record the information about the original site on all the new entries.

If no information is available to differentiate effects on different parts of the original site, all the new titles should automatically default to the classification of the original site. The new titles should include a reference to the original site.

Where there is sufficient information from the original classification, newly created sites may be given a different classification to the original site. This would arise if an original investigation report was sufficiently detailed to show that contaminating activities were restricted to particular parts of the original site, or the results of sampling showed a clear differentiation of effects. If there is sufficient evidence to show that a new site created from an old classified site did not have any contaminating activities associated with it (including consideration of hazardous substance migration), or there are sufficient sampling results to show that there are no hazardous substances present, or that any hazardous substances present are unlikely to have significant adverse effects on the environment, then the site may be placed in the ‘error’ category or ‘land-use information’ as appropriate. A new site created from an old site assigned ‘error’ should not be entered into the register. In all other circumstances, a new site would be assigned an appropriate category in order to provide an audit trail.

3.6 Classification process

Information about sites can come from a variety of sources. Irrespective of the source of the information, once the local authority becomes aware of a site, the site details need to be entered on the register and verified.

There are a number of steps to classifying sites, which will vary depending on the type and nature of information held. Verifying the information held and notifying the site owner are the two fundamental processes that will occur, irrespective of the category the site is placed into.

The verification process aims to ensure the required amount of information has been provided and that it is reliable. The exact method of verification will vary depending on the type of site. For example, where there is information about the HAIL then the local authority should check (among other things) historical information sources and aerial photographs. Verifying information held in a site investigation report, however, will involve checking the data against appropriate guideline values and determining the quality and completeness of the information obtained.

A rigorous checking process is important to ensure that information placed on a register is as accurate as possible. This will help to make sure that information held by the local authority is fair and reasonable to the property owner, and useful for other interested parties.

Notifying the site owner is a key part of placing a site on the register or changing the site category. Notification provides an opportunity for site owners to view information about their site, add information and correct mistakes. Provision should be made for accepting and considering an owner's objections. The notification process may vary between local authorities, and will depend on the type and nature of the information held about the site. A general process is described in the following sections as a starting point. This process assumes that information verification and owner notification will be applied during both the initial registration process and as part of any transfer from one category to another.

3.6.1 Verification

To provide an audit trail, and for tracking whether a particular document or record has been verified, it is recommended that local authorities implement a recording process for verification. Relevant details should be noted, such as date of receipt, whether the document or record is verified or not verified, date of verification, verifier's signature (or electronic identification) and cross-references to any other documents used in verification.

If the contents of a document or other piece of information cannot be verified or are found to be incorrect, the document should be marked accordingly, with a reference to the contradictory evidence.

3.6.2 Classification and consultation process

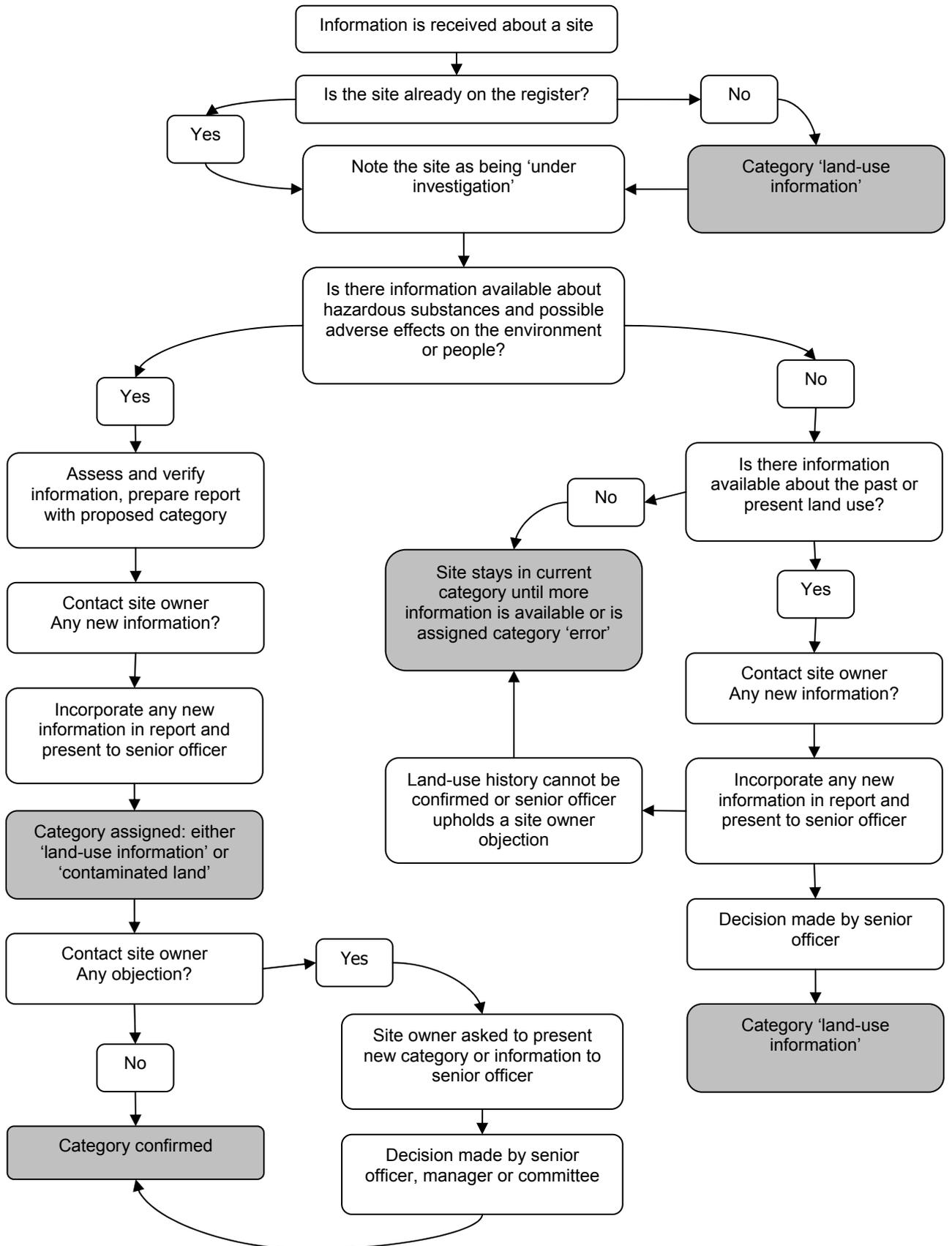
The process of verifying information and notifying the site owner of the local authority's proposed classification of their land, needs to be clear and robust. The process is outlined below and summarised in Figure 1.

