

North Tyneside Council Report to Cabinet

11 August 2014

<p>Item 6(d) North Tyneside Contaminated Land Strategy</p>
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Portfolio(s): Housing and Environment

Cabinet Member(s): Cllr. John Harrison

Report from Service

Area: Environment and Leisure

Responsible Officer: Phil Scott – Head of Environment and Leisure **Tel:** (0191) 643 7295

Wards affected: All

PART 1

1.1 Purpose:

This report is to seek adoption of the North Tyneside Contaminated Land Strategy 2014 by the Authority.

The Authority is obliged by section 78 of the Environmental Protection Act 1990 to produce a contaminated land strategy and to periodically review it. The first strategy was approved in 2001 and this review reflects the new DEFRA guidance issued in 2012.

1.2 Recommendation(s):

It is recommended that Cabinet:

- (a) Approve the draft Contaminated Land Strategy attached at Appendix 1 incorporating the changes requested following public consultation listed in Table 1, which is attached at Appendix 2; and
- (b) Adopts the North Tyneside Contaminated Land Strategy 2014.

1.3 Forward Plan:

28 days notice of this report has been given and it first appeared on the Forward Plan that was published on 23 June 2014.

1.4 Council Plan and Policy Framework

The strategy supports the Council Strategic Plan 2014 - 2018, Our North Tyneside, Our Places outcome, "Be places that people like living in and will attract others to either visit or live."

1.5 Information:

1.5.1 Background

The Environmental Protection Act 1990 requires an authority to produce a contaminated land strategy and to periodically review it. The Authority's first Strategy was adopted in 2001 and this reviewed Strategy takes into account revised statutory guidance published in 2012.

The overarching objectives of the government's policy on contaminated land are:

- a. To identify and remove unacceptable risks to human health and the environment.
- b. To seek to ensure that contaminated land is made suitable for its current use.
- c. To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principle of sustainable development.

The local authority has a duty under Part 2A of the Environmental Protection Act 1990 to:

- To inspect the area for contaminated land in accordance with statutory guidance.
- To determine whether any particular site meets the statutory definition of contaminated land.
- To act as enforcing authority for all contaminated land, unless the site meets the definition of a "Special Site", for which the Environment Agency is the enforcing authority.
- To consult with the Environment Agency on pollution of controlled waters.
- To ensure the remediation of contaminated land.
- To maintain a Public Register of contaminated land remediation.

The Contaminated Land Statutory Guidance April 2012 instructs the authority on the content of the strategy and requires the authority to provide a written strategy that outlines:

- How the authority will investigate contaminated land.
- To clarify how land will be assessed and determined as contaminated land.
- How the authority will deal with contaminated land.
- To define the responsibilities of Appropriate Persons who have caused or those who are affected by contaminated land.
- To communicate findings following completion of the site investigation by categorising the risk of contamination.

The changes to the guidance from the 2012 publication are as follows:

- The Contaminated Land Statutory Guidance requires the local authority to adopt the Contaminated Land Strategy and aim to review every 5 years.
- Responsibility Changes: The definition of Contaminated Land applies to controlled waters as well as land pollution. The Flood and Water Management Act 2010 has placed the responsibility for surface waters onto local authorities. Internal consultation would take place with the Surface Water Management Team in the event of a potential contamination incident.
- The Guidance has been used to clarify the interpretation of contaminated land to emphasise that action should only be taken on the highest priority sites.
- The new Statutory Guidance has introduced four significant harm to human health risk categories. The categories are used to assist in the determination of contaminated land. Categories 1 and 2 identify land which is capable of being determined as contaminated land on grounds of significant possibility of significant harm to human health. Categories 3 and 4 assessments indicate that the contaminants in land are not sufficient to be classed as contaminated land and do not require additional action.

- **Written Statement:** When land is investigated and found not to give a significant contaminant linkage, the local authority must produce a written statement (i.e. Categories 3 and 4). This was considered necessary to reduce the risk of blight of land.
- **Risk Summaries:** When land is investigated and found to be “Contaminated Land” (i.e. Categories 1 and 2), the local authority must prior to determination of land produce a risk summary for those parties affected by the contaminated land. The risk summary would identify the risk contaminant linkage and impact, whether the risk was caused by short or long term exposure. For example 20 years to have an effect on health would be considered long term known as chronic health effect and one year would be considered an acute health effect, describe uncertainty of risk assessment and to give preliminary methods of remediation. This communication of risk is considered important to encourage voluntary remediation.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

To adopt the North Tyneside Contaminated Land Strategy 2014.

Option 2

To adopt the North Tyneside Contaminated Land Strategy 2014 but with amendments to it as Cabinet sees fit.

Option 3

To refuse to adopt the North Tyneside Contaminated Land Strategy 2014.

1.7 Reasons for recommended option:

Option 1 is recommended because the draft Contaminated Land Strategy has been fully consulted upon. By adopting the policy the Authority will be in a position to publish the same and ensure that the Authority has a policy that reflects the updated guidance.

The amended Contaminated Land strategy will provide residents of North Tyneside clarification on the interpretation of land with contaminants with regard to risk and actions required. It is a statutory requirement of Local Authorities to have in place a document showing how local authorities should implement the regime, including how they should go about deciding whether land is contaminated land in the legal sense of the term. The Statutory Guidance is legally binding on enforcing authorities.

If the preferred option is not approved, the Authority will be unable to fulfill its statutory requirements and will not be in a position to ensure that land within North Tyneside will be fit for its current use. This may result in serious detrimental impacts to health for the residents of North Tyneside.

Option 2 - If Cabinet decides that the draft Contaminated Land Strategy should be amended, if the proposed amendments are fundamental changes then it may be necessary to consult on those changes before they can be introduced into the Strategy.

Option 3 - If the amended Contaminated Land Strategy is not approved by Cabinet then the Authority will have an existing Strategy that does not reflect the changes introduced by the newly published guidance in April 2012.

1.8 Appendices:

Appendix 1: Draft Contaminated Land Strategy

Appendix 2: Table 1 consultee list

Appendix 3: Table 2 Consultation Comments

1.9 Contact officers:

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1.10 Background information:

The following background papers/information were used in the compilation of this report:-

(1) Environment Protection Act 1990 Part 2A Section 78

<http://www.legislation.gov.uk/ukpga/1990/43/contents>

(2) The Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance April 2012

<https://www.gov.uk/government/publications/contaminated-land-statutory-guidance>

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The strategy has been influenced by changes in Government funding. The Contaminated Land Grant administered by the Environment Agency on behalf of Department of the Environment, Farming and Rural Affairs (Defra) is being reduced to £0.5 million nationally and is available only for absolute emergency cases, or to meet the requirements of on-going remediation projects where these are considered to be the highest priority.

In the last three years the Authority has only bid for funding for two schemes, both in 2013-14. Neither of the bids were successful and no grants were awarded. If there is significant demand for such works in future there will be pressure on the Authority to fund them.

The strategy printing costs will be managed within the core budget. The requirement to undertake inspections and maintain a register is not a new requirement and as such implementing the strategy does not have any new financial implications.

2.2 Legal

The Environment Act 1995 introduced contaminated land legislation which was incorporated as Part 2A or section 78 of the Environmental Protection Act 1990. Part 2A established a legal framework for dealing with contaminated land in England and placed a responsibility on the local authority to inspect its land from time to time for contaminated land.

New statutory guidance issued in 2012, placed a duty on the Authority to publish a contaminated land strategy to reflect the changes introduced in that guidance and review the strategy every 5 years.

The first Contaminated Land strategy was produced in 2001.

The Strategy is based upon guidance provided by the Secretary of State on the implementation of Part 2A in England to local authorities. This statutory guidance requires the Authority to take a “strategic approach” to inspecting their areas for contaminated land and to describe and publish this in a written strategy.

The Authority has undertaken statutory consultation on its revised draft strategy. This consultation has taken place over a 6 week period. There is a need for the Strategy to reflect the current guidance and the risk based inspection process. The decision to designate land as contaminated under Part 2A of the Environmental Protection Act 1990 lies with the Local Authority.

2.3 Consultation/community engagement

2.3.1 This draft strategy has been subject to consultation including members of the public, North Tyneside Councillors, adjoining Local Authorities, Natural England, the Environment Agency and Public Health England. All consultees were given the opportunity of providing feedback and comments on the draft Contaminated Land Strategy up to 31st March 2014.

2.3.2 The consultation process resulted in four responses. These were positive and the comments submitted can be seen in the Appendix 3.

2.4 Human rights

The decisions made by the delegated officers on designation of contaminated land can have implications under the Human Rights Act 1998. Decisions of the Authority could be said to interfere with property and also impact on the rights of parties to a family and private life when stipulating a remediation scheme via a remediation notice. However, these rights are qualified rights and those rights can be interfered with if such interference is permitted in law. The interested bodies affected by decisions with regard to contaminated land have a right to appeal. The declaration of land and the remediation of land are to allow the protection against harm to human health as one of the principles of the Contaminated Land strategy guidance 2014 is to ensure that there is no “Significant Possibility of Significant Harm with respect to Human Health”.

2.5 Equalities and diversity

There are no equality and diversity implications directly arising from this report. The strategy is a public document and as such can be provided in alternative formats or languages on request, in line with the Authority’s Interpreting and Translation Policy.

2.6 Risk management

There are no risks of significance directly arising from this report. Risks associated with the strategy and the delivery of it are managed via the risk management governance arrangements of the Authority’s Technical Services Strategic Partnership.

2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability

The environmental implications from the report would be to allow a transparent and reportable means by which North Tyneside Council can show that is adhering to its legal responsibilities in accordance with the Environmental Protection Act 1990.

The Contaminated Land Strategy contributes to protecting and promoting environmental sustainability. The strategy will ensure land is suitable for its use and therefore enhances the environment. The strategy prevents a legacy of environmentally damaged land which would sooner or later hold back economic development and affect people’s quality of life.

PART 3 - SIGN OFF

- Deputy Chief Executive X
- Head of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Strategic Manager Policy, Partnerships, Performance and Communications X

Appendix 1- Draft Contaminated land Strategy



North Tyneside Council

Working in partnership with
CAPITA

Contaminated Land Strategy

August 2014



Executive Summary

Part 2A of the Environmental Act 1990 requires every Local Authority to produce a written strategy setting out how it will identify and deal with contaminated land within its Borough.

This Contaminated Land Strategy is North Tyneside Council's response to this legislation and the revision of the Department for Environment, Food and Rural Affairs (DEFRA's) Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance issued in April 2012. It reviews and replaces the North Tyneside Council Contaminated Land Strategy produced in 2001.

The strategy describes the methodology used for the risk based inspection of the Borough and how the council will deal with contamination.

The strategy clarifies what is to be considered as "Contaminated Land" based on the new statutory guidance. This guidance requires contamination to be placed into four categories of either human health risk or pollution of controlled waters.

The Guidance emphasises that only the top risk categories 1 and 2 will be considered a "significant risk" and will require action.

The strategy clarifies the legal determination of contaminated land. This highlights that contaminated land must demonstrate harm or the significant possibility of significant harm being caused to land or controlled waters.

The strategy emphasises the need to demonstrate the cause of the contamination, the person(s) responsible for contaminant linkages and the responsibilities for those involved.

The strategy acknowledges the often sensitive nature of the information to assess if land is contaminated and the need not to cause 'blight'. The strategy addresses blight by ensuring good risk communication. The strategy requires when land investigation is completed to produce a written statement if no significant contaminant linkage has been identified and to have robust processes in place for the handling and storage of information. The contaminated land database is a live working document.

When land is investigated and found to be "Contaminated Land" (i.e. Categories 1 and 2), the local authority will prior to determination of the land, produce a risk summary for those parties affected by the contaminants. The risk summary would identify the risk and impact of the contaminant linkage and impact. The risk summary would advise whether the risk was caused by short or long term exposure, any uncertainties in the assessment and the remediation methods proposed. The strategy promotes the use of voluntary remediation and the regeneration of land.

The aims and priorities set out in the Contaminated Land Strategy will be reviewed every five years to assess whether they can continue to be achieved and to reflect any new guidance that emerges.

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Chapter 1

1.0 Introduction

Part 2A of the Environmental Protection Act 1990 came into force on the 1st April 2000. Section 57 of the Environment Act 1995 placed an obligation on the Local Authority to “cause its areas to be inspected from time to time for the purpose of identifying contaminated land” (section 78B). The Local Authority has a statutory duty to produce a written strategy for the inspection of the land. The first contaminated land strategy was completed in July 2001. This document is the second review of North Tyneside Council Contaminated Land Strategy, written to take into account the new technical guidance published by DEFRA (Department for Environment, Food and Rural Affairs) in April 2012; and replaces the previous strategy.

1.1 Regulatory Context

Part 2A of the Environmental Protection Act 1990 specifies that the primary regulatory role for the Contaminated Land Regime rests with the Local Authority.

“The overarching objectives of the governments policy on contaminated land are:

- d. To identify and remove unacceptable risks to human health and the environment.
- e. To seek to ensure that contaminated land is made suitable for its current use.
- f. To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principle of sustainable development.”

1.2 The Role of Local Authority

North Tyneside Council has a duty under part 2A of the Act to carry out the following actions:

- To inspect the area for contaminated land.

- To determine whether any particular site meets the statutory definition of contaminated land.
- To act as enforcing authority for all contaminated land, unless the site meets the definition of a “Special Site”, for which the Environment Agency is the enforcing authority.
- To consult with the Environment Agency on pollution of controlled waters.
- To ensure the remediation of contaminated land.
- To maintain a Public Register of contaminated land remediation.

