

Contaminated land information management strategy

**Report No. R09/23
ISBN 978-1-86937-950-6**

Davina McNickel

May 2009





Report R09/23
ISBN 978-1-86937-950-6

58 Kilmore Street
PO Box 345
Christchurch
Phone (03) 365 3828
Fax (03) 365 3194

75 Church Street
PO Box 550
Timaru
Phone (03) 688 9069
Fax (03) 688 9067

Website: www.ecan.govt.nz
Customer Services Phone 0800 324 636

Table of Contents

1	Introduction	3
1.1	Strategy development.....	3
1.2	Purpose of the strategy	3
2	Responsibilities for the management of contaminated, and HAIL sites	4
2.1	Environment Canterbury responsibilities	5
2.1.1	Resource Management Act	5
2.1.2	Proposed Natural Resources Regional Plan (pNRRP)	5
2.1.3	NZ Waste Strategy	6
2.2	Territorial authority responsibilities	6
3	Protocols for information collection and management	7
3.1	The Listed Land Use Register (LLUR)	7
3.2	Site classification	7
3.3	Site owner notification and site registration	11
3.3.1	Process of registration	11
3.3.2	Provision of analytical information	14
3.3.3	Subdivision of sites	14
3.4	Spatial representation of sites	15
3.5	Register management and security.....	16
3.6	Quality control.....	16
4	Protocols for Information Release and Sharing	18
4.1	Information requests.....	18
4.2	Information release.....	18
4.3	Disclaimer.....	19
4.4	Requests for bulk site information	19
4.5	Access to LLUR site information by ECan staff.....	20
4.6	Information exchange between Environment Canterbury and Territorial Authorities.....	20
5	Risk Screening of Sites	21
6	References.....	22
	Appendix 1: Hazardous Activities and Industries List	25
	Appendix 2: Legal issues and contaminated land information	28

Appendix 3: Memorandum of Understanding – Bulk information requests.....	31
Appendix 4: Memorandum of Understanding – Use of GIS layers by ECan staff.....	33
Appendix 5: Memorandum of Understanding – Territorial Authorities use of Web-based Search System	36

1 Introduction

1.1 Strategy development

In 1994, ECan staff recognised the need for a strategy to ensure that contaminated site information was managed in an effective way. An interim Contaminated Site Information Management Strategy was prepared and distributed to district councils in August 1995 for comment. Several versions of the strategy were developed and released for consultation resulting in the final version in June 1999 (ECan 1999).

Since 1999, there have been a number of changes made to national legislation and guidance on contaminated land management has been produced. The 2005 amendment to sections 30 and 31 of the Resource Management Act 1991 has clarified the roles and responsibilities of local government in the identification and management of contaminated land. A number of guideline documents have been produced by the Ministry for the Environment which recommend national best practice for management of contaminated land. Contaminated Land Management Guideline #4: *Classification and Information Management Protocols* (MfE 2006) is the fourth in the series.

The strategy is supported by best practice procedures developed as part of Environment Canterbury's quality assurance programme. The next review of the strategy will be in the 2011/2012 financial year (five years time) unless reason for an update sooner becomes apparent. ECan's best practice procedures will be maintained to ensure they accurately reflect operational procedures.

1.2 Purpose of the strategy

The purpose of the Contaminated Site Information Management Strategy is to ensure that information the Council holds about the contamination status of land parcels is managed in a clear and consistent manner, and that the information can readily be made available to appropriate parties involved in decision-making and management of sites.

The strategy enables Environment Canterbury to address statutory responsibilities under the Resource Management Act 1991, Local Government Official Information and Meetings Act 1987, Privacy Act 1993 and the Local Government Act 2002.

In 2006, the Ministry for the Environment released *Contaminated Land Management Guideline 4; Classification and Information Management Protocols* (CLMG#4)(MfE 2006). The guideline promotes best practice for identifying and classifying sites, and for providing information to landowners and other interested parties. The protocols of this Contaminated Site Information Management Strategy are aligned with the protocols described in CLMG4.

The primary focus of the strategy is the management of information about sites where hazardous substances are known to be present and sites with past or present land uses on the Ministry for the Environment's Hazardous Activities and Industries List (HAIL)¹. This focus arises because:

- of the interest of ECan in the location and nature of contaminated sites and potential risks to environmental quality, particularly to water quality;

¹ Ministry for the Environment, 2004a. Refer Appendix 1.

- the Council currently holds a large body of information about sites which requires management;
- of the increasing public enquiries for contaminated site information and the need to respond to these enquiries in a consistent manner;
- of the intention of ECan to share this information with other agencies with responsibilities for these sites, in particular territorial authorities, and
- of ECan's function under section 30 RMA.

2 Responsibilities for the management of contaminated, and HAIL sites

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 hazardous substances 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.*

There are currently no applicable national environmental standards for contaminated land.

The Ministry for the Environment has compiled a list of 53 activities and industries that have a higher probability of causing contamination because they typically use, store or dispose of hazardous substances. The list is called the Hazardous Activities and Industries List, or HAIL (MfE 2004a).

Sites that have a current or historic activity listed on the HAIL are termed **HAIL sites**.

Both regional and territorial authorities have key roles to play in the identification and management of information on contaminated and HAIL sites, and management of potential risks to human health or the environment presented by such sites. In particular, territorial authorities have specific responsibilities to provide information on the "*likely presence of hazardous contaminants*" known to the territorial authority on:

- property information memoranda (PIMs) required under the Building Act (2004); and
- land information memoranda (LIMs) required under the Local Government Official Information and Meetings Act (1987).

2.1 Environment Canterbury responsibilities

2.1.1 Resource Management Act

Environment Canterbury's involvement in the identification and management of contaminated sites arises from its responsibilities defined in the RMA.

Section 30(1)(a) gives the Regional Council the power to establish means by which the integrated management of natural and physical resources may be achieved:

“(1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:

(a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region”.

Section 30(1)(c)(v) provides statutory functions relating to the investigation of, and control of the use of, land:

“(1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:

(c) The control of the use of land for the purpose of-

(v) The prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances;

(ca) the investigation of land for the purposes of identifying and monitoring contaminated land:”

Section 30(1)(f) provides functions relating to the control of discharges of contaminants.

“(1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:

(f) The control of discharges of contaminants into or onto land, air, or water and discharges of water into water:”

Environment Canterbury also has responsibilities under section 35 to gather information, monitor and keep records so that it can effectively carry out its functions under the Act. This strategy details how the information gathered in accordance with these statutory functions will be managed.

2.1.2 Proposed Natural Resources Regional Plan (pNRRP)

To meet its statutory functions related to contaminated land management, Chapter 4 of ECan's proposed pNRRP includes Policy WQL11, which sets out a framework including rules and methods for collecting, managing and releasing information, assessing the risks and managing the adverse effects from contaminated land. MfE's Hazardous Activities and Industries List (HAIL) (MfE 2004) has been incorporated into the pNRRP as Schedule WQL3. ECan has a long term aim to identify all sites that have a current or historic activity (or activities) listed in Schedule WQL3 within 10 years of Chapter 4 becoming operative. A HAIL identification project has been initiated to achieve this result.

The pNRRP also has permitted activity rules relating to reporting of contaminated land investigations. WQL53 relates to site investigations and the provision of investigative reports.

WQL42 concerns underground storage tanks, and also has a condition relating to the provision of investigative reports.

Chapter 4, Soil Conservation addresses widespread low-level contamination of land involving persistent immobile and toxic contaminants which affect soil quality and its potential use for agricultural production, but which do not pose a threat to water quality. Information about specific sites that have had widespread low concentrations of hazardous substances applied is not currently recorded by ECan.

The information obtained by ECan as a result of these provisions in the pNRRP can be substantial, and as such an effective approach to management and appropriate release of that information is required. The protocols outlined in this strategy are consistent with national best practice for management of contaminated land information.

2.1.3 NZ Waste Strategy

The Ministry for the Environment's Waste Strategy (MfE 2002) has the following target:

'by December 2008, all sites on the Hazardous Activities and Industry List will have been identified'.