- a) **Information is received about a site:** for example, an environmental investigation, report of a spill or release of hazardous substances on a site, or an indication that a HAIL activity has occurred, or is occurring, on the site.

- b) **Available site details are recorded on the register:** if the site is not on the register, site details such as address and legal description (see Appendix A) are entered on the register and the site is registered as ‘land-use information’. It may be appropriate to note that the land-use history has not been confirmed.
- c) **Information is verified:** all information received by a local authority should be carefully considered and verified. Where appropriate, the information should be reviewed against the relevant Ministry for the Environment guidelines. If the information is found to be incorrect, the site should remain in its current category, or be classified as ‘error’, and no owner notification is required.
- d) **Officer prepares a report:** the local authority report should include:
- the site history
 - if there is a report on the site:
 - the name, date, author and summary details
 - the guidelines the site was assessed against, if applicable
 - a summary of the report’s findings on whether the concentrations of hazardous substances on the site meet or exceed appropriate guideline values, if applicable
 - the report’s assessment of whether there are, or are likely to be, significant adverse effects on the environment, if applicable
 - reference to any site-specific assessment or management plans that aim to reduce the exposure to hazardous substances present on the site, and therefore any risks, if applicable
 - the officer’s comments on the report
 - the proposed category under which the site will be registered on the database.
- e) **Site owner is notified:** the owner is provided with a copy of the local authority report, including the category the local authority will recommend the site be classified under (see Appendix B for an example letter). The owner is provided with a reasonable period of time (eg, 20 working days) to provide additional information, to challenge the proposed classification, or to correct any mistakes. The site owner is advised when and where the report will be presented to the senior local authority officer or manager for a decision on final classification, and is invited to attend if they wish.
- f) **Report is updated:** the local authority officer updates the report with any additional valid information provided by the site owner. If the site owner requires more time to compile additional information, a new date for presenting the information to the senior officer or manager should be set.
- g) **Report is presented:** the local authority officer presents the report and the recommended classification to the senior local authority officer or manager. The site owner (if present) has an opportunity to provide input.
- h) **Decision is made confirming or changing the recommendation:** the site owner should now be notified of the decision and reasons (see Appendix B for an example letter). The owner is provided with a reasonable period of time to provide more information, or to challenge the proposed classification. If no response is received, the site category is established. The information is then available to be used in response to enquiries or passed on to the relevant territorial authority.

If the classification is challenged, the site owner may be able to suggest which category would be more appropriate for their site. If agreement cannot be reached, both the site owner and the local authority officer should present their proposed categories to an appropriate senior local authority officer, manager or committee. The committee or senior officer would then decide which category the site should be assigned to. The timeframe for this process should be determined on a case-by-case basis, as agreed by the local authority and the site owner.

Figure 1: Site classification process



3.6.3 Site classification review

A review of a site classification may result in a change to the original category. The review could be initiated by (for example):

- further investigative information being obtained (including remedial or management action)
- land-use or district plan zoning changes, or the site being subdivided
- information supplied from the owner following a hazardous substance release incident
- information supplied from another party following a hazardous substance release incident (eg, the hazardous substances release database administered by the Environmental Risk Management Authority New Zealand).

In most circumstances, the regional council will receive the information and initiate and carry out the review. Where a territorial authority becomes aware of information contrary to its understanding of the site's current status, it should notify the regional council of the circumstances so that it can initiate a review.

The site owner would be notified of the review, proposed new classification and any additional information. Unless the reclassification is into the 'error' category, the owner should be given the opportunity to provide additional information or make an objection, as outlined in the classification process. The owner should be notified before the decision is recorded in the register. The proposed category would be noted in the register and the site flagged as 'under investigation'. The existing classification would remain in force until the proposed category is finalised.

A site owner may initiate a review by providing new information. The local authority should then carry out the review within a reasonable timeframe, giving the owner the opportunity to comment on, or contest, the proposed reclassification, as outlined in the classification process.

