

8. SANDILANDS CONTAMINATED LAND REMEDIATION

General Manager responsible:	General Manager Regulation & Democracy Services
Officer responsible:	Environmental Services Manager
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PURPOSE OF REPORT

1. The purpose of this report is to advise the Council of the outcome of its application to the Ministry for the Environment (MfE) for funding to remediate 12 privately owned contaminated properties at Sandilands, and to seek approval to proceed with remediation of these sites.

EXECUTIVE SUMMARY

2. The MfE decision on the Council's Sandilands remediation funding application has recently been received. The Council in July 2004 authorised staff to commence the investigation of Sandilands but requested that staff report back and seek approval before any remedial work commenced. This investigation has included soil testing of all properties in the Sandilands area, research and establishment of appropriate guideline criteria, preparation of remedial action plans, seeking tenders and discussion with MfE and residents. The outcome of the investigation was that only 12 properties did not meet acceptable guideline criteria and would need to be considered for remediation.
3. MfE has approved \$212,500 to be used to remediate the 12 affected properties.
4. Three options are available, (a) decline to proceed, (b) review and reassess the remediation plan, and (c) approve the remedial work to proceed. Option (c) is the recommended option.

FINANCIAL AND LEGAL CONSIDERATIONS

5. A sum of \$1m has been set aside to address the contamination issue in the Sandilands area. (Sandilands Site Remediation Fund). To date, \$139,555 has been spent. The remediation work will cost \$806,000 less \$212,500 (MfE contribution) leaving the Council to contribute \$593,500. Overall the cost to the Council, if it agrees to proceed with the remediation will be approximately \$750,000 (\$735,055 plus some additional consultancy costs).
6. The funding from MfE is less than originally expected (now 25%, not 50%). MfE had however advised that overall funding could be in the range of 20–80% of the project cost. The remediation cost is also greater than anticipated.
7. There would be legal implications if the Council were to decline to proceed with the work (option (a)). Residents may argue that the Council was at some stage in the life of Sandilands, the owner, disposer of refuse, developer, and consent authority and therefore has a responsibility to remedy the situation. For these reasons the Council will require residents whose properties are being remediated to accept that the work is in full and settlement of all claims that those residents may have now or in the future against Council. Their agreement will be held on the property files for those properties and will be accessible as part of the LIM process.

STAFF RECOMMENDATION

It is recommended that the Council adopt Option (c).

BACKGROUND ON SANDILANDS CONTAMINATED LAND REMEDIATION

8. On 26 February 2004 the Council resolved (inter alia) to lodge an application for funding from the Ministry for the Environment's Contaminated Sites Remediation Fund (The Fund) to address the Sandilands contamination issue.
9. The funding application process is divided into three stages:
 - (a) funding for contamination testing to be carried out;
 - (b) funding for the preparation of a Remedial Action Plan (RAP);
 - (c) funding to carry out remedial work.
10. A funding application was lodged for stage 1 (contamination testing), and this was approved by MfE. The Council contributed \$90,000 to stage 1 (60%) and MfE contributed \$60,000 (40%, which is the maximum available from the Fund for stage 1).
11. A further report was considered by the Council on 1 July 2004, a copy of which is attached. At that meeting the Council resolved:
 1. That the Council proceed with stage 1 and carry out an assessment of the 78 privately owned sites at Sandilands.
 2. That a special fund, to be known as the Sandilands Contaminated Sites Remediation Fund, be set up.
 3. That \$1m from the Council's 2003/04 operating surplus be transferred to this fund.
 4. That any monies received from the Ministry for the Environment Contaminated Sites Remediation Fund be transferred into this special fund.
 5. That any draw-downs from the fund be applied to the rehabilitation of the Sandilands sites.
 6. That once the site assessment has been completed, an application for assistance from the Contaminated Sites Remediation Fund be lodged for stage 2 (remediation planning) and stage 3 (remediation).
 7. That a further report be presented once the outcome of the Council's application for stage 3 is known so that the Council can decide whether or not it wishes to proceed with this final stage.
12. The testing and RAP have now been completed. Independent analysts were used to review the soil test results and recommend appropriate soil guideline values to ensure protection of human health. Of the 93 properties assessed (97 if four Council owned properties remediated earlier are included), only 12 were identified as having contaminant concentrations that exceed relevant human health protection guidelines, and where remedial action was recommended. This was an excellent result for the majority of property owners in the Sandilands area. At the outset of this undertaking a much larger number of affected properties had been envisaged.
13. All residents have received correspondence appropriate to their situation, providing an explanation of the results and advising that their LIM (Land Information Memorandum) would be amended accordingly. Council staff have met and discussed the probable remedial works with each of the owners directly affected. The basis of those discussions was that their properties (if approved by Council) would be reinstated to as closely as possible the appearance prior to remediation, and that "every property be safe for families young and old, and for residents to be able to confidently eat home grown vegetables".
14. Tenders were sought from selected contractors who had previously carried out this type of work. Only one tender was received for \$820,000. This cost was revisited a number of times resulting in a slight reduction to just under \$806,000. This contractor has carried out this type of work for the Council. For clarification, the tender has not been formally accepted. The contractor has advised they would be able to commence work as soon as the Council agreed to allow this work to proceed.

15. The funding application to the Ministry for the Environment was made on the above basis in February this year. Its decision has just been received.

MfE DECISION

16. In the period February to September 2005 considerable discussion between MfE and the Council took place primarily relating to clarification and to cost. The Ministry also visited Christchurch in September to further discuss the matter and to explain its funding decision process.
17. In brief, the results of these discussions were that MfE recognised that the Sandilands project was an appropriate project to fund. Its fund however was \$1 million per annum nationally, and if funded on a 50/50 basis, the Sandilands project would severely restrict its ability to recognise and fund other worthwhile projects throughout the country.
18. After the September meeting with MfE the following decision was received.