A programme of identification of sites on the Hazardous Activities and Industries List has been initiated. This involves working with territorial authority staff and researching information sources to identify these sites on a district by district basis. The volume of information collected during this identification programme is substantial, and the protocols outlined in this strategy will be used to manage the information collection and site registration process.

2.2 Territorial authority responsibilities

The RMA, section 31(1)(b)(ii)(a), provides territorial authorities with the function of:

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

In order to fulfil this function, territorial authorities need to know the location of contaminated land, and collection of information about contaminated and HAIL sites is therefore required.

Section 35 of the RMA (the duty to gather information and to carry out research) also applies to territorial authorities. Similar requirements to gather information and monitor are placed on territorial authorities by the Building Act 2004.

The Building Act, sections 31 and 32, requires territorial authorities to provide, upon request, project information memoranda (PIM). A PIM provides information likely to be relevant to the design, construction or alteration of a building including, amongst other things, "*...the likely presence of hazardous contaminants (section 35(2) Building Act 2004)*". A PIM is issued for specified building works and can only be sought by an applicant for a building consent.

A similar provision exists in section 44a of the Local Government Official Information and Meetings Act 1987 (LGOIMA) requiring territorial authorities to provide, upon request, land information memoranda (LIM) for any land in its district. A LIM is issued for a specified piece of land identifying any special features or characteristics of that land including, amongst other things, the "*...likely presence of hazardous contaminants...*". A LIM may be requested by any person, about any piece of land. There is no need for that person to establish a legitimate interest in the land.

3 Protocols for information collection and management

3.1 The Listed Land Use Register (LLUR)

To enable ECan to administer and effectively use site information, it has developed an electronic database (the Listed Land Use Register (LLUR)). The Register is a tool to enable efficient administration and management of information about contaminated and HAIL sites and to ensure that relevant information can be readily sourced and provided in response to enquiries. The electronic storage of the information allows for quicker verification and cross-referencing of information. It also allows for semi-automated quality assurance processes, production of correspondence about sites, and monitoring systems to be established.

Maintaining the Register and the process of registration of sites are seen as strategic tools to allow Environment Canterbury to perform its functions under the Resource Management Act related to contaminated sites. However, the council might expose itself to possible legal claims in relation to the information contained within the Register. Therefore in compiling and maintaining the Register, Environment Canterbury must ensure that the stored information is both accurate and defensible and the council has fully met its duty of care.

This strategy is aligned with the guidance provided in the Ministry for the Environment's guideline *Classification and Information Management Protocols* (MfE 2006), which recommends the following principles for information management:

- *Transparency* – the purpose and procedures of site information collection, storage and management are clearly documented;
- *Consistency* – the procedures described in this strategy are applied in all situations;
- *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;
- *Quality* – information will be verified in a timely manner;
- *Security* – access to the register to view, add, alter or release information will only be given to authorised local authority officers, and;
- *Accountability* – an audit trail will be kept of additions and changes to the register, information sharing with territorial authorities, and release to other parties.

3.2 Site classification

The overall purpose of an information management process is to provide a best practice means of gathering and managing information about sites and providing that information to interested parties. The classification should reflect what is known about a site, the degree of risk it may pose, and provide a tool for prioritisation of sites for further investigation. Contaminated Land Management Guideline #4: Classification and Information Management Protocols (MfE 2006) recommends the use of three site categories;

- **land-use information** – for sites where some information is known about the land use history, or the presence or absence of hazardous substances, or both;
- **contaminated land** – for sites that meet the RMA definition of contaminated land;
- **error** – for sites that have been entered onto the register in error.

Environment Canterbury initially partially adopted the recommended categories in Contaminated Land Management Guideline #4. In August 2008 the adopted categories were revised as follows to address certain gaps in the category definitions that were identified by the Contaminated Sites Team:

Table 3.1 Categories used by Environment Canterbury to classify sites

Land uses	
<p>Unverified HAIL: <HAIL> <HAIL></p>	<p>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.</p>
<p>Verified Non-HAIL</p>	<p>The site has been entered on the register based on information that subsequently was found to be incorrect. Information held at the time of this listing showed that this site had never been associated with any of the specific activities or industries on the Hazardous Activities and Industries List.</p>

Site status (where land-use history has been confirmed as one that appears on the HAIL, i.e., Verified HAIL)	
<p>Contaminated (for <land use>):</p>	<p>The site has been investigated. Results demonstrated it is land of one of the following kinds:</p> <ul style="list-style-type: none"> (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 – <ul style="list-style-type: none"> (i) has significant adverse effects on the environment; or (ii) is reasonably likely to have significant adverse effects on the environment <p>(s2 RMA 1991)</p>
<p>Significant Adverse Environmental Effects:</p>	<p>The site has been investigated. Results demonstrated that sediment, groundwater or surface water contains hazardous substances that –</p> <ul style="list-style-type: none"> (i) have significant adverse effects on the environment; or (ii) are reasonably likely to have significant adverse effects on the environment
<p>Partially investigated:</p>	<p>The site has been partially investigated. Investigations have been conducted that –</p> <ul style="list-style-type: none"> (i) demonstrate 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; or (ii) do not adequately verify the presence or absence of contamination associated with all HAIL activities that are and/or have been undertaken on the site.

<p>Below guideline values for <land use>:</p>	<p>The site has been investigated. The investigation sample results demonstrate that there are hazardous substances present at the site, but indicate that any adverse effects or risks to people and/or the environment are considered to be so low as to be acceptable. The site may have been remediated to reduce contamination to this level, and post remediation validation samples confirm this.</p>
<p>Managed for <land use>:</p>	<p>The site has been investigated. Investigations demonstrate that there are hazardous substances present at the site in concentrations that have the potential to cause adverse effects or risks to people and/or the environment. However those risks are considered managed because –</p> <ul style="list-style-type: none"> (i) the nature of the use of the site prevents human and/ or ecological exposure to the risks; and/or (ii) the land has been altered in some way and/or restrictions have been placed on the way it is used which prevent human and/or ecological exposure to the risks.
<p>At or below background concentrations:</p>	<p>The site has been investigated or remediated. The investigation or post remediation validation results confirm that there are no hazardous substances above local background concentrations. Local background concentrations are those that occur naturally in the area. The investigation or validation sampling has been sufficiently detailed, in terms of locations sampled and analytes tested, to characterise the site.</p>
<p>Not Investigated:</p>	<p>A site whose past or present use has been reported and verified as one that appears on the <i>Hazardous Activities and Industries List (HAIL)</i>; and,</p> <p>The site has not been subjected to investigation including, but not limited to, sampling and analysis of site related soil, water and/or ambient air, and assessment of the associated analytical data.</p> <p>This category is for sites for which it is known that an activity or use as defined in the HAIL has taken place on the site, but there is insufficient information to characterise any risks to human health or the environment from those activities undertaken on the site. Contamination may have occurred, but should not be assumed to have occurred.</p>

These categories replace the system of site categorisation implemented in 2007, and they have already been implemented with approval of the Canterbury Regional Council. The 2007 categories were:

<p>Land uses</p>	
<p>Unverified HAIL: <HAIL> <HAIL></p>	<p>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.</p>
<p>Entered in error</p>	<p>The site has 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.</p>

Verified HAIL: <HAIL> <HAIL>	The land-use history has been confirmed. The site has been confirmed as one that appears on the Hazardous Activities and Industries List.
-------------------------------------	---

Site status (for those sites with Verified HAIL land use)	
Contaminated (for <land use>)	The site has been investigated. Results demonstrated it is 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 (s2 RMA 1991)
Significant Adverse Environmental Effects	The site has been investigated. Results demonstrated that sediment, groundwater or surface water has hazardous substances in or on it that – (i) have significant adverse effects on the environment; or (ii) are reasonably likely to have significant adverse effects on the environment
Partially investigated	The site has been partially investigated. Investigations demonstrate 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.
Acceptable for <land use>	The site has been investigated. Investigations demonstrate 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.
Managed for <land use>	The site has been investigated. Investigations demonstrate that there are hazardous substances present at the site, but indicate that any adverse effects or risks to people and the environment are managed.
At or below background concentrations	The site has been investigated or remediated. The investigation or validation results confirm that there are no hazardous substances above local background concentrations. Local background concentrations are those that occur naturally in the area. The investigation or validation sampling has been sufficiently detailed, in terms of locations sampled and analytes tested, to characterise the site.
Not investigated	The site has not been investigated

The implementation of the new categories will involve checking all sites on the LLUR to determine whether the assigned category is still appropriate. Sites registered as Entered in Error will be changed to Verified Non-HAIL. Sites currently registered as Unverified HAIL will be taken through verification and migrated to the appropriate other site category. Sites that are currently registered as Verified HAIL and for which no investigation reports are held by Environment Canterbury will be assigned the category Not Investigated. Sites that are currently registered as Contaminated will not change. All other sites on the LLUR will be examined to determine the appropriate new category which will be presented to an officer of the RMOG, and the site owner notified of the proposed change.

