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Assessment panel Terms of Reference – Contaminated Sites and Vulnerable Landfills Fund

## Introduction

1. These Terms of Reference (ToR) set out the purpose, roles, responsibilities, tenure and obligations of the members of the Contaminated Sites and Vulnerable Landfills Fund (CSVLF) assessment panel.

### About the Contaminated Sites and Vulnerable Landfills Fund

1. The CSVLF opened in 2024 replacing the Contaminated Sites Remediation Fund (CRSF). The CSRF was established in 2006 to provide financial assistance to landowners for the investigation and remediation of contaminated sites that might not otherwise be cleaned up, resulting in a cleaner, safer environment.
2. The CSVLF continues the work of the CSRF while placing more emphasis on vulnerable contaminated sites including legacy landfills. The aim of the CSVLF is to reduce the number of contaminated sites in New Zealand and the risk to human health and the environment.
3. Funding from the CSVLF also supports district councils, regional councils, and unitary authorities to fulfil their obligations for contaminated land management under the Resource Management Act 1991. Councils can apply to the fund on behalf of landowners, for high-risk contaminated, or vulnerable contaminated sites within their region, and maintain a project partnership role for the duration of the project.
4. The CSVLF process, application eligibility and assessment criteria are based on those of the CSRF. These were drawn from the guiding principles and principal criteria for assessing applications agreed by Cabinet in 2006[[1]](#footnote-2). The guiding principles relate to funding partnerships and the appropriate use of Crown money, betterment reimbursement and landowner liability. The assessment criteria relate to the consideration of:

* environmental risk due to contamination and vulnerability (to target high-risk sites)
* cost-effectiveness (to focus on projects most likely to be successful)
* equity (to ensure fairness for lesser resourced regions)

1. A panel of experts selected for their technical knowledge and expertise in the contaminated land industry and remediation projects considers fund applications. This enables the applications to be assessed by people with knowledge and understanding of the type of projects eligible for CSVLF funding.
2. The fund is funded by the Waste Disposal Levy, with available funding calculated on an ongoing basis. The fund uses an ‘always open’ model with funding available on a contestable basis.
3. Only eligible applications progress through to the assessment stage of the funding process.
4. Funding is only available for contaminated land management phases two to four: detailed site investigation, remedial planning and remediation. The phase one preliminary investigation supports the initial application for funding and identifies whether the site poses a risk or potential risk to human health and the environment. Subsequent applications are supported by the deliverables/technical reports from the previous phases of the project e.g, detailed site investigation (DSI) reports, assessment of remedial option (ARO) reports and/or remedial action plans (RAP)s.
5. The Ministry has developed a Contaminated Sites Priority List. This is used to focus funding on sites that pose the greatest risk, to incentivise the remediation of high-risk sites, and to provide some certainty on projects likely to be funded. The list enables the Ministry to make targeted investment decisions.
6. The project deliverables must be completed in accordance with the Ministry’s Contaminated Land Management Guidance. The other key project performance standards and recipient obligations are detailed in the projects deed of funding and the approved work plan.
7. Funding is required to be managed in accordance with the Public Finance Act. The Ministry monitors the project and its performance to ensure the proper use of funding and that the project achieves the approved objectives.

### Application assessment context

1. Panel members draw on their expertise to scrutinise applications. The required outcome from the panel assessment is the panel making effective recommendations that will maximise the available funding appropriation and the likelihood of projects’ success.
2. The Ministry will consider the panel’s advice and make decisions on applications for funding up to $1M or make final recommendations to the Minister for the Environment (the Minister) about applications exceeding $1M.
3. The Minister, or the Minister’s delegate, has absolute discretion to follow or not, in whole or part, any advice from the panel and the Ministry, and may decide an alternative amount of funding is more appropriate.

## Role of the panel

1. The role of the panel is to provide assurance in the decision-making process for funding applications. The panel draws on the expertise and knowledge of its members in undertaking a technical and strategic assessment of the funding applications.
2. Panel members are required to have read, understood and refer to the fund criteria published in the New Zealand Gazette. When making its recommendations, the panel will consider whether an application meets the objectives of the fund.
3. The panel makes recommendations to the Ministry on whether the application should or should not be funded, and the amount and any conditions of funding it considers necessary to ensure the success of the project.
4. The panel members will individually assess and score all applications using the assessment tools and criteria provided by the Ministry. The panel will consider the extent to which each application meets the assessment criteria, the significance of the risk, the outcome of each project and the protection afforded the environment, the benefits to the community, and the risks to the Ministry.
5. As a group, the panel will convene to discuss the merits of the projects to reach a majority decision on their recommendations for the allocation of funding. Concerns raised by the panel about projects recommended for funding may be addressed as conditions, prepared by the Ministry, and included in any deed of funding.