1.3 The Role of the Environment Agency

The Environment Agency has responsibilities for the following:

- To assist Local Authorities in identifying contaminated land, particularly in cases where water pollution is involved.
- To provide consultation on contaminated land inspection strategies.
- To provide site-specific guidance to Local Authorities on contaminated land.
- To act as the enforcing authority for any land designated as a 'special site'.
- To publish periodic reports on contaminated land.
- To ensure the remediation of special sites (for definition of special sites see Appendix 1).
- To maintain a Public Register of special sites remediation.

1.4 Definition of Contaminated Land

Section 78A(2) of the Environmental Protection Act 1990 gives the statutory definition of contaminated land for the purposes of Part 2A as:

“Any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that –

- a) significant harm is being caused or there is a significant possibility of such harm being caused; or***

b) significant pollution of controlled waters or there is a significant possibility of such pollution”

This definition is based upon a risk assessment approach. The remediation of the land is required only if the contamination causes a significant possibility of significant harm to human health or the wider environment. To be determined as Part 2A contaminated land there must be a 'Significant Contaminant Linkage' (Contaminant, Pathway and Receptor) or significant possibility of such a linkage. Contaminants maybe present in land but if not causing such a significant contaminant linkage will not require action.

1.5 Controlled Waters

The contaminated land regime deals with the pollution of controlled waters as a receptor. Section 78A(9) of Part 2A provides the definition for the term “pollution of controlled waters” as the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter.

Controlled waters are rivers, streams, estuaries, canals, lakes, ponds and groundwater as far out as the UK territorial sea limit. The statutory definition of controlled waters is given under the section 104(1) of Water Resources Act 1991.

The term “controlled waters” in relation to England has the same meaning as in Part 3 of the Water Resources Act 1991, except that “ground waters” does not include waters contained in underground strata but above the saturation zone.

1.6 Development of the Inspection Strategy

The purpose of this strategy is to ensure that all those affected by and involved in contaminated land inspection have a clear understanding of the reasons for the identification and inspection of potentially contaminated land sites.

The strategy indicates how the priority of inspection is risk rated, based on potential contaminants and exposure to relevant receptors.

The first strategy document was completed in June 2001 and was widely consulted on.

This current edition was reviewed in 2013 to incorporate the revised Part 2A Contaminated Land Statutory Guidance (April 2012) and to update the past Strategy issued in 2001.

The consultee list for this revision of The Contaminated Land Strategy can be found in Appendix 2.

1.7 Statutory Requirements of the Strategy

The statutory requirements of the Strategy are:-

- To produce a written strategy.
- To demonstrate how North Tyneside Council will deal with contaminated land in a rational and risk based approach.
- To ensure North Tyneside Council inspects its area from time to time to identify any contaminated land and ensure that the land is suitable for its current use.
- To establish the responsibilities for remediation of the contaminated land in a proportionate manner including the role of the Regulators and the role of the Appropriate Persons.
- To demonstrate the hierarchy of mechanisms for ensuring contaminated land is remediated.
- To maintain a Public Register detailing the regulatory action taken under Part 2A of the Environmental Protection Act 1990. This will be kept at the Councils Head Office. Details of register are attached in Appendix 3 and discussed in section 10.5.

Chapter 2

2.0 Contaminant Linkages and Risk Assessment

The Statutory Guidance states that:

“Under Part 2A the starting point should be that land is not contaminated land unless there is reason to consider otherwise. Only land where unacceptable risks are clearly identified, after a risk assessment has been undertaken in accordance with this Guidance, should be considered as meeting the Part 2A definition of contaminated land.”

2.1 Contaminant Linkage

The term contaminant linkage refers to the relationship between a contaminant, a pathway and a receptor. For risk to exist there must be a contaminant present in, on or under the land in a form and quantity that poses a hazard and one or more pathways via which the contaminant(s) could reach and affect a receptor.

To identify a contaminant linkage the following must be found:

- A contaminant.
- A relevant receptor (e.g. Controlled Water see table in Appendix 4).
- A pathway by means of which either:
 - a) that contaminant is causing significant harm to that receptor, or
 - b) there is significant possibility of such harm being caused by that contaminant to the receptor.

The definition of Contaminated Land applies to controlled waters as well as land pollution. The Flood and Water Management Act 2010 has placed the responsibility for surface waters onto Local Authorities. Internal consultation would take place with the Surface Water Management Team in the event of a potential contamination incident.

2.2 Risk

Part 2A of the Environmental Protection Act 1990 takes a risk based approach to assessing contaminated land. When carrying out risk assessment under the Part 2A regime, North Tyneside Council will focus on land that might pose an unacceptable risk to human or environmental receptors.

The Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance 2012 defines, “risk” as the combination of:

- (a) the likelihood that harm, or pollution of water, will occur as a result of contaminants in, on or under the land; and
- (b) the scale and seriousness of such harm or pollution if it did occur.

Risk assessments will be based on information that is:

- (a) scientifically-based;
- (b) authoritative;
- (c) relevant to the assessment of risks arising from the presence of contaminants in soil;
- (d) appropriate to inform regulatory decisions in accordance with Part 2A and Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance.

North Tyneside Council will only consider risks in relation to the current use of the land.

2.3 Risk Categories

The revised Part 2A Contaminated Land Statutory Guidance 2012 provides risk categories to assist Enforcing Authorities to assess whether a site poses a significant possibility of significant harm to human health or the significant possibility of significant pollution to controlled waters. The Guidance has four risk categories for both human health and controlled waters.

The Guidance states that land is risk assessed, based upon the contaminants and the current use. Those areas on completion of site investigation, risk assessed within Human Health Categories 1 and 2 would be determined as contaminated land as they would show 'significant possibility of significant harm to human health'. The guidance indicates that land assessed within Human Health Categories 3 and 4 do not demonstrate sufficient evidence of risk to be capable of being determined as contaminated land.

The risk categories are summarised in the Table in Appendix 4.

2.4 Responsibility for Determination of Risk

The revised Part 2A guidance places the responsibility for determination of contaminated land upon the Local Authority. North Tyneside Council may use external experts to advise on regulatory decisions under the Part 2A regime, but ultimately the decision as to whether land falls under the definition of “contaminated” remains the sole responsibility of North Tyneside Council. North Tyneside Council would consult the Environment Agency if land was considered a Special Site and the Local Authority would place weight on their expertise prior to making determination. If land is considered to be contaminated land under the legal definition then the Local Authority must produce a Risk Statement and issue it to the appropriate persons to communicate the risk found. There is a right to appeal a Remediation Notice served in relation to Part 2a of the Environmental Protection Act 1990:

- to a magistrates' court, if the notice was served by a Local Authority;
- or to the Secretary of State, if the notice was served by the Environment Agency

2.5 “Normal” Presence of Contaminants

The revised Part 2A Contaminated Land Statutory Guidance states that normal levels of contaminants in soil should not be considered to cause land to qualify as contaminated land, unless there is a particular reason to consider otherwise.

Defra commissioned the British Geological Society (BGS) in 2011/2012 to give guidance on what are normal levels of contaminants in English soils. The BGS produced guidance on normal soil concentrations in regions for eight contaminants. These contaminants are arsenic, asbestos, benzo[a]pyrene (BaP), cadmium, copper, mercury, nickel and lead.

If it is established that land is at, or close to normal levels of these 8 contaminants, North Tyneside Council will not consider it further in relation to the Part 2A regime.

2.6 Use of Generic Assessment Criteria and other Technical Tools

Local authorities will, during detailed investigation of site, carry out risk based assessments on contaminants based on available Defra Soil Guideline Values (SGV's). Defra produced 8 Soil Guideline Values (SGV's) to assist the Local Authority assess the potential contamination of sites. North Tyneside in the absence of Defra SGV Guideline Values will use Generic Assessment Criteria (GAC's) produced by a variety of sources. The GAC's currently used by North Tyneside Council are those produced by The Chartered Institute of Environmental Health (CIEH) in conjunction with Land Quality Management Ltd (LQM).

North Tyneside Council will use GAC's and other technical tools to help inform certain decisions under the Part 2A regime, provided:-

- (i) It can be proven how they were derived and how they can be used appropriately;
- (ii) That they have been produced in an objective, scientifically robust and expert manner by reputable organisations;

Site Specific Values (SSV's) can be produced using the Contaminated Land Exposure Model (CLEA) model. The Environment Agency have published calculations for deriving SGV's as a spreadsheet for use by professionals in conjunction with the wider guidance. The CLEA software is written using Microsoft Excel and uses VBA macros to support functionality. In addition, a specific spreadsheet has been published to support the assessment of dioxins in soil.

Chapter 3

3.0 Characteristics of North Tyneside

3.1 Geographical Setting

North Tyneside stretches from the eastern boundary of Newcastle upon Tyne to the North Sea and from the southern boundary of Northumberland to the River Tyne; an area of approximately 84 square kilometre and has a mid-year population estimate (for 2012) from 2011 census of 201,446. The location of North Tyneside and corresponding wards are shown in Figures 1.1 and 1.2 of Appendix 6.

North Tyneside is a mixture of rural, urban and industrial areas with the major towns consisting of Wallsend, North Shields, Tynemouth and Whitley Bay, along the river and coastline plus the towns of Longbenton, Forest Hall and Killingworth between the main towns and the rural hinterland.

The River Tyne is a commercial river with ship repair, offshore fabrication, fishing and port related industries. The Borough contains a number of industrial estates, business parks and retail outlets.

3.2 Industrial Heritage

North Tyneside's position on the North Sea coast and along the northern banks of the River Tyne means that shipbuilding, fishing and coal mining have each played an important role in shaping its character.

3.2.1 Shipbuilding

Shipbuilding and repair is one of the oldest industries on the Tyne. Most shipyards on the north bank built small sailing vessels. In 1759 the Hurry family opened a large ship building yard at Howdon. The Howdon yard flourished throughout the Napoleonic Wars and shipbuilding also occurred extensively in North Shields from 1811 about Low Lights and Milburn Place but in peacetime declined until virtually unused by 1846.

In 1849 John H.S. Coutts shipbuilding company moved to Willington Quay. This yard was subsequently taken over by Palmer Bros and later in 1912 by J.T. Eltringham & Co. Shipbuilding continued in operation until 1921.

In 1849 T. & W. Smith began their glass-roofed shipyard at North Shields and early on became experts in the use of pontoon docks. Their neighbour, from 1884, was H.S. Edwards, who developed an early interest in oil tankers. The Edwards and Smith families took over these yards in North Shields.

Wallsend Yards carried out extensive shipbuilding from 1863 with different company ownerships but predominantly Swan and Hunter and Swan Hunters between 1880 to 1993. The yards were expanded into neighbouring sites such as the Allen's chemical works in 1883, Davis Yard in 1897, and Neptune Yard in 1903. The yard was taken over by Dutch company and has now been acquired by North Tyneside Council in partnership with other interested parties.

Ship building later diversified to heavy industrial activities such as offshore manufacturer and this is occurring about the former AMEC yards about Howdon and Willington Quay.

3.2.2 Coal Mining

A wide range of coal seams at comparatively shallow depth led to mining in the North Tyneside area at an early date – certainly the monks of Tynemouth Priory owned pits in the 12th Century. However, at the eastern end of the borough only Preston Colliery survived into the 20th Century and that was forced to close in 1929. Near Carville Hall, Wallsend, a shaft was sunk in 1778 which reached the High Main Seam in 1781. Most of the riverside collieries were flooded out during the 1850s and it was 10 years or more before they could be re-opened. Wallsend was amongst the first to be salvaged, and continued in operation until the closure of the Rising Sun Pit in 1969. The Killingworth and West Moor Colliery was established in 1802 by the Grand Allies. They had an extensive system of waggonways connecting their pits with the coal staithes in the Tyne. West Moor pit closed in 1882, leaving the

company with the associated mines near Seaton Burn, which remained open until 1963. In the middle of North Tyneside, the extensive workings in the Backworth Royalty began in 1813 and eventually extended to Burradon and West Cramlington. Backworth Colliery was the last mine to close in North Tyneside when the Eccles Pit was shut in 1980.

3.2.3 Fishing

Fishing industry has been established since the 13th Century initially about Tynemouth Priory and Low lights. Tynemouth Council opened its own Fish Quay in 1870. The Fish Quay was repeatedly lengthened until the 1920's. Salt herring became a major export, and there are smokehouses at North Shields. There was a canning factory in 1902 which has since closed. In 1980, the fish industry built modern processing units. The North Shields Fish Quay Development Co. was established in 1993 to take the industry through to the 21st Century.

3.3 Environment

3.3.1 Geology

The borough of North Tyneside is underlain by a series of rocks types known as the Carboniferous Coal Measures, which consist of cyclical deposits of coal, mudstones, sandstones and marine limestone's. The Coal Measures are in turn overlain by the Lower Permian Yellow Sands and the Upper Permian Magnesian Limestone.

During the Pleistocene period the area of North Tyneside was subjected to several periods of glaciation which left much of the borough covered with glacial deposits comprising mainly Glacial Till (boulder clay) but also includes laminated clays, silts, sands and gravels.

3.3.2 Hydrogeology

The aquifer designation data issued by the Environment Agency is based on geological mapping provided by the British Geological Survey. From 1 April 2010, the Environment Agency Groundwater Protection Policy has used aquifer designations that are consistent with the Water Framework Directive. These designations reflect the importance of aquifers in terms of groundwater as a resource (drinking water supply) but also their role in supporting surface water flows and wetland ecosystems.

The majority of North Tyneside is designated as a Secondary A aquifer; these are permeable layers capable of supporting water supplies at a local rather than strategic scale and in some cases forming an important source of base flow to rivers. These are generally aquifers formerly classified as minor aquifers.