"Thank you for your recent application to the Ministry for the Environment's Contaminated Sites Remediation Fund (CSRF). Ministry officials have completed an assessment of all the applications received and I am writing to you to inform you of the results of the assessment of your application.

Your application to the CSRF has been approved for up to \$212,500, to be used for Stage 4 – remediation of properties built on a former landfill in Sandilands, Christchurch. This amount of funding represents approximately 50% of the costs to remove the contaminated soil from the properties and backfill with clean soil, or 25% of the total project costs (including reinstatement of gardens and structures on the properties). I understand from our meeting that staff from Christchurch City Council will now seek council approval to fund the remainder of the project.

I look forward to hearing the decision of Christchurch City Council on this project."

19. The effect of this decision is that if the Council agrees to proceed with the remediation, its contribution would be in the order of \$593,500.

OPTIONS

20. The Council has three options, as follows:

- (a) Decline to proceed.

The implications of this option are that there are community expectations that the remediation work would be carried out. A Council fund (\$1M) has earlier been specifically created to realise these expectations. The Council has carried out considerable and significant work ie, testing and preparation of the remedial action plan, in reaching this stage. To not proceed could seem counter-productive, and possibly have legal implications.

- (b) Review and re-assess the Remedial Action Plan (RAP) with a view to reducing the remedial work to be undertaken and therefore the cost.

This scrutiny was undertaken throughout the process. Indications are that any reduction in the proposed remedial work would be unlikely to achieve the desired result that "every property be safe for families young and old, and for residents to be able to confidently eat home grown vegetables".

The proposed remediation is current and recognised practice.

Lesser remedial work could result in placing limitations on the manner residents were able to use and live on their property.

- (c) Approve the remedial work to proceed.

All the major preparatory work has been completed for the work to proceed. Should the Council agree to proceed, only two matters require some attention. One relates to the processing of a resource consent (earthworks) and the other the signing and agreement of a Deed of Settlement between the property owners and the Council. These latter two matters are in draft form presently, awaiting the Council's decision.

21. The affected property owners have been recently advised that a report on this matter will soon be considered by Council and the outcome will be relayed to them shortly after its decision.

PREFERRED OPTION

22. It is recommended that option (c) be adopted.

ASSESSMENT OF OPTIONS

The Preferred Option (c)

Approve the remedial work to proceed.

	Benefits (current & future)	Costs (current & future)
Social	Allows the affected properties to be safe for human occupation (present and future) and to eat produce grown on the property.	No additional costs should occur post remediation.
Cultural	No cultural matters arise.	N/A
Environmental	Provides a safe living environment	Once remediation is completed no ongoing monitoring environmental costs should occur.
Economic	Specific funding has previously been allocated to undertake the remediation work (Sandilands Site Remediation Fund).	No additional costs are required.
<p>Extent to which community outcomes are achieved: Primary alignment with community outcome: <i>"A Healthy City - an improved local environment will improve the health of residents."</i></p> <p>Impact on Council's capacity and responsibilities: Sufficient funding is available to complete the project. The proportionate funding from MfE is however less than originally expected (now 25%, not 50%), and the overall total remediation cost is greater than originally anticipated.</p> <p>Effects on Maori: No cultural effects related to this undertaking.</p> <p>Consistency with existing Council policies: N/A</p> <p>Views and preferences of persons affected or likely to have an interest: Environment Canterbury and the Medical Officer of Health have had an integral part in this matter and agree with the remedial action plan (RAP). Both parties are members of the "Sandilands" working party. The affected residents desire the matter concluded.</p> <p>Other relevant matters: N/A</p>		

Maintain The Status Quo (Option (a))

Decline to proceed.

	Benefits (current & future)	Costs (current & future)
Social	None	Potential litigation. Disenchanted residents.
Cultural	N/A	N/A
Environmental	Unsafe living environment.	Potential legal procedures imposed to restrict residents life style.
Economic	Council saves funds.	Potential litigation.
<p>Extent to which community outcomes are achieved: This would not align with the community outcome of “<i>a healthy city – an improved local environment will improve the health of residents.</i>”</p> <p>Impact on Council’s capacity and responsibilities: This option would not be perceived to be in line with the Council’s responsibility. It would save expenditure.</p> <p>Effects on Maori: No cultural effects occur with this option.</p> <p>Consistency with existing Council policies: This option would be perceived not to be in accord with the community outcome of an environmentally caring authority.</p> <p>Views and preferences of persons affected or likely to have an interest: The residents have not been asked directly on their views if the remediation were not to proceed. The residents, it is anticipated, would be disenchanted, and perhaps commence some form of legal action.</p> <p>Other relevant matters: N/A</p>		

Option (b)

Review and re-assess the Remedial Action Plan with a view to reducing the remedial work to be undertaken and the cost.

	Benefits (current & future)	Costs (current & future)
Social	Could assist in development of future strategies.	Delays decision-making.
Cultural	N/A	N/A
Environmental	No environmental benefit perceived as suspect little chance for change.	Could restrict the living environment for residents.
Economic	Does re-review the process.	An extra cost with a limited chance for change.
<p>Extent to which community outcomes are achieved: Primary alignment with community outcome: <i>"A Healthy City – an improved local environment will improve the health of residents."</i></p> <p>Impact on Council's capacity and responsibilities: This option would delay the final decision of whether to approve or to decline the remediation.</p> <p>Effects on Maori: No cultural effects occur with this option.</p> <p>Consistency with existing Council policies: N/A</p> <p>Views and preferences of persons affected or likely to have an interest: Views not sought but would be seen as a further delay.</p> <p>Other relevant matters: N/A</p>		