Once the regional council has completed a review, the relevant territorial authority should be notified of the result so the information is available for the territorial authority to use (eg, for planning decisions or public requests for information).

3.7 Recommended register entries

As discussed in section 1.3, this guideline is not intended to describe the specific structure or design of a register, electronic or otherwise. The aim is to provide a recommended minimum set of information to be held in the register, as set out below. The register should be divided into three subsets of information: site details, site status, and a record of information transfers and releases.

3.7.1 Site details

Information in this category should include (if known or relevant):

- site location
- legal description
- ownership
- past and present site use

- hazardous substances stored or used
- local authority file references
- references to other related sites (for multi-title and subdivided sites).

3.7.2 Site status

The site status details would include a series of records or file notes created each time a site is classified or reclassified. The reasons for the classification, investigation report references, hazardous substances and concentrations, pathways and receptors of concern, and environmental guideline values used in an assessment should all be noted. A flag indicates that the site is under investigation (ie, additional information is currently being collected or reviewed). Additional details – such as the local authority officer’s name, the date of the classification, and whether a record is current or superseded – provide an audit trail.

Superseding a record would occur if either:

- a new classification has been made and is now current, or
- the site has been replaced by a new site following subdivision or title amalgamation; in this case, cross-references would be created between the new site(s) and the superseded site(s).

3.7.3 Record of information transfers and releases

A record of information transfers and releases should be noted for each site. Recording public requests, decisions made with respect to those requests, and transfers to a territorial authority or other agency (whether routine or a one-off transfer) helps provide an audit trail.

4 Transfer and Release of Site Information

Local authorities make information about the contamination status of sites available in a number of ways, including:

- responding to requests from other local authorities or agencies
- issuing Land Information Memoranda (LIMs) under section 44A of the Local Government Official Information and Meetings Act 1987 (LGOIMA)
- issuing Project Information Memoranda (PIMs) under sections 31 and 32 of the Building Act 2004
- responding to a request under the LGOIMA (whether or not the requester specifically refers to the LGOIMA)
- through planning processes (eg, district plan provisions, maps or hazard registers)
- via voluntary or non-regulatory means, such as Geographic Information Systems maps on a publicly available website.

Information provided should be as accurate and reliable as possible, and any uncertainties or gaps should be clearly noted. Minimising the potential for inaccuracies is best achieved by maintaining a single master register for each region, so that control over accuracy can be more easily exercised. As discussed in section 2.6, this guideline recommends that regional councils hold the master register for their region, although the register may be shared electronically by all the territorial authorities in their region. A master register should be continually updated by the lead local authority or those with appropriate authorisations. Sharing information with territorial authorities allows them to be aware of the status of a site when releasing information about that site. Territorial authorities should inform the holder of the master register (if appropriate) if they become aware of new information about a site, or if the information they have received is known to be incorrect or out of date.

Every effort should be made to verify information, regardless of whether the information is requested or made available voluntarily. However, local authorities are only compiling and assessing information about sites and it should be made clear that persons should not rely on this information and should take their own advice. This is known as a disclaimer. A disclaimer statement explains the limitations of the information's accuracy and reliability.

This chapter describes procedures for public requests for information, and information sharing between regional councils, territorial authorities and other government agencies. The procedures assume regional councils hold the master register, but can be modified to apply if registers are held by territorial authorities.

4.1 Releasing information to members of the public

Release of information to members of the public will occur either voluntarily or in response to a request. A local authority may choose to make information available through district plans, through LIMs or PIMs, or by other means.

A person may request official information from a local authority under the LGOIMA, or request information relevant to building work under the Building Act 2004. Any decision by a local authority on a request for information on the contamination status of sites must be made in accordance with the relevant legislation.

When a local authority releases information in good faith in response to a request under the LGOIMA, it is protected from civil or criminal proceedings to some extent under section 41 of that Act. Section 390 of the Building Act 2004 also provides some protection against civil proceedings for issuing PIMs in good faith. There is no statutory protection, however, for a local authority when responding to requests for LIMs. Similarly, a local authority has no statutory protection when it voluntarily releases information or transfers information to another local authority.

Members of the public may make enquiries about land contamination in relation to property transactions and property development. Because site investigations are often completed just prior to property transactions and development, it is imperative that registers be kept up to date. Another reason – and perhaps the driver of the bulk of requests – is the public health or environmental implications arising from contaminated land.

The following subsections outline general advice for the release of information to members of the public.

4.1.1 Responding to requests for information

Information on the register should already have been checked before entry (see section 3.6). Any information released should include the date of verification, and clearly state that the information was verified to be correct at that time. Although all attempts should be made to verify information before release, it is recommended that any unverified information be clearly labelled as such, both on copies of documents and against particular records in electronic databases.

Local authorities should clearly state any limitations on the accuracy or reliability of the information. Disclaimers are discussed in more detail in section 4.4.

Local authorities are encouraged to develop information request forms if they do not already have them. Forms can help make the request process easier for all concerned, especially those less familiar with technical terms. Forms should be available at public counters and via the local authority website, where appropriate. Forms can be useful in emphasising the limitations of the information provided and clarifying the extent to which persons can rely on that information.

Section 4.1.3 sets out recommended formats for the release of information by regional councils for the site classification categories outlined in chapter 3.