## Panel composition and appointment

1. The Ministry appoints panel members with subject matter expertise on contaminated land management in New Zealand. In general, the panel should consist of:

* at least two senior regional council officers with contaminated land experience from different regional councils or unitary authorities
* at least two senior district council officers with contaminated land experience from different district councils
* up to three Ministry staff Subject Matter Experts (SMEs) with contaminated land, investment, or related experience.
* up to six suitably qualified and experienced practitioners (SQEP) SMEs preferably with a Certified Environmental Practitioner (CEnvP) (Site Contamination or General Practice) Scheme accreditation or who can be endorsed by a CEnvP accredited practitioner who will supply this expertise to the Ministry.
* The chair of the panel meeting will be a Ministry official and is a non-voting member of the panel. The chair does not provide an individual assessment of applications to the Ministry.

1. For each meeting of the panel a subgroup of at least five voting panel members plus a chair will be selected to assess the applications that are ready for that meeting. This allows for any panel members with a conflict of interest (addressed further below) to be excluded with no impact on the assessment process. A quorum of five panel members is required for the assessment of an application. This quorum should ensure the relevant expertise is still represented and include at least one each of the following member types: SQEP, regional council or unitary authority, Ministry SME.​
2. Avoiding conflicts of interest is a critical element in the selection of appropriate panel members and determining a suitable quorum for assessment of applications. All panel members are required to declare any current or previous association with the applications that are received by the fund. More information regarding conflicts of interest is provided in following sections.
3. The Ministry will discuss the term of appointment for panel members at the time of their appointment. Generally, the term of appointments will be a mixture of one-, two-, and three-year terms to enable some continuity of membership and support consistency in assessment.
4. A panel member’s appointment may be ended at any time by written notice from the Ministry or panel member.
5. The list of panel members will be publicly available via the Ministry website.

## Panel meetings

1. A group of panel members will meet every other month to discuss applications. Attendance at the panel meeting is not required by all members. Panel members will be notified at least two weeks in advance of the meeting if they are required for a particular meeting.
2. Prior to the meeting, all panel members included in the meeting:

* must ensure they comply with the Ministry’s conflict of interest policy and the conflict of interest provisions of these Terms of Reference
* must complete the Ministry’s conflict of interest disclosure and / or declaration forms,
* Must adhere to any conflict of interest management plan or other requirements of the Ministry where any actual, potential or perceived conflict of interest exists

1. Prior to the meeting all panel members included in that meeting, excluding the chair (whose role is not to assess applications but to facilitate the meeting; see 31 below):

* will receive a copy of the applications and any supporting documentation to be considered
* will receive the Ministry’s Assessment Panel Guide and Scoring Tool
* must individually review and undertake a technical assessment of each application, using the Ministry’s Scoring Tool
* must provide the completed Scoring Tool with their technical assessment of each application, to the Ministry.

1. At the meeting the panel will collectively discuss their scores and technical assessment for each application and reach consensus on whether to recommend that each application be either:

* approved as requested
* approved requested amount with conditions
* approved for a lesser amount
* approved for a lesser amount with conditions
* declined or deferred for resubmission.

1. The outcomes of the panel’s deliberation will be formerly recorded, and the minutes distributed to meeting attendees following the meeting for panel members’ review and endorsement.
2. If the panel members at a meeting are unable to reach a majority decision on their recommendations for funding, the chair will consider the relevant application and in that instance have the casting vote.

## Fees and reimbursements

1. Panel membership is not a paid role. All panel members are employed by central and local government (the Ministry and regional council) and should have an individual agreement / arrangement with their employer for their time spent on the panel.
2. Any fees to be paid to SMEs will be set out in individual engagement documentation (consultancy contracts, letters of appointment etc). SMEs that are not SQEPs will not be paid fees.
3. The panel meeting is held online, and no travel is required. Panel members can not claim expenses.

## Confidentiality

1. All material and information the Ministry sends to panel members must be kept confidential. Other than during the panel meetings, at no time are panel members to discuss application details with anyone, including the applicants (either before or after its consideration). The Ministry will source any additional information is required. Panel members must refer enquires about applications to the Ministry.

## Conflict of interest

1. For the purposes of these Terms of Reference, a conflict of interest is where a panel member’s responsibility to the Ministry, Ministers and / or the public in respect of their role as a panel member is affected or influenced, or potentially / perceivably affected or influenced by some other interest they have. That other interest could be a relationship, a role in another organisation, or a business interest. In any situation where activities are carried out in the public interest or paid for out of public funds, the public needs to be confident that decisions are:

* made impartially and for the right reasons
* not influenced by personal interests or ulterior motives.

