

## Site Profile Decisions and Requesting Releases Where Local Government Approvals are Required

Upon receipt of a site profile, the Director of Waste Management (the Director) must decide if a site investigation is required at that site.

Ministry staff, acting on behalf of the Director, makes this decision according to the document "[Procedures for Processing Site Profiles](#)." If the Director determines that a site investigation is required based on a site profile submission, this decision suspends (or "freezes") a local government's ability to approve certain applications, for example, for subdivision. This freeze will remain in effect until a release is obtained for the site.

Part 1 of this guidance document describes how a Director determines if a site investigation is required based on a site profile submission. Part 2 outlines the circumstances and process by which the freeze on the approval of a local government application may be released.

For additional information on site profiles, see [Fact Sheet 19, "The Site Profile System"](#) and [Fact Sheet 37, "Site Profile Freeze and Release Provisions."](#)

### Part 1. Site profile decisions

The Contaminated Sites Regulation states that where any question in section IV to IX of a site profile is answered "yes", the site profile must be forwarded to the Director. Upon receipt of such a site profile, the Director would normally require a site investigation unless sufficient information is provided for the Director to determine that no site investigation is required.

### Preliminary versus detailed site investigation

Where a site investigation is required, the Director would normally require a preliminary site investigation unless there is evidence indicating that contamination is present at the site. In that case, a detailed site investigation will be required.

### No site investigation required decision

Sometimes a site investigation has already been completed at a site prior to submission of a site profile. The Director would normally issue a "no site investigation required decision" for a site if:

- A Voluntary Remediation Agreement has been entered into for the site and the Director has received a written opinion from an Approved Professional indicating that no additional contamination exists onsite or offsite outside of the Agreement; or
- The Director:
  - ⇒ has been provided with a preliminary site investigation report and, if contamination has been identified, a detailed site investigation report;
  - ⇒ has been provided with a written opinion from an Approved Professional indicating that he or she has reviewed the investigation information and confirming the parcel is not a high risk site; and
  - ⇒ is satisfied that there is no human health or environmental protection reason to require a site investigation.

## Notification of the Director's decision

The ministry would normally respond to the site profile with a letter noting whether a site investigation is required. If a release request was submitted, the letter would also indicate whether or not the release has been granted. Any requirements imposed by the Director as a condition of the release would also be outlined.

## Part 2. How to request a release notice

Similarly drafted provisions in the *Islands Trust Act* (section 34.1), *Land Title Act* (section 85.1), *Local Government Act* (section 946.2) and the *Vancouver Charter* (section 571B) list the circumstances which will release the freeze on approval of the applications identified in section 40 of the *Environmental Management Act* (the Act).

A release may be granted by either providing the approving authority with a copy of a ministry instrument such as a Determination that the site is not contaminated, an Approval in Principle, a Certificate of Compliance or a Voluntary Remediation Agreement; or by obtaining a notice from the Director indicating:

- a site investigation is not required;
- the site would not present a significant threat or risk if the application were approved; or
- the Director has received and accepted a Notification of Independent Remediation.

The following sections describe in detail the requirements for requesting one of the release notices described above based on the five most common release scenarios. Table 1, attached, also provides a summary of the release scenarios.

### Example letters for requesting release notices

The ministry has created example release request letters for use by applicants. These letters can be found on the Land Remediation website under the key topic "[Site Profiles](#)" and can be modified as appropriate based on the scenario present at your site.

## Scenario 1. Release of demolition permits

The demolition of site structures is often required before a proper site investigation may take place at a parcel. When a site profile is forwarded to the Director triggered by a demolition permit application, the Director would normally provide a release notice indicating that "no site investigation is required" prior to the demolition activities.

An applicant wishing to obtain a release under this scenario should submit a request to the ministry indicating that a site profile is required in light of the exemption in section 4(9) of the Regulation. The release would be granted for the limited purpose of the demolition. Also, the Director would normally order the proponent to provide a further site profile to the Director before obtaining any future authorizations for the parcel. This order would freeze the approval of any further applications under section 40(1) of the Act until another release is granted.

In some situations, the Director may also order a site investigation following the demolition activities. This would normally occur if it is known that there will not be any future applications required under section 40(1) of the Act for the parcel.

## Scenario 2. Release of subdivision, zoning or soil removal

A release under this scenario would be granted where soil removal, zoning or subdivision approvals are sought well before development or development variance permits are required for a parcel. This scenario would be used, for example, where a developer is required to obtain the release of preliminary authorizations, such as zoning, in order to receive funding from a lender to proceed with a redevelopment project.