4.1.2 Land and Project Information Memoranda

Under the LGOIMA, a person may apply in writing to a territorial authority for the issue of a Land Information Memorandum containing matters affecting any land in the district of that authority. Territorial authorities are required to release information held about the “likely presence of hazardous contaminants” for a parcel of land (section 44A[2][a] LGOIMA).

Under the Building Act 2004, an owner contemplating building work may apply to a territorial authority for a Project Information Memorandum in respect of the work. Such an application

must be in the prescribed form referred to in section 33(1) of the Building Act. Like LIMs, PIMs must also include information on the likely presence of hazardous contaminants.

LIMs and PIMs have become important mechanisms for the release of land contamination information. When considering the purchase or lease of a property, people use LIMs as a due diligence tool to judge whether the property is worth purchasing and is suitable for the proposed use. In order for local authorities to provide the best possible information to a person requesting a LIM or PIM, it is recommended that the information provided include (as a minimum) that set out in section 4.1.3.

In 2004, the Ministry for the Environment commissioned two legal opinions from Crown Law regarding the requirements of the LGOIMA as it relates to the inclusion of information on a LIM about the potential for hazardous contaminants to be present on a property as a result of its historical use as horticultural land (see www.mfe.govt.nz/issues/hazardous/contaminated/).

Local authorities may consider it appropriate for sites classified as ‘contaminated land’ to be reported on a LIM, because there is evidence of the presence of hazardous substances. If reporting sites within the ‘land-use information’ category, the local authority should describe any limitations of the available information (eg, incomplete investigations) so that recipients can make informed decisions or ask for more advice. The sample statements in Appendix D may be adapted for LIM purposes.

For some sites classified as ‘land-use information’, all that is known is that a HAIL activity took place or is taking place on the site; no investigation has been done to determine if hazardous substances are actually present. Local authorities may consider it appropriate to report these sites on a LIM, particularly if there are no other practical ways to disseminate this information (eg, via websites). Any LIM statement should be clear about whether the local authority holds information only about the land use, or about the presence or absence of any hazardous substances or contamination.

A local authority must be confident that the information it reports on a LIM is accurate. Therefore, the process for verifying information needs to be robust (see section 3.6). If a local authority is unsure about the release of information about a specific site it should seek legal advice.

4.1.3 Format of information released to members of the public

Information released directly to members of the public should be in an appropriate letter format, with site particulars included as appropriate. Sample statements for each site category are included in Appendix D.

The information given should include:

- the site location and legal description
- the site category on the register, including the date of classification, where relevant
- the definition of the site category and description of what information is held and what it indicates (see descriptions in section 3)
- reference to file numbers and reports on which the classification is based
- a disclaimer statement
- a contact person or position at the local authority.

Local authorities may also include, where appropriate or relevant, a summary of the investigations undertaken; details of the local authority's policies, plans or land contamination strategy; and a reference to the legislation under which the information was collated and released. Local authorities should aim to communicate technical terms clearly without losing the intent or meaning; for example, 'cleaned up' may replace 'remediated', or an explanation of what remediated means may be useful.

If information is requested about a site that is classified 'error' or 'land-use information' and the information shows only that there is unverified evidence of a HAIL land use, the local authority should state that it has no verified information to show that a HAIL activity has ever been carried out on the site.

4.2 Transfer of information between authorities

Information may be exchanged between regional councils and territorial authorities, or to other government agencies. As we have seen, unlike the situation where information is released under request mechanisms (eg, LIMs or PIMs), local authorities do not have statutory protection against civil proceedings when information is voluntarily transferred or released. Given the potential liabilities that arise through incorrect information being transferred and the loss of control of that information by the original owner once transferred, it is recommended that protocols be established for such transfers. Information transferred from the master register to territorial authorities or other agencies should include general or specific disclaimer statements.

There are various possible transfer scenarios, including:

- from a regional council to a territorial authority, to update the territorial authority's information (eg, on a regular basis, one-off transfers, or responses to requests)
- from a territorial authority to a regional council, to update the master register (eg, information relating to land use, storage or use of hazardous substances, subdivision of sites)
- to and from another government agency (eg, Department of Labour).

4.2.1 Transfer of information between a regional council and a territorial authority

Sharing information between territorial authorities and regional councils is in both parties' interests. Making the most accurate information available aims to reduce the likelihood of harm being caused to people using that information, and to reduce the risk that local authorities may be held liable for the release or use of incorrect or inadequate information.

This guideline recommends that regional councils make the master register available to territorial authorities in their region by the most user-friendly means possible; for example, a secure internet link through which territorial authorities can view the register and provide any information they may hold for the regional council to verify and update the register.

As stated earlier, local authorities should establish protocols for sharing information. They should develop systems to hold, evaluate and release information, as appropriate, in accordance with their respective statutory responsibilities. The protocols should cover:

- maintaining information security within their own system
- receiving updates of information from the regional council(s) in their area

- compiling and routinely transferring information to the regional council(s), if appropriate
- compiling and transferring information on a one-off basis to the regional council(s).

Regional councils should have protocols for:

- the design, development and security of the register
- systems to routinely receive information from, and transfer information to, territorial authorities on the verification of site data, site assessment and classification, and register data entry
- evaluating or reviewing site classifications when new information is received.