1. All panel members must abide by the Ministry’s Conflict of Interest Policy, in addition to complying with the requirements below.
2. Panel members must declare any interest that conflicts (or might conflict or might be perceived to conflict) with the interests of the Ministry and the public in ensuring that applications for funding under the CSVLF are assessed fairly and impartially. An interest can be pecuniary or non-pecuniary.
3. Panel members can declare a conflict of interest at any time. When first appointed, Panel members must declare all known actual or potential conflicts of interest and complete the Ministry’s conflict of interest disclosure. These will be reviewed by the Ministry and where a conflict of interest exists, these conflicts will be collated on an interests register managed by the Ministry. Other conflicts of interest must be declared as soon as practicable after the panel member knows, or should reasonably have known, of the information or situation that gives rise to the conflict of interest.
4. Any panel member who is directly or indirectly associated with any application must declare that interest. If the Ministry determines that a conflict of interest exists, that panel member must not participate in the assessment, discussion and recommendation decisions regarding that application.
5. When a conflict of interest exists such that the Ministry considers exclusion from consideration of applications is not sufficient to mitigate / manage the conflict, the Ministry may end a panel member’s appointment to the panel by written notice.

## Official Information Act Requests

1. All correspondence, including emails, between panel members and Ministry staff is official information and is subject to the Official Information Act 1982 (OIA). Panel members’ advice and comments about an application are also subject to the OIA. Panel member must refer any OIA requests that relates to the CSVLF to the Ministry.

## Support

1. The Ministry will provide administrative support to the Panel during its term, including:

* preparation and distribution of the application documents, Assessment Panel Guide and Scoring Tool
* preparation of meeting agendas and distribution of meeting minutes
* distribution of the Ministry’s Conflict of Interest Policy, disclosure and declaration
* maintaining the CSVLF Assessment Panel Conflict of Interest register
* maintaining the list of panel members published on the Ministry’s website.

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| **Terms of Reference Declaration** |
| This Terms of Reference declaration must be completed by all Panel Members on the Contaminated Sites and Vulnerable Landfills Fund Assessment Panel. |
| As a panel member of the Contaminated Sites and Vulnerable Landfills Fund Assessment Panel, I agree to these Terms of Reference.   |  |  |  | | --- | --- | --- | | Name |  | | | **Position** |  | | | **Signature**  By typing your name in the space provided you are electronically signing this Terms of Reference |  | **Date** | |  |  |  | |

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| **Conflict of Interest Disclosure** | | |
| **Does a conflict of interest exist (past or present)?**    If yes, complete the table below. Provide information on how the conflict of interest may be managed.  If no, please proceed to the declaration.  Ministry staff should contact Human Resources or the legal team for further information as required.  Add more rows to the table, if required. | | Yes      No |
| **Type of conflict of interest**  (e.g. share portfolio, position held by relative, secondary employment) | **Impact of conflict of interest**  How the identified interest could directly/indirectly compromise the performance of the employee’s duties or the standing of the Ministry | **Record of agreed actions**  What has been agreed with your manager (or in the case of external Panel appointees, the Ministry), including implementation dates |
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| **Conflict of Interest Declaration** |
| This Conflict of Interest declaration must be completed by all Members of the Contaminated Sites and Vulnerable Landfills Fund Assessment Panel. |
| As a panel member of the Contaminated Sites and Vulnerable Landfills Fund Assessment Panel:   * I have read and understand the Standards of Integrity and Conduct document (Ministry staff only) * I have read and understand the policy and procedures relating to conflicts of interest (Ministry staff only) * I understand that should any new conflict of interest arise, or if there is an important change to an existing conflict of interest, I am required to report this immediately to my manager * I declare that to the best of my knowledge, the information contained in the Conflict of Interest Disclosure is a complete, true and correct disclosure of any known or possible conflict(s) of interest I have regarding my involvement in the assessment of applications to the Contaminated Sites and Vulnerable Landfills Fund.  |  |  |  | | --- | --- | --- | | Name |  | | | **Position** |  | | | **Signature**  By typing your name in the space provided you are electronically signing this declaration |  | **Date** | |  |  |  | |  | |  | | | **Manager name** | |  | | | **Signature**  By typing your name in the space provided you are electronically signing this declaration | |  | **Date** | |  |  |  | |

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| Published in November 2024by the  Ministry for the Environment – Manatū mō te Taiao | Shape  Description automatically generated with medium confidence |

1. CAB Min (06) 25/3 [↑](#footnote-ref-2)