

## Independent Remediation Where Local Government Approvals are Required

If the Director of Waste Management (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. This freeze will remain in effect until a release is obtained for the site. Releases can take several forms including a ministry contaminated sites legal instrument such as a Certificate of Compliance.

The site owner may request that certain permit applications be released before receipt of a ministry instrument. This guidance document outlines the circumstances and process by which permits may be released where a site is being cleaned up by independent remediation.

For additional information on site profiles, see Fact Sheet 19, “The Site Profile System” and Fact Sheet 37, “Site Profile Freeze and Release Provisions”. Information on independent remediation is contained in Fact Sheet 21, “Requirements for Independent Remediation”.

### Part 1 – Site Upgrades

The following addresses activities common to the retail petroleum industry and may apply to other commercial and industrial activities.

#### Site upgrade with no land use or ownership change

Where an applicant wishes to use independent remediation for a proposed site upgrade and it also needs a local government approval, the applicant should submit a site profile to the

local government together with information on the scope of proposed upgrade activities, notification of its intent to use independent remediation, and confirmation that:

- the land use will not be changing,
- the applicant is a responsible party for any contamination associated with its site and,
- if contamination is identified, a notice of independent remediation will be submitted to the ministry within 30 days, together with a work plan and schedule for further investigation and remediation activities.

If the local government forwards the site profile to the ministry under section 40 (4) of the *Environmental Management Act* (the Act), a copy of the above information should accompany the site profile. However, as it is not the responsibility of the local government to forward such additional information, the applicant making the site profile submission should forward a duplicate to the ministry concurrent with filing its site profile and application to the local government.

The ministry will generally respond to the site profile with a form letter noting that a site investigation is required, but that the local government may approve an application identified in section 40 of the Act related to the site upgrade. With this response the local government may process and approve the application under the *Land Title Act*, *Local Government Act*, *Islands Trust Act* or *Vancouver Charter*.

Upon completion of a site investigation, the applicant must, as agreed, notify the ministry as to whether contamination has been identified, as well as provide a schedule for further investigation and remediation work. The applicant must also indicate whether:

- contamination found at the site is completely contained within the site boundaries and that there is a low probability of any contamination migrating from the site in the future; or
- contamination found on the site is completely contained within the site boundaries but there is a high probability that this contamination will migrate from the site in the future; or
- contamination is known to exist on the site and it is suspected, or known, that some of this contamination has migrated from the site.

#### **No Offsite Migration of Contamination**

Within 90 days of completion of independent remediation, the applicant must provide the ministry with a confirmation of remediation report. It must demonstrate that remediation standards of the Contaminated Sites Regulation have been met. The ministry will not provide written comment on the report. The applicant will be required to meet with the ministry to discuss the contents of the confirmation of remediation report, for which an inspection fee will be levied.

Following the meeting the ministry will notify the local government of receipt of the report, the date on which the report was discussed with the applicant, and whether, based on the discussions, the ministry will require further work, as provided in section 54 of the Act. The local government will withhold a permit for the site (typically occupancy) until this notification has been received from the ministry.

#### **Offsite Migration of Contamination known or suspected, or high potential for future offsite migration**

The ministry, in addition to the requirements of the previous section, will require the client to:

- commit to the remediation of offsite contamination;
- notify any affected parties;
- verify that the offsite contamination has been delineated (or will be delineated according to a submitted schedule); and
- commit to apply for an Approval in Principle for a remediation plan.

The ministry, in turn, will notify the local government in writing that:

- a remediation plan and an acceptable submission for an Approval in Principle will be required from the applicant, and, if not received,
- an order under the Act will be considered.

#### **Part 2 – Land Use or Ownership Change**

Developers may wish to defer the requirement for site investigation and remediation in order to meet their development timelines and then complete remediation concurrent with site redevelopment.

Where an applicant wishes to use independent remediation during site redevelopment, the land use *will* be changing, and a local government approval is required, the applicant should submit a site profile to the local government together with a request for approval of the required applications. The request should include the following:

- information on the scope of the proposed redevelopment activities,
- notification of the intent to use independent remediation, and
- a commitment by the site owner to obtain a Determination of Contaminated Site or Certificate of Compliance before the issuance of an occupancy permit.

The applicant should forward a duplicate of this request to the ministry. He or she should also obtain support from the local government before submitting this request to the ministry. This is because we will only consider the release of local government permit applications when the local government has also agreed to the release. All releases are subject to conditions agreed to by the applicant and the local government.

