

Agenda Item	7.
Report No	CP/04/26

The Highland Council

Committee: **Communities and Place**

Date: **29 January 2026**

Report Title: **Environmental Health – Contaminated Land Strategy Review**

Report By: **Assistant Chief Executive – Place**

1 Purpose/Executive Summary

- 1.1 The Environmental Protection Act (EPA) 1990, Part IIA places a statutory duty on the Council to inspect land in its area, in a strategic manner, to determine if it is contaminated and, if so, to ensure the appropriate remediation of the land. The Highland Council is required to carry out this duty in accordance with a published Strategy document.
- 1.2 The current strategy has been reviewed and an updated strategy produced. The review did not identify any significant required changes to current working practice for the Council to meet its statutory obligations under Part IIA of the EPA.

2 Recommendations

- 2.1 Members are asked to:-

- i. **Note** the work being carried out by the Council to meet its statutory obligations under Part IIA of the Environmental Protection Act; and
- ii. **Approve** the revised Strategy for the Inspection of Contaminated Land.

3 Implications

- 3.1 **Resource** - The Scottish Government currently provide no ring-fenced funding to Local Authorities for the investigation/remediation of potentially contaminated land. However, there is a commitment that any legacy sites of high priority highlighted via the Development Control route will be subject to further assessment. Costs of investigation and remediation works can be significant. The resources available to Environmental Health must be prioritised focusing on areas of greatest public health significance. The team continually explores ways of delivering services most efficiently making best use of resources available.

3.2 **Legal** - Part IIA of the Environmental Protection Act 1990 gives Local Authorities the regulatory powers to deal with contaminated land and places a statutory duty upon the Council to strategically inspect land in their areas to identify contaminated land, determine whether sites meet the statutory definition of contaminated land, establish responsibilities for remediation of the land and ensure that appropriate remediation takes place for its current and future use, and keep a public register of designated sites.

3.3 **Risk** – The strategy sets out working practices to minimise risk to human health and the environment and in turn minimise risk of legal action.

3.4 **Health and Safety (risks arising from changes to plant, equipment, process, or people)** – there are no specific occupational health, safety and welfare implications.

3.5 **Gaelic** - there are no implications.

4 Impacts

4.1 In Highland, all policies, strategies or service changes are subject to an integrated screening for impact for Equalities, Poverty and Human Rights, Children's Rights and Wellbeing, Climate Change, Islands and Mainland Rural Communities, and Data Protection. Where identified as required, a full impact assessment will be undertaken.

4.2 Considering impacts is a core part of the decision-making process and needs to inform the decision-making process. When taking any decision, Members must give due regard to the findings of any assessment.

4.3 Integrated Impact Assessment - Summary

4.3.1 An Integrated Impact Assessment screening has been undertaken on 19 December 2025. The conclusions have been subject to the relevant Manager Review and Approval.

4.3.2 The Screening process has concluded that there are:-

- Positive socio-economic impacts as contaminated land legislation has a positive impact in improving areas and brownfield sites with historical land contamination for development within communities.
- Positive and perceived negative impact on human rights - Statutory actions under the contaminated land legislation may impact on the way people use their property, e.g. requiring land use restrictions. This is legally permitted where the authority can show that its action is lawful and necessary for the public interest and public safety. The related Environmental Health enforcement policy ensures a fair balance between a property owner and the general interests of society as a whole.
- Positive impact related to the environment as duties under the statutory contaminated land legislation can have a positive impact on the environment by addressing historical land contamination.

Members are asked to consider the summary in **Appendix 1** to support the decision-making process.

Impact Assessment Area	Conclusion of Screening
Equality	No impact
Socio-economic	Positive
Human Rights	Positive & Negative
Children's Rights and Wellbeing	No impact
Island and Mainland Rural	No impact
Climate Change	Positive
Data Rights	No impact

5 Background

5.1 The statutory contaminated land regime came into force in Scotland on 14 July 2000 following concerns regarding the legacy of industrial history and potential effects of historical pollution on human health, property, the water environment, and ecosystems. Contaminated land was seen to be creating economic and environmental issues and hindering redevelopment and reuse of Brownfield sites. Under Part IIA of the [Environmental Protection Act 1990](#) (EPA 1990) Local Authorities have regulatory powers to deal with contaminated land and address the legacy of industrial pollution.

5.2 The EPA 1990, Part IIA places a statutory duty on Local Authorities to strategically inspect land in their areas to identify contaminated land, determine whether sites meet the statutory definition of contaminated land, establish responsibilities for remediation of the land and ensure that appropriate remediation takes place for its current and future use, and keep a public register of designated sites.

5.3 As detailed in the revised strategy, the Contaminated Land team continue to identify sites with possible contamination issues and ensure that sites are 'suitable for their intended use' through the Development Control process. The table below summarises recent work undertaken:-

Year	2020/21	2021/22	2022/23	2023/24	2024/25
No. of Planning Applications submitted for review	3940	4383	4404	3841	3673
Required further action* following detailed review	119	209	192	153	165

*Further action may include completion of detailed studies, intrusive site investigations, and remediation.

6 Contaminated Land Strategy Review

6.1 The Highland Council is required to carry out these duties in accordance with a published Strategy document which sets out an approach to the inspection programme. Changes to regulations, guidance and finances has necessitated periodic review of the strategy.

6.2 The Highland Council Contaminated Land Strategy was first published in October 2001 [Contaminated land inspection strategy | Contaminated land inspection strategy 2001](#). The original document was subsequently reviewed, updated and approved by Committee in August 2009 [Contaminated land inspection strategy | Contaminated land inspection strategy report 2009](#). Following further consideration and review in 2016, updates were agreed at the Community Services Committee on 18 August 2016.

6.3 The new strategy follows a further review and update to the 2009 strategy and incorporates those revisions agreed by the Committee in 2016. The review did not identify any significant required changes to current working practice for the Council to meet its statutory obligations under Part IIA of the EPA. The revised strategy in **Appendix 2** sets out what the Highland Council will continue to do to meet its statutory duties under Part IIA of the EPA 1990, the Contaminated Land (Scotland) Regulations 2000 and 2005, and associated guidance documents, to identify and deal with potentially contaminated land.

7 Future Developments

7.1 Environmental Standards Scotland (ESS) is an independent public body set up to ensure the effectiveness of environmental law and prevent enforcement gaps arising from the UK leaving the European Union. Following an initial review in 2024 on [the risks to Scotland's soils](#), ESS are carrying out investigatory work on the effectiveness of, and compliance with, Part IIA of the EPA 1990, considering whether local authorities across Scotland are routinely carrying out their duties under Part IIA. Depending on findings and subsequent recommendations to Scottish Government, changes in approach may be required in future.

Designation:	Assistant Chief Executive - Place
Date:	5 January 2026
Author:	Alan Yates, Strategic Lead - Environmental Health & Bereavement Services
Background Papers:	'Contaminated Land – Inspection and Development Control' report Community Services Committee 18/08/2016
Appendices:	Appendix 1 – Integrated Impact Assessment Appendix 2 – The Highland Council Strategy for the Inspection of Contaminated Land

Integrated Impact Assessment Screening

The Highland Council Strategy for the Inspection of Contaminated Land

High level summary of the proposal: The EPA 1990, Part IIA1 places a statutory duty on Local Authorities to strategically inspect land in their areas to identify contaminated land, determine whether sites meet the statutory definition of contaminated land, establish responsibilities for remediation of the land and ensure that appropriate remediation takes place for its current and future use, and keep a public register of designated sites.