However there are two areas within the Borough that are designated areas of principle aquifer; these are the Permian Limestones found at Tynemouth and Marden in Whitley Bay. These are layers of rock or drift deposits that have high intergranular and/or fracture permeability - meaning they usually provide a high level of water storage. They may support water supply and/or river base flow on a strategic scale. In most cases, principal aquifers are aquifers previously designated as major aquifer.

Groundwater is not abstracted for public supply in North Tyneside, but it remains a potential resource.

3.3.3 Hydrology

Groundwater is not utilised as a water resource within North Tyneside. Potable drinking water is sourced from outside the Borough.

Within North Tyneside there are limited water resources. The main bodies of water in the Borough include:-

- The North Sea.
- The River Tyne Estuary.

- Briardene Burn.
- Seaton Burn.

The River Tyne Estuary, Briardene Burn and Seaton Burn are the only water courses to have been classified by the Environment Agency using its General Quality Assessment. The remaining water courses within the Borough are classed as controlled water.

3.3.4 Areas of Special Interest and Ecology

The generally flat topography and lack of tree cover across the Borough results in a countryside which is generally visually unremarkable. Features of interest often relate to the area's mining history including reclaimed spoil heaps. Areas of nature conservation value can include ponded areas formed by mining subsidence. Agriculture and particularly arable farming has had an important influence on the environment of the northern part of the Borough where hedgerows have been removed to create large fields. The open countryside in the north of the Borough is an important recreational area for the urban conurbation, with a network of footpaths and bridleways based on the old colliery waggonways. The coastal strip is an area of high quality environment and is valued both for its natural characteristics and wildlife and as a recreational resource.

There are two Special Sites of Scientific Interest (SSSI) within North Tyneside, both relating to the coast and these designations overlap. The first, the Tynemouth to Seaton Sluice Cliffs SSSI, comprises three separate areas of cliffs and rocks of special geological interest and the second, the Northumberland Shore SSSI, is a continuous coastal strip of special ornithological interest. The latter has recently been given the international designation of the Northumberland Coast as a Special Protection Area (SPA). In addition a third SSSI lies within Gosforth Park immediately to the west of the borough boundary (within Newcastle upon Tyne City), of importance for flora and fauna. There are also 28 Local Wildlife Sites (LWS formerly known as Sites of Nature Conservation Importance SNCI) designated by the Northumberland Wildlife Trust within the district providing a variety of habitats of botanical, geological, ornithological and other wildlife interest. The sites include

subsidence ponds, ancient grasslands, the remains of a salt marsh and an inter-tidal rocky outcrop. There are 7 Local Nature Reserves (LNR). In addition the Council has established a voluntary marine nature reserve covering areas around St Mary's Island. The Council has also defined 27 sites of local nature conservation interest (SLCI) which are nevertheless significant in their local context. There is one RAMSAR site identified within the Borough.

This ecology will be taken into consideration when remediating sites. The land may have ecological value due to its past industrial use. The ecology could be so important as to outweigh any detriment caused by contamination and will not require remediation provided no unacceptable risk. For example, the poor soil quality created by the former spoil of colliery areas, supports rare plant species that thrive in such conditions. It is envisaged that these areas should be preserved provided that there is no detriment being caused to the area.

3.4 Historic Uses and Geology influencing Contaminant Risk

The historic and current land use patterns will influence the likelihood and pattern of contamination present within the Borough.

A large proportion of contamination will be present along the River Tyne corridor due to its extensive use for heavy industry. The mining legacy of North Tyneside will have led to many coal referral areas requiring safeguards for new developments across the Borough. The rising mine waters which at present have yet to reach equilibrium and could still have impact on the Borough with regards to contamination.

The areas of Upper Permian Magnesian Limestone located at Tynemouth and Marden in Whitley Bay must be considered with regard to potential water pollution the ecology could be so important as to outweigh any detriment caused by contamination and will not require remediation provided no unacceptable risk, as this particular geological sequence has been recognised as an aquifer.

3.4.1 Redevelopment History

The introduction of the 1947 Town and Planning Act, the planning system evolved from an ad hoc concern with issues of public health and urban social unrest to a comprehensive attempt to introduce order into the management of land use. It is planning legislation in association with the Government guidance that has enabled safeguards to be introduced on developments in the borough of North Tyneside.

Heavy industry and coal mining dominated the area from the 1800s through to the 1980s. Much of the area's industrial past was prior to any regulatory legislation and therefore pollution was not a consideration. Many landfill sites in the area were operated prior to the introduction of regulatory legislation such as the Control of Pollution Act 1974. Such pre licensed landfill sites are considered to pose a greater potential risk as there was no record kept of waste materials and the integrity of landfill sites may be less effective due to the lack of regulation.

Heavy industry was mainly located along the River Tyne and hence this area is likely to be an area with possible pollution problems. The standard of past remediation must be reviewed when considering the likelihood of contaminant linkage as standards of remediation have improved as better understanding of contamination is known. The remediation will be considered during review of potentially contaminated land sites.

The former Tyne and Wear Development Corporation have redeveloped industrial land within the borough for housing such as the Royal Quays development site and appropriate remediation was carried out to ensure the development was fit for current housing use. The Council has completed the reclamation of Brenkley Colliery and associated waggonways in 1998 and the Blyth and Tyne railway land site at Tynemouth in 1993.

3.5 Council Owned Land

The Council owns approximately 32% of the land within the borough of North Tyneside. The main Council land holders are housing and community services that

own many of the housing estates and recreational areas within the Borough. Due to the amount of land in the borough that is owned by the Council it is important to establish a set procedure for establishing and dealing with contamination on council owned land to avoid problems of the Council being both the regulator and the owner.

Chapter 4

4.0 Current Contaminated Land Issues

4.1 Coal mining

The Coal Authority (a Government body and a statutory consultee for planning), has identified high risk and low risk areas within the Borough based on mining carried out in area. The risk rating is used to determine the appropriate levels of gas protection on new developments. More information on the Coal Referral areas can be found on the Coal Authority's website <http://coal.decc.gov.uk>

The National Planning Policy Framework 2012 requires Local Planning Authorities to take into account the risk from underground gas and land stability in determining planning applications.

Areas of the Borough affected by coal mining may have some of the following potential issues:

- heavy metals.
- Some areas affected by Stythe gas.
- Elevated Polycyclic Aromatic Hydrocarbons (PAHs) related to coal source material.
- Spoil heaps on fire.
- lagoons.

Stythe Gas (Blackdamp) can arise from coal mining and has the potential to cause land contamination. Stythe Gas has been identified in one area of North Tyneside and the Coal Authority as the responsible person remediated by a permanent venting system, thus breaking pathway to residential houses. Monitoring equipment with gas detection alarms were also fitted to the affected properties as a precautionary measure. At present no further areas of Blackdamp problems have been identified.

4.2 Quarrying

Quarrying is not a direct source of contamination; however there is concern that the unknown materials used to backfill historic quarries could lead to the presence of contaminants. Prior to 1974 there was no regulation over landfilling of areas and as a result closed landfills and areas of unknown filled ground have the potential to contain methanogenic (gas producing) materials.

Chapter 5

5.0 Aims, Objectives and Milestones of the Strategy

5.1 Aims

The overall aim of this strategy is to set out the procedure for identification and remediation of contaminated land to ensure that all land within the Borough is suitable for its current use.

The statutory Part 2A guidance requires a strategic inspection to prioritise sites in order of risk. This risk ranked prioritisation has been carried out within North Tyneside using a two tier, strategic and detailed, inspection method.

This strategy complies with the overarching objectives of the Government's policy on contaminated land, which are as follows:

- (a) To identify and remove unacceptable risks to human health and the environment.
- (b) To seek to ensure that contaminated land is made suitable for its current use.
- (c) To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principles of sustainable development.

5.1.1 The Strategic Prioritisation of Contaminated Land Inspection

North Tyneside prioritised inspection of land in the original strategy issued in 2001 by auditing the historical maps, geology and receptors to create a database and geographical information system of areas of potentially contaminated land using Environmental Consultants.

A total of 1,134 potentially contaminated sites were identified within North Tyneside.

Sites were accorded a Prioritisation Number (ranking methodology) reflecting the seriousness of any actual or potential risk to human health and/or the environment.

These initial interim scores should not be considered to provide an absolute indication of risk but are a tool to help ascertain an initial indication of risk. The priority of inspection will be based in descending order of priority:-

- To protect human health.
- To protect controlled waters.
- To protect designated eco systems.
- To prevent damage to property and ancient monuments.

5.1.2 Detailed inspection and risk assessment

Detailed inspection of land is based on the preliminary risk categories and priority. The detailed inspection would be based on a comprehensive review of any planning or environmental information and a site walkover to determine likelihood of significant contaminant linkage based on the new government risk categories.

5.2 Objectives

Objectives of the Strategy are defined as follows:

- A systematic risk based approach to the inspection of contaminated land to ensure it is suitable for current use.
- To encourage voluntary remediation by good communication of risk strategy.
- To ensure the remediation of Orphan Sites.
- To utilise remediation via redevelopment or regeneration of Brownfield sites in the planning regime to minimise cost to taxpayer.
- To prevent further contamination by the use of other regulatory regimes such as the Environmental Damage (Prevention and Remediation) Regulations 2009, Building Regulations or Environmental Permitting Regulations 2012.
- To remediate by formal statutory means in a proportionate manner to ensure suitable for end use.

5.3 Milestones

North Tyneside following its strategic inspection of the borough in 2001 identified a total of 1,134 potentially contaminated sites. Highest priority for detailed inspection was given to sites with human health risk and a number of landfill sites were investigated. This investigation work identified that some closed landfill sites required maintenance of gas protection measures to ensure acceptable level of risk.

Remediation measures have also been established via the planning regime particularly during the Tyne Tunnel development when the Low Flatworth landfill was provided with an improved cap layer and gas venting trench.

There have been no sites formally identified as contaminated as per the definition of Part 2A of the Environmental Protection Act 1990.

North Tyneside Council will continue to assess the landfills within the Borough with risk to human health as a priority for its strategic inspection.

Any complaint or enquiry about potential contamination of land will be investigated to determine the appropriate level of action required based on risk to human health.

5.4 Review of Strategic Inspection of Borough

North Tyneside Council carried out a strategic inspection of land in 2001. This entailed an audit of North Tyneside historical data, geology and current land uses to identify any potentially contaminated land. All current potentially contaminated land has been categorised and prioritised by risk assessment detailing the source, pathway and receptor of each contaminant. A Geographical Information System (GIS) is used and a Microsoft Access Database has been developed for data storage. This database holds information about the land quality within the Borough including remediation details and archived site investigation reports. The GIS incorporates historical maps, current land use maps, geological maps, groundwater vulnerability maps, and other environmental information such as the location of closed landfill sites, water courses and their classifications.

The GIS has been used to identify potentially contaminative sources and risk-ranked these according to the Contaminant-Pathway-Receptor, 'Contaminant Linkage' methodology; and has prioritised these into four preliminary priority categories.

PPC1 is the highest risk category and PPC4 is the lowest risk category. Currently the number of sub areas categorised are as follows: - 20 PPC 1, 903 PPC2, 225 PPC3 and 91 PPC4 categories. The PPC categorisation may alter as additional information becomes available through further investigation. These sites will be investigated further to reassess the priorities.

Chapter 6

6.0 Contaminated Land Prevention Actions

Use of the contaminated land legislation should be a last resort. The Strategy sets out mechanisms available to prevent contamination. The Strategy endorses the 'polluter pays' principle and where possible places the onus on the polluter to remediate environmental damage. This is discussed in detail in chapter 9. The main method of prevention is by the planning regime to ensure new receptors are not created by changes of use.

6.1 Contaminated Land Actions Addressed at Planning

The National Planning Policy Framework (NPPF) identifies land contamination as a material consideration in planning. NPPF supports the initiative to achieve sustainable development. The NPPF requires that no development should lead to unacceptable risks from pollution and that it is suitable for its new use. The local plan reflects the NPPF to ensure that any development is sustainable and suitable for its current use. The planning regime ensures any applications that are submitted to North Tyneside Council are assessed on a site by site basis to ensure the land is rendered suitable for its proposed use and on surrounding area by the applying of appropriate conditions. This land would require further assessment if there was any further change in land use.

The Contaminated Land Officer is consulted on all developments that may be affected by potential contamination. Procedures have been set up with the planning department regarding the consultation process. The North Tyneside Council website has information available for developers regarding planning requirements and discharge of conditions advice for land contamination issues. This can be found on both the Planning Portal and the Environmental Health web pages.

6.2 Prevention of Future Land Contamination

The creation of newly contaminated land can easily occur due to a pollution incident, or unforeseen contamination. Such pollution incidents would be investigated to determine appropriate action to be taken.

There is legislation in place to regulate industrial processes and places the responsibility on the company in charge of the process to prevent contamination. These powers are available to minimise risk of pollution incidents from industries, particularly with regard to landfill sites and large industrial processes. The Environmental Permitting (England Wales) Regulations 2010 place an obligation on large industries in the event of the process ceasing; to submit surrender documents providing evidence that the land is the same quality as found prior to the process.

Methods of prevention can therefore be achieved via the following means;

- Planning control system.
- Integrated Pollution Prevention and Control (IPPC).
- Waste Management Licensing (WML).
- Environment Agency Liaison.
- Environmental Protection Act 1990.
- Water Resources Act 1991.
- Environmental Damage Regulations 2009.
- Communication and consultation between relevant council functions.

The use of Legislation to prevent land contamination is discussed further in Chapter 9 - Mechanisms to Deal with Contaminated Land.