Note that the converse model, where the territorial authority(ies) hold the master register, is possible, with responsibilities reversed accordingly.

Routine transfer of information from territorial authorities to regional councils should include:

- notification of applications to the territorial authority for permits or consents, and the transfer of relevant information, for sites that fall within the HAIL or otherwise use or store hazardous substances
- information on hazardous substance spills or unauthorised releases that comes to the attention of local authority staff
- other information that might come to the attention of local authority staff that indicates actual or potential site contamination
- applications for resource consents, subdivision consents or district plan changes in circumstances where such changes might affect the register. In particular, if the territorial authority recognises that a zoning change or consent application applies to a site on the register, it should notify the regional council so that the regional council can examine and update its register, as appropriate.

Transfer of information should occur at regular intervals, as agreed by all parties. Site-specific issues (such as investigation, remediation, sale, purchase or development) should be raised with the appropriate local authorities as they occur.

Routine information transfers from a regional council to the territorial authority may include:

- updates of the information at not less than three-monthly intervals, or more frequently as may be agreed between the authorities
- one-off transfers of information for a site or sites subject to a LIM or PIM request, or an application to the territorial authority for a permit, consent or plan change.

4.2.2 Transfer to other government agencies

Information transfers to other government agencies (when requested) should be treated on a case-by-case basis, bearing in mind the general principles of this guideline.

4.3 Release or transfer of summarised information

This guideline does not apply to the release of information where a site cannot be specifically identified. Information compiled in summary or statistical form for state of the environment

reports or annual reports (for example) should have unrestricted release, provided that individual sites cannot be identified, unless the local authority considers it appropriate to do so. If individual sites could be identified, this guideline should apply, where relevant.

4.4 Disclaimers

A disclaimer statement identifying the limitations of the accuracy and reliability of the information should accompany all information releases or transfers. A disclaimer should contain sufficient detail to allow the person who receives the information to make an informed decision about the extent to which they can rely on the information or parts of it. The disclaimer should also clearly state that the local authority assumes no responsibility for any inaccuracy in, or omission from, the information, or for any consequence of that inaccuracy or omission.

Disclaimers may help to reduce the risk that a local authority will be held liable for the quantity and quality of available information. If a memorandum of understanding, contract or other legal document is established for the regular transfer of information, local authorities may want to consider whether it would be appropriate to include a clause excluding the local authority providing information from any liability in relation to that information. Local authorities should obtain legal advice on the appropriate wording of disclaimers.

5 Register Management and Security

Given the sensitive nature of some land information and the potential consequences if inaccurate information exists and is released, it is important that information on a register is managed properly and securely. Quality assurance procedures will minimise the occurrence of inaccurate data. Register security is also necessary to avoid data corruption or accidental or inappropriate data release.

This chapter does not describe every security exposure or control possibility, or specify how security might be maintained in an electronic database. Rather, the following sections identify areas that need to be considered by a local authority holding and managing information that may be sensitive, or that it wishes to protect.

5.1 Information security

The initial registration of a site or a change in category should be undertaken by an authorised local authority officer, following the process set out in section 3.6. Modifications to existing register records that do not result in changes of site category may be made by designated local authority officers, or data entry personnel under their supervision. Every care should be taken to ensure that the entry is accurate (eg, by checking a printout of electronic data).

Unless otherwise agreed between local authorities, it may not be appropriate for territorial authorities to alter the master register. When a territorial authority becomes aware of information conflicting with that on the master register, the information should be passed to the regional council, who will undertake verification and entry onto the register, as appropriate.

Internal controls are needed to regulate the input, alteration of, and access to, data by local authority staff. Alterations should only be done by authorised staff. Local authorities should develop and implement procedures for the use of the register, release of information and staff training.

5.2 Audit trail

All entries or alterations to, or releases of data from, the register should be recorded in order to provide an audit trail. The record should include the date and identity of the person making the change or releasing the data.

The total set of information relating to a site is made up of a series of records, both current and superseded. Entries onto the register should not be deleted. Adding information or changing a classification should be carried out by making the appropriate changes to the record for the site concerned, with explanatory notes. This process should also be followed for moving sites into the category 'error'. Local authority officers with full access rights will be able to view – but not change – previous entries.

All electronic and paper-based documents should be filed appropriately. Local authorities may choose to keep a record of information releases relating to a site, such as copies of letters, LIM statements or official information requests.

Appendix A: Recommended Register Entries

The following information, where available and relevant, may be included by local authorities when entering a site onto a register.

Site details

- a) Legal description
- b) Address
- c) Valuation roll number
- d) Map reference
- e) Territorial authority
- f) File references
- g) Site owner
- h) Site owner address
- i) Site contact (if different than site owner)
- j) Site contact address
- k) Date of first entry
- l) Name of person making entry
- m) Current site use (from HAIL) and current chemicals used on site (if known or relevant)
- n) Past site use (multiple entries may be necessary to cover all historical site uses, including dates of operation and chemicals used)
- o) Resource consents
- p) Related sites – legal description(s) of other site(s) on multi-title properties
- q) Comments
- r) Status of site entry (eg, was previous information superseded?)
- s) Replacement site entries if superseded

Site status (record for each classification, current and new)

