

LAND CONTAMINATION REPORTS FOR DEVELOPMENTS IN ARGYLL AND BUTE

1.0 EXECUTIVE SUMMARY

- 1.1. Where the redevelopment of land is proposed and previous use indicates the potential for land contamination, it is the responsibility of the developer to demonstrate that their proposal is "suitable for use", through a phased process of risk assessment and ground investigation.
- 1.2. Land contamination reports are reviewed by Environmental Health to support decisions in the Planning process. Many reports don't meet the quality expected of them and are insufficient.
- 1.3. Poor quality reporting is causing an unsustainable resource burden in Regulatory Services, increasing workload demand, and causing delays whereby applicants cannot meet the terms of their planning consent. This led to an increase in corporate complaints and frustrations for developers, agents and Council officers. Regulatory Services developed a pilot to introduce a novel approach to address these problems and the pilot has been successful. This report seeks Committee approval of the fee structure to support these changes to operational procedures.
- 1.4. As well as a fast-track option for developers, the pilot adopted a dual approach where developers were recommended to have their reports pre-checked by a registered Suitably Qualified Person within the National Quality Mark Scheme (NQMS) prior to submission, or, requested to pay a 3rd party peer review fee on submission of their unchecked reports.
- 1.5. An initial evaluation has found early indications that this approach has
 - reduced the likelihood or length of delays for developers
 - improved the quality of reports received, and
 - reduced resource burden on the Service
- 1.6. This novel service development provides necessary resilience of the Environmental Health service in its support for the Planning process in the redevelopment of land, and improvements for applicants and developers.

Recommendation: Members are asked to consider this report, the service's intention to formalise the pilot into service procedures and recommend to Council approval of the associated fees and charges detailed in paragraph 4.22.

LAND CONTAMINATION REPORTS FOR DEVELOPMENTS IN ARGYLL AND BUTE

2.0 INTRODUCTION

- 2.1. Where the redevelopment of land is proposed and previous use indicates the potential for land contamination, it is the responsibility of the developer to demonstrate that their proposed development is "suitable for use". This is normally done through a phased process of risk assessment and ground investigation.
- 2.2. Land contamination risk assessment and ground investigation reports are submitted by developers and passed to Environmental Health to assess whether they meet expected standards, align with authoritative guidance, and their conclusions are evidence based.
- 2.3. The capacity within Environmental Health staff establishment for all land contamination regulation activity (0.6 FTE), has long since been surpassed by the demand from the council's planning service and their need for expertise relating to contaminated land issues. This resulted in a growing backlog and delay in the report review process. There is no available budget to increase the staff resource at this current time.

3.0 RECOMMENDATIONS

- 3.1 Members are asked to consider this report, the service's intention to formalise the pilot into service procedures, and recommend to Council approval of the associated fees and charges detailed in paragraph 4.22

4.0 DETAIL

MEASURES TO SUPPORT CHALLENGING WORKLOAD

- 4.1 In December 2023, a specialist consultancy was engaged to provide third party peer review of report submissions. The initial 3-month period has been extended on several occasions with the costs being covered by vacancy savings.
- 4.2 The specialist peer review consultancy corroborated the experience of Environmental Health, that many report submissions were insufficient. For several sites there have been multiple resubmissions of reports without any meaningful improvement.

IMPACT OF POOR-QUALITY SITE INVESTIGATION REPORTS

- 4.3 The review of poor-quality reporting expends disproportionate Council resources and has created delays in review response times for all brownfield developments. Repeated delays in development terms are not only frustrating and costly but, in some cases, can jeopardise redevelopment projects.

- 4.4 There is no revenue budget for third party peer reviews and the burden of continuing this support, on existing Service resources, is not sustainable. The *status quo* cannot continue.
- 4.5 Financial pressures on local authority budgets increasingly drive alternative ways to ensure resilience in service provision. Future proofing requires a proportionate and sustainable solution.
- 4.6 An evaluation of the site investigation review process identified the merit of transferring the cost burden of poor-quality reporting from the Council to those that procure consultants directly. This provides a direct financial incentive for the developers to ensure procurement decisions are made on demonstrable quality and competency.

