GROUND TECHNOLOGY

# Legislative Framework

In April 2000, Part IIA of the Environmental Planning Act (EPA) was implemented by the introduction of the statutory Contaminated Land Regulations. The regulations place a duty on local authorities to identify any contaminated land in their area, and to bring about its remediation. The regulations give councils (and in some cases the Environment Agency) powers to serve remediation notices requiring such remediation to be carried out. As a result of this, all planning applications require the local authority to be satisfied that the land in question does not pose an unacceptable risk to future site users and other receptors with respect to contamination. Therefore, all Developers, Architects, Engineers and Contractors have obligations to comply with the environmental regulations in force at each step of the planning, design and construction process.

Part IIA of the EPA requires an overall risk-based approach to dealing with contaminated sites which is consistent with the general good practice approach to managing land contamination. The regulatory regime set out in Part IIA is based on the following activities:

- Identify the problem
- Assess the risks
- Determine the appropriate remediation requirements
- Consider the costs
- Establish who should pay
- Implementation and remediation

Section 78A(2) of the Act defines Contaminated Land for the purpose 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) pollution of controlled waters is being, or is likely to be, caused"*

The basis of this definition is complex and incorporates the concept of risk assessment. This involves identification of contaminant source, pathway and receptor with the essential establishment of pollutant linkages by which the contaminant from the source can reach the receptor via the pathway with the possibility to cause significant harm or the pollution of controlled waters.

If the three elements are present for the pollutant linkage, a risk assessment must be undertaken to determine the likelihood of significant harm being caused to one of the specified receptors. Having identified the pollutant linkage and undertaken a risk assessment that indicates significant harm is being caused to a receptor, the land can then be determined as "contaminated land".