- a) Category ('land-use information' / 'contaminated land' / 'error')
- b) Under investigation (yes or no)
- c) Reason for classification (summary of information held and what it shows)
- d) Date of classification
- e) Classified by <local authority officer's name and position>
- f) Information sources (dated)
- g) Investigation report and references (dated)

- h) Pathways and receptors of concern
- i) Chemical concentrations and guideline values used
- j) Comments (dated)
- k) Date superseded (if applicable)
- l) Authorisation to supersede (if applicable)

Record of information transfer or release (one entry for each request)

- a) Nature of request
- b) Requestor name
- c) Requestor contact details
- d) Requestor's interest in site, if known (eg, site owner, potential purchaser)
- e) Date of request
- f) Decision
- g) Decision by *<local authority officer's name and position>*
- h) Decision date
- i) Reason for decision
- j) Details of information released
- k) Date of release
- l) Any comments

Appendix B: Sample Notification Letters

The following sample letters are intended as a starting point for local authorities to modify according to their requirements.

Sample letter A: initial site registration

To the site owner
<Address 1>
<Address 2>
<TOWN/CITY>

Dear Sir/Madam

Address:
Legal description:
Site number:

Registration of site on <regional council name> register

<Regional council name> has a responsibility under the Resource Management Act 1991 for the investigation of land for the purposes of identifying and monitoring contaminated land. For that reason, the council is compiling a register of sites that have been shown to be contaminated or have been used for activities that could cause contamination. The register is based on a national classification system developed by local authorities in conjunction with the Ministry for the Environment.

The purpose of this letter is to advise you that your property (or part of your property), referred to as a “site”, has been identified for inclusion on the register. The council has received information about your site and as a result has reviewed that information and prepared a report detailing the background information and reasons for inclusion. The report and other information about your site are held on <regional council name> <file number>. As the site owner you have access to all information held about your site.

Assessment of your site *(delete whichever section is not applicable)*

Staff at <regional council name> have reviewed information on past or present activities on your site. It is proposed that your site be recorded on the register as ‘land-use information’.

(Choose one or more of the following sections.)

- The site has been reported as one that appears on the Hazardous Activities and Industries List, but the reported use has not been confirmed.
- The site has been confirmed as one that appears on the Hazardous Activities and Industries List.
- Investigations indicate that there are no hazardous substances present at the site. The site was associated with an activity or industry that uses, stores or disposes of hazardous

substances, but investigations indicate that hazardous substances are at background concentrations or below.

- Investigations indicate that there are no hazardous substances present at the site. The site previously had hazardous substances present, but the site has been remediated to reduce concentrations of those hazardous substances to background concentrations or below.
- Investigations indicate that there are hazardous substances present at the site, but indicate that any adverse effects or risks to people and the environment are considered to be so low as to be acceptable.
- The site has been investigated. Investigations indicate that there are hazardous substances present at the site, but indicate that any adverse effects or risks to people and the environment are managed.
- Investigations indicate that there are hazardous substances present at the site; however, there is insufficient information to quantify any adverse effects or risks to people or the environment.

If it can be shown that the activity only took place on part of the site, this will be noted on the register.

or

Staff at **<regional council name>** have reviewed investigation information at your site and have confirmed that hazardous substances present on your site are reasonably likely to have significant adverse effects on the environment. Accordingly, it is proposed that your site be recorded on the register as 'contaminated land'. Your site fits within the definition of 'contaminated land' in the Resource Management Act 1991.

Opportunity for input

If any of this information is incorrect or you would like to discuss the proposed registration of your site, you may contact me on **<phone number>** or provide any additional information in writing to the council by **<insert date>**.

The recommendation that your site be placed on the register will be made to the **<senior local authority position>**, who will review the recommendation, and any further information that may be presented, and decide if it is appropriate for the site to be included on the register under this category. You will be notified of the decision and will have the opportunity to disagree with or discuss the decision.

Once the proposed classification of your site is decided, we will advise **<territorial authority name>**. A copy of the information we will provide to **<territorial authority name>** will be forwarded to you. The information about your site may be released in response to requests for information, such as a Land Information Memorandum. The information about your site will also be available for **<regional council name>** to use in response to enquiries.

If you have any questions or concerns about this process, please do not hesitate to contact me.

Yours sincerely

<name of local authority officer>
CONTAMINATED SITES OFFICER

Sample letter B: notification of additional information or proposal to change current registration category

To the site owner

<Address 1>

<Address 2>

<TOWN/CITY>

Dear Sir/Madam

Address:

Legal description:

Site number:

Additional information received / Notification of change of category on the <regional council name> register *(delete whichever is not applicable)*

<Regional council name> has a responsibility under the Resource Management Act 1991 for the investigation of land for the purposes of identifying and monitoring contaminated land. For that reason, the council holds a register of sites that have been shown to be contaminated or have been used for activities that could cause contamination. The register is based on a national classification system developed by local authorities in conjunction with the Ministry for the Environment.

(Delete whichever section is not applicable.)

The purpose of this letter is to advise you of additional information received about your site and to invite you to examine the information the council holds and comment on it.

Your site is currently recorded on the register as 'land-use information'. This means <description and explanation>. <Regional council name> has received and reviewed additional information that indicates <state nature of information and what it indicates about the site>. The report and other information on your site are held on <regional council name> <file number>. As the site owner you have access to all information held about your site.

If any of the additional information is incorrect or you would like to discuss it, you may contact me on <phone number>.