The new classification system will also involve the updating of all standard letters and report audit templates and fact sheets. The information that is currently available via MOJO and the online GIS system will be updated according to the new classification.

Environment Canterbury's Contaminated Land Management Strategy (ECan 2009) includes sections that detail site investigations, analysis, and assessment of reports. In addition the best practice procedure *Processing Contaminated Site Investigation Reports* (ECan, in prep) is used to guide the assessment of investigative reports in order to assign an appropriate category on the LLUR.

3.3 Site owner notification and site registration

3.3.1 Process of registration

To balance conflicting responsibilities for the release of information about the management of contaminated land, and potential liabilities associated with the release of information that is incorrect², a process for site owner notification and registration of sites has been established (refer procedure *Verifying and Registering HAIL Sites*, ECan in prep). This process has the intention of minimising the possibility that incorrect information is added to the Register. The registration process includes quality assurance procedures for information collection and recording, and to ensure that it is done in a transparent manner involving those parties most knowledgeable about the sites.

Figures 3.1 and 3.2 provide detail about the registration procedures.

² Refer Appendix 2

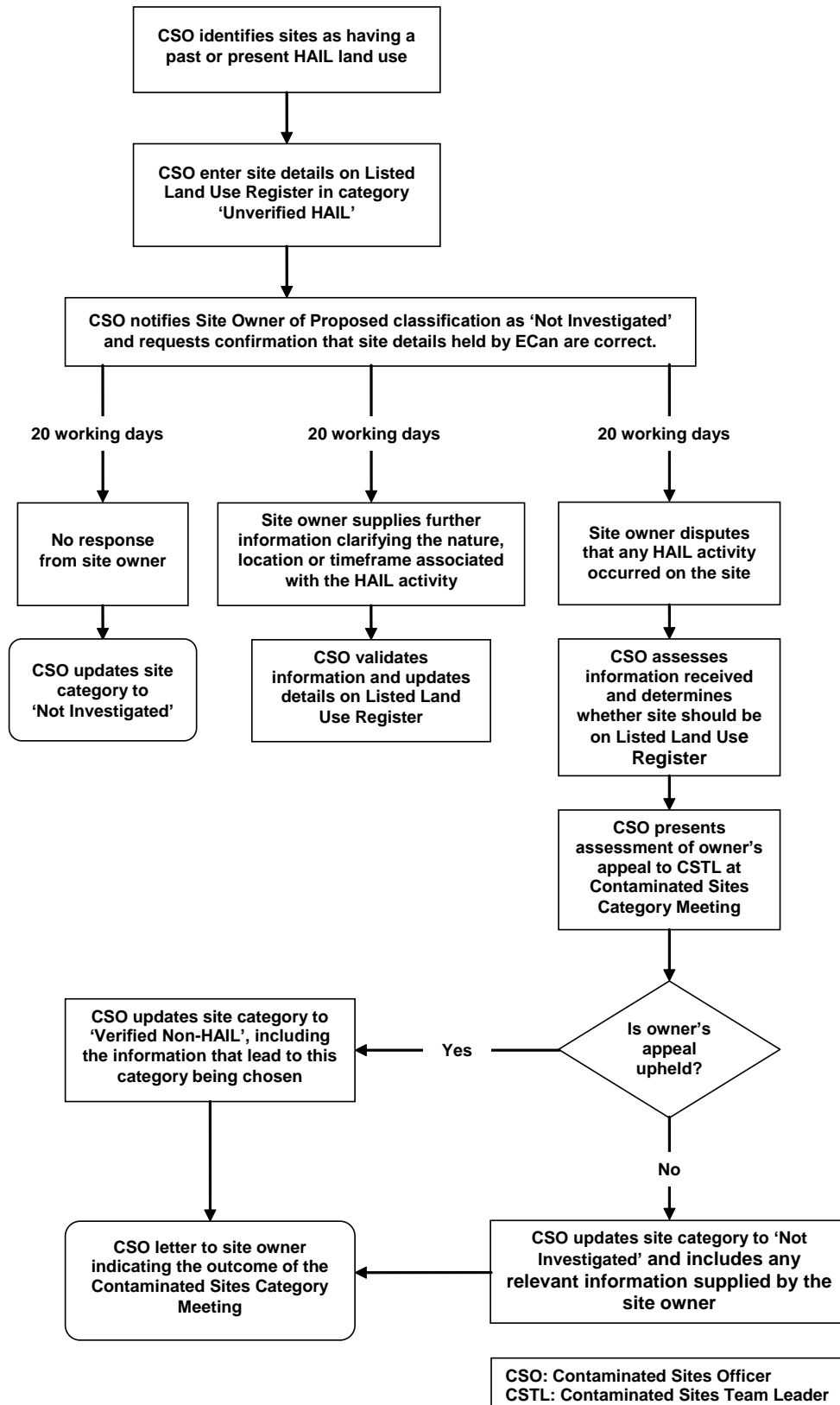


Figure 3.1 Procedure for registration of a site where information is held indicating a past or present HAIL land use.