The Highland Council is required to carry out these duties in accordance with a published Strategy document which sets out an approach to the inspection programme. Changes to regulations, guidance and finances has necessitated periodic review of the strategy.

An updated strategy is to be taken to the Communities & Place Committee on 29th January 2026

Who may be affected by the proposal? Developers, owners or occupiers of land that may be affected by contamination due to historical previous use

1. Equality - Protected characteristics - No impact

2. Poverty and socio-economic

Prospects and opportunities: No impact

Places: Positive

Financial: No impact

Poverty and socio-economic impact details: No impact on people's life chances or household income. Potential positive impact in improving brownfield sites for development within communities.

3. Human rights – Positive & Negative

Human rights impact details: Statutory actions under the contaminated land legislation may impact on the way people use their property e.g. requiring land use restrictions. This is legally permitted where the authority can show that its action is lawful and necessary for the public interest and public safety. The related Team enforcement policy ensures a fair balance between a property owner and the general interests of society as a whole.

4. Children's rights and wellbeing - no impact

5. Data protection – no impact

6. Island and mainland rural communities – no impact

7. Climate change

Does the proposal involve activities that could impact on greenhouse gas emissions (CO₂e)? No

Does the proposal have the potential to affect the environment, wildlife or biodiversity? Yes (positive)

Does the proposal have the potential to influence resilience to extreme weather or changing climate? No

Provide information regarding your selection above: Duties under the statutory contaminated land legislation can have a positive impact on the environment by addressing historical land contamination.



The Highland Council Strategy for the Inspection of Contaminated Land

Review January 2026



Place Service Cluster – Environmental Health

The Highland Council

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Table of Contents

Table of Contents.....	2
1.0 Background	3
2.0 Aims and Objectives of the Strategy.....	3
3.0 Part IIA Definition of Contaminated Land.....	4
4.0 Determination of Contaminated Land	5
4.1 Pollutant Linkages.....	6
4.2 Significant Pollutant Linkages	6
4.3 Risk Assessment.....	7
4.4 Special Sites	7
4.5 Suitable for Use.....	7
5.0 Contaminated Land Legislation, Regulation and Guidance	8
5.1 Policy and Legal Framework for Contaminated Land.....	10
5.2 Voluntary Remediation.....	11
6.0 Regulation Responsibilities	11
6.1 Role of the Local Authority	11
6.2 Role of Scottish Environment Protection Agency (SEPA)	12
7.0 The Highland Council Area	13
8.0 Highland Council Approach.....	16
8.1 Part IIA Role	17
8.2 Development Control Role	19
8.3 Other Duties	20
8.3.1 Requests for Information.....	21
8.3.2 Liaison with Consultees	21
8.3.3 Vacant and Derelict Land.....	21
8.3.4 Advisory Role	22
8.3.5 Complaints	22
9.0 The Way Forward	23
References and Links.....	25
APPENDIX 1	
Part IIA Sites taken to Phase II	

1.0 Background

The statutory contaminated land regime came into force in Scotland on 14th July 2000 following concerns regarding the legacy of our industrial history and potential effects of historical pollution on human health, property, the water environment, and ecosystems. Contaminated land was seen to be creating economic and environmental issues and hindering redevelopment and reuse of Brownfield sites.

Part IIA of the [Environmental Protection Act 1990](#)¹ (EPA 1990) was inserted by Section 57 of the [Environment Act 1995](#)² giving Local Authorities the regulatory powers to deal with contaminated land and address the legacy of industrial pollution. The Scottish Executive introduced [The Contaminated Land \(Scotland\) Regulations 2000](#)³ and [The Contaminated Land \(Scotland\) Regulations 2005](#)⁴ to supplement and enforce the provisions of the new regime and published updated Statutory Guidance in 2006.

The EPA 1990, Part IIA¹ places a statutory duty on Local Authorities to strategically inspect land in their areas to identify contaminated land, determine whether sites meet the statutory definition of contaminated land, establish responsibilities for remediation of the land and ensure that appropriate remediation takes place for its current and future use, and keep a public register of designated sites.

The Highland Council is required to carry out these duties in accordance with a published Strategy document which sets out an approach to the inspection programme. Changes to regulations, guidance and finances has necessitated periodic review of the strategy.

The Highland Council Contaminated Land Strategy was first published in October 2001 [Contaminated land inspection strategy | Contaminated land inspection strategy 2001](#)⁵. The original document was subsequently reviewed, updated and approved by Committee in August 2009 [Contaminated land inspection strategy | Contaminated land inspection strategy report 2009](#)⁶. Following further consideration and review in 2016, updates were agreed at the [Community Services Committee on 18th August 2016](#). This document follows a further review and update to the 2009 strategy and incorporates those revisions agreed by the Committee in 2016. The document sets out the current strategy with respect to what the Highland Council will continue to do to meet its statutory duties under Part IIA of the EPA 1990¹, the Contaminated Land (Scotland) Regulations 2000³ and 2005⁴, and associated guidance documents, to identify and deal with potentially contaminated land.

2.0 Aims and Objectives of the Strategy

This Strategy will ensure compliance with and outline the Highland Council's enforcement of Part IIA of the EPA 1990¹, inserted by Section 57 of the Environment Act 1995 - to protect human health, the water environment, designated ecosystems, and property.

The Scottish Government has three objectives with respect to sustainable development of contaminated land, which underlie a the 'suitable for use' approach:

1. to identify and remove unacceptable risks to human health and the environment.
2. to seek to bring damaged land back into beneficial use, and
3. to seek to ensure that the cost burdens faced by individuals, companies and society are proportionate, manageable, and economically sustainable.

To achieve the Scottish Government's objectives, the Highland Council will:

1. ensure land is demonstrated suitable for its current use in a strategic, transparent, and prioritised approach (higher risk) and support voluntary action by landowners
2. ensure land is made suitable for any new use as planning permission is given for that new use
3. oversee any remediation requirements necessary to prevent unacceptable risks to human health or the environment, and
4. record and report to consultees and engage in local and national forums, promoting sustainable redevelopment of brownfield land in a consistent and proportionate way.

These objectives were outlined in the [2016 Committee Report](#) to the Community Services committee.

Since introduction of the first Highland Council Inspection strategy, the structure of Scottish Government funding to local authorities has changed, reducing ring fencing of specific budgets in 2007. This necessitated a review of funding priorities which has continued and contributed to the approach outlined in the 2026 Strategy. The Council is committed to prioritising and investigating higher risk sites as new information is realised. A summary of sites investigated as part of the Inspection Strategy up to 2025 is given in Section 8.1.

The Highland Council Contaminated Land Inspection Strategy has been provided to SEPA and *was approved by the Communities and Place Committee on 29th January 2026*. The Strategy shall remain under periodic review, as and when any revision in legislation or guidance occurs.

3.0 Part IIA Definition of Contaminated Land

Land may be identified as Contaminated Land if the current use results in unacceptable levels of risk to human health or the wider environment.

Section 78 A (2) of the EPA 1990¹ gives the statutory definition of contaminated land for the purposes of Part IIA 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 the water environment is being caused, or there is a significant possibility of such pollution being caused;"

The definitions of significant harm and significant pollution are set out in the Statutory Guidance published by the Scottish Government [PART 3: Significant Harm and the Significant Possibility of Significant Harm - Environmental Protection Act 1990 - Part IIA Contaminated Land: statutory guidance edition 2 - gov.scot](#)⁷.

The water environment is defined in Section 3 of the [Water Environment and Water Services \(Scotland\) Act 2003](#)⁸ as 'all surface water, groundwater and wetlands'.