ENVIRONMENTAL HEALTH PILOT

- 4.7 We are not alone in facing the issue of poor-quality reporting. The brownfield industry has recognised its significance and developed a National Quality Mark Scheme (hereafter referred to as NQMS) for land contamination reports.
- 4.8 NQMS is endorsed in regulatory guidance recently adopted by the Scottish Government and provides developers with a way to ensure their consultant's reports meet minimum standards and competency. (A summary of NQMS is provided in Appendix 1)
- 4.9 In May 2025 a pilot was developed to promote better quality report submissions through recommending NQMS. It was anticipated that this would reduce delays in report review, reduce the number of report resubmissions, and transfer the cost burden of poor-quality reporting to applicants.
- 4.10 The pilot brought together a number of complementary processes:
 - 4.10.1 An 'on request' fast-track report review option, where developers were prepared to pay a fee.
 - 4.10.2 The use of NQMS by requesting submitted reports be certified by a Suitably Qualified Person (hereafter referred to as SQP) with a Declaration of Document Adequacy.
 - 4.10.3 A fee request from developers for third party peer review of reports they submitted without NQMS certification.
- 4.11 The pilot ran from June 2025 and was initially reviewed after 4 months. During this time there were 38 report submissions. 31 of these were consigned for third party peer review, with developers choosing to pay the fast-track fee in 65% of these.
- 4.12 There was a higher-than-expected uptake of the fast-track option during this period which showed an appetite among developers for the added value of a guaranteed timeous report review turnaround.
- 4.13 The NQMS aspect was, to some extent, overtaken by the demand for the fast-track approach, and so the data on uptake in this period is limited. However, the NQMS

certification process allowed one developer to make an informed decision regarding consultant competency enabling progress (see Case Study in Appendix 2)

- 4.14 The levying of third-party peer review fees for reports without recommended NQMS certification, was met with some indignation. However, the subsequent review cost of the insufficient reporting was not borne by the Council and has encouraged a much more thorough approach by the consultants.
- 4.15 From a Council perspective, the pilot enabled work to be better managed within existing budgets, it improved response times for developers, reinforced expected standards for consultants and highlighted the financial costs of poor-quality reporting to applicants. It has provided a more sustainable platform to safeguard both public and environmental health from land contamination within the planning process.

PROPOSAL

- 4.16 Following the initial pilot it is proposed to continue a dual approach, recommending NQMS for a trial period of 1 year.
- 4.17 **Firstly**, developers will be encouraged to provide site investigation reports which have been checked by an SQP and are accompanied by a Declaration of Document Adequacy (NQMS). Such reports received by the Planning Authority would be subject to routine review.
- 4.18 Using this Scheme to improve the quality of reports submitted for review would help reduce the resource burden on Environmental Health.
- 4.19 **Secondly**, should developers decide not to use NQMS they will be advised that their submission requires third party peer review, and requested to pay a fee for the Council to arrange this.
- 4.20 This option will have the added benefit of a guaranteed review response turnaround which was previously valued by developers choosing the fast-track option.
- 4.21 It is therefore proposed that developers are offered the options of 1). having their reports pre-checked by a registered Suitably Qualified Person (SQP) prior to report submission, or, 2). paying a fee on submission for the peer review of their un-checked reports. This is detailed in a process flow chart (Appendix 4)
- 4.22 A fee structure developed from the pilot is detailed in Appendix 3. Members are asked to consider and approve the following fees which include a contingency for separately costing the review of reports for large or complex sites. The fees have been derived on a cost recovery basis and don't include an administrative charge. A 10% administrative charge is proposed

Reporting	Fee
Phase I	£709.50
Phase II	£1,064.80
Remediation Strategy	To be estimated based on hourly rates
Verification Report	To be estimated based on hourly rates

Meeting Attendance	
Teams meeting with Council and third party review consultant	£586.30 for first hour and officer hourly rate thereafter.

4.23 The pilot supports the adoption of a dual approach, as a means to ensuring proportionate and sustainable service development, providing necessary resilience, and future proofing of the service.

5.0 CONCLUSIONS

5.1 Poor quality land contamination reports received to support the planning process are placing a disproportionate burden on resources.

5.2 Poor quality report submissions concerning contaminated land are causing delays in brownfield redevelopments. This leads to additional complaints and officer time to bring applications up to an acceptable standard to make a recommendation.

5.3 The pilot has shown early indications of improving quality of reports, has improved report review turnaround times, and tested a mechanism for the transfer of cost burdens for poor reporting to the developer. It has achieved better outcomes for developers and the Council. A further review of these arrangements will be carried out in 12 months.

6.0 IMPLICATIONS

- | | | |
|-----|---------------------------------------|--|
| 6.1 | Policy | Consistent with National and local land use and environmental policy. |
| 6.2 | Financial | The proposed fee structure ensures that site investigation reviews are carried out within available budget, with additional costs recovered from fee income. |
| 6.3 | Legal | None. |
| 6.4 | HR | None. |
| 6.5 | Customer Service | Improves response times, reduces delays in decision making and enables sustainable development to proceed to help the local economy grow. |
| 6.6 | Risk | That fee income is insufficient to cover service expenditure. |
| 6.7 | Climate Change | None. |
| 6.8 | Fairer Scotland Duty | None. |
| 6.9 | Equalities -protected characteristics | None directly arising from this report. |

- | | | |
|------|------------------------------------|-------|
| 6.10 | Consumer Duty | None. |
| 6.11 | Island Communities | None. |
| 6.12 | Children's Rights
and Wellbeing | None. |