An applicant wishing to obtain a release under this scenario should submit a request to the ministry confirming that future authorizations

will be required for redevelopment of the parcel. The Director would normally provide a release notice indicating that “no site investigation is required” prior to the approval of the specified application. The Director would also:

- Order the proponent to provide a site profile to the Director before obtaining any future authorizations for the parcel. This would freeze the approval of any further applications under section 40(1) of the Act until another release is granted.
- Order a preliminary site investigation, followed by a detailed site investigation if the preliminary site investigation identifies contamination.

This scenario cannot be used in situations where there will be no further approvals required to redevelop a parcel or if a development or development variance permit application is included in the application package. In these instances, a release should be obtained under Scenarios 4 or 5.

### **Scenario 3. Release of subdivision only, site activity will continue following subdivision**

Sometimes a proponent wishes to subdivide a portion of a parcel from an original parcel, for example, to expand a roadway right of way or to separate a residential portion of a parcel from a commercial or industrial operation. Applicants requesting a release under this scenario must provide the following information to the ministry:

- confirmation that the site activity will continue on one of the parcels following subdivision; and
- a written opinion from an Approved Professional confirming that:
  - ⇒ the parcel is not a high risk site; and
  - ⇒ investigations have been carried out at the parcel to adequately delineate onsite and offsite contamination and that any existing contamination is contained within the portion of the parcel retained for the site activity.

The release letter in this scenario would normally state that a site investigation is required at the parcel; however, release of the subdivision is granted under the “no significant threat or risk” provision in the legislation. Following a release the requirement for a site investigation would be outstanding and no further approvals listed in section 40(1) of the Act could be obtained until another release is granted.

### **Scenario 4. Site upgrades**

This scenario is used where an applicant wishes to carry out independent remediation during upgrades to operating facilities. Under this scenario, the site activity will not change and the applicants may only complete partial site remediation. At minimum, remediation must be completed within the proposed building footprint. Applicants requesting release under this scenario must provide the following information to the ministry:

- A written opinion from an Approved Professional with the site investigation reports and remediation plan and schedule attached, confirming that:
  - ⇒ the parcel is not a high risk site,
  - ⇒ all contamination at and migrating from the proponent’s parcel has been delineated on the proponent’s parcel and neighbouring parcels, and
  - ⇒ implementation of the remediation plan will, during redevelopment, result in the appropriate management of any contamination encountered; and
- A commitment in writing from the proponent that:
  - ⇒ there will be no change in site activity;
  - ⇒ the proponent will remediate his or her parcel in accordance with the remediation plan; and
  - ⇒ any required remediation will be completed within any proposed building footprint before the issuance of a building permit or, if a building permit is not required, before occupancy or reuse of the land.

The release letter in this scenario would normally state that a site investigation is required at the parcel; however, release of the specified applications would be granted under the “receipt and acceptance of independent remediation” provision of the legislation. As a condition of providing a release under this scenario, the Director would normally require, under section 54(3)(d) of the Act, that the proponent:

- ⇒ undertake remediation on the parcel being developed in accordance with the content and timing committed to in the remediation plan for as long as the project proceeds. The applicant may be required to submit progress reports at specified intervals as well as a Confirmation of Remediation report once remediation is complete; and
- ⇒ immediately notify the Director and register a restrictive covenant, incorporating the contents of the remediation plan, if the property is sold before completion of development.

#### **Scenario 5. Site redevelopment**

In this scenario independent remediation is also being conducted, but the site activity will change following redevelopment. Applicants requesting a release under this scenario must provide the following information to the ministry:

- A written opinion from an Approved Professional with the site investigation reports and remediation plan and schedule attached, confirming that:
  - ⇒ the parcel is not a high risk site,
  - ⇒ all contamination at and migrating from the proponent’s parcel has been delineated on the proponent’s parcel and neighbouring parcels, and
  - ⇒ remediation of onsite contamination to applicable standards is achievable before the issuance of a building permit or, if a building permit is not required, before occupancy or reuse of the land; and

- ⇒ once remediation is complete, the proponent’s parcel will conform to applicable environmental quality standards and criteria in the Regulation and will be eligible for a Certificate of Compliance; and
- A commitment in writing from the proponent that the proponent will remediate its parcel in accordance with the remediation plan.

The release letter in this scenario would normally state that a site investigation is required at the parcel; however, release of the specified applications would be granted under the “receipt and acceptance of independent remediation” provision of the legislation. In this scenario, conditions imposed by the Director under section 54(3)(d) of the Act would be similar to those noted above in Scenario 4.

#### **Sites classified as high risk**

A site classified as high risk is not eligible for the release of applications under Scenarios 1 to 5. However, release of an application is possible for these sites and will be handled on a case-by-case basis. For more information on the release of applications for a high risk sites, please send a message to [siteprofiles@gov.bc.ca](mailto:siteprofiles@gov.bc.ca) or contact the ministry casefile worker assigned to the site.