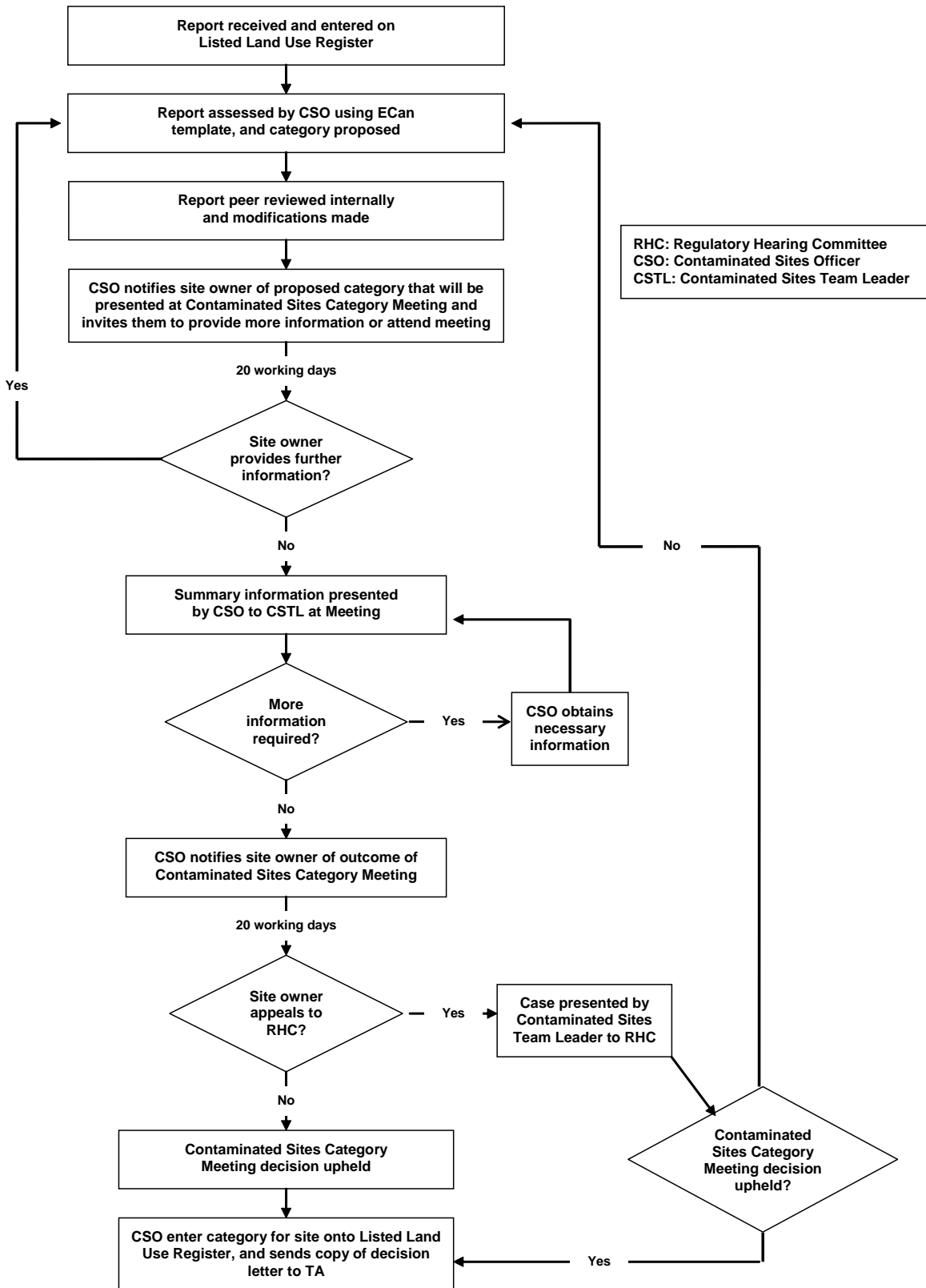


Figure 3.2 Procedure for the registration of a site where analytical information from a site investigation is available

3.3.2 Provision of analytical information

Rules WQL53 and WQL42 of the pNRRP include conditions relating to the provision of information collected during contaminated site investigations. Compliance with these rules requires that investigation reports are forwarded to Environment Canterbury within specified timeframes. In addition, analytical information about the concentrations of contaminants at a site can be provided to the Council at any time. When this information is received the site category on the Register is assessed in light of the new information. In accordance with Figure 3.2, the analytical information is (re)assessed to determine the appropriate category. Part of the process of determining the appropriate category involves presenting the analytical information and proposed category to the Contaminated Sites Team Leader (CSTL) in a Contaminated Sites Category Meeting (CSCM). The CSTL will decide if the proposed category is appropriate, and the notification process will be completed accordingly.

A procedure for the assessment of site investigation reports and subsequent classification of the site has been developed (see procedure *Processing Contaminated Site Investigation Reports*, ECan in prep).

3.3.3 Subdivision of sites

The classification and management of sites on the Register is complicated by sites that have been subdivided. Subdivision of a site on the LLUR (the 'parent' site), will create several new 'child' sites, each identified by a new title and a new LLUR site record. The new sites will be linked to the parent by using the 'subdivided' and 'old site number' fields in the LLUR. As all sites on the LLUR are represented spatially using a GIS layer, each new child site will also have a new 'polygon' created on the GIS layer (refer procedure *Creating and Modifying Shape Files*, ECan in prep).

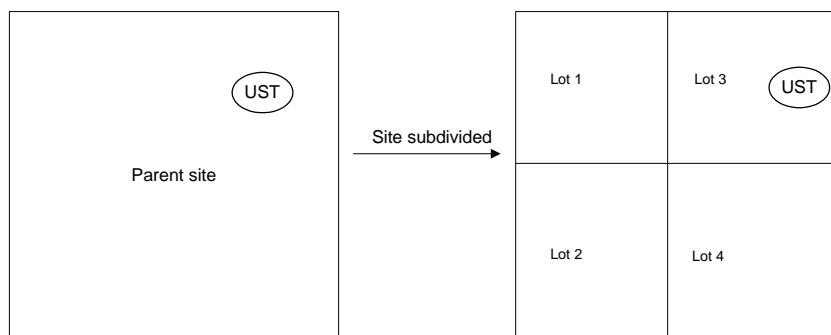
There are a number of different scenarios that can occur with the subdivision of sites, each of which may require different management on the Register.

Scenario 1: No information is known about the specific location of known HAIL activities on a verified parent site, therefore all subdivided sites must still be associated with the HAIL activity of the parent.

In this scenario all newly created child sites would be given a new LLUR record, linked back to the parent and all information from the parent transferred to the child site records.

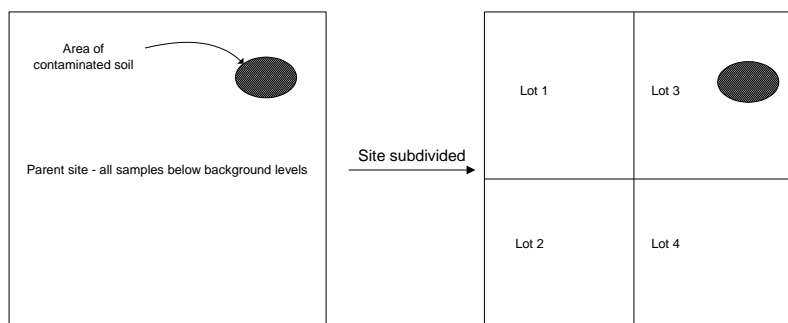
Scenario 2: A verified parent site is subdivided and it is clear where on the site the HAIL activity occurred.

Only those subdivided lots that correspond to the location of the HAIL activity will be given child site records on the LLUR. In the example below only Lot 3 will be registered on the LLUR as a child site.



Scenario 3: Analytical information is received about a parent site that has been subdivided prior to the subdivided lots being registered on the LLUR.

Child sites are registered according to the results of the investigation. In the example below, only Lot 3 will be registered on the LLUR. The classification for the child site will be aligned with the RMOG decision.



Scenario 4: Analytical information is received about a parent site that has been subdivided and all child sites registered as Verified.

Each child site is taken through the RMOG process based on the results of the investigation. If the investigation reveals that any of the child sites were not associated with the original HAIL activity, then those child sites should be re-classified as 'Entered in Error'.

3.4 Spatial representation of sites

Sites that are on the Listed Land Use Register can be identified quickly and effectively by use of GIS layers containing spatial information about them. The use of spatial data provides the ability to identify sites where historic information about the site location, such as valuation number or legal description may be outdated or otherwise incorrect. It can also provide a representation of known areas of contamination or HAIL activities or where a localised activity exists on a land parcel. The use of spatial information is particularly important when considering the impacts of offsite migration of contaminants, and is the basis of the GIS-based information transfer system that has been created for use by Territorial Authorities³.

³ Refer to section 4.6 for details on this system.

Site information such as register number, HAIL activity and risk screening result is available from the polygons in GIS.

The creation of polygon data has been incorporated into the Contaminated Land Team's procedure for registering new sites (Verifying and Registering HAIL sites, ECan in prep). The Software Developer GIS has set up the GIS layers, and has arranged for these to be updated using information from the Listed Land Use Register on a daily basis.

3.5 Register management and security

Information on HAIL sites is obtained from a variety of sources including maps, aerial photographs, conversations with owner/occupiers, site investigation reports, trade directories, and resource consent files. Territorial authorities and site owners are major providers of this information. In addition, ECan's HAIL identification program (to identify all HAIL sites in Canterbury within 10 years) utilises all available information sources, including archives, libraries, and local authority files to identify the location of sites.

All information addition to the register is undertaken by a trained contaminated sites officer. Modifications and additions to the information held on the LLUR can be made at any time, and all additions are recorded electronically with user name and date of entry.

To maintain an audit trail of site information, sites added to the LLUR are never deleted. This is particularly important in the case of sites identified and added in error, where the information leading to the decision that the site is not a contaminated or HAIL site can be viewed for future reference. Site notes on the register that are considered out of date or that have been superseded can be marked for internal use only.

All relevant electronic information is filed and recorded in ECan's central records system (TRIM), and hard copy information is stored in paper files. Due to the sensitive nature of the information held on these files, access is limited to contaminated sites, customer services and records staff. As a result of a property enquiry a site file may be requested for viewing. Assuming no commercially sensitive or personal information is held in the file, it is possible for it to be viewed and requests of this nature are dealt with by ECan's customer services staff. If commercially sensitive or personal information is contained within the site file, permission will be sought by the site owner for the information to be viewed by a third party.