Chapter 7

7.0 Priority of Contaminated Land Actions and Review of Time-Scales

7.1 Detailed Inspection Priority

The Local Authority is carrying out detailed inspection of its land in accordance with Part 2A. The detailed inspection of an area is carried out in accordance with its risk ranking. This risk ranking is a number based upon prioritisation, with greater priority given to human health. The priority of inspection is based in descending order on:

Complaint/Pollution Incident Investigation: Any sites that come to light as an emergency site or as a complaint will take priority with regards to initial assessment and until they are no longer deemed a threat to human health.

Risk Based Inspection: During the strategic review of land detailed, investigations will be carried out based on the preliminary risk rating categories (PRRCs); as discussed in section 5.4 of Chapter 5. It is North Tyneside Council's Environmental Health Department's policy to give a higher weighting to the risks posed to human health, and therefore priority will be given in the first instance to known landfill or unknown filled ground.

There are a number of former landfill sites identified within the Borough. It is believed that the majority of these sites were created before the 1974 Control of Pollution Act; legislation that improved regulation and control of landfill. Pre-1974 landfill sites were not restricted in the type of fill and their design was less effective against pollution migration. Due to this lack of regulation it is recognised that there may be an increased potential for gas generating material to have been deposited into sites. Such pre-1974 landfill sites close to residential houses and schools are considered to have the greatest potential of gas migration and to affect a large number of people and properties. The strategy therefore has identified pre-1974 landfill sites as priority for further investigation and review.

7.2 Priority Contaminated Land Actions

The actions required by North Tyneside Council on completion of site investigation have been clarified in the revised Part 2A Contaminated Land Statutory Guidance (April 2012). This guidance stipulates that on completion of the detailed site investigation, risk communication must occur. This can either be in the form of a written statement if the land investigated is not deemed contaminated land, or if there is considered an issue, a risk summary would be provided. It is preferable that remediation be carried out on a voluntary basis; however this may not always be possible. When a voluntary approach cannot be agreed, then formal action will be taken to ensure remediation is carried out.

The main priority of the North Tyneside Council Contaminated Land Inspection Strategy, therefore, is to:

- Prioritise potentially contaminated sites in an ordered, rational and efficient manner.
- Carry out detailed site investigation in a staged approach initially via a desk top study and a site walkover. If after review of the data collected it is considered that further detailed information is required, then a Phase 2 detailed inspection will be carried out in accordance with BS10175:2013 Code of Practice for The Investigation of Potentially Contaminated Sites.
- Communicate with other regulatory bodies and appropriate persons affected by the investigation, or the significant contaminant linkage to ensure that all available information is gathered.
- Utilise other legislation where appropriate to prevent or remediate contamination. Such legislation includes The Water Resources Act 1991 (Amendment) (England and Wales) Regulations 2009, Environmental Permitting (England and Wales) Regulations 2010 (As Amended) and the Environmental Protection Act 1990.
- Upon completion of the site investigation a written statement will be issued if no further action is needed. However, a risk summary will be produced to the appropriate persons connected to land potentially affected by contamination. This is a new requirement created by the revised strategy.
- Ensure the working database of information collected from a variety of sources is continually updated and reviewed.
- Take action where required to prevent or alleviate significant harm or the significant possibility of significant harm to human health and the environment.

7.3 Site Investigation

The decision to carry out further site investigations is based upon a risk assessment of all information collated. This allows for sites to be prioritised and actioned accordingly. The assessment of an individual site will include the following:-

7.3.1 Desk study reports

Phase One desk study reports will be carried out to obtain more detailed site specific information. This will include a review of information held by other departments within North Tyneside Council, for example planning or building control records. A review of information held will occur in light of new guidance values or standards, or if there is a change of current land use.

7.3.2 Site Inspections

Site inspections would include site walkovers to confirm the current site use and to determine if there is any visual olfactory evidence of contamination present. This would aid in the assessment of whether there is a Contaminant Linkage present. If further investigation is warranted then the extent of the site investigation would be determined either by North Tyneside Council Environmental Health or an externally appointed environmental consultant. Prior to this intrusive investigation, risk communication would be issued to appropriate persons affected by potential contaminant linkage.

7.3.3 Preliminary Site Investigation

Small scale sampling of a site may be the first phase of an investigation to target areas based on a Phase One report; this may in turn lead to a more in depth investigation of a site, depending on the results of the initial small scale investigation. The risk would be continually reviewed to determine action required.

7.4 Production of Risk Summaries

If land is considered to be contaminated land in accordance with Part 2A, North Tyneside Council will prior to determination; as per the Statutory Guidance 2012 “*produce a risk summary for any land where, on the basis of its risk assessment, the authority considers it is likely that the land in question may be determined as contaminated land.*” This will set out the reasoning behind the authority’s decision to determine the land as contaminated land under Part 2A. This will include a description of the risks and other factors the authority considers to be relevant in formulating the decision to designate the land that is under assessment.

7.5 Written Statements

The revised Part 2A guidance requires the local authority following completion of investigation, to produce a written statement for land if it is found that the land does not require remediation. This is to remove uncertainty and blight of land. North Tyneside Council will produce a written statement for land not considered contaminated land following completion of an investigation. It will lay out the rationale as to why North Tyneside Council has decided not to designate the land. This decision will be based on the current use and should a significant change of use be proposed, then the written statement may no longer be valid for that site and the site would then be reassessed accordingly.

7.6 Initiate/Support Voluntary Remediation

The strategy encourages the appropriate persons to carry out voluntary remediation. Any sites designated as contaminated under the legal definition would be remediated to a standard required for the current use to prevent a contaminant linkage. North Tyneside has currently one industrial site that has undergone voluntary remediation.

7.7 Determination of Contaminated Land

The decision to designate land as contaminated under Part 2A of the Environmental Protection Act 1990 lies with the Local Authority. The Local Authority may take advice from other bodies (i.e. The Environment Agency) or other suitably qualified practitioners.

The revised Contaminated Land Guidance outlines four possible grounds for the determination of land as contaminated land:

- (a) Significant harm is being caused to a human or relevant non-human, receptor.
- (b) There is a significant possibility of significant harm being caused to a human, or relevant non-human, receptor.
- (c) Significant pollution of controlled waters is being caused.

- (d) There is a significant possibility of significant pollution of controlled waters being caused.

Once land has been determined as contaminated land, the local authority will serve a determination notice upon the appropriate persons. The Determination Notice will be placed upon a Public Register and will include information on the decision process and as a minimum will include the following:

- Outline of the contaminated land area on a plan.
- Risk summaries, explaining each contaminant linkage risk, its uncertainty, its timescale over which the risk becomes manifest, together with a conceptual site model, photographs, plans, cross sections and tables required to show how the decision was made.
- A summary as to why North Tyneside Council considers Section 1 of the Contaminated Land Statutory Guidance (April 2012) has been met.

7.8 Service of Remediation Notices

If a site has been determined as being contaminated under Part 2A, North Tyneside Council will issue a remediation notice. The remediation notice will be served after a 3 month consultation period from the serving of a determination notice. Prior to determination, the Local Authority will issue a risk summary explaining why the land is considered contaminated and briefly describe the remediation required. If after consultation with the appropriate persons voluntary remediation cannot be agreed or additional information has not been provided to that would require a review of the determination notice, the lead regulator for Part 2A will issue a remediation notice to the appropriate person. If voluntary remediation is agreed the appropriate person shall issue a remediation statement to the lead regulator. The identification of an appropriate person would follow the criteria set down in the current guidance (April 2012); explanatory leaflets on Appropriate Persons A and B are attached in Appendix 8 Advice Leaflets. The remediation notice will provide details of the remediation required.

The Local Authority issuing the remediation notice must decide on the appropriate remediation strategy. The enforcing authority may consult relevant technical

documents (e.g. produced by the Environment Agency or other professional and technical organisations). It may also act on the advice of a suitably qualified experienced practitioner.

7.9 Dealing with Urgent Sites

Sites identified as an emergency site where the contamination is deemed to be an imminent risk to health, or those sites highlighted through North Tyneside Council's complaints process will take priority with regards to the initial assessment and until such time they are no longer deemed an imminent threat to human health.

7.10 Funding

The local authority requires a budget for detailed site investigation work and is responsible for costs arising from orphan sites. Funding to carry out work under Part 2A primarily comes from the DEFRA Capital Grants Programme administered by the Environment Agency. This funding is for absolute emergency cases only and will cease in 2017.

7.11 Timescales

Timescales for the implementation of the original strategy have been reviewed and additional tasks with expected timescales are set out in Table labelled Work Program. The table shows that the strategic inspection and audit of North Tyneside land was completed to give a priority scoring system for inspection. The detailed inspection of land is now ongoing dependent upon the number and complexity of contaminant linkages.

Table : Work Programme

Task	Justification	Original Target	New Target / Progress
Completion Of Preliminary Priority Categorisation Within North Tyneside	To identify all of the current potentially contaminated land areas within the borough.	June 2001	Achieved June 2001
Detailed Desk Top Study to Prioritise and Risk Assess land	To review risk rating and priority based on site specific data.	June 2001 to March 2003, and onward	Progress is currently on going
Site Inspections (including walkover surveys) And Site Investigations Where Necessary	To ensure that there is sufficient information to determine whether the land is contaminated under Part IIA of the Environmental Protection Act 1990.	Dealt with on a rolling programme with annual review	Site Inspections are ongoing
Risk Summary: Designated Contaminated land	To clarify the risk for the contaminant linkages and local authority opinion that it is likely to be determined as Contaminated Land. To encourage remediation and avoid need for determination notice		Prior to Formal Determination of land and within 21 days from site investigation conclusion
Voluntary Action	To avoid the need to serve a statutory notice and work in partnership with polluters or owner/occupiers to attain a suitable standard of	Commence within 7 working days of notification of designation as contaminated land or	As required

Task	Justification	Original Target	New Target / Progress
	remediation.	commence prior to determination.	
To Serve Remediation Notices, When Required	When voluntary remediation is not carried out within a specified time limit a remediation notice will be served to ensure that a suitable remediation standard is achieved.	3 months after notification of determination as contaminated land	As Required
To Remediate Land Designated As Contaminated Land Under Part IIA	To ensure the protection of human health and the environment.	Dealt with on a rolling programme with annual review.	As Required
To Produce Written Statements if no further action required	The statement should make clear that on the basis of its assessment and current use, the authority has concluded that the land does not meet the definition of contaminated land under Part 2A.	Dealt with on a rolling programme with annual review	As required
To Deal With Urgent Sites	To ensure that all sites requiring urgent remediation measures are attended to as soon as is possible after their identification.	Commencing action within 5 working days of notification	Continual on-going Process

7.12 Contaminated Land Strategy Review

North Tyneside Council has a duty to review its contaminated land strategy from time to time. The process of strategy review will occur every five years.

The purpose of a review is to ensure priority is continually given to the highest risks. Procedures for inspection are based on the highest priority first. Risk is based on its potential to cause harm. Potential harm is graded accordingly from human receptor to building.

Chapter 8

8.0 Communication Strategies

Contaminated land is a sensitive issue and it is important that a comprehensive risk communication strategy is in place. This will allow the risk associated with a contaminant linkage and the timescale over which it is envisioned harm will occur to be communicated in a clear and concise manner.

The strategy must be issued for consultation to show the procedures for site investigation and methods of dealing with sites that are deemed contaminated under the legal definition.

8.1 Statutory Consultees

The authority has consulted internally and externally on the contaminated land strategy. Details of the consultees are given in Appendix 2.

8.2 Non-statutory Consultees

The strategy is available for the general public of North Tyneside via the North Tyneside webpage so that all procedures are transparent. The general public are invited to comment on the Contaminated Land Inspection Strategy.

8.3 Communicating with appropriate persons, owner/occupiers

North Tyneside Council will seek to gain voluntary remediation for those sites that are determined as Contaminated Land under Part 2A of the Environmental Protection Act 1990. Voluntary action can reduce tax payer costs and may achieve a standard of remediation equal to, or better than, what the authority would otherwise have specified in a Remediation Notice.

The opportunity for voluntary remediation will be provided when issuing the risk summary prior to determination. If voluntary remediation within a reasonable timescale can be obtained, it will not be necessary to determine the land as contaminated land and it would not be placed on the register. Hence remediation notices will only be served when no voluntary action can be agreed or voluntary action fails to be undertaken within the stipulated timescales.

In order for voluntary action to take place and be effective, it is important to communicate with the 'Appropriate Person', the 'Owner(s)/Occupier(s)' if different to the appropriate person, and other interested parties. The Principal Environmental Health Officer and Contaminated Land Officer within the Pollution Control Team are the appropriate North Tyneside Council points of contact for all issues regarding contaminated land. These Officers will endeavour to keep all interested parties up to date on investigation works as they proceed.

8.4 Risk Communication

The use of a risk based approach to the identification and management of contaminated land provides a consistent and defensible basis for considering uncertainties, discussing options and making informed decisions on the level of remediation required. It ensures the remediation is proportionate to risk. This approach utilises both risk assessment (the identification, estimation and evaluation of risk) and risk management (evaluation and selection of suitable remedial measures). It is important to ascertain effective risk communication to all interested parties (including identified appropriate persons and any persons affected by the contaminated land in question) throughout the process of risk assessment and risk management.

The aim of the contaminated land regime is to ensure the polluter pays. The communication of risk allows all parties with an interest in the land to understand its short term and long term risk.

The Council will provide information to those concerned on the main issues relating to the contaminated land. This will include:

- Leaflet on What Contaminated Land Means For You (as enclosed at Appendix 8).
- Leaflet on Owner/Occupier Responsibilities and Liability as Appropriate Person (as enclosed at Appendix 8).
- Leaflet on Voluntary Remediation, Remediation Notices and the Public Register (as enclosed at Appendix 8).
- Specific Details on why the Land appears to be contaminated.
- Whether or not the impact is immediate and irreversible.
- Whether or not the individual(s) or communities affected can exercise a degree of control over exposure.

