



Ministry for the
Environment
Manatū Mō Te Taiao

The Contaminated Sites Remediation Fund

Guide to Regional Council Applicants

Published in October 2005

Updated May 2006

by the
Ministry for the Environment
Manatū Mō Te Taiao
PO Box 10362, Wellington, New Zealand

ISBN: 0-478-25935-2
ME number: 689

This document is available on the Ministry for the Environment's website:
www.mfe.govt.nz



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Executive Summary

The Contaminated Sites Remediation Fund (the Fund) is administered by the Ministry for the Environment. The Government agreed to a trial period from July 2003 to June 2006 in which the Fund is used to assist regional councils with the investigation and remediation of contaminated sites. Up to \$1 million is made available each year for sites that pose a risk to human health and the environment. This Guide to Applicants and the companion Application Form describes how the Ministry will administer this Fund including the funding criteria and the application process. The Fund is consistent with the Government's principles and approaches for sustainable development for New Zealand¹.

Regional councils are invited to apply to the Fund for high-risk sites they identified in their regions. Prime sites for funding are those that are posing or likely to pose a high risk to human health, or that are located in environmentally or culturally sensitive areas. Also considered are sites, where the landowners do not have the financial resources themselves to undertake the investigation or remediation work required but want to work with the regional council on the problem.

The Ministry will be appointing a panel of experts to review applications and recommend those projects that merit funding support. The Fund is run on a contestable basis and sites are ranked in the order of funding priority.

Applications must be submitted to the Ministry by **12:00pm on Friday 23 June 2006**. Applications must be filled in electronically and emailed to **Rosalind Groves** (rosalind.groves@mfe.govt.nz). Hard copies of the application and supporting material should also be mailed or faxed to Rosalind Groves. See page 11 for contact details.

¹ Sustainable Development for New Zealand. Programme of Action (2003) Department of Prime Minister and Cabinet.

Introduction

There are many contaminated sites in New Zealand resulting from pesticide manufacture, coal gas production, mining, rubbish disposal, timber treatment, sheep dipping, and other land uses. Concern about contaminated sites and their effective management arises from the need to address previously unconsidered adverse effects. This recognition has resulted from improved scientific information about hazardous contaminants and from higher expectations about environmental quality.

Contaminated land is defined in the Resource Management Act 1991 (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.

There are a number of ways in which remediation of contaminated sites can be encouraged including voluntary remediation, the issuing of enforcement orders and the provision of grants.

Some *voluntary remediation* has already occurred. Several district and city councils have investigated and remediated old gasworks sites, and landfills so the land could be redeveloped. Some timber treatment sites have been remediated by their current owners.

Enforcement orders can be issued to remediate a contaminated site where it is affecting the adjacent environment. However, for the order to be effectively enforced, liability on those responsible for the contamination needs to be determined. Almost all historical contamination of land occurred before the enactment of the Resource Management Act in 1991, and the fixing of liability on responsible parties for these sites is problematic. For instance, potentially liable companies may no longer exist or have created shell companies to protect their assets. Moreover, in some cases, the Crown or a council could be identified as the liable party and be unable to manage its fiscal exposure.

The *provision of grants* to assist with remediation was initiated in 1999 with the creation of the *Contaminated Sites Remediation Fund*² to be administered by the Ministry for the Environment.

² The Fund has been known as the *Orphan Sites Remediation Fund*.

Establishment of the Fund

Background

The Government has approved an annual appropriation of \$2 million to the Contaminated Sites Remediation Fund (the Fund). The Government has agreed that a three year trial from July 2003 to June 2006 be conducted in which up to \$1 million per year will be made available to regional councils for investigation and remediation of contaminated land on a contestable basis. The Ministry for the Environment is to report back to Cabinet by 30 June 2006 on the outcomes of the Fund and recommend future policy for assisting local authorities to remediate historically contaminated sites for which they have accepted some responsibility.

The contestable portion of the Fund is to be applied in those sites:

- i. that are assessed as posing or likely to pose a high risk to human health
- ii. that are located in environmentally or culturally sensitive areas
- iii. for which contributory funding is available from other sources (eg, local government, landowner/occupier).