4.0 Determination of Contaminated Land

The definition of contaminated land does not include all land where contamination is present. Before determining that land is contaminated land, the Local Authority must first identify a contaminant, a pathway and a relevant receptor to formulate a Conceptual Site Model (CSM) and use the principles of risk assessment to determine whether there is a pollutant linkage and assess the significance of this linkage.

This can be conducted through a phased process of investigation. Environment Agency Guidance, adopted by the Scottish Government and the Scottish Environment Protection Agency (SEPA), [Land contamination risk management \(LCRM\) - GOV.UK](#)⁹ and British Standard Code of Practice for the Investigation of potentially contaminated sites [BS 10175:2011+A2:2017 | 31 Dec 2017 | BSI Knowledge](#)¹⁰ outline the phased approach. A Preliminary Assessment Desk Study must establish the Conceptual Site Model (CSM). This can be followed by intrusive investigation works to inform a generic and/or detailed quantitative risk assessment. SEPA Guidance, [Technical concepts | Scottish Environment Protection Agency \(SEPA\)](#)¹¹ outlines their approach to identifying risk to the water environment. Should remediation be required, options appraisal and subsequent verification are also necessary.

4.1 Pollutant Linkages

A pollutant linkage means the relationship between a contaminant a receptor, and a pathway by which the contaminant comes into contact with the receptor.

As defined in the Statutory Guidance:

- A contaminant is 'a substance which is in, on or under the land and which has the potential to cause harm or to cause pollution to the Water Environment.'
- A receptor is either – 'a living organism, a group of living organisms, an ecological system or piece of property' which is listed in Table A in Chapter A as a type of receptor and is being or could be harmed by a contaminant; or 'the water environment, which is being, or could be polluted by a contaminant'.
- A pathway is 'one or more routes or means by, or through, which a receptor is being exposed to, or affected by, a contaminant; or could be so exposed or affected.'

This approach recognises that harm to health and the environment arises not from the mere presence of contaminating substances in land, but from their movement along a pathway to where they can cause harm to a receptor. Unless all three elements of a pollutant linkage are present, land should not be identified as contaminated. It is possible that there may be more than one pollutant linkage present on a piece of land.

4.2 Significant Pollutant Linkages

To define an area of land as being contaminated, the Local Authority must satisfy itself that a significant pollutant linkage exists.

Such a significant pollutant linkage exists in respect of the piece of land, such that the linkage:

- is resulting in significant harm being caused to the receptor in the pollution linkage.
- presents a significant possibility of significant harm being caused to that receptor.
- is resulting in significant pollution of the water environment which constitutes the receptor, or
- is likely to result in a significant possibility of such pollution being caused.

The assessment of pollutant linkages is done in accordance with the Scottish Government's Contaminated Land Statutory Guidance.

4.3 Risk Assessment

The principles of risk assessment are fundamental to the definition of contaminated land. Risk is considered for the purposes of statutory guidance [Environmental Protection Act 1990 - Part IIA Contaminated Land: statutory guidance edition 2 - gov.scot](#)¹² as a combination of:

- (a) the probability, or 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.

From this definition the regime is targeted at those sites which give rise to unacceptable risk to human health, property, the environment, or the water environment, rather than all land which is subject to contamination.

Risk assessment conducted by The Highland Council in accordance with duties under the contaminated land statutory regime will be site-specific.

4.4 Special Sites

Land can only be designated a special site once it has been identified as contaminated land by the local authority. Local authorities can decide to designate contaminated land as special site in agreement with the appropriate Agency or Secretary of State.

SEPA is the enforcing authority for special sites. Full definitions are set out in Regulations 2 & 3 and Schedule 1 of the Contaminated Land (Scotland) Regulations 2000³ and 2005⁴.

4.5 Suitable for Use

Guidance specifies a 'suitable for use' approach when identifying and dealing with contamination. The suitable for current use approach recognises that the risks presented by contamination will vary dependant on the use of the land and other factors which should be assessed on a site-by-site basis. The suitable for use approach consists of three elements set out below:

- Ensuring that land is suitable for its current use.
- Ensuring that land is made suitable for any new use as planning permission is given for that new use, and

- Limiting requirements for remediation to the work necessary to prevent unacceptable risks to human health and/or the environment in relation to the current use or future use of the land for which planning permission is being sought.

5.0 Contaminated Land Legislation, Regulation and Guidance

The contaminated land provisions of Part IIA of the EPA 1990¹ came into force in Scotland on 14 July 2000. Although provision was originally made for the contaminated land regime in Section 143 of the EPA 1990², this was abandoned and eventually replaced when Section 57 of the Environment Act 1995 inserted Part IIA into the EPA. The Contaminated Land (Scotland) Regulations 2000 (S.I.2000/178), and SERAD Circular 1/2000 Statutory Guidance³ on Contaminated Land followed, and has since been modified and reviewed, with the Contaminated Land (Scotland) Regulations 2005 (SSI2005/658)⁴, the publication of Contaminated Land Statutory Guidance: Edition 2, May 2006¹², and [The Radioactive Contaminated Land \(Scotland\) Regulations 2007](#)¹³ for which SEPA take the lead role.

Legislation

1990
Environmental Protection Act -
Section 143

1995
Environment Act
- Section 57
inserted Part IIA
into the EPA 1990

2003 Water
Environment and
Water Services
Act

2014 Regulatory
Reform (Scotland)
Act - amended
EPA 1990

Regulation

2000
Contaminated
Land (Scotland)
Regulations
(SSI 2000/178)

2005
Contaminated
Land (Scotland)
Regulations
(SSI 2005/658)

2007 Radioactive
Contaminated
Land (Scotland)
Regulations
(SSI 2007/179)

Guidance

2000 SERAD
Circular 1/2000 -
First Statutory
Guidance

2006 Statutory
Guidance Edition
2

2008 Statutory
Guidance -
Radiological
Contaminated
Land

A background to Contaminated Land legislation and associated guidance documents can be found in Chapter 2 of the 2009 Strategy⁶ and a summary of links to other legislation is provided in Chapter 3.

There have been some changes to relevant legislation, regulations, guidance, and standards since 2009:

The [Regulatory Reform \(Scotland\) Act 2014](#)¹⁴ amends the EPA 1990¹ to allow the local authority to issue a non-contamination notice for land which was previously identified as contaminated land under section 78B of Part IIA and is no longer considered to be contaminated. Section 78Q (4) of Part IIA allows SEPA the option to end designation of a special site where it no longer meets the requirements of this designation. Where this occurs, the local authority will resume responsibility as the lead regulator.

In relation to site investigation design and practice, British Standard 10175 Investigation of Potentially Contaminated Sites – Code of Practice¹⁰, has been updated in 2011 and 2017 and a further draft is currently out for consultation, due to be published in January 2026.

Revisions to Generic Assessment Criteria accepted by the contaminated land industry were made in January 2015 following an update of by the Land Quality Management (LQM) and Chartered Institute of Environmental Health (CIEH), when Suitable for Use Levels (S4ULs) [LQM/CIEH 'Suitable 4 Use Levels' – Land Quality Management LQM](#)¹⁵ were developed to determine the presence of a significant possibility of significant harm (SPOSH). This changed the approach to human health risk assessment and allowed for a reassessment of some sites within Highland where there had remained uncertainty.