All of these factors should be taken into account when communicating with all interested parties regarding contaminated land issues.

The most effective communication is a two way process that respects the views of all participants. When communicating with any party regarding contaminated land issues the Council will endeavour to:

- Be clear and consistent.
- Present all information in a simple visual way that is not overly technical, whilst keeping the information within the context of its intended use.
- The council will invite feedback on the issues raised.

The contaminated land regime grants powers to the Council to deal with materials present in, on or under the land and contaminated land is only designated under the legal definition discussed in section 1.4.

Chapter 9

9.0 Mechanisms to deal with Contaminated Land

Enforcing authorities should seek to use Part 2A only where no appropriate alternative solution exists. The Part 2A regime is one of several ways in which land contamination can be addressed.

North Tyneside Council will endeavour to use alternative measures to deal with land contamination before it is deemed necessary to take action under Part 2A of the Environmental Protection Act 1990. These are discussed in the following sections.

9.1 Voluntary Action

North Tyneside Council will seek to minimise unnecessary burdens on the taxpayer, businesses and individuals. The Local Authority will encourage voluntary action to deal with land contamination issues. The level of remediation must be proportionate to potential exposure and harm caused by the contaminant. This risk will be influenced by its current end use and potential exposure to contaminants. A Risk Statement would be issued by North Tyneside Council to the Appropriate Person(s). This statement would identify contaminant risk, the uncertainties of risk, and its effect with time as well as providing methods to remediate.

It is important that those responsible for causing contaminated land understand the impacts a contaminant linkage will have. North Tyneside Council encourages voluntary remediation and will support those responsible for causing a Contaminant Linkage in recognising the potential risk and harm that may result. North Tyneside Council will advise on remediation to encourage voluntary remediation. The borough of North Tyneside has one industrial site that has undergone voluntary remediation.

9.2 Planning Regime

Land contamination can be addressed when land is developed (or redeveloped) under the planning system.

The National Planning Policy Framework identifies contaminated land as a material consideration in planning decisions. Development must be sustainable and the planning regime encourages the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value.

The planning regime allows the remediation of land contamination and protects against the creation of contaminated land.

The local authority contaminated land officer, The Coal Authority and The Environment Agency are statutory consultees and will give recommendation and conditions based on the information provided with the planning application and the proposed end use.

The developer must therefore provide appropriate levels of information to allow the consultee to make an informed decision. Pre-planning advice on contaminated land issues are provided on the environmental health pages of the North Tyneside Council Environmental Health website.

Planning policies and validation systems ensure that the proposed development is made suitable for its new use. The Contaminated Land Officer will take into account ground conditions and land instability (including from natural hazards or former activities such as mining), pollution arising from previous land use and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation. The applicant must provide adequate site investigation information, prepared by a competent person and for the discharge of conditions will be required to provide a remediation statement and validation report. This will ensure the land is suitable for use and cannot be deemed a Part 2A site.

9.3 Building Regulations

The Building Regulations sets the standards that buildings must be constructed to and they lay down health and safety standards for the construction of all types of building work, including new build, extensions, internal alterations, underpinning, cavity wall insulation and change of use. The regulations provide another tool to ensure adequate internal protection of buildings against shallow mine gas or landfill gas.

9.4 Environmental Damage Regulations

The Environmental Damage (Prevention and Remediation) Regulations came into force in England on 1 March 2009. They are based on the 'polluter pays principle' so those responsible prevent and remedy environmental damage, rather than the taxpayer paying. They are only applicable to commercial concerns.

9.5 Environmental Permitting Regulations

Some facilities could harm the environment or human health unless they are controlled. The Environmental Permitting Regime (the "regime") requires operators to obtain permits for some facilities, to register others as exempt and provides for ongoing supervision by regulators. The aim of the regime is to:

- Protect the environment so that statutory and Government policy environmental targets and outcomes are achieved.
- Deliver permitting and compliance with permits and certain environmental targets effectively and efficiently in a way that provides increased clarity and minimises the administrative burden on both the regulator and the operators.
- Encourage regulators to promote best practice in the operation of facilities.
- Continue to fully implement European legislation.

Chapter 10

10.0 Information Management

The status of land within the borough of North Tyneside will be reviewed as additional data is obtained via the planning regime and commissioned site investigation work. A data management system is in place to allow for the continuous review of the allocated risk priority of sites and to prevent blight of land. This information is currently stored via a number of sources and is linked to the contaminated land software. This system is currently being reviewed and updated.

10.1 Data Storage and Accessibility

North Tyneside Council uses a computerised Geographical Information System (GIS) and Microsoft Access Database system to store the data in relation to land contamination. It should be noted that this system is a working document and it will be constantly changing with data being updated as new information becomes available.

10.2 Internal Responsibility for Data Management

Within North Tyneside Council it is the responsibility of the Contaminated Land Officer, based within Environmental Health, for data management.

10.3 Internal Access to Information

Information highlighting possible areas of reduced land quality have been passed to the Planning, Building Control and evaluation areas of North Tyneside Council to ensure that the Pollution Control Team is consulted on any development and planning issues within 250m of these areas.

The GIS/MS Access Database is a working document and as such is a draft document. The initial preliminary categorisation of contaminated sub areas is based upon the limitations of digitised data. The digitised data does not take into account

any remediation or intrusive site investigations which may have been carried out via planning conditions. As desk top studies are carried out the data will be updated but may be insufficient to make a written statement. Information held within this system will therefore be treated as confidential.

Some of the data within the system, such as the Historical Ordnance Survey Maps and the British Geological Society Maps, are the subject of copyright restrictions and as such cannot be issued or copied to any third parties.

10.4 Public Access to Information

The public will have free access to the public register. The Council will ensure full compliance with the access provisions contained in the Environmental Information Regulations 2004 (or as subsequently amended or replaced). The Council charges a fee for the provision of this information.

A copy of this inspection strategy can be purchased in hardcopy or CD. A fee is payable.

10.5 Register Information

Under section 78R (1) of the Environmental Protection Act 1990 North Tyneside Council has a duty to maintain a public register of all land that has been determined as contaminated and subsequently remediated. A current copy of the Contaminated Land Register and contents is provided in Appendix 3.

All information held on the public register will be held in accordance with the confidentiality provisions set out in s.78S and s.78T of the Environmental Protection Act 1990.

The register will also include information about the condition of the land in question. The register will contain details of contaminated land within North Tyneside or contaminated land in adjoining councils when the land is adjacent to the Borough boundary. A copy of any register entries held by these adjoining authorities will be

included on North Tyneside Council's Register. The register will be held at the following location and will be available for viewing during working hours by appointment only between 9am – 5pm Monday to Thursday and 9am – 4.30pm Friday excluding Bank Holidays:-

North Tyneside Council
Public Protection
Environmental Health
Quadrant East
The Silverlink North
Cobalt Business Park
North Tyneside
NE27 0BY

Contact: Environmental Health on 0191643 6100 (working hours only).

Members of the public are entitled to free inspection of the Register, as well as to obtain copies of register entries for a nominal fee.

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Glossary of Terms

Appropriate Person(s): any person(s) who have been identified as being responsible for any thing which is to be done by way of remediation.

Attribution: the process of apportionment between liability groups.

Charging Notice: a notice placing legal charge on land determined as contaminated by an enforcing authority to enable the authority to recover from the appropriate person any reasonable cost incurred by the authority in carrying out remediation.

Class A liability group: a liability group consisting of one or more Class A persons.

Class A persons: a person who has caused or knowingly permitted a pollutant to be in, on or under the land.

Class B liability group: a liability group consisting of one or more Class B persons.

Class B person: a person who is the owner or occupier of the land in circumstances where no Class A person can be found with respect to a particular remediation action.

Contaminant: a substance which is in, on or under the land and which has the potential to cause harm or to cause pollution of controlled waters.

Contaminated Land: "any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that-

- a) significant harm is being caused or there is a significant possibility of such harm being caused, or;
- b) pollution of controlled waters is being, or is likely to be, caused."

Contaminant Linkage: the relationship between a contaminant, a pathway and a receptor.

Controlled Waters: Defined by reference to Part III of the Water Resources Act 1991 (Amendment) (England and Wales) Regulations 2009, this embraces territorial and coastal waters, inland fresh waters, and ground waters.

Current use: any use of the land which is currently being made, or is likely to be made, of the land.

Enforcing Authority:

- a) in relation to a Special Site, it is the Environment Agency
- b) in relation to contaminated land other than a Special Site, the local authority in whose area it is situated.

Harm: "harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property".

Intrusive Investigation: an investigation of land (for example by exploratory excavations) which involves actions going beyond simple visual inspection of the land, limited sampling or assessment of documentary information.

Liability Group: the persons who are appropriate persons with respect to a particular significant pollutant linkage.

Orphan Linkage: a significant pollutant linkage for which no appropriate person can be found, or where those who would otherwise be liable are exempted by one of the relevant statutory provisions.

Owner: "A person (other than a mortgagee not in possession) who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or where the land is not let at a rack rent, would be so entitled if it were so let."

Part IIA: Part IIA of the Environmental Protection Act 1990.

Pathway: one or more routes or means by, or through, which a receptor:

- a) is being exposed to, or affected by, a contaminant, or
- b) could be so exposed or affected.

Pollutant: a contaminant which forms part of a pollutant linkage

Pollution of Controlled Waters: "the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter."

Polycyclic Aromatic Hydrocarbons: PAHs are one of the most widespread organic pollutants. They are present in fossil fuels and are also formed by incomplete combustion of carbon-containing fuels such as wood, coal, diesel, fat, tobacco, and incense.

Possibility of Significant Harm: a measure of the probability, or frequency, of the occurrence of circumstances which would lead to significant harm being caused.

RAMSAR: Ramsar sites are wetlands of international importance, designated under the Ramsar Convention. The Ramsar Convention is an international agreement signed in Ramsar, Iran, in 1971, which provides for the conservation and good use of wetlands. The UK Government ratified the Convention and designated the first Ramsar sites in 1976.

Receptor: either:

- a) a living organism, a group of living organisms, an ecological system or a piece of property which:
 - i) is in category listed in Table A within Appendix 2, and
 - ii) is being, or could be, harmed, by a contaminant; or
- b) controlled waters which are being, or could be, polluted by a contaminant.

Register: the public register maintained by the enforcing authority including details of the formally designated contaminated sites and any remediation actions carried out.

Remediation:

- a) the doing of anything for the purpose of assessing the condition of -
 - i) the contaminated land in question;
 - ii) any controlled waters affected by that land; or
 - iii) any land adjoining or adjacent to that land;
- b) the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or waters for the purpose -

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- i) of preventing or minimising, or remedying or mitigating the effects of any significant harm, or any pollution of controlled waters, by reason of which the contaminated land is such land; or
 - ii) of restoring the land or waters to their former state; or
- c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or waters."

Remediation Action: any individual thing which is being, or is to be, done by way of remediation.

Remediation Notice: a notice specifying what an appropriate person is to do by way of remediation and the periods within which he is required to do each of the things so specified.

Remediation Package: the full set or sequence of remediation actions, within a remediation scheme, which are referable to a particular significant pollutant linkage.

Remediation Scheme: the complete set or sequence of remediation actions (referable to one or more significant pollutant linkages) to be carried out with respect to the relevant land or waters.

Remediation Statement: a statement prepared and published by the responsible person detailing the remediation actions which are being, have been or are expected to be, done as well as the periods within which these things are being done.

Risk: the combination of:

- a) the probability, or the frequency, of occurrence of a defined hazard (for example exposure to a property of a substance with the potential to cause harm); and
- b) the magnitude (including the seriousness) of the consequences

Significant Harm: any harm which is determined to be significant in accordance with the statutory guidance in Chapter A (that is, it meets one of the descriptions of types of harm in the second column of Table A within Appendix 2).

Significant Pollutant: a pollutant which forms part of a significant pollutant linkage.

Significant Pollution Linkage: a pollutant linkage which forms the basis for a determination that a piece of land is contaminated land.

Significant Possibility of Significant Harm: a possibility of significant harm being caused which is determined to be significant in accordance with the statutory guidance in Chapter A.

Shared Action: a remediation action which is referable to the significant pollutant in more than one significant pollutant linkage.

Single-linkage Action: a remediation action which is referable solely to the significant pollutant in a single significant pollutant linkage.

Special Site: any contaminated land that has been designated as such, by reason of the contaminants within it. The effect of the designation of any contaminated land as a special site is that the Environment Agency, rather than the local authority, becomes the enforcing authority for the land.

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A site where the contamination is such that the Environment Agency has become the enforcing authority for the purposes of Part IIA of the Environmental Protection Act 1990.

Substance: " any natural or artificial substance, whether in solid or liquid form in the form of a gas or vapour."

Suitable for Use: This describes the requirement for the use of a piece of land to be suitable for the level of contaminants present within the land. An example of this is that a higher level of contaminants is acceptable in, on or under the land if the land is to be used a hard standing car park, than if it were to be used for an area of garden.

Appendix 1

Definition of Special Sites

Special sites are areas of contaminated land under Part 2A of the Environmental Protection Act 1990 for which the Environment Agency, and not the local authority, are the main regulator. This means it is the Environment Agency's responsibility to ensure the appropriate remediation is carried out.

Special sites are not necessarily the most seriously contaminated sites.