3.6 Quality control

Given the sensitive nature of the type of information that is collected in accordance with this strategy, and the potential consequences if inaccurate information exists or is disclosed, it is important that information held on the LLUR is managed properly and securely. Quality assurance procedures minimise the potential for inaccurate site information to be registered on the LLUR. The owner notification process further minimises the risk of inaccurate site information being added to the LLUR and ensures a fair and transparent process of site registration.

All procedures undertaken with respect to information management are documented and are reviewed and updated annually or as necessary.

Maintenance of the LLUR is the responsibility of the Contaminated Sites Officer I. Any database function errors, potential improvements or upgrades are communicated to the

Software Developer DBA. Problems associated with the GIS-based information transfer system are referred to the Software Developer RMA.

The contaminated sites team will conduct a training session annually for all staff requiring access to the contaminated site information on GIS. The agreement over use of the contaminated site information in GIS is re-signed annually following the training session. Any problems or issues related to the GIS layers are communicated to the Software Developer GIS.

4 Protocols for Information Release and Sharing

4.1 Information requests

All requests for information about sites must include the following information:

- street address of site;
- legal description and valuation number of the site; and
- requester's name and contact details.

All requests for information and responses to requests are kept and filed.

Property enquiries are initially responded to by customer services staff who have received appropriate training from a contaminated sites officer. The enquiry may be received as part of a Land Information Request, which incurs a charge, or it may be a request for contaminated land information only, which is provided free of charge. If the property in question is on the LLUR or is close to a site on the LLUR, then the customer services officer passes the request on to a contaminated sites officer for checking (see procedure *Customer Services: Responding to Property Enquiries* (ECan in prep)). There is a 10 working day time limit for responding to property enquiries.

When requests are received for information about sites that are Unverified, a contaminated sites officer will assess the information available to determine whether there is sufficient information to register the site. If there is, the site will be taken through the standard registration process. The request for information will still be responded to within 10 working days, and the information released will be clearly labelled as 'Unverified'. If the site owner contests or adds to the information held, an updated response will be sent to the enquirer informing them of the new information when it is received.

All responses follow a standard format, as described below.

4.2 Information release

Responses to property enquiries and other requests for contaminated land information are created using standard forms and templates. All responses include details of the enquirer and the property/land parcel for which information was sought. This will include the legal description and valuation number of the property, the street address, and LLUR site number if a registered site. If the site is on the LLUR, the response will include a dated statement which summarises the information held on the LLUR about the site at that time, and is created using the web-based search system. All responses to property enquiries are filed in TRIM and details stored on the LLUR.

4.3 Disclaimer

Environment Canterbury can reduce or mitigate its potential liability for the release of information by qualifying the release of information with a disclaimer. The disclaimer should identify the limitations of the accuracy and reliability of the information released. The following disclaimer is sent out with all responses to requests for information about sites on the Register:

“The enclosed information is derived from Environment Canterbury’s Listed Land Use Register and is made available to you under the Local Government Official Information and Meetings Act 1987 and Environment Canterbury’s Contaminated Site Information Management Strategy (ECan 2007).

This information reflects Environment Canterbury’s current understanding of this site, which is based only on the information thus far obtained by it and held on record concerning this site. It is released only as a copy of those records and is not intended to provide a full, complete or totally accurate assessment of the site. As a result, Environment Canterbury is not in a position to warrant that the information is complete or without error and accepts no liability for any inaccuracy in, or omission from, this information.

Any person receiving and using this information is bound by the provisions of the Privacy Act 1993”

4.4 Requests for bulk site information

The release of information about specific properties on the LLUR that individuals or organisations are interested in (because of a potential purchase, or a concern about their local environment) is encouraged. When information is requested on more than one site, this is termed a bulk information request. The requests are considered on a case-by-case basis and may be declined in accordance with the provisions of Section 7 LGOIMA 1987.

Release of bulk information must be carefully managed to avoid inaccurate assumptions being made about the area or type of industry that the bulk request refers to. The LLUR is currently incomplete, and the information contained within it is commercially sensitive. All persons requesting bulk information are asked to provide the reason why the information is being sought. Environment Canterbury requires this information in order to satisfy itself that the release is not likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information, or the disclosure or use of official information for improper gain or improper advantage (section 7(2)(b) and (e) LGOIMA 1987).

All bulk information releases must be accompanied by a signed Memorandum of Understanding⁴ between Environment Canterbury and the recipient covering the reason for the information request, and restrictions on the use of the information.

⁴ Refer Appendix 3

4.5 Access to LLUR site information by ECan staff

Site information is subject to specified procedures and restricted to specified Council staff to prevent the unauthorised or inappropriate release of information.

Access to LLUR site information has been made available via a MOJO⁵ layer to other staff within ECan who could benefit from its use. This staff include environmental protection and enforcement staff, consents investigating officers, pollution prevention officers, and planning staff. All those who require access to this information are asked to attend a brief training session, and sign an agreement⁶ which specifies the appropriate use of the information available. Contaminated sites staff will ensure that training is provided on an annual basis to accommodate staff changes.

4.6 Information exchange between Environment Canterbury and Territorial Authorities

The proposed Natural Resources Regional Plan includes a method to 'develop, in consultation with territorial local authorities, protocols for the collection and exchange of information about contaminated land' (PNRRP, Chapter 4, Method WQL11(b)(d)). A web-based information transfer system has been developed to allow Territorial Authority staff access to information held in the LLUR for inclusion in LIMs and PIMs, and for their contaminated land management activities. The setup of a system allowing exchange of contaminated site information between district councils and ECan arises from the benefits of sharing information gained and used for the respective responsibilities that district and regional councils have for the management of contaminated land. The exchange of contaminated site information is also consistent with the functions in section 30 and 31 of the RMA, as described in section 2.1.1 of this strategy.

Because TAs often hold important contaminated land information that ECan does not have, the system was also designed to encourage information provision by TAs to ECan, in order to maintain accurate and up to date contaminated site information while minimising duplication of effort in the collection and verification of this information

The system has been available to all TAs since August 2004 and its use is subject to a Memorandum of Understanding⁷. In order to gauge the efficiency of the information transfer system, an annual questionnaire is sent to territorial authority staff with access to the system. Any improvements or modifications that are identified through this process are reviewed and implemented if possible, with the assistance of the Software Developer RMA.

5 MOJO is Environment Canterbury's internal geographic database search and report tool.

6 Refer Appendix 4

7 Refer Appendix 5

5 Risk Screening of Sites

As part of the process of determining whether a property should be entered onto the LLUR, information is collected about the nature of the activities carried out on the site and the site's physical characteristics. This information is used to assess the possible risk to human health and the environment from likely contaminants. The initial assessment of risk is made using the Risk Screening System (RSS), a methodology developed by the Ministry for the Environment (MfE 2004b). This tool has been produced to assist regional councils and unitary authorities in managing contaminated land issues. It is used to rank HAIL sites so that they can be prioritised for further investigation.

In June 2007, ECan had risk screened more than 1100 sites on the LLUR.

To facilitate management of the data collected using the RSS, all Risk Screening results are entered into the LLUR. Comments and justifications for each assigned value are recorded for future reference. Once all the values have been entered, the spreadsheet developed for the RSS guideline (MfE 2004b) is used to calculate the theoretical risk for each exposure pathway and the overall theoretical risk present at the site.

The RSS is a coarse screening tool based on the use of readily available information that allows desktop classification of sites according to the theoretical risk to the environment and human health present at a site.

The New Zealand Waste Strategy has set targets for contaminated sites as follows:

1. By December 2008, all sites on the Hazardous Activities and Industries List will have been identified and 50 percent will have been subject to a rapid screening system in accordance with Ministry guidelines;
2. By December 2010, all sites on the Hazardous Activities and Industries List will have been subject to a rapid screening system in accordance with Ministry guidelines, and a remediation programme will have been developed for those that qualify as high risk;
3. By December 2015, all high risk contaminated sites will have been managed or remediated. A timeframe will also have been developed to address the management or remediation of remaining sites.

The targets for risk screening will not be achieved in the timeframe proposed due to a lack of resources. However, it is anticipated that the environmental result set out in the proposed NRRP to be achieved within 10 years of the plan becoming operative objective will be achieved. This result states that *'All land where activities listed in Schedule WQL3 have occurred or are occurring has been identified, registered on the LLUR, and an assessment of the potential risk to the environment, using national procedures for screening contaminated land, has been completed'* (ECan 2004a, p4.234).