Following consultation, SEPA have produced revised Guidance [guidance-on-application-of-standards.docx](#)¹⁶, [wat-g-071 assigning groundwater assessment criteria.docx](#) Assigning Groundwater Assessment Criteria for Pollutant Inputs¹⁷, and a revised List of Groundwater Standards [wat-g-073 list of groundwater hazardous substances and groundwater standards.docx](#)¹⁸, to support groundwater standards contained within directions which came into force on 1st February 2025. The Highland Council will continue to work with SEPA to address potential risks to the Water Environment posed by contaminated land and aid implementation of the Water Framework Directive (WFD).

In 2009 the Scottish Government released SEPAs State of Contaminated Land report [Dealing with Land Contamination in Scotland: A review of progress 2000 - 2008](#)¹⁹ which comprised a review of progress and achievements of the regime. Environmental Standards Scotland (ESS) are currently carrying out investigatory work [The-risks-to-Scotlands-soils-a-scoping-report-October-2024.pdf](#)²⁰ on the effectiveness of, and compliance with, Part IIA of the EPA 1990, considering whether local authorities across Scotland are routinely carrying out their duties under Part IIA and whether failures to identify contaminated sites may pose environmental risks. Depending on findings and subsequent recommendations to Scottish Government, changes in approach may be required in future.

Updates and revisions to many other guidance documents routinely used within the assessment of contaminated land sites have been made, and the team ensure that new requirements are observed and met within all site assessments.

5.1 Policy and Legal Framework for Contaminated Land

The contaminated land regime provides the appropriate policy and legal framework for local authorities to deal with historical contamination. The regime aims to provide a system for the identification and remediation of land where contamination is causing unacceptable risks to human health or the wider environment, assessed in the context of the current use of the land. This objective incorporates several components:

- ensuring that regulators deal with land contamination strategically
- allowing all contamination problems to be dealt with by a single regulatory process
- increasing consistency in investigation and decision making, and
- providing a regulatory mechanism which deals with land in a site-by-site basis.

5.2 Voluntary Remediation

The regime aims to encourage “voluntary” remediation of land, meaning remediation which does not involve legal enforcement or service of notices. However, “voluntary remediation” must still meet the objective of the statutory regime in bringing the site to a standard suitable for use, considering all the statutory and technical guidance. Anyone conducting remediation work without liaison with the Highland Council may not achieve this, and may remain liable for further remediation works, and possible enforcement action, in the future.

Early and informal discussions with the owners and occupiers of sites considered in the implementation of the Strategy is essential in establishing site contamination profiles, communicating issues with potentially responsible individuals and organisations, and promoting voluntary remediation.

6.0 Regulation Responsibilities

Regulation of the Contaminated Land regime is the responsibility of local authorities and SEPA, with different responsibilities delegated to each authority.

6.1 Role of the Local Authority

Local authorities are the primary regulators under the contaminated land regime. The Highland Council is responsible for:

- developing, publishing, and reviewing the Strategy
- inspecting the Highland Council area to identify potentially contaminated land
- determining such sites as contaminated land and, where appropriate, as “special sites”

- acting as the enforcing authority for sites identified as contaminated land but which are not Special Sites
- establishing who should bear responsibility for the remediation of contaminated land
- deciding on remediation measures required and ensuring that such remediation is undertaken, either by agreement or where necessary by serving a remediation notice. Under certain circumstances it may be necessary for the Council to carry out the remediation works itself
- apportioning costs of works either subject to notice, or carried out by the Council, depending on liability
- recording certain prescribed information on a public register.

In carrying out its responsibilities, the Council is required to consult and liaise with organisations and individuals including other regulatory bodies, organisations representing special interests, individuals who are site owners, appropriate persons, or members of the public. The Highland Council will adopt formal liaison procedures as necessary and will try to secure remediation of sites through agreement. In making decisions the Council will reflect its strategic responsibilities and display openness and transparency. The Highland Council Contaminated Land website page [Contaminated land | Contaminated land | The Highland Council²¹](#) plays an important role in effectively communicating up-to-date advice and information to the public and provides access to the contaminated land register.

6.2 Role of Scottish Environment Protection Agency (SEPA)

SEPA is responsible for:

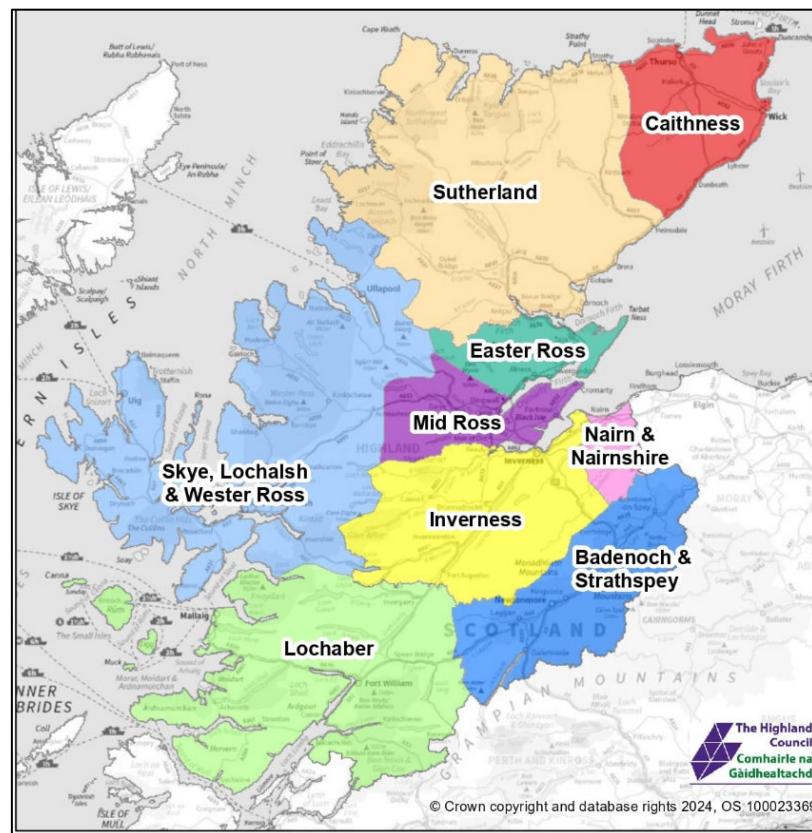
- providing local authorities with assistance and advice in identifying contaminated land, including site specific guidance
- acting as the enforcing authority for “special sites”
- regulating radioactive contamination
- preparing and publishing the State of Contaminated Land Report.

SEPA will require information from local authorities on their activities within the contaminated land regime. Liaison between the council and SEPA will determine the extent and nature of such information.

The Highland Council will ensure that there is close liaison with SEPA concerning the inspection of potentially contaminated land.

7.0 The Highland Council Area

The Highland Council area is extensive and diverse covering around a third of the Scottish mainland, including the historic counties of Caithness, Sutherland, Inverness, Easter Ross, Mid Ross, Nairnshire, Skye, Lochalsh and Wester Ross, Lochaber, Badenoch and Strathspey and several inhabited islands.



The Highland Council's size, diverse topography and mix of rural and urban communities has an influence on the practicalities of performing duties in terms of contaminated land, however, all areas are approached equally in terms of policy and resources.