We will advise <territorial authority name> of the additional information. A copy of the information we will provide to <territorial authority name> will be forwarded to you. The information about your site may be released in response to requests for information, such as a Land Information Memorandum. The information about your site will also be available for <regional council name> to use in response to enquiries.

Or

Your site is currently recorded on the register as <category>. This means <category description and explanation>. The purpose of this letter is to advise you of additional information received about your site and the council's intention to change the classification of your site to <proposed category> and invite you to examine the information the council holds and comment on the proposed change.

<**Regional council name**> has received and reviewed additional information that indicates <**state nature of information and what it indicates about the site**>. The report and other information on your site are held on <**regional council name**> <**file number**>. As the site owner you have access to all information held about your site.

The recommendation that your site's classification be changed will be made to the <**senior local authority officer position**>, who will review the recommendation, and any further information that may be presented, and decide if it is appropriate for the site to be noted on the register under this category.

Opportunity for input

If any of this information is incorrect or you would like to discuss the proposed classification change, you may contact me on <**phone number**> or provide any additional information in writing to the council by <**insert date**>.

The <**senior local authority position**> will review the proposed classification change and any further information that may be presented, and decide if the proposed change is appropriate for your site. You will be notified of the decision and will have the opportunity to disagree with or discuss the decision.

If the proposed change to the classification of your site is confirmed, we will advise <**territorial authority name**>. A copy of the information we will provide to <**territorial authority name**> will be forwarded to you. The information about your site may be released in response to requests for information, such as a Land Information Memorandum. The information about your site will also be available for <**regional council name**> to use in response to enquiries.

If you have any questions or concerns about this process, please do not hesitate to contact me.

Yours sincerely

<**name of local authority officer**>
CONTAMINATED SITES OFFICER

Sample letter C: decision notification

Name of site owner

<Address 1>

<Address 2>

<TOWN/CITY>

Dear Sir/Madam

Address:

Legal description:

Site number:

Registration of site on <regional council name > register

Further to my letter of <insert date>, I am writing to inform you that the <senior local authority officer position> has reviewed information held about the above site and has decided that it is to be included on the <regional council name> register as <category>. This means <category description and explanation>. A list of the categories is attached for your information.

If you wish to object to this decision, please send the reasons for your objection by <objection date>. If the council does not receive any written notification of your objection by this date, the site category will be confirmed.

If the proposed classification of your site is confirmed, we will advise <territorial authority name>. A copy of the information we will provide to <territorial authority name> will be forwarded to you. The information about your site may be released in response to requests for information, such as a Land Information Memorandum. The information about your site will also be available for <regional council name> to use in response to enquiries.

If you have any questions or would like to discuss the objection process in more detail, please do not hesitate to contact me.

Yours sincerely

<name of local authority officer>

CONTAMINATED SITES OFFICER

(Attach copy of the site categories [see Appendix C], a copy of the information to be sent to the territorial authority and, if appropriate, the assessment report.)

Appendix C: Site Classification Categories

The three categories are described below in a format that local authorities may wish to adapt and provide to members of the public or interested parties (for example, attaching to letters from Appendix B).

Land-use information

This category is for sites for which some information is available about the land-use history, or the presence or absence of hazardous substances, or both. One or more of the following descriptions may relate to a specific site.

- The relevant land-use history has not been confirmed. The site has been reported as one that appears on the Hazardous Activities and Industries List, but the reported use has not been confirmed.
- The land-use history has been confirmed. The site has been confirmed as one that appears on the Hazardous Activities and Industries List.
- The site has been investigated. Investigations indicate that there are no hazardous substances present at the site. The site was associated with an activity or industry that uses, stores or disposes of hazardous substances, but investigations indicate that hazardous substances are at background concentrations or below.
- The site has been investigated. Investigations indicate that there are no hazardous substances present at the site. The site previously had hazardous substances present, but the site has been remediated to reduce concentrations of those hazardous substances to background concentrations or below.
- The site has been investigated. Investigations indicate that there are hazardous substances present at the site, but indicate that any adverse effects or risks to people and the environment are considered to be so low as to be acceptable.
- The site has been investigated. Investigations indicate that there are hazardous substances present at the site, but indicate that any adverse effects or risks to people and the environment are managed.
- The site has been partially investigated. Investigations indicate that there are hazardous substances present at the site; however, there is insufficient information to quantify any adverse effects or risks to people or the environment.

Contaminated land

This category is for sites that fit within the definition of contaminated land in the Resource Management Act 1991. The site has been investigated. There are hazardous substances present on the site that have, or are reasonably likely to have, significant adverse effects on the environment.

Error

This category is for sites that have been entered on the register in error. Information shows that this site has never been associated with any of the specific activities or industries on the Hazardous Activities and Industries List.

Appendix D: Information Release Statements

The following information release statements are intended as a starting point for local authorities to modify according to their requirements. The statements are not suitable as a direct substitute for meeting Land Information Memoranda requirements.

A site that does not appear on the register or is classified as ‘error’

As at <date> the <regional council name> has no evidence of hazardous substance use, storage or disposal at the site located at <street location, legal description>.

Please note that the <regional council name> records are incomplete. Attached is a list of activities and industries that involve the use, storage or disposal of hazardous substances. You are advised to determine whether the site you are interested in has, or has had, any of these activities or industries on it.