6 References

Building Act, 2004.

Environment Canterbury (ECan) 1998: *Canterbury Regional Policy Statement*. Report no. R98/4. ISBN 1-86937-337-5. 316p

Environment Canterbury (ECan) 1999: *Contaminated Site Information Management Strategy*. Report no. U99/74. 44p

Environment Canterbury (ECan) 2004a: *Proposed Canterbury Natural Resources Regional Plan. Chapter 4: Water Quality*. Report no. R04/15/4. ISBN 1-86937-530-0. 313p.

Environment Canterbury (ECan) in prep.: *Processing site investigation reports*. Quality assurance procedure. 4p.

Environment Canterbury (ECan) in prep.: *Verifying and registering HAIL sites*. Quality assurance procedure. 4p.

Environment Canterbury (ECan) in prep.: *Risk Screening System*. Quality assurance procedure. Adapted from original work produced by Pattle Delamore Partners under contract to Environment Canterbury. 18p.

Environment Canterbury (ECan) in prep.: *Registration of sites and the RMOG process*. Quality assurance procedure. 3p.

Environment Canterbury (ECan) in prep.: *Contaminated site GIS layers*. Quality assurance procedure. 3p.

Environment Canterbury (ECan) in prep.: *Responding to property enquiries*. Quality assurance procedure. 6p.

Environment Canterbury (ECan) 2007: *Contaminated Land Management Strategy*. *Environment Canterbury Report R07/12*.

Local Government Act, 2002.

Local Government Official Information and Meetings Act, 1987.

Ministry for the Environment (MfE) 2002: *The New Zealand waste strategy. Towards zero waste and a sustainable New Zealand*. Ministry for the Environment, Wellington, New Zealand. 48p.

Ministry for the Environment (MfE) 2004a: *Contaminated land management guideline – Schedule A. Hazardous Activities and Industries List (HAIL)*. Ministry for the Environment, Wellington, New Zealand. 4p

Ministry for the Environment (MfE) 2004b: *Contaminated land management guideline, number 3. Risk screening system*. ISBN 0-478-18922-2. Ministry for the Environment, Wellington, New Zealand. 35p.

Ministry for the Environment (MfE) 2006a: *Contaminated land management guidelines No. 4. Classification and information management protocols*. ISBN 0-478-25977-8. Ministry for the Environment, Wellington, New Zealand. 59p.

Privacy Act, 1993.

Resource Management Act, 1999.

Salomon, V., Bodger, F. 2005. *Ranking of HAIL sites in the Canterbury Region using the Risk Screening System*. WasteMINZ 2005 Conference Proceedings.

Appendix 1: Hazardous Activities and Industries List

1. Abrasive blasting – carrying out abrasive blast cleaning (other than cleaning carried out in fully enclosed booths) or disposing of abrasive blasting material.
2. Acid/alkali plant, formulation and bulk storage.
3. Agrichemical spray contractor's premises used for filling and washing out tanks for commercial agrichemical application.
4. Airports – fuel storage, workshops, washdown areas, stormwater runoff from hardstanding.
5. Analysts – commercial analytical laboratory sites.
6. Asbestos products production, use, and disposal. Also sites with buildings containing asbestos products known to be in a deteriorated condition.
7. Asphalt or bitumen manufacture or bulk storage – manufacturing asphalt or bitumen, or bulk storage of these products, other than at a single-use site used by a mobile asphalt plant.
8. Battery manufacture or recycling – assembling, disassembling, manufacturing or recycling batteries (other than storing batteries for retail sale).
9. Brake lining manufacturers, repairers and recyclers.
10. Cement or lime manufacturing – manufacturing cement or lime from limestone material using a kiln and storing wastes from the manufacturing process.
11. Cemeteries
12. Chemical manufacture and formulation and bulk storage such that land use consent is required.
13. Coal and coke yards.
14. Concrete manufacture and bulk cement storage
15. Defence works and defence establishments, including ordinance storage and training areas where live firing is carried out.
16. Drum and tank reconditioning or recycling.
17. Dry cleaning plants – restricted to premises where dry cleaning is carried out and solvents are stored.
18. Electrical transformers – manufacturing, repairing or disposing of electrical transformers or other heavy electrical equipment.
19. Electronics – manufacturing & reconditioning
20. Engine reconditioning – use of solvents and degreasers
21. Explosive production or bulk storage
22. Fertiliser manufacture – manufacturing or bulk storage of agriculture fertiliser.
23. Foundry operations – commercial production of metal products by injecting or pouring molten metal into moulds and associated activities.
24. Gasworks – manufacture of town gas from coal or oil feedstocks.
25. Gun, pistol or rifle ranges or areas with lead shot deposition

26. Iron and steel works
27. Landfill sites
28. Livestock dip or spray race operations
29. Market gardens, orchards, glass houses or other areas where the use of persistent agricultural chemicals occurred.
30. Metal treatment or coating – including polishing, anodising, galvanising, pickling, electroplating, heat treatment using cyanide compounds and finishing. curing works or commercially finishing leather.
31. Mining and extractive industries and mineral processing – including chemically or physically extracting metalliferous ores, exposure of faces or release of groundwater containing hazardous contaminants and storing hazardous wastes, including waste dumps and tailings dams, but not gravel extraction (just note that these areas can be included because of fuel storage).
32. Motor vehicle workshops
33. Paint manufacture and formulation
34. Pest control – commercially operating premises (or former pest destruction board, now regional council sites) where storage and preparation of pesticide occurs, including preparation of poisoned baits and filling or washing of tanks.
35. Pesticide manufacture (including animal poisons, insecticides, fungicides and herbicides) – commercially manufacturing, blending, mixing or formulating pesticides.
36. Petroleum or petrochemical industries or storage, including oil production and operating a petroleum depot, terminal, blending plant or refinery, retail or commercial refuelling facility, and facilities for recovery, reprocessing or recycling petroleum based materials and bulk storage above and below ground.
37. Pharmaceutical manufacture - commercially manufacturing, blending, mixing or formulating pharmaceuticals, including animal remedies and illicit drug manufacturing.
38. Port activities – including dry docks and ship and boat maintenance facilities.
39. Power stations and switchyards
40. Printing – commercial printing, using metal type, inks and dyes, or solvents.
41. Railway yards – operating a railway yard including goods-handling yards, workshops, refuelling facilities and maintenance areas.
42. Sawmills – use of antispain chemicals during milling
43. Scrap yards – operating a scrap yard including automotive dismantling or wrecking yard or scrap metal yard.
44. Service stations
45. Smelting or refining – fusing or melting metalliferous ores or refining the metal.
46. Tannery, fellmongery or hide curing – operating a tannery or fellmongery or hide curing works or commercially finishing leather.
47. Transport depots
48. Storage tanks and drum storage for fuel, chemicals and liquid waste.
49. Waste storage, treatment and/or disposal including land disposal of wastes, but not the use of biosolids as soil conditioners.
50. Wood treatment and preservation and bulk storage of treated timber.

51. Wool, hide and skin merchants (e.g. drying, scouring).
52. Any site that has been, or could be, subject to the migration of hazardous substances from hazardous substances present in soil or water on adjacent sites.
53. Any other facility or activity that stores, uses or disposes of hazardous substances, in sufficient quantity that intentional or accidental discharge of the substance could be a risk to human health or the environment.

Appendix 2: Legal issues and contaminated land information

Introduction

The major legal issues associated with the development and use of a contaminated site management strategy relate to the management of the compiled information, in particular:

- i) legal liability issues relating to the compilation and administration of a Register; and,
- ii) how the release of information from the register can be controlled.

Environment Canterbury has taken advice from the following to ensure that the Contaminated Site Information Management Strategy satisfactorily addresses these key legal issues:

- 1) The Secretary for the Environment (1992);
- 2) Wynn Williams and Co. (Correspondence with G.J. Venning dated 16/9/93, 26/8/94, 12/10/94 and 9/2/95).