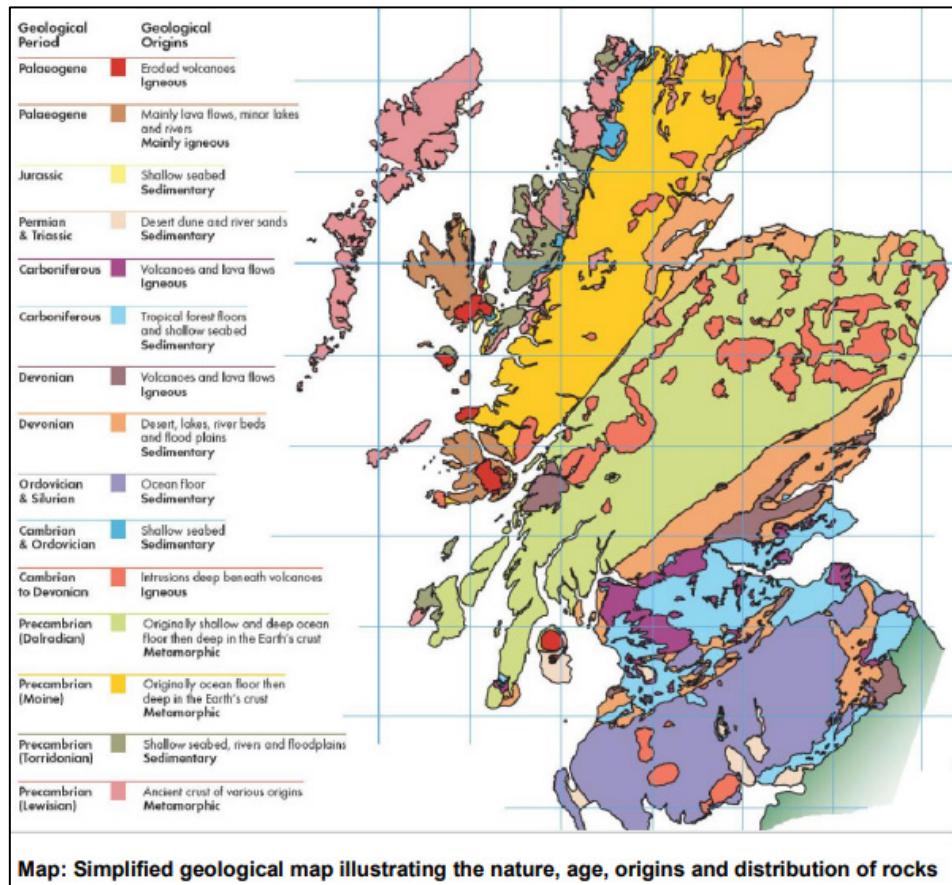
The complex and varied history of industrial and commercial activities across the Highland area has resulted in a wide variety of potentially contaminated sites as shown in Table 1 below. Both large and small-scale operations can potentially act as a source of contamination and in addition, agricultural and military activities occupy large areas and can lead to localised contaminative issues.

Table 1

Potential Sources of Contamination within the Highland Council Area (as of Sept 2025)

INDUSTRY TYPE	NO. INDICATED IN HIGHLAND
Mines Pits and Quarries	2488
Garages / Fuel Stations	1007
Agricultural Buildings/Activities	558
Sheep Dips	394
Smithy/metal working	367
Depots/ Yards	261
Timber Treatment Yards and Sawmills	191
Landfills / Waste Disposal Sites	180
Food Processing and Brewing	137
Railway Land	115
Cement / Concrete Production	110
Sewage Works	99
Military Land	98
Paint/varnish/rubber/ink/plastics storage/production	87
Engineering Works	77
Dockyards	76
Fuel Storage Tanks	51
Coal Yards	46
Electrical Manufacture	44
Medical Facilities	34
Laundries	31
Scrap Yards	30
Oil Refining/Petrochemical	27
Textile Manufacture	26
Tanning and Animal Processing	25
Airports	24
Gasworks	23
Vacant and Derelict Land	21
Domestic Oil Spill	18
Smelters	8
Chemical / Fertiliser production/storage	7
Paper and Printworks	6
Explosives Industry	5
Asbestos use and manufacture	4
Radioactive Material Processing	1

The geology of the Highlands is complex and can influence the extent to which contaminated land issues impact the wider environment. Both solid and superficial geology by virtue of their porosity and varying abilities to transmit contaminants, can act as pathways and can facilitate transmission of contaminants and migration to underlying ground water resources. Certain strata contain good sources of ground water and are therefore important receptors that must be protected and will receive consideration within assessment of pollutant linkages. A review of the geology of the Highlands is provided in the 2009 Contaminated Land Strategy⁶, and reference should be made to the British Geological Society (BGS) for information on specific sites.

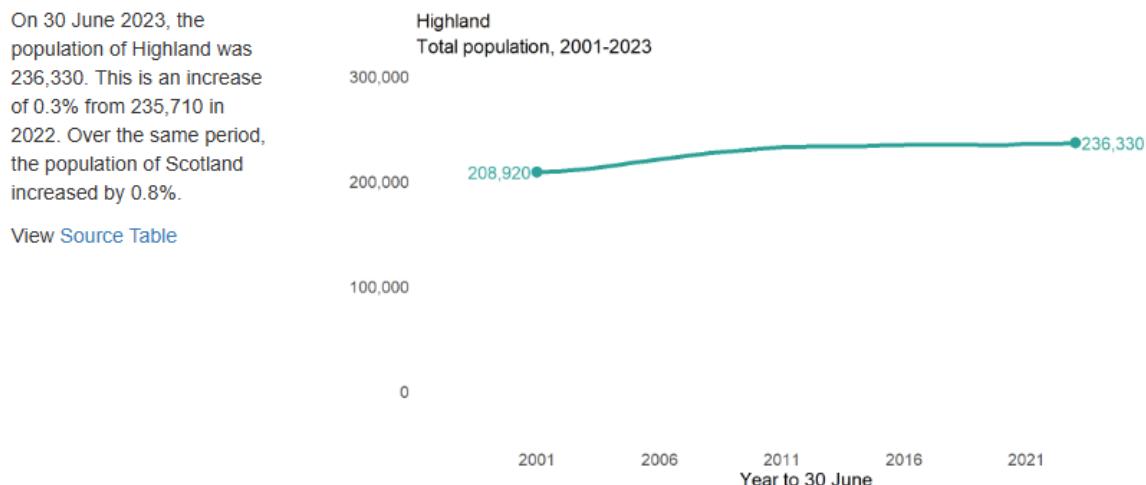


Surface waters in the Highland Council area provide a valuable resource, not only in terms of supporting environmental and biological quality, but also in provision of water supply, their recreational, commercial, and industrial uses. Based on 2023 data, 17% of the Highland population was served by Private Water Supply. Maintaining and protecting marine and freshwater surface water resources are therefore also important priorities within the council's strategic response to the contaminated land regime. SEPA have responsibility to assess water quality in Scotland and are consulted on significant issues relating to the pollution of the water environment arising from pollutant linkages. Where such issues arise, they will be viewed by the Highland Council within the Scottish Government's objectives for sustainable development, and elements of the "suitable for use" approach highlighted in both [Planning Advice Note 33: Development of contaminated land - gov.scot](#) (PAN 33)²² and Part IIA¹.

Certain naturally occurring elements and chemicals can pose risks to local receptors given a suitable pathway. These include arsenic, uranium, radium, lead, and greenhouse gases, including methane, which can be produced naturally in areas such as peat bogs, common in the Highlands. Information on soils and naturally occurring elements and compounds are available through BGS and the MacAulay Land Use Research Institute (MLURI).

Because of a growing population, highlighted in the graph below, the demand for housing, recreational and amenity space within the Highland Council area is increasing. Such demand necessitates an adequate provision of development land. The

Contaminated Land team is committed to working to ensure that land intended for housing is suitable for use and that, as far as possible, such development meets the Scottish Government's aspirations for sustainable development as set out in PAN 33²².



