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| Request for information about potentially contaminated sites |
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| Legislation Local Government Official Information and Meetings Act 1987, ss 7(2)(a), 7(1), 44A  Agency Regional Council  Ombudsman Sir Brian Elwood  Case number(s) C5637  Date May 2001 |

*Request for information about potentially contaminated sites—Regional Council held information not known to District Council—privacy interests requiring protection—Land Information Memoranda—public health interests recognised—information withheld from requester but released to owner/occupier and District Council—complaint settled by agreement*

A Regional Council received a request from a reporter for a list of all potentially contaminated sites located in a particular District Council’s territorial area. The Regional Council released some information, but withheld the location of sites that had been used for purposes that could have contaminated the land. The Regional Council withheld the information under section 7(2)(a) of LGOIMA, to protect the privacy of the current owners, believing there was no public interest to be served by release of the information under section 7(1).

The investigation revealed that no work had been done to establish whether or not the sites posed a safety risk. It was also established that information about the possibility of the sites being contaminated had not been provided by the Regional Council to the District Council concerned. If a prospective purchaser of a property having a potentially contaminated site had requested a Land Information Memoranda (LIM) pursuant to section 44A of LGOIMA from the District Council, the potential contamination of the site would not have been disclosed in the LIM. Furthermore current owners of the various properties had not been informed that their property may include a contaminated site.

It became clear that significant public interests were at issue. These suggested that the information should be available to the District Council and to property owners. However, there were also privacy interests to be protected pursuant to section 7(2)(a) in relation to owners and occupiers of the properties concerned. The view formed was that a resolution of the complaint would be achieved and the wider public interest satisfied by the Regional Council agreeing to advise the owners about the information it held and releasing the information to the District Council. The requester agreed that the privacy of the owners needed protection and was satisfied that the release to the District Council would serve the public interest in that the information would in future be available to potential owners of the properties through a LIM provided by the District Council.

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