The ministry will generally respond to the site profile with a form letter noting that a site investigation is required, and that the local government may approve an application identified in section 40 of the Act related to the redevelopment. With this response the local

government may process and approve the application under the applicable legislation. Typically, a condition of the application approval is that a Certificate of Compliance be obtained for any onsite contamination and an Approval in Principle will be required for any offsite contamination prior to any occupancy or reuse of the land. The local government will withhold the occupancy permit for such sites until a Certificate of Compliance has been obtained from the ministry.

Please consult Figure 1 for a summary of the processes for site upgrades and redevelopment.

For more information, contact the Environmental Management Branch at [siteprofiles@gov.bc.ca](mailto:siteprofiles@gov.bc.ca)

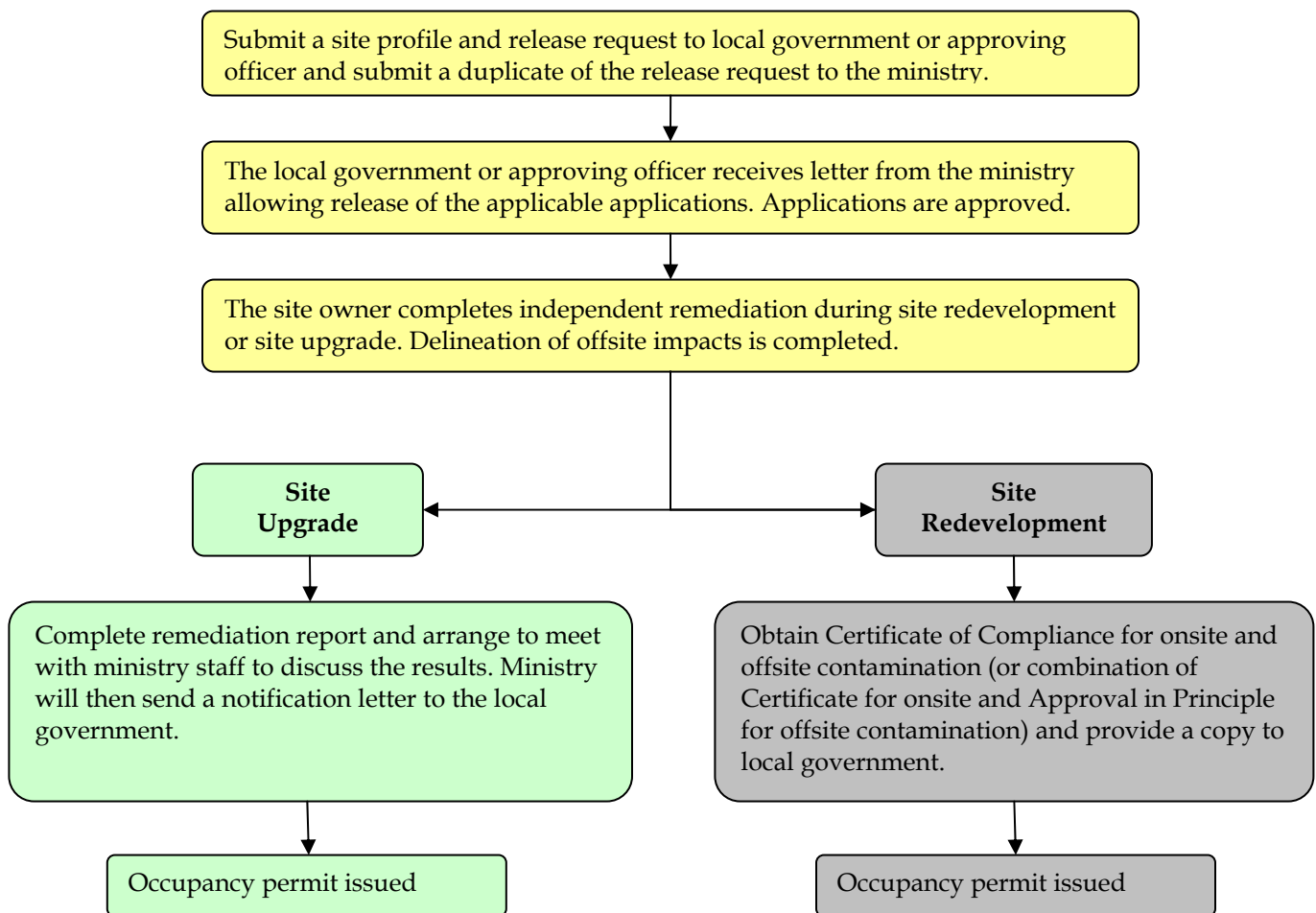


Figure 1. Release Process for Site Upgrades and Site Redevelopment.