Register liability

There are a number of ways in which a Council might expose itself to possible claims in relation to the operation of a Register. These include:

- a) claims from the owners of land that incorrect information supplied by the Regional Council directly to third persons concerning their properties has caused them some form of loss;
- b) claims against the Regional Council by persons (other than the present owners of the land) alleging that the provision of incorrect information by the Regional Council has caused them some economic or physical loss (e.g., from a previous site owner, from an adjacent site owner);
- c) claims arising directly or indirectly through the supply of incorrect information by territorial authorities in LIMs and PIMs derived from material provided by the Regional Council;
- d) claims arising from failure to include information on a register (e.g., economic loss suffered by a purchaser subsequent to sale).

The Local Government Official Information and Meetings Act (LGOIMA) (section 41) provides a statutory protection to public bodies in relation to the disclosure of information. The wording of the section is general and could be interpreted liberally or restrictively.

Section 41(1) protects the Council from any civil claim made as a result of the disclosure of information. It would protect the Council if it disclosed that a certain site was contaminated and a potential purchaser cancelled a purchase agreement or the value of the site was reduced by reason of that information becoming publicly available. In those situations the affected landowner would have no right to claim against the Council for releasing the information. If the section is interpreted narrowly, the protection is limited to that extent and would only apply if the information passed on was correct. If the information that was passed on by the Council was incorrect then on a narrow interpretation the section would not protect the Council. In other words, if the Council's records were wrong, or the advice that Council gave was wrong, then despite section 41 the Council would be liable if it was negligent. On balance, provided the Council takes all reasonable steps to ensure the accuracy of the

information, and does not breach the principles of natural justice, it should be protected by section 41(1). The processes outlined in this strategy are intended to meet those requirements.

Section 41(2) protects the Council from a defamation action. Again, it protects the Council in the situation where the Council passes on information about a contaminated site. It provides protection for the Council in that situation from defamation but does not provide protection to anyone receiving the information from the Council and then making that information further available. For example, if the Council disclosed information on contaminated sites to an environmental group, who then publicised that information further, if the information was incorrect then the environmental group would be liable to defamation, but the Council may be protected by the section.

There is potential for liability if the Council discloses incorrect information. However, the information would not only have to be wrong for the Council to be liable, the Council would also have had to be negligent in compiling that information. Alternatively, if the Council did not gather the information, the Council would have to be negligent in accepting that information and relying on it.

The Council could improve or mitigate its potential liability under the provision of the information by qualifying the release of the information with a disclaimer. The LGOIMA accepts that some information may be released on a qualified basis.

Potential liabilities for the Register therefore need to be limited by ensuring that the accuracy of information in the Register is constantly maintained. To avoid litigation, information must be thoroughly checked before release and the release carefully controlled. This highlights the need for the development of protocols for the collection, assessment, and release of information concerning site contamination.

Release of information

Any proposal for the release of information about contaminated sites needs to be considered with reference to the provisions of the LGOIMA and the Privacy Act. The general underlying principle of the LGOIMA is that information held by a local authority should be available on request. There are a limited number of exceptions to this principle and they are set out in sections 6, 7, and 17.

The Privacy Act has twelve governing principles including: an individual's right for personal information to remain confidential; a right to have access to and to correct information held by an agency about them; and limiting the use and disclosure of personal information.

Where a Council receives a request from a natural person for access to any personal information that is about that person, the release of the information is affected by the Privacy Act. LGOIMA also effects other requests including those by:

- natural persons for personal information about individuals other than themselves;
- companies and other bodies (i.e., legal persons) for information about themselves or other persons; and
- individuals for a statement of reasons for a decision or recommendation that affects them in a personal capacity.

When considering the issue of releasing information, it is therefore important to determine which Act applies to the information. Any decision by a Council on a request for information must be made in accordance with the relevant Act. However, distinguishing between personal information covered by the Privacy Act and information covered by the LGOIMA is often difficult.

A legal opinion provided to the Environment Canterbury suggests that information pertaining to the contamination status or other aspects of a particular site is not personal information as contemplated by the LGOIMA or the Privacy Act and can, therefore, be disclosed. However, in the course of compiling the Register the Council receives and retains personal information. The Council would be justified in refusing or declining to release that personal information in accordance with the LGOIMA section 7(2)(a) or section 7(2)(b)(ii). It is further suggested that the decision as to what parts of the Council's record are personal information can only be made on a case by case analysis.

Where a council receives a request from a person for information about a contaminated site owned by a person other than the requester, the council would be expected to consider, among other things, whether it should withhold the information requested, either in part or in its entirety. Sections 6 and 7 of LGOIMA outline what are considered to be justifiable reasons for withholding information.

There is considered to be good reason for refusing a request if the public interest in withholding the information is not outweighed by other countervailing public interest reasons favouring its release.

Reasons that support the disclosure of information about potentially contaminated sites include:

- the public have a right to know about contaminated sites so that they can avoid the adverse health, safety or environmental effects arising from them;
- potential purchasers, financiers and others have a legitimate interest in information concerning potentially contaminated sites; and
- as regulatory authorities have limited resources and enforcement ability, disclosure may encourage individual owners to investigate and remediate sites.

Reasons for withholding information include:

- the need to preserve a free flow of information during an investigation process;
- early disclosure may give a misleading impression and may cause unnecessary public and private anxiety; and
- potential for mischievous release of information.

Appendix 3: Memorandum of Understanding – Bulk information requests

MEMORANDUM OF UNDERSTANDING: USE OF ECAN'S CONTAMINATED SITE INFORMATION

BETWEEN: CANTERBURY REGIONAL COUNCIL (“CRC”) AND *THE CONSULTANT*

PREAMBLE:

- a) As part of its functions and responsibilities as a local government environmental agency CRC collects and stores information on various areas of land for the purpose of assessing the extent if any to which the site is contaminated and for addressing the effects of any contamination (“the database”);
- b) The CRC has a Contaminated Site Information Management Strategy (ECan 1999) that guides the collection of information about land parcels, and its release in response to requests about single land parcels.
- c) *<Consultant's name>* has, on *<insert date of request>*, requested that CRC provide them with information from its database relating to land parcels within the *<define area>*.
- d) The information is to be used in the following way: *<define use of the information, including any benefit of this to environmental management>*.
- e) This bulk information request has been considered on the basis of the sensitivity of the information and on the benefit of its use.
- f) The CRC proposes to release to *<consultant's name>* the information it holds on land parcels in the *<define area>* subject to restrictions on use of the information.

IT IS THEREFORE AGREED BETWEEN THE PARTIES as follows:

1. The information will be supplied in hard copy, but is available electronically, on request.
2. The information reflects the Council's understanding of the site on the date of its download from the database. CRC shall not be liable for any inaccuracy in, or omission from, this information.
3. The information is for use by *<consultant's name>* solely for the *<defined use>*. It shall not be used for any other purpose or made available to persons.
4. All reporting by *<the consultant>* for the project that uses the information supplied by CRC in accordance with this memorandum of understanding will be marked as 'Confidential'.
5. Where available, supplementary (hard-copy) details on the sites can be viewed by *<the consultant>* at CRC at a mutually convenient time.
6. The conditions of this Memorandum of Understanding apply to the hard copy and electronic information, and to supplementary details.

SIGNATURES & DATE

**<Consultant's name>
POSITION
CONSULTANT'S COMPANY**

**<Manager name>
Environmental Quality and Hazards Manager
ENVIRONMENT CANTERBURY**

Appendix 4: Memorandum of Understanding – Use of GIS layers by ECan staff

Agreement on the use of information provided in MOJO layers from the Listed Land Use Register

Purpose

To provide for the information requirements of staff working on, or dealing with, contaminated sites, while at the same time maintaining the privacy and information release requirements of Environment Canterbury's *Contaminated Site Information Management Strategy* (1999).

The purpose of the Contaminated Site Information Management Strategy is to ensure that information the Council holds is managed in a clear and consistent manner, and that the information can be made available to appropriate parties involved in decision-making and management of sites. In addition, assessment of information on contaminated sites helps to ensure that adverse environmental effects that result from the contamination of land are remedied or mitigated, to an acceptable level of risk.