<Disclaimer>

Further information may be available from <name of local authority officer> at <regional council name> or from <territorial authority name>.

(Attach a copy of the Hazardous Activities and Industries List.)

‘Land-use information’

As at <date> the site located at <street location, legal description> is described by the <regional council name> as having some land-use information available.

(Select which of the following descriptions are applicable.)

- The relevant land-use history has not been confirmed. The site has been reported as one that appears on the Hazardous Activities and Industries List (copy attached), but the reported use has not been confirmed.
- The land-use history has been confirmed. The site has been confirmed as one that appears on the Hazardous Activities and Industries List (copy attached). The site is, or has been, used for <list activities>.
- The site has been investigated. Investigations indicate that there are no hazardous substances present at the site. The site was associated with an activity or industry that uses, stores or disposes of hazardous substances, but investigations indicate that hazardous substances are at background concentrations or below.
- The site has been investigated. Investigations indicate that there are no hazardous substances present at the site. The site previously had hazardous substances present, but the site has been remediated to reduce concentrations of those hazardous substances to background concentrations or below.
- The site has been investigated. Investigations indicate that there are hazardous substances present at the site, but indicate that any adverse effects or risks to people and the environment are considered to be so low as to be acceptable.

- The site has been investigated. Investigations indicate that there are hazardous substances present at the site, but indicate that any risks to people and the environment are managed so that any adverse effects or risks to people and the environment are considered to be so low as to be acceptable.
- The site has been partially investigated. Investigations indicate that there are hazardous substances present at the site; however, there is insufficient information to quantify any adverse effects or risks to people or the environment.

Further information may be requested from *<name of local authority officer>* at *<regional council name>* or from *<territorial authority name>*.

<Disclaimer>

(Attach a copy of the Hazardous Activities and Industries List.)

‘Contaminated land’

As at *<date>* the site located at *<street location, legal description>* is described by the *<regional council name>* as contaminated land.

The site has been investigated. There are hazardous substances present on the site that have, or are reasonably likely to have, significant adverse effects on the environment. The site fits within the definition of contaminated land in the Resource Management Act 1991.

The site is, or has been, used for *<list activities>*.

Further information may be requested from *<name of local authority officer>* at *<regional council name>* or from *<territorial authority name>*.

<Disclaimer>

(Attach a copy of the Hazardous Activities and Industries List if considered necessary.)

Glossary

Background concentration

An estimate of the natural concentration of a substance (element, compound or mixture) that would exist in the absence of any anthropogenic input, usually on a regional, sub-regional or catchment basis. For chemical elements in soils, the background concentration is expected to show some broad-scale variation depending on the nature of the geochemical parent materials.

A site is considered to be above background concentrations when the concentration of a contaminant is *clearly* higher than its background concentration. In determining this, reference may be made to factors such as the upper confidence limit (95% UCL) of the background concentration, the number of samples collected and their representativeness, observed or expected variability associated with sampling and analysis, and applicable guideline values.

Contaminated land

Defined by section 2 of the Resource Management Act 1991 as land of one of the following kinds:

- (a) if there is an applicable national environmental standard on contaminants in soil, the land is more contaminated than the standard allows; or
- (b) if there is no applicable national environmental standard on contaminants in soil, the land has a hazardous substance in or on it that:
 - (i) has significant adverse effects on the environment; or
 - (ii) is reasonably likely to have significant adverse effects on the environment.

Hazardous substance

Defined by section 2 of the Hazardous Substances and New Organisms Act 1996 as any substance:

- a) With one or more of the following intrinsic properties:
 - i) explosiveness
 - ii) flammability
 - iii) a capacity to oxidise
 - iv) corrosiveness
 - v) toxicity (including chronic toxicity)
 - vi) ecotoxicity, with or without bioaccumulation; or
- b) Which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any one or more of the properties specified in paragraph (a) of this definition.

Land Information Memorandum (LIM)	A document issued (normally on payment of a fee) by a territorial authority, which gives information on any land within the territorial authority district. The LIM information will include (among other information) any building consents or other authorisations applying to buildings on the land and special features of the land concerned, including potential erosion, subsidence or inundation, or the likely presence of hazardous contaminants (Local Government Official Information and Meetings Act, Section 44A). Anyone may apply for a LIM.
Project Information Memorandum (PIM)	A report issued by a territorial authority prior to the issuing of a building consent. It lists any requirements under any other Acts other than the Building Act. It also includes information likely to be relevant to the proposed building work, such as special features of the land concerned, including potential natural hazards or the likely presence of hazardous contaminants (Building Act 2004).
Register	A physical or electronic database to store site classification information and other information on identifiable parcels of land. Local authorities may refer to their registers by specific names (eg, ‘selected land-use register’).
Risk	The probability that an adverse outcome will occur in a person, a group, or an ecological system that is exposed to a particular dose or concentration of a hazardous substance; ie, it depends on both the level of toxicity of the hazardous substance and the level of exposure (after ANZECC, 1992).
Site	An area of land, as defined by a legal description(s) or part of a legal description.
Site classification	A system for placing sites into categories based on the information that is held by a local authority.
Toxicity	The adverse effects caused by a toxin (poison) that, when introduced into or absorbed by a living organism, destroys life or injures health.

References

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