Source: National Records of Scotland

8.0 Highland Council Approach

Environmental Health undertakes the statutory contaminated land regime within the Highland Council. The contaminated Land team, comprises two part-time Scientific Officers (1.31 Full Time Equivalent), supported by an Information Technician and managed by a Senior Environmental Health Officer. The scientific officers also support other environmental health duties such as air quality. When necessary, further resources can be provided to support the contaminated land regime work where this is considered a priority over other Environmental Health duties.

Since formation of the Contaminated Land team in 2001, the Highland Council has adopted two roles to undertake duties outlined in the published strategies:

- a. Proactive identification and investigation of land potentially contaminated through historical use (Part IIA role), and
- b. Working with the Infrastructure, Environment and Economy Service to ensure that potentially contaminated sites under development are made suitable for use via the development control process, by imposing planning conditions requiring appropriate investigation and proportionate remediation (Development Control role).

They also offer internal advice to other Council functions on property transactions and have supported Vacant and Derelict Land grant funded inspections.

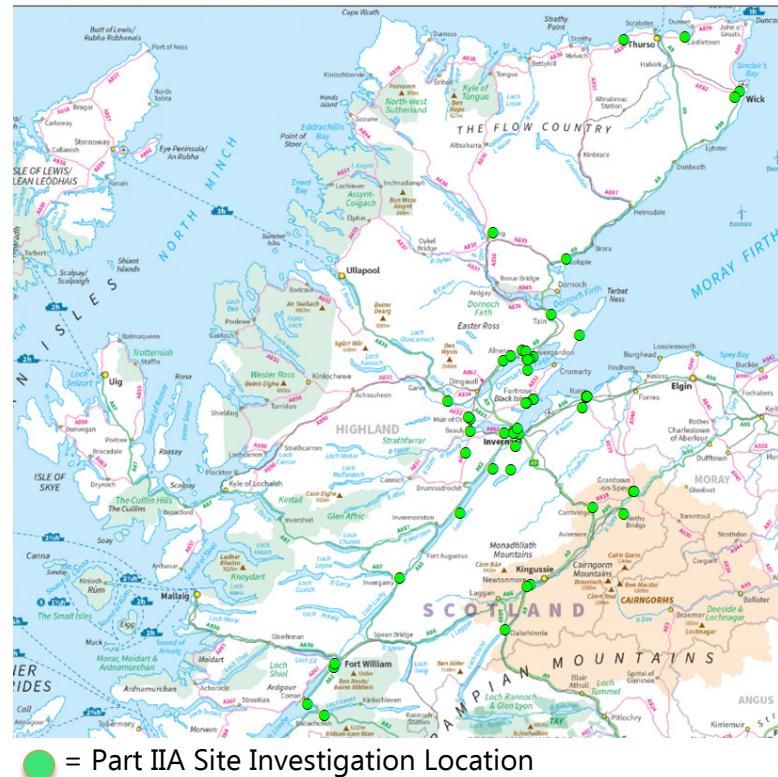
8.1 Part IIA Role

Since commencement in 2001, potentially contaminative industrial and commercial land uses have been researched and mapped within the Highland area and continue to be recorded as new information is received and is retained on a database. The land uses recorded vary from the most potentially contaminative processes such as former gasworks, landfill sites, smelter and fuel storage facilities to less intensive uses such as railway land, timber yards, brewing or agricultural activities, which can result in a range of potential contaminants including hydrocarbons, SVOCs, asbestos, PAHs, metals, pesticides and other organic compounds, etc.

Information gathered is retained in our data management system linked to a GIS mapping tool. Information continues to be gathered and recorded from new mapping and aerial photography, reporting, archive material, external organisations, research, information provided by the public, information gathered on geology and hydrology, etc. as it becomes available.

The Highland Councils list of potentially contaminated sites is scored and prioritised for inspection using variables such as receptor type and proximity to receptor, and likely contaminants present based on historic information. Highest priority has been given to sites where there is a direct contact potential risk to human health or receptor proximity to landfill.

Between 2001 and 2015 ring-fenced resources from the Scottish Government permitted the undertaking of 115 detailed studies of which fifty-two sites progressed to intrusive investigation. This comprised an extensive body of work carried out by the team, with site investigation and risk assessments undertaken for a variety of sites across the Highland area covering 8 Gasworks, 11 Waste Sites, 13 Garages, 10 Timber Yard, 1 Engineering Works, 2 Scrapyards, 1 Aluminium Smelter, 1 Tannery, 1 Tank, 1 Military area, 2 Oil Storage facilities, and 1 Sheep dip. A summary table of these sites is included in Appendix 1, and the map below shows the distribution of these sites across the Highland area.



To give an example of a Part IIa project undertaken, land occupied by residential flats at Joss Street, Invergordon had been highlighted as a concern due to the land having formerly been occupied by the town gasworks. Officers undertook a Phase I Desk Study which indicated potential pollutant linkages. Consultants were subsequently contracted to undertake site investigation works which identified contaminants, particularly Poly-cyclic Aromatic Hydrocarbons (PAHs) including Benzene and Benzo(a)pyrene, to be present within soils. Subsequent risk assessment determined that there was a significant possibility of significant harm to human health through ingestion of and dermal contact with soils and through inhalation of vapours and dust. The most vulnerable receptors at the site were assessed to be young children.

The Highland Council decided that the only viable option was the demolition of the existing flats. A full remediation project was successfully carried out by the Highland Council in 2007 with pollutant linkages removed and the site being declared as suitable for redevelopment. New housing has since been built on the land.

Part IIa of the EPA 1990 requires that Councils keep a public Register of contaminated land. To date, two sites have been formally identified as Contaminated Land; Joss Street, Invergordon as detailed above and private garden ground at Shore Road, Tain. Both former gasworks sites were successfully remediated with Scottish Government funding and details are provided in the Record of Decision and Remediation Statements for the sites which were placed on the [Contaminated Land Register](#), available on the Highland Council Website²¹.

Since 2015 the Council continues to fund Part IIa investigations should new information identify a potentially higher risk site as requiring inspection. Resources are however

focused on Development Control to identify sites with possible contamination issues and ensure that sites are 'suitable for their intended use' as detailed in the 2016 Committee report.

Should the Council decide a site requires further assessment under Part IIA the services of specialist contractors and consultants may be required. These shall be contracted in accordance with the provisions of [The Public Contracts \(Scotland\) Regulations 2015](#)²³.

8.2 Development Control Role

As detailed above land contamination can be addressed as and when individual applications are made as part of the development management process, through planning application or building warrant condition and enforcement. Guidance regarding issues of land contamination and the planning process is available for planning authorities in PAN 33.

Under the Development Control role, the Contaminated Land team are consultees and have reviewed, and continue to review, all incoming planning applications to find sites with possible historical contamination issues and determine whether further investigation is required. The team ensures that sites are 'suitable for their intended use' in line with PAN 33 seeking the sustainable development of previously used (Brownfield) land and the [National Planning Framework 4 - gov.scot](#) (NPF4)²⁴ whereby Policy 9 requires the safe and suitable development of land which is known or suspected to be contaminated.

When the Contaminated Land team records a planning application with a previous use with potential for contamination issues, a request for consultation is made to the Development Control service. Where appropriate, Officers will make comment, including requests for the imposition of conditions on any planning consent granted, or in some cases a recommendation to investigate potential contamination issues prior to granting planning permission (pre-determination).

Conditions will be requested to ensure:

- an investigation of the site to characterise the nature and extent of any contamination.
- a risk assessment to identify the works necessary to make the site suitable for its intended use.
- the carrying out of those works (remediation), and

- provision of evidence that the works have had the desired effect ("validation").