Kirsty Flanagan

Executive Director with responsibility for Regulatory Services:

Policy Lead for Planning and Regulatory Services: Councillor Gordon Blair

24/02/2026

For further information contact:

Alan Morrison, Senior Manager- Regulatory Services and Building Standards

(Alan.Morrison@argyll-bute.gov.uk: 01546604292)

Anthony Carson, Environmental Health Officer (anthony.carson@argyll-bute.gov.uk)

APPENDICES

Appendix 1 – National Quality Charter Mark

Appendix 2 – Case Study

Appendix 3 – Schedule of Fees

Appendix 4 – Flowchart

Appendix 1 NATIONAL QUALITY MARK SCHEME

Land Contamination Risk Management (LCRM) is the current methodology for assessing and managing land contamination risks. It was published by the Environment Agency for England in 2020 and in 2025 its use was endorsed by the Scottish Government supported by Scottish local authorities.

LCRM advocates a National Quality Mark Scheme (NQMS) for land contamination reports. This is a voluntary quality assurance scheme which has been set up by professional and industry bodies representing the Contaminated Land sector.

NQMS provides a quality assured process for checking whether reports are of the quality expected, verifying that all factual and interpretative information meets the required technical and regulatory standards.

Certification through the NQMS does not in itself replace the need for reports to be reviewed by the local authority, but it can help:

- ensure reports are written and checked by practitioners with appropriate competency
- make sure legislative requirements and necessary standards related to managing land contamination are met
- provide increased confidence that reports are of the quality expected
- save cost and time by reducing the likelihood that report revisions will be needed

Certification involves a check and declaration by a registered Suitably Qualified Person (SQP), and an administrative fee.

NQMS will add some additional developer's costs for SQP report certification, whether this is done in-house by their consultancy or through an external registered SQP.

These additional costs will be proportionate to the quality of the original report as they are likely to be calculated at an SQP hourly rate. Good quality reports should be relatively quickly certified. Poor quality reports may take longer and will likely require updating and improving. In some cases, the reports will not be capable of achieving an SQP declaration (see Case Study Appendix 2).

Appendix 2 Case Study

Introduction

A planning application for small residential development on a previously used area of land was determined with a suspensive land contamination condition.

The condition was a standard condition detailing a phased approach to investigation in line with Planning advice and Code of Practice.

A Phase I report submission was given a screening check by the EHO prior to being sent for 3rd party peer review. Insufficiencies were identified and the Developer notified.

A revised Phase I was received, and although an improvement on the original was found through 3rd party peer review to be insufficient.

A further revision of the Phase I was received and again found to be insufficient through 3rd party peer review.

The latter review was made during the pilot and the developer was advised of our NQMS recommendation.

Environmental Health were contacted by a new consultant as the original consultancy had been unable to demonstrate the necessary knowledge and professional practice for their reporting to be certified with an NQMS declaration of document adequacy.

The new consultant submitted a new Phase I accompanied by an NQMS declaration of document adequacy. This report was a significant improvement on the previous consultant's work. However, the review identified uncertainties that required explanation.

The Phase I report was further revised and found on review to be acceptable. The Phase I report and its associated ground investigation strategy were then agreed by the planning authority allowing detailed investigation to proceed.

Conclusions

The original consultant was clearly incapable of providing an adequate Phase I report and had undertaken preemptive ground investigation that was insufficient and costly.

There were at least 4 iterations of their Phase I report authored by the original consultant

Despite this, a competent and adequate report was not achieved: **six months with no progress to an agreed ground investigation strategy.**

With the NQMS certified report, progression to Phase II ground investigation was agreed after two iterations of a Phase I report: **two and a half months to an agreed ground investigation strategy.**

This case showed that timeous action by the developer identified significant competency issues and allowed a poor performing consultancy to be replaced relatively quickly.

Appendix 3 Schedule of Fees

Third party peer review costs to the Council are based on the peer review consultancy staff hourly rates.

There can be quite a range of costs for different phases of investigation and risk assessment.

During the Pilot a simple fee schedule was drawn up with review fees for larger or more complex reports estimated individually. This fee schedule has been updated to reflect 2026 consultancy rates (Table II)

Table II Fee Schedule

Reporting	Fee
Phase I	£709.50
Phase II	£1,064.80
Remediation Strategy	To be estimated based on hourly rates
Verification Report	To be estimated based on hourly rates
Meeting Attendance	
Teams meeting with Council and 3 rd party review consultant	£586.30 for first hour and officer hourly rate thereafter

The fees have been derived on a cost recovery basis and don't include an administrative charge. A 10% administrative charge is proposed

Fees for large or complex reports and extended or in person meeting requests will be estimated on a case-by-case basis.

Appendix 4 – Process Flowchart