The remainder of the funds will be made available to continue to assist Tasman District Council with the clean up of the ex-Fruitgrowers Chemical Company site at Mapua, and Environment Waikato with the remediation of the abandoned Tui mine on the western side of Mount Te Aroha.

The Mapua and Tui Mine sites (as the first contaminated sites to be remediated with assistance from the Fund) were selected due to the high risk posed by these sites. In both cases remediation is urgent because contaminants from the Mapua site are leaching into the nearby estuary, and contaminants from the Tui mine site are leaching into local streams and present a risk to the Waihou River. Land instability also presents some risk to users of the Kaimai Forest Park and the community of Te Aroha.

Fund principles

The Fund is underpinned by the following principles:

- A partnership between the Government, local government and landowners (note that private landowners are not eligible)³ to investigate and remediate a contaminated site.
- Where remediation of a site results in significant betterment, and this betterment is realised through the sale of the property, the increase in the value of the site attributable to the remediation is to be shared between the funding parties in the same ratio as their respective funding shares.
- No liability for any site is presumed by the Government through the provision, or application, of the Fund.

³ Only regional councils may apply to the Fund – individuals are not presently eligible. Regional councils may choose to work in partnership with a district or city council, an individual site owner or previous polluter of a specific site of concern.

Selection Criteria for Funding

The Fund is managed by the Ministry for the Environment. The day-to-day monitoring of the different projects under the Fund is done by individual project managers in the Ministry. Full contact details are provided on page 11.

Assessment panel

The Ministry will appoint an assessment panel comprising 4–5 people with expertise in site investigation and remediation techniques, health matters, eco-toxicity, risk assessment and soil science.

This Assessment Panel will have three functions:

1. review the received applications for funding assistance for completeness and eligibility
2. advise on the ranking of contaminated sites by order of priority for funding
3. recommend to the Ministry's Chief Executive what projects merit funding support.

Eligibility criteria

Three principal criteria will be used by the Ministry's assessment panel in prioritising applications for remediation works:

- *Risk*: The risk posed by a site is a combination of the toxicity of the contaminants, the potential for human exposure, and the pathways leading to environmental effects.
- *Cost-effectiveness*: Applications will be assessed in terms of the number of sites investigated and remediated against the level of Fund investment required along with the ability of the applicant to undertake the work. Proposals will also be assessed in terms of the practicalities of the remediation proposed for the site and its future land use.
- *Equity*: The distribution of contaminated sites across the country is not uniform and some regions are poorer than others. Consideration will be given to applications from regions that have many contaminated sites and/or have a lower rating base (which will be determined by the equalised net capital value of the region). The nature and scope of the application along with ability to pay will be considered in setting the level of financial contribution from the Fund.

The completion of a preliminary assessment, site assessment and remediation plan will usually be required before an application for the physical remediation of a site will be considered by the Ministry's Assessment Panel.

Applicant eligibility

Regional councils will be solely eligible to apply to the Fund for the first three years. This is due to their technical expertise and general function of identifying, investigating and monitoring contaminated land in their regions. However, if district and city councils wish to address contaminated sites for which they have accepted some responsibility for future management, they will have access to the Fund through their respective regional councils. In some cases regional councils may work directly with the historical polluter or current landowners where a contaminated site poses a high risk to human health or the environment in the region.

Funding criteria

The proportions of funding contributed by other parties (site owners/occupiers, polluters and local authorities) to site assessment, remediation planning and actual remediation of a site will be assessed on a case-by-case basis. However, as a general rule of thumb the Fund will contribute 20–40% of stage two (site assessment) costs and 40–60% of stage three (remediation planning) costs. The amount the Fund contributes to stage four – the actual remediation of a site – will depend on the ability of other parties to contribute to the required work, whether the work results in a significant increase in the value to the property, and the priority ranking afforded to the site. However, as a guide the proportions of funding contributed by other parties (site owners/occupiers, polluter(s) and the local authorities) is likely to range from 40–60%. Higher contributions from the Fund will generally reflect the importance of the project taking into account the risk to human health or the receiving environment and the ability of other parties to pay. To date, the average funding approved per project has ranged from \$15,000 and \$80,000.