Standard planning conditions relating to contamination have been agreed with the Planning, Infrastructure Environment & Economy Service.

Planning statistics are reported to area Committees on an annual basis as part of wider Environmental Health updates. In 2024-25 a total of 3673 planning applications were examined in detail and planning conditions requiring further assessment were recommended for 165 of these applications before the permitted use could go ahead. A summary of planning statistics for the last 5 years is shown in Table 2 below:

Table 2 Planning Statistics 2019-2024

Year	2020/21	2021/22	2022/23	2023/24	2024/25
No. of Planning Applications submitted for review	3940	4383	4404	3841	3673
Required further action* following detailed review	119	209	192	153	165

*Further action may include completion of detailed studies, intrusive site investigations, and remediation.

The Contaminated Land team will continue to identify sites with possible contamination issues and ensure that sites are 'suitable for their intended use' through the Development Control role.

For those developments not controlled via planning consultation and condition, Regulation 3.1 of [The Building \(Scotland\) Regulations 2004](#)²⁵ requires that 'Every building must be designed and constructed in such a way that there will not be a danger to the building nor a threat to the health of people in and around the building due to the presence of harmful or dangerous substances'.

The Contaminated Land team will continue to work with the Building Standards team to ensure compliance with Building Standards requirements. Procedures have been developed to ensure that the team is notified where these issues arise or where Building Standards Officers in the course of their duties identify unforeseen land contamination issues.

8.3 Other Duties

In addition to the above roles, the Contaminated Land team are also responsible for several other duties as detailed in the sections below.

8.3.1 Requests for Information

The Contaminated Land team respond to requests for environmental information made by consultants, solicitors, members of the public etc., in line with the Councils obligations under the [Freedom of Information \(Scotland\) Act 2002](#)²⁶ and [The Environmental Information \(Scotland\) Regulations 2004](#)²⁷.

Added value Environmental Information Requests for specific site information are also provided, for which there is a charge, with the exception for internal or non-profit organisations.

New and emerging contaminated land issues will be investigated.

8.3.2 Liaison with Consultees

It is recognised that effective interaction with other interested bodies is essential for implementation of responsibilities.

SEPA will be consulted for all Part IIA inspections where pollution of the water environment is suspected to be occurring, for all sites where radioactive contamination is suspected and where determination as a Special Site is proposed.

SEPA must also be provided with relevant information from the Council for inclusion in their State of Contaminated Land Report(s), last published 2009.

Nature Scot are a statutory consultee for all Part IIA inspections where an ecological pollutant linkage identification is proposed, and the NHS Highland Consultant in Public Health Medicine is contacted prior to any proposed determination as contaminated land on the basis of risk to human health.

Other non-statutory consultees including other internal council services and public bodies are contacted prior to determination of contaminated land, as necessary.

8.3.3 Vacant and Derelict Land

The [Scottish Vacant and Derelict Land Survey - site register - gov.scot](#)²⁸ (SVDLS) is a survey undertaken to establish the extent and state of vacant and derelict land in Scotland and is managed by the Scottish Government Communities Analytical Services. Data submitted by councils is collected to update the survey and provides an invaluable source of information

relating to vacant and derelict sites and assists in reinforcing and justifying national policy established to bring about the re-use and regeneration of these land resources.

The Council's Economic Development team support regeneration which aims to bring vacant and derelict land and property back into productive use. They work in partnership with private, public and third sector organisations, to identify and secure funds to help regeneration projects proceed. This includes use of the Regeneration Capital Grant Fund (RCGF) which is delivered in partnership with the Scottish Government and COSLA.

The Scottish Land Commission have published a map [Transforming Vacant and Derelict Land - Housing & Development - Our work - Scottish Land Commission](#)²⁹ of long-term, derelict urban sites (DUSTEs). The map highlights opportunities for reuse and also where there is activity is underway.

8.3.4 Advisory Role

The Contaminated Land team provide internal support to other Council services on contaminated land issues. This includes provision of advice and assistance to the Planning, Infrastructure Environment & Economy Service regarding policies on previously used land for the Highland Development Plan and all Local Plans, and to ensure that the objectives of PAN 33 and NPF4 are met.

Some types of planning application are designated by the [Planning \(Scotland\) Act 2019](#)³⁰ as 'Major Developments', for example a development of a certain size or with a certain number of properties. The Highland Council has set up an improved business process to deal with major development, incorporating a programme of pre-application meetings at which internal stakeholders discuss issues associated with the development. Contaminated Land Officers attend these meetings where appropriate.

In addition, Officers advise on other important projects such as major capital projects, affordable housing schemes, infrastructure projects, and Masterplan schemes.

The Highland Council has developed an Allotments Policy to try to meet demands by residents and communities for allotment gardens. The Contaminated Land team contributed to the internal consultation for the Policy and subsequent reviews.

Officers are also active contributors to the Scottish Contaminated Land Forum (SCLF), the Contaminated Land Advisory Group (CLAG), North Scotland Pollution Liaison Group (NSPLG), and other liaison groups.

8.3.5 Complaints

Any complaints from members of the public, businesses and voluntary organisations will be logged and responded to in accordance with normal Council procedures and within the specified timeframe.

Officers also participate in forums to promote consistency and knowledge sharing among local authorities and good practice in the wider contaminated land industry.

9.0 The Way Forward

The Highland Council is committed to securing resilient and sustainable Highland communities and are ambitious for the future of our environment.

To contribute towards the Highland Council's current and future priorities, Environmental Health will, in accordance with this Strategy, continue to carry out its statutory duties and seek to ensure compliance with and enforcement of Part IIA of the EPA 1990¹, inserted by Section 57 of the Environment Act 1995², to protect human health, the water environment, designated ecosystems and property from the legacy of pollution from past industrial activity.

The process of redevelopment and regeneration will continue to be the main driver for the investigation of potentially contaminated land. The Council will continue to actively seek to prevent the creation of contaminated land through Development Control as change in land use is proposed. Where redevelopment takes place within the Highland Council area, it will be ensured that the planning process deals effectively with any land contamination so that the land is made suitable for its intended use.

Voluntary remediation will be encouraged as far as possible, and sites proposed in the Council's Local Plan for development will be assessed for potential risks.

The Scottish Government currently provides no ring-fenced funding to Local Authorities for the investigation and / or remediation of potentially contaminated land, and the costs associated with such works can be significant. However, there remains a commitment that any legacy sites of equal priority highlighted via the Development Control route will be subject to further assessment. One such site is currently under further assessment following completion of a Desk Study and preliminary Conceptual Site Model. A consultancy services procurement exercise has commenced to commission intrusive site investigation works and further inspection under Part IIA. The approach may change depending on the outcome and recommendations of Environmental Standards Scotland investigatory work into the effectiveness of and compliance with Part IIA at a National Level, and the team will adapt to any new requirements by Scottish Government, as necessary.

The team will continue to adapt to ongoing changes in legislation and guidance and make best use of resources available, whilst seek to continue to use and develop information management systems to ensure the most effective and efficient use of site information. Any emerging issues will be given due consideration within any decisions made on a site-specific basis. Local authorities have a duty to assume a leadership role at a local and regional level in terms of responding to any challenges presented and the Highland Council recognises the importance of accelerating their response to the climate and ecological emergency. The team will give due consideration to the impacts of climate change and demonstrate good practice in terms of environmental sustainability and in accordance with relevant guidance.