The Contaminated Site Information Management Strategy enables ECan to address statutory responsibilities under the Resource Management Act, Local Government Official Information and Meetings Act, and the Privacy Act. **However, there is also a responsibility to ensure that the information is correct and appropriately released so that those parties affected by the availability of the information, in particular site owners, are not inappropriately affected by its release.**

Background

Environment Canterbury manages information about three general types of sites.

1. **Unverified Hazardous Activities and Industries List (HAIL)¹** sites: Sites for which past or present use has been reported but **not verified** as one that appears on the Hazardous Activities and Industries List.
2. **Verified Hazardous Activities and Industries List (HAIL)¹** sites: Sites for which past or present use has been reported and **verified** as one that appears on the Hazardous Activities and Industries List. Assignment to this category does not imply that the site is contaminated, but merely that the site has used, stored or disposed of hazardous substances, and there is therefore a potential for site contamination to have occurred
3. **Contaminated, Managed/Remediated, and Not Contaminated** sites: Sites that have had environmental investigations undertaken on them to quantify the nature and extent of contamination present. The category (contaminated, managed/remediated, not contaminated) is representative of the risks that the site poses to human health and/or the environment.

Information available

The LLUR information is accessed in MOJO via the 'Groups' menu, and is listed as "LLUR Area Layers". Opening this group will present a list of 3 layers to add. Select the 'unverified' and 'categorised' layers by ticking the check boxes and clicking OK. The LLUR layer is password protected, and you will need to enter the password once for each layer you have loaded.

Each MOJO layer displays the following information in the “Identify Results” box:

- Site ID (a unique number assigned to each site on the LLUR)
- Site name
- Category
- Easting/Northing
- Site location
- Investigations
- HAIL activity
- Risk screening result

¹ Certain activities or industry types involve the use or storage of hazardous substances. The Ministry for the Environment has produced a comprehensive list of these activities and industries, called the Hazardous Activities and Industries List (HAIL) which can be downloaded from the Ministry’s web page:

<http://www.mfe.govt.nz/issues/hazardous/contaminated/guidelines.html>.

The site information on the LLUR is presented in MOJO as a polygon or shape. Where possible, discrete areas of interest on a site, i.e. above or under ground storage tanks, have been identified and represented as accurately as possible. This is necessary where a tank (which justifies inclusion on the database for the storage of hazardous substances), is located on a piece of land where the general activity does not justify inclusion. An example of this is a retirement village, where there is an underground storage tank, yet the general activities undertaken on the site do not involve the use, storage, or disposal of hazardous substances.

Alternatively, where the entire property, or the majority of it, could be contaminated due to the activities undertaken on it, the polygon will be representative of the entire land parcel/s. Also, if the location of discrete areas of interest could not be identified accurately, the whole land parcel will be represented.

Ongoing maintenance of information

When sites identified on MOJO are visited, or additional information about the presence or absence of contaminants or the storage, use, or disposal of hazardous substances on these sites becomes available, this information is to be provided to a Contaminated Sites Officer for inclusion on the database. An email outlining the source of the information, details about the site, and any other action taken is sufficient.

Any operational difficulties with the information from the LLUR on MOJO should be relayed in the first instance to a Contaminated Sites Officer.

The Agreement

The information from the LLUR has been provided to ensure consistent and integrated management of contaminated sites throughout Environment Canterbury. However, there are potential negative implications for this organisation if this information is mismanaged or released in an inappropriate way without the necessary qualifications and disclaimers. Therefore, the following requirements must be met when using information derived from the LLUR:

- Section Managers to ensure that all new staff members in their section that would benefit from use of the Listed Land Use Register (LLUR) information attend a brief training session with the contaminated sites team. Training to cover the purpose of the Listed Land Use Register, and use of its information via MOJO.
- No maps are created of any site on the register and maps created from MOJO do not contain any of the layers derived from the LLUR as an active or visible theme (this function will be automatically disabled when the layers are loaded). An exception to this

is made for customer services staff who use specially designed templates on Mojo to create maps for inclusion in property enquiry responses.

- Information from MOJO about any site on the LLUR is not made publicly available or provided to individuals or organisations outside Environment Canterbury.
- EMQ's Contaminated Sites Team is alerted of information of relevance to the LLUR, i.e., details of the storage, use, or disposal of hazardous substances, visible staining of soils.

Name _____

Date _____

Signed _____

Signed Agreement:

- 1 signed copy to Environment Quality and Hazards section
- 1 signed copy retained by Section Manager

Appendix 5: Memorandum of Understanding – Territorial Authorities use of Web-based Search System

Memorandum of Understanding Contaminated Land Information

Between:

The Canterbury Regional Council (Environment Canterbury)

and

The District/City Council

Environment Canterbury has a Contaminated Site Information Management Strategy (1999) to ensure that information it holds is managed in a clear and consistent manner, and that the information can be made available to appropriate parties involved in decision-making and management of sites.

The Contaminated Site Information Management Strategy enables Environment Canterbury to address statutory responsibilities under the Resource Management Act 1991, Local Government Official Information and Meetings Act 1987, Privacy Act 1993 and Local Government Act 1974 and 2002. There is a responsibility to ensure the information is correct and appropriately released so that any person affected by the availability of the information, in particular any site owner, is not unreasonably or unnecessarily affected by its release.

Environment Canterbury recognises that all local government has requirements to release information it holds about sites that are, or have the potential to be contaminated as a result of past or present uses involving the use, storage, or disposal of hazardous substances. Therefore, Environment Canterbury wishes the information it holds about sites to be available to Territorial Authorities in Canterbury so that this information can be included in their responses to Land and Project Information Memoranda.

As such, a website has been developed that provides the ability to query information Environment Canterbury holds on the Listed Land Use Register (where information about sites that are, or have the potential to be contaminated as a result of its past or present use involving the use, storage or disposal of hazardous substances, are held). Access to the Listed Land Use Register website will be made available to each Territorial Authority subject to the following understandings:

Environment Canterbury will:

1. Ensure that information on the Listed Land Use Register (LLUR) website has been entered in accordance with Environment Canterbury's *Contaminated Site Information Management Strategy*;
2. Ensure the information on the Register accurately describes the information held by Environment Canterbury;

3. Ensure that information is made available to the Territorial Authority and that download speed is not prohibitive to the use of the Register;
4. In situations where the Register cannot be accessed electronically, due to technical problems, provide an alternative method of information transfer;
5. Provide initial and ongoing annual training to Territorial Authority staff on the use of the LLUR website
6. Incorporate additional information/alterations supplied by the Territorial Authority, where verifiable and appropriate;
7. Provide technical support for the information held about any site;
8. Provide additional information on request, where available and appropriate;
9. From time to time, make requests to the Territorial Authority for information relating to Hazardous Activities or Industries undertaken in the Territorial Authorities area;
10. From time to time, amend the structure of the information presented to ensure that standard protocols of regional and national best practice for the management and release of information are maintained.

The District/City Council will:

11. Ensure that all officers with access to the Environment Canterbury Listed Land Use register (LLUR) website are aware of the basis for including sites: i.e. ones where activities involving the use, storage, or disposal of hazardous substances have occurred either in the past or currently occur, thus increasing the potential for the sites to be contaminated. The information does not indicate, nor should be interpreted as indicating the presence or absence of contaminants on the sites;
12. Respect the sensitivity of information that relates to different categories of sites;
13. Query the LLUR website for each Land or Project Information Memoranda request received, and print a new Environment Canterbury statement per Land or Project Information Memoranda request;
14. Query the LLUR website to identify if any site that requires RMA authorisation is included on the LLUR, and to incorporate this information into the RMA process as appropriate;
15. Notify Environment Canterbury when it considers that any of the information on the LLUR website is incorrect and provide verifiable supporting evidence.
16. Notify Environment Canterbury whenever there is a subdivision or change of land use on any of the sites listed on the LLUR website;
17. Notify Environment Canterbury when concentrations of hazardous substances in soil or groundwater are discovered through investigation, or through knowledge of a leak or spill;
18. Respond to Environment Canterbury's requests for information relating to Hazardous Activities or Industries within a timeframe agreed by both parties.

For The Canterbury Regional Council

.....
George Griffiths
Director – Investigations and Monitoring

For TheDistrict/City Council

.....
Tier 2 Manager