

Table 3 Comparison of consequence against probability

		Consequence			
		Severe	Medium	Mild	Minor
Probability	High Likelihood	Very High Risk	High Risk	Moderate Risk	Moderate/ Low Risk
	Moderate Likelihood	High Risk	Moderate Risk	Moderate/ Low Risk	Low Risk
	Low Likelihood	Moderate Risk	Moderate/ Low Risk	Low Risk	Very Low Risk
	Unlikely	Moderate/ Low Risk	Low Risk	Very Low Risk	Very Low Risk

BACKGROUND TO ASSESSMENT OF ENVIRONMENTAL LIABILITY

Contaminated Land

Part IIA of the Environmental Protection Act 1990, defines *Contaminated Land* as follows:

"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."

The second part of the above definition is currently subject to possible amendment under the Water Bill. The Consultation Draft of the Water Bill indicates that the definition of Contaminated Land in relation to pollution of controlled waters may be amended to reflect the significance of the impact. Assuming that this amendment is accepted, land will be defined as 'Contaminated Land' only where:

- (a) SIGNIFICANT POLLUTION of controlled waters is being caused; or
- (b) There is a SIGNIFICANT POSSIBILITY of SIGNIFICANT POLLUTION of controlled waters being caused.

Risk Assessment

The definition of *Contaminated Land* under Part IIA of the Environmental Protection Act 1990, is based upon the principles of risk assessment. For the purposes of this guidance, "risk" is defined as the 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.

Pollutant Linkage

The basis of an environmental risk assessment involves:

- (i) Identifying a source of contamination;
- (ii) Identifying a pathway/media through which the contamination may migrate; and
- (iii) Identifying a receptor or target at risk from the contamination.

Current legislation gives the following the definitions:

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 of controlled waters.

A pathway is 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 affected.

A receptor is either:

- (a) a living organism, an ecological system or a piece of property; or
- (b) controlled waters.

The term 'pollutant linkage' indicates that all three elements (i.e. contaminant / pathway / receptor) have been identified. The site can only be designated within the context of the Part IIA legislation as *Contaminated Land* if there is a pollutant linkage and the contamination meets the criteria, outlined in Section 5.1. Land that fails to meet all the criteria required to classify it as Contaminated Land, as described above, may still contain harmful and/or hazardous substances. The presence of these substances may affect current operations on the site and may be a material consideration in any future development of the site