The team shall continue to collaborate closely with the Council's Planning, Infrastructure Environment & Economy and Building Standards Services and all other Council Services with potential contaminated land liabilities and interests to ensure sustainable development across the Highland area. A close working contact with SEPA and other relevant organisations regarding the contaminated land regime will be maintained. The team will seek to continue to develop information management systems to ensure the most effective and efficient use of site information and use a variety of sources of information in identifying previously unknown sites and pollutant linkages. The team will work constructively with suitably qualified and accredited companies regarding site investigation, risk assessment, and remediation to ensure that the Highland Council performs its duties in full accordance with the law, statutory and non-statutory guidance, and with the Council's objectives.

This Strategy, and procedures used for prioritising sites for inspection, provides justification and transparency in decision making. The Strategy will be reviewed as appropriate in response to changes in legislation and guidance, and any changes to resources, and will be available on the Council's Intranet and Internet website.

References and Links

1. [Environmental Protection Act 1990](#)
2. [Environment Act 1995](#)
3. [The Contaminated Land \(Scotland\) Regulations 2000](#)
4. [The Contaminated Land \(Scotland\) Regulations 2005](#)
5. [Contaminated land inspection strategy | Contaminated land inspection strategy 2001](#)
6. [Contaminated land inspection strategy | Contaminated land inspection strategy report 2009](#)
7. [PART 3: Significant Harm and the Significant Possibility of Significant Harm - Environmental Protection Act 1990 - Part IIA Contaminated Land: statutory guidance edition 2 - gov.scot](#)
8. [Water Environment and Water Services \(Scotland\) Act 2003](#)
9. [Land contamination risk management \(LCRM\) - GOV.UK](#)
10. [BS 10175:2011+A2:2017 | 31 Dec 2017 | BSI Knowledge](#)
11. [Technical concepts | Scottish Environment Protection Agency \(SEPA\)](#)
12. [Environmental Protection Act 1990 - Part IIA Contaminated Land: statutory guidance edition 2 - gov.scot](#)
13. [The Radioactive Contaminated Land \(Scotland\) Regulations 2007](#)
14. [Regulatory Reform \(Scotland\) Act 2014](#)
15. [LQM/CIEH 'Suitable 4 Use Levels' – Land Quality Management LQM](#)
16. [guidance-on-application-of-standards.docx](#)
17. [wat-g-071_assigning_groundwater_assessment_criteria.docx](#)
18. [wat-g-073 list of groundwater hazardous substances and groundwater standards.docx](#)
19. [Dealing with Land Contamination in Scotland: A review of progress 2000 - 2008](#)
20. [The-risks-to-Scotlands-soils-a-scoping-report-October-2024.pdf](#)
21. [Contaminated land | Contaminated land | The Highland Council](#)
22. [Planning Advice Note 33: Development of contaminated land - gov.scot](#)
23. [The Public Contracts \(Scotland\) Regulations 2015](#)
24. [National Planning Framework 4 - gov.scot](#)

25. [The Building \(Scotland\) Regulations 2004](#)
26. [Freedom of Information \(Scotland\) Act 2002](#)
27. [The Environmental Information \(Scotland\) Regulations 2004](#)
28. [Scottish Vacant and Derelict Land Survey - site register - gov.scot](#)
29. [Transforming Vacant and Derelict Land - Housing & Development - Our work - Scottish Land Commission](#)
30. [Planning \(Scotland\) Act 2019](#)

In addition to the above referenced documents, the following web pages provide useful information and represent some of the many sources of guidance regarding the investigation, assessment, and remediation of potentially contaminated land:

<https://www.sepa.org.uk/regulations/land/contaminated-land/>
<https://www.gov.scot/policies/pollution/contaminated-land/>
<https://www.gov.scot/publications/environmental-protection-act-1990-part-ii-contaminated-land-statutory-guidance/documents/>
<https://www.ep-scotland.org.uk/guidance/>

Legislation relevant to Scotland can be searched and viewed here:

<http://www.legislation.gov.uk/browse/scotland>

APPENDIX 1

Part IIA Sites taken to Phase II

HIGHLAND COUNCIL SITE REFERENCE	PHASE I FIRST SUBMISSION	PHASE II FIRST SUBMISSION	COMPLETION/ RECORD OF DECISION
BS-GAR-1024	11/02/2011	25/06/2011	13/03/2013
BS-GAR-1038	03/03/2011	09/05/2011	09/05/2012
BS-GAR-1059	14/03/2011	01/06/2011	27/09/2013
BS-GAR-1061	29/07/2013	31/03/2014	23/03/2015
BS-GAR-1066	23/08/2013	31/08/2013	09/11/2015
BS-GSW-1001	25/11/2003	27/04/2011	07/10/2011
CA-GAR-1058	17/10/2012	16/09/2014	10/07/2015
CA-TMB-1012	19/11/2013	31/03/2014	06/11/2015
IN-ENG-1022	03/03/2015	24/06/2015	22/03/2016
IN-GAR-1236	13/08/2012	05/11/2012	17/04/2013
IN-GSW-1008	03/11/2006	26/04/2010	04/05/2018
IN-SCP-1005	24/02/2011	16/11/2011	15/08/2013
IN-SML-1001	01/04/2005	29/01/2007	06/09/2016
IN-TAN-1001	21/09/2012	19/02/2014	10/07/2015
IN-TMB-1034	30/03/2011	23/05/2011	24/04/2012
IN-TMB-1040	09/03/2011	19/05/2011	15/08/2013
IN-TNK-1010	06/06/2005	06/06/2005	06/06/2005
LO-GAR-1063	02/12/2010	08/06/2011	23/03/2016
LO-GAR-1083	11/02/2011	19/07/2011	02/05/2013
LO-GSW-1001	01/06/2005	23/01/2007	30/06/2011
LO-MIL-1002	26/02/2013	26/02/2013	26/02/2013
NA-GSW-1001	20/01/2004	26/09/2006	09/06/2009
NA-TMB-1010	13/08/2012	06/02/2013	10/07/2015
NA-TMB-1014	14/11/2012	06/02/2013	17/02/2016
NA-TMB-1018	16/11/2012	06/02/2013	03/02/2015
RC-GAR-1080	26/07/2013	21/05/2014	23/07/2015
RC-GAR-1082	10/10/2013	07/02/2014	18/06/2014
RC-GAR-1150	12/07/2012	18/01/2013	27/03/2013
RC-GAR-1243	07/03/2011	14/07/2011	07/06/2012
RC-GSW-1001	02/12/2003	19/08/2004	28/11/2008
RC-GSW-1002	06/06/2005	15/01/2007	14/11/2016
RC-GSW-1004	31/05/2005	15/01/2007	02/02/2016
RC-GSW-1005	25/06/2004	31/01/2006	31/01/2006
RC-MIN-1032	25/11/2003	21/09/2004	21/09/2004
RC-OIL-1001	10/05/2005	17/02/2006	17/02/2006

RC-OIL-1011	20/08/2013	09/02/2015	09/02/2015
RC-SCP-1005	26/07/2013	19/02/2014	19/02/2014
RC-TMB-1024	10/09/2012	14/11/2012	14/11/2012
RC-TMB-1031	20/10/2014	16/03/2015	16/03/2015
RC-TMB-1051	11/10/2012	18/02/2013	18/02/2013
SU-SHP-1003	21/03/2003	17/06/2004	17/06/2004
SU-TMB-1008	09/03/2011	14/07/2011	14/07/2011

To request this information in an alternative format, e.g. large print, Braille, computer disc, audio tape, or suitable language, please contact The Highland Council's Contaminated Land team at land.contamination@highland.gov.uk.