Funding will not be provided to regional councils for stage one work on preliminary assessments of contaminated sites (eg, initial desktop risk assessment). This work is a relatively minor cost and many councils have undertaken it already in the process of identifying contaminated sites. Documentation and reports from preliminary assessments and any further work such as remediation plans must be included with the application.

The Fund will **not pay** for the following:

- capital expenditure items
- costs incurred before the application being made
- funding for a project that finishes after 30 June 2007
- investigations or remediation works on contaminated land or identified sites of concern on Crown land where the Crown has taken on the responsibility for remediation.

Funding priority will be given to those sites:

- posing or likely to pose a high risk to human health or the environment
- located in environmentally sensitive areas, posing risks to endangered or protected species
- located in or around culturally sensitive areas, such as urupa, battlegrounds or other sites of significance to Maori
- where the landowners do not have the financial resources to undertake the required work but who have a desire to do something about the problem.

The weighting on the above criteria will be allocated so that those sites where human health, environmental and/or cultural risks are high, but contributory funding is low, will not be disadvantaged.

Application Stages

The stages from contaminated site assessment to remediation are set out below and are summarised in Appendix B. Stages two – four are eligible for financial assistance under the Fund. Funding of work on a site can begin or stop at any stage. Funding will only be provided for one stage per funding round.

Stage one – preliminary assessment

When a potential contaminated site comes to the notice of a local authority, the authority will normally undertake a preliminary investigation of the site and assign a hazard rating to it.⁴ If a regional council decides to forward priority sites to the Ministry for funding, this hazard rating would then form part of the application for the more detailed site assessment in stage two.

Stage two – site assessment

Councils should prepare their site assessment reports in accordance with the Ministry for the Environment's *Contaminated Land Management Guidelines No 1 – Reporting on Contaminated Sites in New Zealand* (available at: www.mfe.govt.nz). The application for funding should contain an estimate of the time required to do the investigation work and an estimate of costs. Please refer to the Application Form for detail and format.

Applicants should include all risk screening reports and other information so the Ministry's assessment panel can make an accurate assessment of the project.

If the application for stage two is approved for funding, the regional council will manage the site assessment project, prepare and submit a site investigation report to the Ministry on completion of the project. The site assessment should determine the nature and extent of contamination and the significance of any human health and/or environmental risk. Funding applications for work undertaken in stage three or stage four will need to be supported by the site investigation report.

Stage three – remediation planning

After the regional council has obtained the results of the detailed stage two site assessment, it may decide that the risks of a contaminated site are unacceptable. Then the regional council has the option to apply for stage three funding.

Remediation planning has two phases each of which is eligible for funding. The first phase is the preparation of an Assessment of Remediation Options (ARO) as per the principles set out in

⁴ Refer to *Contaminated Land Management Guidelines No 3 – Risk Screening System*, Ministry for the Environment, 2004.

the ANZECC guidelines.⁵ The ARO will identify the optimal methods for remediation taking into consideration the extent and nature of the contamination, the offsite effects, proposed future use of the site, whether the remediation technology is proven, the costs of each option and the contributory funding available. When completed the regional council must submit the final ARO to the Ministry.

The second phase of remediation planning is to prepare a Remediation Action Plan (RAP). The RAP details how the remediation will take place, based on the preferred remediation option identified in the ARO.

The Ministry will consider applications for either or both of the remediation planning phases.

Stage four – remediation

Remediation can be very expensive and decisions on the allocation of funding will be guided by the attributes of the remediation action plan set out above. All applications for stage four must include comprehensive information about the project, including all relevant reports (eg, ARO, RAP, site investigation reports) and a complete breakdown of all costs – in most cases it is appropriate to include with the application any proposals, estimates or other tender documents from potential contractors to the project.

⁵ ANZECC (1992) *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites*, Australian and New Zealand Environment and Conservation Council, National Health and Medical Research Council.