There are four main categories of special site described in the regulations:

- some water pollution cases – includes areas of contaminated land affecting drinking water supply or (potentially) polluting controlled waters within a major aquifer;
- industrial cases – includes specific circumstances such as acid tar lagoons, sites where explosives were manufactured, or a site for an authorised process under the Environmental Permitting (England and Wales) Regulations and its predecessor regimes;
- defence cases.
- radioactivity cases – where land is contaminated land by virtue of radioactivity which can include nuclear sites.

1 Water pollution – sites where:

- drinking water supplies are affected
- water quality criteria are affected
- listed substances are affecting defined aquifers.

2 Industrial land use – sites with:

- waste acid tar lagoons
- petroleum refineries
- explosives manufacture or processing
- authorised processes (for example Integrated Pollution Control sites, Pollution Prevention and Control sites and Environmental Permitting Regime sites)
- nuclear sites.

3 Defence

- land currently owned or occupied by the Ministry of Defence and those of visiting forces
- chemical weapons or biological agents manufacture, processing or disposal.

4 Radioactivity

- land affected by radioactivity from any substances.

(Dealing with Contaminated Land in England and Wales, 2009, Environment Agency)

Appendix 2

Consultation List

Environment Agency

Groundwater and Contaminated Land Team
Environment Agency
Tyneside House
Skinnerburn Road
Newcastle Business Park
Newcastle upon Tyne
NE4 7AR

Natural England,

North East Region
The Quadrant,
Newburn Riverside,
Newcastle upon Tyne,
NE15 8NZ

Newcastle City Council

Phil Hartley
Environmental Protection
Civic Centre
Barras Bridge
Newcastle Upon Tyne
NE99 1RD

Northumberland Council

Karen Farr
Environmental Health
County Hall
Morpeth
Northumberland
NE61 2EF

North Tyneside Primary Care Trust

Equinox House,
Silver Fox Way,
Cobalt Business Park,
Newcastle upon Tyne
NE27 0QJ

Public Health England

North East PHE Centre
Dr Roberta Marshall,
Centre Director
Floor 2 Citygate
Gallowgate

Contaminated Land Strategy 2014
Newcastle-upon-Tyne
NE1 4WH

South Tyneside Council

Simon Wilson
Environmental Health
Town Hall & Civic Offices,
Westoe Road
South Shields
Tyne & Wear
NE33 2RL

Consultations via North Tyneside Council Website.

Appendix 3

Contaminated Land Register

Each enforcing authority has a duty to maintain a Register in accordance with the public register provision of section 78R (1) of the Environmental Protection Act 1990.

Before any information is included on the register the authority must consider whether that information should be excluded on the basis that:

- a) its inclusion would be against the interests of national security; or
- b) the information is commercially confidential

The register will include details of the following:

- remediation notices which have been served
- appeals against remediation notices and the appeal outcomes
- remediation declarations
- remediation statements
- appeals against charging notices
- designation of special sites
- notification of claimed remediation
- convictions under Section 78M of the Environmental Protection Act 1990 (removed when conviction spent)
- Guidance issued under Section 78V(1) of the Environmental Protection Act 1990
- Other environmental controls - cases where Section 78YB of the Environmental Protection Act 1990 prohibits a remediation notice being served
- Environment Agency site specific advice
- site information

Where land is determined as being a special site then the register will also include:

- the notice designating it a special site
- an identification of the description of land under which it is a special site
- any notice given by the appropriate Agency of its decision to adopt a remediation notice
- any notice given by or to the enforcing authority terminating the designation of the site as a special site
- the date of any site specific guidance issued by the Environment Agency (Site specific guidance for special sites may be required to be publicly available under the Environmental Information Regulations 1992)

Currently no sites within the borough of North Tyneside have been legally determined as contaminated land.

The Contaminated Land Register will take the following format:

Location	Reference	Determination	Remediation Statement	Determination Statement	Grid Reference

Appendix 4

Summary of Risk Categories

Category	Human Health	Controlled Waters
1	The significant possibility of significant harm exists where there is an unacceptably high probability, supported by robust science based evidence that significant harm would occur if no action is taken to stop it. Significant harm may already have been caused.	There is a strong and compelling case for considering that a significant possibility of significant pollution of controlled waters exists. And that it is likely that high impact pollution would occur if nothing were done to stop it.
2	The land poses a significant possibility of significant harm, may include land where there is little or no direct evidence that similar land, situations or levels of exposure have caused harm before, but nonetheless the authority considers on the basis of the available evidence, including expert opinion, that there is a strong case for taking action under Part 2A on a precautionary basis.	On the basis of the available scientific evidence and expert opinion, the risks posed by the land are of sufficient concern that the land should be considered to pose a significant possibility of significant pollution of controlled waters on a precautionary basis, and where there is a relatively low likelihood that the most serious types of significant pollution might occur.
3	The legal test for significant possibility of significant harm is not met. This will include land where the risks are not low, but nonetheless the authority considers that regulatory intervention under Part 2A is not warranted	The risks are such that it is very unlikely that serious pollution would occur; or where there is a low likelihood that less serious types of significant pollution might occur.
4	There is no risk or that the level of risk posed is low. There are only normal levels of contaminants in soil or contaminant levels do not exceed relevant generic assessment criteria. Estimated levels of exposure to contaminants in soil are likely to form only a small proportion of what a receptor might be exposed to anyway through other sources of environmental exposure.	There is no risk, or that the level of risk posed is low, e.g. no contaminant linkage has been established in which controlled waters are the receptor in the linkage; or the water pollution is similar to that which might be caused by "background" contamination.

North Tyneside Council will use these Risk Categories to help in the identification of high priority sites under Part 2A.

Appendix 5**Receptors and Harm**

Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance 2012

Relevant types of receptor	Significant harm	Significant possibility of significant harm
<p>Any ecological system, or living organism forming part of such a system, within a location which is:</p> <ul style="list-style-type: none"> • a site of special scientific interest (under section 28 of the Wildlife and Countryside Act 1981) • a national nature reserve (under s.35 of the 1981 Act) • a marine nature reserve (under s.36 of the 1981 Act) • an area of special protection for birds (under s.3 of the 1981 Act) • a “European site” within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2010 • any habitat or site afforded policy protection under paragraph 6 of Planning Policy Statement (PPS 9) on nature conservation (i.e. candidate Special Areas of Conservation, potential Special Protection Areas and listed Ramsar sites); or • any nature reserve established under section 21 of the National Parks and Access to the Countryside Act 1949. 	<p>The following types of harm should be considered to be significant harm:</p> <ul style="list-style-type: none"> • harm which results in an irreversible adverse change, or in some other substantial adverse change, in the functioning of the ecological system within any substantial part of that location; or • harm which significantly affects any species of special interest within that location and which endangers the long-term maintenance of the population of that species at that location. <p>In the case of European sites, harm should also be considered to be significant harm if it endangers the favourable conservation status of natural habitats at such locations or species typically found there.</p> <p>In deciding what constitutes such harm, the local authority should have regard to the advice of Natural England and to the requirements of the Conservation of Habitats and Species Regulations 2010.</p>	<p>Conditions would exist for considering that a significant possibility of significant harm exists to a relevant ecological receptor where the local authority considers that:</p> <ul style="list-style-type: none"> • significant harm of that description is more likely than not to result from the contaminant linkage in question; or • there is a reasonable possibility of significant harm of that description being caused, and if that harm were to occur, it would result in such a degree of damage to features of special interest at the location in question that they would be beyond any practicable possibility of restoration. <p>Any assessment made for these purposes should take into account relevant information for that type of contaminant linkage, particularly in relation to the ecotoxicological effects of the contaminant.</p>

Relevant types of receptor	Significant harm	Significant possibility of significant harm
<p>Property in the form of:</p> <ul style="list-style-type: none"> • crops, including timber; • produce grown domestically or on allotments, for consumption; • livestock; • other owned or domesticated animals; • wild animals which are the subject of shooting or fishing rights. 	<p>For crops, a substantial diminution in yield or other substantial loss in their value resulting from death, disease or other physical damage. For domestic pets, death, serious disease or serious physical damage. For other property in this category, a substantial loss in its value resulting from death, disease or other serious physical damage.</p> <p>The local authority should regard a substantial loss in value as occurring only when a substantial proportion of the animals or crops are dead or otherwise no longer fit for their intended purpose.</p> <p>Food should be regarded as being no longer fit for purpose when it fails to comply with the provisions of the Food Safety Act 1990. Where a diminution in yield or loss in value is caused by a contaminant linkage, a 20% diminution or loss should be regarded as a benchmark for what constitutes a substantial diminution or loss.</p> <p>In this Chapter, this description of significant harm is referred to as an “animal or crop effect”.</p>	<p>Conditions would exist for considering that a significant possibility of significant harm exists to the relevant types of receptor where the local authority considers that significant harm is more likely than not to result from the contaminant linkage in question, taking into account relevant information for that type of contaminant linkage, particularly in relation to the ecotoxicological effects of the contaminant.</p>
<p>Property in the form of building For this purpose, “building” means any structure or erection, and any part of a building including any part below ground level, but does not include plant or machinery comprised in a building, or</p>	<p>Structural failure, substantial damage or substantial interference with any right of occupation. The local authority should regard substantial damage or substantial interference as occurring when any part of the building ceases to be</p>	<p>Conditions would exist for considering that a significant possibility of significant harm exists to the relevant types of receptor where the local authority considers that significant harm is more likely than not to result from the contaminant linkage in question</p>

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<p>buried services such as sewers, water pipes or electricity cables.</p>	<p>capable of being used for the purpose for which it is or was intended.</p> <p>In the case of a scheduled Ancient Monument, substantial damage should also be regarded as occurring when the damage significantly impairs the historic, architectural, traditional, artistic or archaeological interest by reason of which the monument was scheduled.</p> <p>In this Chapter, this description of significant harm is referred to as a “building effect”.</p>	<p>during the expected economic life of the building (or in the case of a scheduled Ancient Monument the foreseeable future), taking into account relevant information for that type of contaminant linkage.</p>
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Appendix 6

Location of North Tyneside



Appendix 7

Powers of Entry

The statutory Guidance 2012 states that the authority should consult the landowner before inspecting the land unless there is a particular reason why this is not possible, for example because it has not been possible to identify or locate the landowner. Where the owner refuses access, or the landowner cannot be found, the authority should consider using statutory powers of entry.

The authority has specific powers of entry under Section 108 of the Environment Act 1995 to authorise suitable persons to carry out inspection of the land. This can involve entering premises, taking samples or carrying out related activities for the purpose of enabling the authority to determine whether any land is contaminated land. Where the authority chooses to utilise these powers, at least seven days' notice will be given of proposed entry onto any premises, unless there is an immediate serious risk to human health or the environment.

Under Section 108 of the Environment Act 1995 the local authority is given the power to authorise a person to exercise specific powers of entry. North Tyneside Council will not carry out any inspection using these statutory powers of entry that takes the form of an intrusive investigation if:

- a) it has already been provided with detailed information on the condition of the land, whether by the Environment Agency or some other person such as the land owner, which provides an appropriate basis upon which the authority can determine whether the land is contaminated in accordance with the requirements of the guidance; or,
- b) a person offers to provide such information within a reasonable and specified timescale, and then provides such information within that time: or,
- c) prior to an inspection under its powers of entry the council will be satisfied that a pollutant linkage exists. This means that as well as a reasonable possibility of the presence of source, pathway and receptor, they also make a pollution linkage.

Contaminated Land Leaflets



Contaminated Land Strategy 2014

Your Right To Appeal

Receiving a Remediation Notice

A Remediation Notice is a legally binding document. It requires the person(s) on whom the notice has been served to clean up land that has been formally determined as Contaminated Land under Part 2A of the Environmental Protection Act 1990.

A Remediation Notice is served by the enforcing authority, which will either be North Tyneside Council or, in certain cases, the Environment Agency.

The Remediation Notice itself must include information on how to appeal against it.

Appeals against a Remediation Notice

Any person who receives a Remediation Notice has twenty-one days within which they can lodge an appeal against the notice. Any appeal is made:

- a) to a magistrates' court, if the notice was served by a local authority; or
- b) to the Secretary of State, if the notice was served by the Environment Agency

If an appeal is made, then the Remediation Notice is suspended until the final determination or the abandonment of the appeal.

If any appeal is made against a Remediation Notice, the enforcing authority must enter details of the appeal and the decision of any such appeal onto its Contaminated Land Public Register.

Appeals to a Magistrates' Court

An appeal to a magistrates' court against a Remediation Notice, requires the following protocol to be followed.

1. The appeal should be made by means of complaint for an order and, subject to section 78(2) and (3) and regulations 7(3), 13 and 14, the magistrates' Courts Act 1980(a) shall apply to the proceedings.
 - a) An appellant shall, at the same time file a notice ("notice of appeal") and serve a copy of it on:
 - i) the enforcing authority;
 - ii) any person named in the Remediation Notice as an appropriate person;

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- iii) any person named in the notice of appeal as an appropriate person;
 - iv) any person named in the remediation notice as the owner or occupier of the whole or any part of the land to which the notice relates
- b) An appellant shall file a copy of the Remediation Notice to which the appeal relates and serve a copy of it on the person named in the notice of appeal as an appropriate person who was not so named in the remediation notice; and
- c) An appellant shall file a statement of the names and addresses of any persons falling within ii), iii) or iv) above.

The notice of appeal shall state the appellants name and address and the grounds on which the appeal is made.

Any person who falling within paragraph (20(a)(ii), (iii) or (iv) above shall be given notice of, and an opportunity to be heard at, the hearing of the complaint and any hearing for directions, in addition to the appellant and the enforcing authority

The court may refuse to grant a request by the appellant to abandon their appeal against a remediation, where the request is made after the court has notified the appellant in accordance with regulation 13(1) of a proposed modification of that notice.