#### **Release requests which do not conform to Scenarios 1 – 5**

Not all possible release scenarios are described in this document. Please contact the ministry for further advice if your release request does not conform to Scenarios 1 to 5.

Table 1 and Figure 1 below provide a summary of the process for requesting a release in each of the five scenarios.

*For more information, contact the Environmental Management Branch at [siteprofiles@gov.bc.ca](mailto:siteprofiles@gov.bc.ca) or visit the “[Site Profiles](#)” key topic on our website.*

**Table 1. Summary of release scenarios**

| Scenario | Local Government Application        | Site Activity   | Information Required Prior to Release  | Recommended Decision   | Conditions Imposed by Director  | Implications and Explanations   |
|----------|-------------------------------------|---|--|--|---|---|
| 1        | Demolition                          | Removal of site structures.   | Confirm exemption in section 4(9) of the Regulation does not apply.  | No site investigation required prior to demolition activities.                     | Ordered to submit a new site profile prior to application for further authorizations.<br><br>May order a site investigation following demolition.   | Demolition can proceed but no further approvals can be obtained until site investigation is completed.  |
| 2        | Soil Removal, zoning or subdivision | Proposed change in site activity.<br><br>Approval of a specific application is required prior to redevelopment. | Confirmation that future authorizations will be required for redevelopment of the parcel (e.g., development or development variance permits).  | No site investigation required prior to issuance of specified application.         | Ordered to submit a new site profile prior to application for further authorizations.<br><br>Ordered to complete a preliminary site investigation and detailed site investigation, if necessary, following issuance of specified application. | Release of zoning or subdivision is often necessary for projects to obtain funding to proceed.<br><br>No further approvals can be obtained until site investigation is completed.   |
| 3        | Subdivision only                    | No proposed change in site activity on retained portion of parcel.  | Confirmation that site activity will continue on retained portion.<br><br>Written opinion from an Approved Professional confirming: <ul style="list-style-type: none"> <li>• parcel is not a high risk site; and</li> <li>• investigations delineate on and offsite contamination and that any existing contamination is contained within the portion of the parcel retained for the site activity.</li> </ul> | Site investigation required,<br><br>Release: no significant threat or risk clause. | None  | This scenario cannot be applied if the site activity will not continue following subdivision.<br><br>Example: a property owner applies to subdivide a residence from a large commercial/industrial use parcel for tax purposes. |

| Scenario | Local Government Application  | Site Activity  | Information Required Prior to Release   | Recommended Decision  | Conditions Imposed by Director  | Implications and Explanations   |
|----------|---|--|---|---|---|---|
| 4        | <p>Development Permit</p> <p>(application package to local government may include other applications)</p> | <p>No proposed change in site activity.</p> <p>Site upgrade.</p> | <p>Written opinion from an Approved Professional confirming:</p> <ul style="list-style-type: none"> <li>• parcel is not a high risk site;</li> <li>• contamination at and migrating from the parcel has been delineated; and</li> <li>• implementation of the remediation plan will result in appropriate management of any contamination encountered.</li> </ul> <p>Commitment from the proponent stating:</p> <ul style="list-style-type: none"> <li>• there will be no change in site activity;</li> <li>• they will remediate the parcel according to the remediation plan; and</li> <li>• remediation within the building footprint will be complete prior to issuance of a building permit or prior to occupancy (if a building permit is not required).</li> </ul> | <p>Site investigation required.</p> <p>Release: receipt and acceptance of independent remediation</p> | <p>Under section 54(3)(d) of the Act the proponent must:</p> <ul style="list-style-type: none"> <li>• undertake remediation on the parcel according to the remediation plan for as long as the project proceeds; and</li> <li>• notify the Director and register a restrictive covenant incorporating the contents of the remediation plan if the property is sold before completion of the development.</li> </ul> | <p>Entire parcel does not need to be remediated at this time since the site activity will continue. At minimum, accessible contamination beneath the new building footprint and where new facilities will be installed must be remediated during the site upgrade.</p> <p>Notification requirements for independent remediation and offsite migration apply</p> |