Timetable

1. Invitation sent by the Ministry for the Environment to regional councils to apply for funding assistance by **9 May 2006**.
2. Applications received by the Ministry for the Environment by **12:00 pm 23 June 2006**.
3. Applications reviewed and ranked in order of priority for funding by the assessment panel by **21 July 2006**.
4. Successful applicants notified by **4 August 2006**.
5. Deed agreements concluded by **31 August 2006**.
6. Projects commence **September 2006**.

Note that this timetable is indicative only and actual dates may vary.

Approval Process

Evaluation and recommendations

The Chief Executive of the Ministry for the Environment will make the final decision on which projects will be supported and the funding support to be provided for each project, taking into consideration the recommendations of the Ministry's assessment panel.

Post approval process

Each regional council that submits an application for financial assistance under the Fund will be advised whether the project has been approved, received approval in principle (subject to funding becoming available or further information from the council), or declined.

The Ministry for the Environment will appoint a project manager for each approved project. The project manager will prepare an individual deed (project agreement) in consultation with the successful applicant. The deed will – among other things – set out the work that is to be done, the timetable for that work, the terms of remuneration, payments to be made and reporting requirements.

Ministry Contact Details

All applications and queries related to the Fund should be directed to:

Rosalind Groves
Ministry for the Environment
Environment House
23 Kate Sheppard Place
PO Box 10362
Wellington

Phone (04) 439 7722
Fax (04) 439 7705
Email: rosalind.groves@mfe.govt.nz

Appendix A: Advisory Notes

- (i) The Fund does not generally apply to Crown land (ie, the Crown assumes responsibility for its own land (not the local authority)).
- (ii) The Fund is designed to encourage willing parties to remediate contaminated land.
- (iii) All applications to the Fund should include information that conforms to the requirements of the Ministry's *Contaminated Land Management Guidelines (CLMG)* series. The principles of the CLMGs will apply to all activities undertaken as part of the project.
- (iv) If a site is remediated then it is no longer a 'contaminated site' in respect of the Fund if it meets appropriate guidelines or standards (for a particular land use, soil quality or discharge). However, a contaminated site which has been assessed, has been the subject of a remediation plan or has been remediated, will need this site information recorded on its title. The relevant territorial authority will be expected to provide this information on a Land Information Memorandum (LIM).
- (v) The location of sites receiving funding will be made public upon request. Other information about the site will be available through regional councils but where this information is sensitive councils will be guided by the requirements of the Local Government Official Information and Meetings Act 1987.
- (vi) This document, in setting out the administration rules for the Fund, in itself, does not create any legally binding obligations, and neither should it be taken to create any expectation that funding will be granted.
- (vii) The consideration and determination of the priority or ranking of importance for remediation by the Fund is made without prejudice and does not purport to convey any legal significance.

Appendix B: Overview of the Funding Round Process

Stages	Activity description	Responsible party
Stage One Preliminary Assessment (not eligible for funding)	1 Conduct rapid hazard assessment on sites of concern. 2 Assign hazard rating according to Ministry for the Environment guidelines.	Regional council Regional council
Stage Two Site Assessment (eligible for funding) 20–40% subsidy	1 Forward application to Ministry for the Environment along with investigation proposal. 2 Application assessed and funding decision made. 3 Conduct detailed site assessment and prepare site investigation report.	Regional council Ministry for the Environment /Assessment Panel Regional council
Stage Three Remediation Planning (eligible for funding) 40–60% subsidy	1 Submit proposal for Assessment of Remediation Options or Remediation Action Plan or both to Ministry for the Environment including stage two investigation report. 2 Application assessed and funding decision made. 3 Prepare Assessment of Remediation Options and/or Remediation Action Plan and submit to Ministry for the Environment.	Regional council Ministry for the Environment/ Assessment Panel Regional council
Stage Four Remediation (eligible for funding) % subsidy to be negotiated on case-by-case basis	1 Use Remediation Action Plan as basis for application to remediate site. 2 Application assessed and funding decision made. 3 Prepare final remediation report upon completion and arrange for site audit.	Regional council Ministry for the Environment/ Assessment Panel Regional council