North Tyneside Councils Policy

It must be emphasised that the use of the Part 2A regulations will only be as a last resort. North Tyneside Council will actively promote the voluntary remediation of any contaminated land within the borough by communication and close liaison with the person responsible for the pollution.



Contaminated Land
Main Responsibility for Clean Up
Class A Appropriate Person
April 2014

Main Responsibility for Clean Up

Class A Appropriate Person

WHO IS THE APPROPRIATE PERSON?

A primary objective of this regime is that the person responsible for a contaminant linkage pays. A “Class A Appropriate Person” is a person identified for causing or knowingly permitting a significant contaminant linkage. This may be an individual or a corporate body. Once a piece of land has been officially determined as Contaminated Land the Council will seek to identify these person(s).

A ‘Class A Person’ is only responsible for the clean up of the contaminant linkage that they have caused or knowingly permitted.

If it is not possible to find the person who permitted the contamination or created the linkage then the current owner or occupiers of land would share responsibility for the clean up; these are classed as Class B Appropriate Person(s).

This leaflet deals with Class A Appropriate Persons only; a separate leaflet entitled “Owner/Occupier Responsibilities” details responsibilities and liabilities of Class B Appropriate persons.

WHAT ARE THE LIABILITIES?

The Class A person is responsible for the clean up of the contamination. This would include only the contamination that they caused or knowingly permitted to be on, in or under the land.

EXCLUSION TESTS

There is one main exemption from liability for Class A Appropriate Person(s) this is:

- Liability arising due to water pollution from an abandoned mine

There are a total of six exclusion tests that must be applied to ensure that liability is assigned appropriately. The six exclusion tests are:

Test 1 – Excluded Activities

Test 2 – Payments for Remediation

Test 3 – Sold with Information

Test 4 – Changes to Substances

Test 5 – Escaped Substances

Test 6 – Introduction of Pathways or Receptors

There are also a number of exclusion tests that take into account hardship and financial circumstances when considering cost recovery of remediation.

Contaminated Land Strategy 2014

Details of all liability and cost recovery exclusion tests will be sent to the identified Class A person upon official determination of the land as being Contaminated Land. Details of the information required to determine these tests will be supplied at this time.

WHAT DOES THE APPROPRIATE CLASS A PERSON NEED TO DO?

Once a determination has been made the Council will inform the Appropriate Person of the designation. Two options are then available:

- Voluntary Remediation:
- Formal Remediation Notice Instructing on remediation actions and timescales.

WHAT NEXT?

If the Class A person is minded to carry out voluntary remediation then they must discuss with the council the remediation requirements of the site and agree to the voluntary actions required. This would be submitted to the council as a written remediation statement.

The Council will advise Class A person of the actions that will be initiated should they choose not to undertake voluntary remediation action.

At least three months must expire between determination and the serving of a remediation notice.

Once a remediation notice has been served the land will be put onto the Public Register and all actions to clean up the land recorded.



Contaminated Land

Owner/ Occupier Responsibilities

April 2014

Owner/Occupier Responsibilities

WHO IS THE OWNER / OCCUPIER?

The Owner/Occupier can be a large multi-national company or an individual homeowner. It is the person who owns or occupies the land being investigated by the Council. Under Part 2A of the Environmental Protection Act 1990 these are identified as the Class B Appropriate Person(s).

WHAT DOES THIS MEAN FOR YOU?

1. Prior To Determination

Once the Council has identified the land as having the potential to be contaminated it will be in close contact with the owner/occupiers at all times during the following investigations that will determine whether the land is contaminated as defined under Part 2A of the Environmental Act 1990.

The Council will request the owner/occupier to provide information regarding the use of the land and any investigations and clean up actions that have been undertaken. All information provided will be used in assessing whether the land is determined as Contaminated Land or not.

If no information is available the Council may need to do its own intrusive investigations. At this stage the Council will ask permission to enter the land to carry these investigations out. The Council can seek a warrant to enter the land from the courts should the Class B Person refuse permission to enter.

Compensation can be sort through the Courts should any loss or damage to the land occur.

2. After Determination

Once the land has been officially determined as Contaminated Land the Council will seek to identify the person(s) who has either caused or knowingly permitted the substance(s) that caused the land to be determined as contaminated. It is their responsibility for the clean up of the land. This person is known as the "Class A Appropriate Person".

This person is only responsible for each substance he caused or knowingly permitted therefore there may be several different Class A persons with varying responsibilities for clean up.

Should no Class A person(s) be found after reasonable inquiry then the Owner/Occupier becomes the appropriate person. They are known as the Class B Appropriate Person. Again there may be

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one or more owner/occupiers of the land who would share responsibility, each being responsible for their own land, for example a residential area.

WHAT ARE THE LIABILITIES?

The liability is for clean up of the contamination.

If no Class A person can be found who would be responsible for a particular clean up action then the Owner/Occupier will be liable for the clean up by sole virtue of ownership or occupation of the land in question.

It is ultimately for the courts to decide, whether not the Class A person can be found.

EXCLUSION TESTS

There are a number of exemptions from liability for Owner/ Occupiers these are:

- Liability arising from the escape of a pollutant from one piece of land to other land
- Liability by virtue of his being a person “acting in a relevant capacity (such as acting as an insolvency practitioner)

Where there are two or more Owner/Occupiers a test for exclusion from liability of those who do not have an interest in the capital value of the land will be applied.

There are also a number of exclusion tests that take into account hardship when considering cost recovery of remediation, especially with regard to individual homeowners.

Details of all liability and cost recovery exclusion tests will be sent to the Appropriate Person by the Council upon official determination of the land as being Contaminated Land.

WHAT NEXT?

Clean up of the land will be carried out either by voluntary action or by the serving a remediation notice. At least three months must expire between determination of land as Contaminated Land and the serving of a remediation notice. Once a remediation notice has been served the land will be put onto the Public Register and all actions to clean up the land recorded.



Contaminated Land Remediation Notices April 2014

Contaminated Land Strategy 2014

Remediation Notices

WHAT IS A REMEDIATION NOTICE?

A Remediation Notice is a legally binding document. It requires the Appropriate Person(s) to clean up contaminated land to a standard that is suitable for its current use.

WHEN ARE THEY SERVED AND WHY?

The Council will serve a Remediation Notice when the land has been determined as Contaminated Land, specific actions are necessary to make the Land safe for current use and a voluntary remediation scheme cannot be agreed within a reasonable timescale.

A Remediation Notice is served on the person responsible for the contamination known as the Appropriate Person.

Before a Remediation Notice is served the Council must first ensure it has made reasonable endeavors to consult the Appropriate Person and other relevant persons.

Except in a case of urgency at least three months must elapse between the date of notification to the person that the land has been designated as Contaminated Land and the serving of a Remediation Notice.

WHAT WILL THE NOTICE CONTAIN?

Any Remediation Notice served will contain the following information:

- Name and Address of the person on whom the notice is served
- Location and extent of the Contaminated Land to which the notice relates
- The date the Notice is served
- Whether the Council considers the person to be the Class A or B Appropriate Person and the reason why
- Details of the contamination
- Details of the Remediation to be carried out and why

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- Details of any other Appropriate Persons and their responsibilities to remediate the land
- Details of the Owner /Occupiers of the land
- That the person on whom the notice is served may be guilty of an offence for failure, without reasonable excuse, to comply with any of the requirements of the notice
- The penalties that may apply on conviction for such an offence
- The name and address of the enforcing authority.
- An explanation and details of the right to appeal against the notice

WHAT NEXT?

Once a Remediation Notice is served there are two options available:

- Comply with the Notice
- Appeal against the Notice

To comply with the remediation notice all actions specified within that notice must be carried out to the satisfaction of the Council.

If a notice is not complied within the agreed timescale, the Council may prosecute the 'Appropriate Person' who has failed to comply with the notice without reasonable excuse. This decision would be based on the Enforcement Policy. Conviction for non-compliance with a Remediation Notice carries the following penalties:

A fine not exceeding level 5 on the standard scale, currently this stands at £5,000 and additional daily fines of up to one tenth of level 5, currently this would be £500.

Where the Remediation Notice relates to industrial, trade or business premises the limit on the fine is higher. At present the limit is £20,000, with daily fines being up to £2,000 per day.

Appeals against Remediation Notices are dealt with in a separate leaflet entitled "Your Right to Appeal". North Tyneside Councils policy is to endeavour to encourage voluntary remediation practices through continued communication and close liaison with the identified appropriate person(s).



Contaminated Land

The Public Register

April 2014

The Public Register

What Is The Public Register?

Each local authority has a duty under Part 2A of the Environmental Protection Act 1990 to maintain a Public Register.

Content of the Register: Site Information

The register will include information concerning the location, current use and extent of the contamination affecting a particular site. Details of the substances causing the contamination and details of the significant harm or pollution of controlled waters, which is causing the land to be contaminated, are also included. This section includes information on any adjacent land affected by a determined site will be included.

Remediation Information

The Public Register will include the name and address of the person on whom the notice is served. Details of what each appropriate person is to do by way of remediation, and the periods within which they are required to complete each of the actions.

Details of remediation actions, the timescale for those actions and the details of the person responsible are placed on the Public Register.

Any entry on the Public Register about remediation confirms that it is suitable for its current use but not that all contamination has been removed.

Special Sites

Some contaminated land is classed as a special site; these are sites that are dealt with by the Environment Agency. The Special Sites are included on the Public Register with details of the notice designating it as a special site.

Environment Agency Site Specific Guidance

The Environment Agency can give direction to local authorities on determined contaminated land sites. The date that any site specific guidance is given by the Environment Agency, must also be included on the Public Register.

Appeals Against Remediation Notices

The Public Register is required to include details of any appeal against a notice, including the date and the name and address of the appellant, as well as the decision reached concerning such an appeal.

Appeals Against a Charging Notice

If the Council has to carry out any remediation by default, it is entitled to recover the reasonable cost incurred from the appropriate person(s) by way of serving a Charging Notice.

Details are included on the Public Register of any appeal by land owners against a Charging Notice. This includes information including the date and address of the appellant and the decision on such an appeal.

Convictions

Any conviction for non compliance of Remediation Notice is placed on the Public Register. This would include the name of the offender, the date of the conviction, the penalty imposed and the name of the court. These convictions would be removed from the register after they are spent in accordance with the Rehabilitation of Offenders Act 1974. The record that an offence took place will remain.

Confidentiality

The register must not include any information, without the relevant person's permission, which relates to the affairs of any individual or business and is commercially confidential to that business. Information must not be included which, in the opinion of the Secretary of State would be against the interests of national security.



Contaminated Land

Voluntary Remediation

April 2014

Voluntary Remediation

What Is Remediation?

When the local authority has identified a piece of land as being contaminated, actions must be taken by the appropriate person to remediate the problems caused by the contamination and make the land suitable for its current use.

These actions should serve to remove the hazards posed by the contamination present, thereby reducing the risk and potential impact upon the surrounding environment, human health and building structures.

The remediation actions can be designed and carried out voluntarily; or they can, when necessary, be legally demanded. The actions can be demanded through the use of a remediation notice, served by the enforcing authority. The enforcing authority will specify the remediation actions required in order to achieve remediation of the relevant land or waters to the standard required.

Voluntary Remediation

The person carrying out the remediation may decide to adopt an alternative program of remediation, to that stipulated within a remediation notice. The Local Authority will consider the proposed remediation scheme to ensure that the suggested scheme achieves the same standard of remediation as that stipulated by the Council, with respect to each of the identified significant pollution linkages.

The Council may be informed before, or during consultation on remediation, that the appropriate person intends to carry out voluntary remediation actions.

Voluntary remediation may be carried out if:

- The land owner has a programme for carrying out remediation on a number of different areas of land for which they are responsible, and are addressing those cases in order of environmental priority.
- The land is already subject to development proposals.
- The appropriate person brings forward proposals to develop the land in order to fund the necessary remediation.
- The appropriate person wants to avoid the service of a remediation notice.

Standards of Remediation

The Government's intention is that any remediation under this regime should result in land becoming 'suitable for use'.

The aim of the remediation is to ensure that, in its current use, the land is no longer contaminated. It is; however, open to the appropriate person to carry out remediation on a broader basis than this, if they consider that it is in their own interests to do so.

The 'suitable for use' approach ensures that the remediation requirements are reasonable and tailored to the specific needs and uses of the individual sites.

As an example, if the land owner or occupier was preparing the land for redevelopment, then the standard of remediation required, would be dependant on the end use.

North Tyneside Council

It is North Tyneside's policy to only serve a remediation notice as a last resort. We will always endeavor to encourage voluntary remediation practices through continued communication and close liaison with the 'appropriate person(s)'. Every effort will be made to resolve contaminated land issues without the use of remediation notices.

Remediation Statements

If a remediation notice is not served because remediation is already taking place or is proposed, the person responsible for the remediation will need to publish a remediation statement.

The remediation statement must have the following recorded on it:

- The actions which are being, have been, or are expected to be done by way of remediation in the particular case.
- The name and address of the person who is doing, or is expected to do, each of these actions.
- The periods within which each of those actions is being done or expected to be done.

The Local Authority is required to enter details of the remediation statement in the public register.

Contaminated Land Strategy 2014
Reviewing Voluntary Remediation

North Tyneside Council is required to review the remediation which is carried out on the relevant land or waters. The Council must also review the requirement for further additional remediation.

A remediation notice may be subsequently served if it is determined that additional remediation is required.

North Tyneside Council will consult the 'appropriate person(s)' concerning any additional remediation actions, prior to the service of a remediation notice.



Contaminated Land

What Does It Mean For You
April 2014

What Does It Mean For You?

WHAT IS CONTAMINATED LAND?