| Scenario | Local Government Application  | Site Activity  | Information Required Prior to Release  | Recommended Decision  | Conditions Imposed by Director   | Implications and Explanations   |
|----------|---|--|--|---|----------------------------------|---|
| 5        | <p>Development Permit</p> <p>(application package to local government may include other applications)</p> | <p>Proposed change in site activity.</p> <p>Site Redevelopment</p> | <p>Written opinion from an Approved Professional confirming:</p> <ul style="list-style-type: none"> <li>• parcel is not a high risk site;</li> <li>• contamination at and migrating from the parcel has been delineated;</li> <li>• remediation of onsite contamination to applicable standards is achievable prior to issuance of building permit or occupancy (if a building permit is not required); and</li> <li>• once remediation is complete, the parcel will be eligible for a certificate.</li> </ul> <p>Commitment required from proponent stating he or she will remediate according to the plan.</p> | <p>Site investigation required.</p> <p>Release: receipt and acceptance of independent remediation</p> | <p>Same as Scenario 4 above.</p> | <p>Entire parcel will be remediated to appropriate standards prior to redevelopment.</p> <p>No requirement to obtain a Certificate of Compliance; however, proponents are likely to obtain a Certificate of Compliance for other reasons.</p> <p>Notification requirements for independent remediation and offsite migration still apply.</p> |

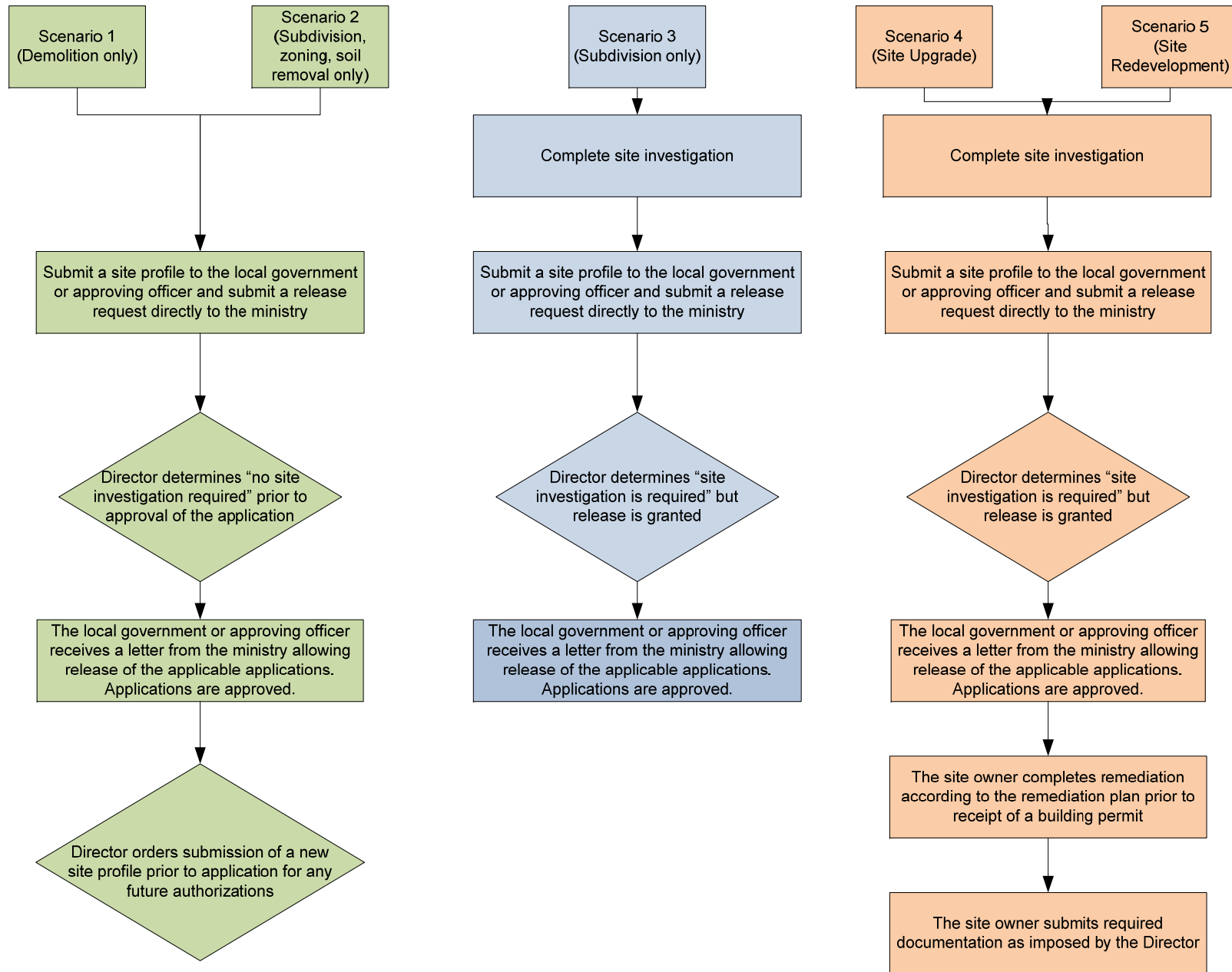


Figure 1. Process summary for requesting a release notice.