Contaminated Land is land that because of substances, which are in, on or under the land, may cause significant harm to human health or the environment or may cause pollution of a controlled watercourse as defined in Part 2A of the Environmental Protection Act 1990.

The definition of contaminated land is based upon the presence of a contaminant source, a pathway by which the contaminant moves and a receptor which is affected by the pollutant. All three must be present and there must be significant harm to the receptor before land will be determined as being contaminated.

This is known as the contaminant, pathway and receptor linkage; and is termed a 'significant contaminant linkage'.

WHAT ACTION DOES THE COUNCIL NEED TO TAKE?

The Council must:

- Inspect the Borough to identify any contaminated land in an orderly risk based approach.
- Write a Contaminated Land Inspection Strategy. This is available to view at customer services, local libraries and the Council's website.
- Ensure any land determined as being contaminated is made suitable for its current use.
- Maintain a Public Register detailing any remediation action carried out on the land. The Register will be held at the Public Protection Offices.

INVESTIGATION OF CONTAMINATED LAND

The Council will on a risk based approach investigate potentially contaminated land. The Council must investigate land to determine if there is a significant contaminant linkage.

The Council may identify an area of land where it is possible that a contaminant linkage exists. The review of land will arise from:

- Prioritised land based on historical land use.
- Receiving information from another regulatory body such as the Environment Agency.

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- Receiving information or a complaint from a member of the public, a business or a voluntary organization.

The Council will decide whether a detailed inspection is required to make a determination as to whether the land is contaminated.

The Council when considering a detailed inspection will approach the owner(s) or occupier(s) of the land to seek any additional information needed for the investigation.

Information required would include any details of site investigations, such as ground condition surveys and chemical sampling of water and soils, as well as any information on remediation operations that have taken place.

COUNCIL SITE INVESTIGATIONS

If information is not or cannot be provided by the owner(s) or occupier(s), the Council may need to carry out its own investigations. These investigations may include the following:

- Intrusive investigations by boreholes, window samples and trial pits.
- Chemical sampling of the water, soils and gases.

The Council will write to the owner(s) or occupier(s) to request access to the land and to inform them of the procedures to be carried out.

HOW WILL THE INFORMATION BE USED?

All information provided or gathered will be used to determine whether a significant contaminant linkage exists and thus determine whether the land is contaminated or not.

WHAT HAPPENS NEXT?

The Council will actively seek to establish who caused the pollution and ensure that the land is cleaned up to a standard that is suitable for its current use. All actions taken will be recorded on the Public Register.

Liabilities for clean up costs are defined in two additional leaflets entitled "*Appropriate Persons A*" and "*Owner/Occupiers Responsibilities*".



Contaminated Land

Your Right to Appeal

April 2014

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Your Right To Appeal

Receiving a Remediation Notice

A Remediation Notice is a legally binding document. It requires the person(s) on whom the notice has been served to clean up land that has been formally determined as Contaminated Land under Part 2A of the Environmental Protection Act 1990.

A Remediation Notice is served by the enforcing authority, which will either be North Tyneside Council or, in certain cases, the Environment Agency.

The Remediation Notice itself must include information on how to appeal against it.

Appeals against a Remediation Notice

Any person who receives a Remediation Notice has twenty-one days within which they can lodge an appeal against the notice. Any appeal is made:

- c) to a magistrates' court, if the notice was served by a local authority; or
- d) to the Secretary of State, if the notice was served by the Environment Agency

If an appeal is made, then the Remediation Notice is suspended until the final determination or the abandonment of the appeal.

If any appeal is made against a Remediation Notice, the enforcing authority must enter details of the appeal and the decision of any such appeal onto its Contaminated Land Public Register.

Appeals to a Magistrates' Court

An appeal to a magistrates' court against a Remediation Notice, requires the following protocol to be followed.

2. The appeal should be made by means of complaint for an order and, subject to section 78(2) and (30 and regulations 7(3), 13 and 14, the magistrates' Courts Act 1980(a) shall apply to the proceedings.
 - b) An appellant shall, at the same time file a notice ("notice of appeal") and serve a copy of it on-
 - v) the enforcing authority;

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- vi) any person named in the Remediation Notice as an appropriate person;
 - vii) any person named in the notice of appeal as an appropriate person;
 - viii) any person named in the remediation notice as the owner or occupier of the whole or any part of the land to which the notice relates
- d) An appellant shall file a copy of the Remediation Notice to which the appeal relates and serve a copy of it on the person named in the notice of appeal as an appropriate person who was not so named in the remediation notice; and
- e) An appellant shall file a statement of the names and addresses of any persons falling within ii), iii) or iv) above.

The notice of appeal shall state the appellants name and address and the grounds on which the appeal is made.

Any person who falling within paragraph (20(a)(ii), (iii) or (iv) above shall be given notice of, and an opportunity to be heard at, the hearing of the complaint and any hearing for directions, in addition to the appellant and the enforcing authority

The court may refuse to grant a request by the appellant to abandon their appeal against a remediation, where the request is made after the court has notified the appellant in accordance with regulation 13(1) of a proposed modification of that notice.

North Tyneside Councils Policy

It must be emphasised that the use of the Part 2A regulations will only be as a last resort. North Tyneside Council will actively promote the voluntary remediation of any contaminated land within the borough by communication and close liaison with the person responsible for the pollution.

Appendix 9

References

Within the development of its Contaminated Land Strategy North Tyneside Council has referred to the following literature. The new legislation regarding Contaminated Land has been designed to supersede existing statutory legislation documents. It is designed to operate alongside current regimes of pollution control legislation.

Statutory Guidance

1. BS10175 2011 Code of Practice for the Investigation of Potentially Contaminated Sites
2. Environmental Protection Act 1990 Part I – Integrated Pollution Control
3. Environmental Protection Act 1990 Part II – Waste Management License
4. Environmental Protection Act 1990 Part IIA – Contaminated Land Statutory Guidance 2012
5. Environmental Protection Act 1990 Part III – Statutory Nuisance
6. Environment Act 1995 - Section 57
7. Pollution Prevention and Control (England and Wales) Amendment) (No 2) Regulations 2003
8. The Water Resources Act 1991 (Amendment) (England and Wales) Regulations 2009

Non Statutory Guidance

1. Babbie (2001): Identification, Prioritisation and Risk Ranking of Potentially Contaminated Land in North Tyneside Methodology
2. British Geological Survey and The Environment Agency (2000): Technical Report WE/99/14: Some Guidance on the Use of Digital Environmental Data.
3. CIRIA (1995): Remedial Treatment for Contaminated Land Vol III; Site Investigation and Assessment.
4. DoE May (1991) "Public Registers of Land Which May Be Contaminated"
5. DoE (1994): CLR No 1 Vol One and Two. "A Framework For Assessing The Impact of Contaminated land on Groundwater and Surface water.
6. DoE (1994): CLR No 1 Vol One and Two. "A Framework For Assessing The Impact of Contaminated land on Groundwater and Surface water.
7. DoE (1994) CLR No 2 Vol One and Two: "Guidance on Preliminary Site Inspection of Contaminated Land
8. DoE (1994) CLR No 3: ;Documentary Research on Industrial Research
9. DoE (1994) CLR No 4: "Sampling Strategies for Contaminated Land"
10. DoE (1994) CLR No 5 "Information Systems for Land Contamination"
11. DoE (1994) CLR No 6 " Prioritisation and Categorisation Procedure for Sites which may be Contaminated.
12. DoE Industry Profiles (1995 and 1996)
13. DoE May 1991 "Public Registers of Land Which May Be Contaminated"
14. Environment Agency (May 2001): Contaminated Land Inspection Strategies: Technical Advice For Local Authorities
15. Environment Agency (1999): Methodology for the Derivation of Remedial Targets for Soil and Groundwater to Protect Water Resources

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16. Environment Agency (2001): Land Contamination: Technical Guidance on Special Sites: Petroleum Refineries. Research and Development Technical Report Ref P5-042/TR/05
17. Environment Agency "Policy and Practice for the Protection of Groundwater"
18. Environment Agency (2001): Technical Aspects of Site Investigation Research and Development Technical Report P5-065/TR.
19. Environment Agency (2001): Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination. Technical Report Ref P5-066/TR
20. Environment Agency and Local Government Association: Land Contamination Protocol.
21. Health and Safety Executive: "Protection of workers and the general public during the development of contaminated land"
22. ICRCL 59/83 (1983): Guidance on the Assessment and Redevelopment of Contaminated Land
23. MAFF (1998): Code of Good Agricultural Practice for the Protection of Soil: The Soil Code.
24. MAFF (1998): Code of Good Agricultural Practice for the Protection of Water: The Water Code.
25. National Rivers Authority (1994): Water Quality Series No 15: "Contaminated Land and the Water Environment"
26. National Rivers Authority (1994): "Guide to Groundwater Vulnerability Mapping in England and Wales"
27. National Rivers Authority (1995): Guide to Protection Zones in England and Wales
28. SNIFFER (1999): Communicating Understanding of Contaminated Land Risks.
29. The New Dutch Intervention Values for Soil Remediation
30. The Kelly Indices (Formally GLC) Guidelines for Contaminated Soils

Contaminated Land Strategy 2014
Appendix 2- Table 1 Consultee List

Internal Consultees

Capita

Barry Pilkington
Operations Director
Quadrant East
Silverlink North
Cobalt Business Park
North Tyneside
NE27 0BY
Telephone: 0191 643 4802
Email: barry.pilkington@capita.co.uk

Planning

Jackie Palmer
Planning Manager
Quadrant East
Silverlink North
Cobalt Business Park
North Tyneside
NE27 0BY
Telephone: 0191 6436336
Email: jackie.palmer@northtyneside.gov.uk

Valuation

Niall Cathie
Client Manager - Property
Quadrant East
Silverlink North
North Tyneside Council
Cobalt Business Park
North Shields
NE27 0BY
0191 6436517
niall.cathie@northtyneside.gov.uk

External Consultees

Environment Agency

Groundwater and Contaminated Land Team
Environment Agency
Tyneside House
Skinnerburn Road
Newcastle Business Park
Newcastle upon Tyne
NE4 7AR
Tel: 0800 807060
Fax: 0191 2034004
Email: enquiries@environment-agency.gov.uk

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Natural England,

North East Region

The Quadrant,

Newburn Riverside,

Newcastle upon Tyne,

NE15 8NZ

Tel: 0300 060 2219

Fax: 0300 060 2302

Email: northeast@naturalengland.org.uk

Newcastle City Council

Phil Hartley

Environmental Protection

Civic Centre

Barras Bridge

Newcastle Upon Tyne

NE99 1RD

Tel: 0191 211 6102

E-mail: environmentandregeneration@newcastle.gov.uk

Northumberland Council

Karen Farr

Environmental Health

County Hall

Morpeth

Northumberland

NE61 2EF

Tel: 0845 600 6400

Fax: 01670 620 223

E-mail: Karen.Farr@northumberland.gov.uk

North Tyneside Primary Care Trust

Equinox House,

Silver Fox Way,

Cobalt Business Park,

Newcastle upon Tyne

NE27 0QJ

Phone:(0191) 291 9292

Fax: 0191 291 9293

Web: <http://www.northtynesidepct.nhs.uk>

Contaminated Land Strategy 2014
Appendix 3- Table 2: Consultee Comments

Consultee	Comments	Original Text	Amended Text
Public Health England	The Strategy sets out a practical and reasoned approach to investigating land within the Council's district and Public Health England has no specific comments to make.		
Northumberland County Council	The Strategy is clear, well set out and easy to read.		
Northumberland County Council	P.4 typographical error in last bullet point "This is will be kept"	This is will be kept	This will be kept at the Councils Head Office
Northumberland County Council	P.9 paragraph 3.2.1 2 spellings of Howden/Howdon	In 1759 the Hurry family opened a large ship building yard at Howden.	In 1759 the Hurry family opened a large ship building yard at Howdon.
Northumberland County Council	a stray 'f' before Environmental Protection Act 1990	and f the Environmental Protection Act 1990.	and the Environmental Protection Act 1990.
Northumberland County Council	P.26 Fourth bullet point "utilise other legislation w here appropriate"	Utilise other legislation were appropriate	Utilise other legislation where appropriate
Redcar and Cleveland Borough Council	Perhaps worth pointing out here that funding till 2017 is for absolute emergency cases only.	This funding will cease in 2017.	This funding is for absolute emergency cases only and will cease in 2017.
Environment Agency	Section 1.3 – We have various roles to play under Part 2A, some of these are duties, some powers and some responsibilities. Our duty predominantly relates to requiring the remediation of special sites, rather than all of the activities listed in section 1.3.	The Environment Agency has a duty:	The Environment Agency has responsibilities for the following:
Environment Agency	Section 2.1 final para – I'm not sure what this means as I'm not aware that the revised statutory guidance placed responsibility for surface waters onto	The revised Part 2A Contaminated Land Statutory Guidance has placed the responsibility for surface waters onto Local Authorities.	The definition of Contaminated Land applies to controlled waters as well as land pollution. The Flood and Water Management Act 2010

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	local authorities.		has placed the responsibility for surface waters onto Local Authorities. Internal consultation would take place with the Surface Water Management Team in the event of a potential contamination incident
Environment Agency	Section 2.3 – it would be beneficial to clarify that risk categories relate to significant pollution of controlled waters as well as significant harm.	a site poses a significant possibility of significant harm to either human health or controlled waters.	site poses a significant possibility of significant harm to human health or the significant possibility of significant pollution to controlled waters
Environment Agency	Section 7.2 – an amended version of BS10175: 2013 is available.	then a Phase 2 detailed inspection will be carried out in accordance with BS10175:2011	then a Phase 2 detailed inspection will be carried out in accordance with BS10175:2013