

## 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. Ministry staff, acting on behalf of the Director, make 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, 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 from the Director is obtained.

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 the [key topic](#) on site profiles on our website.

### Definitions

Acronyms and terms used in this guidance are defined in the ministry's "[Procedure 8, Definitions and Acronyms for Contaminated Sites](#)":

Act contaminated sites	performance verification plan
legal instrument	Regulation
Director	release
freeze	site investigation
legal instrument	Type 1A, 1B, 2 or 3 site

### Part 1. Site profile decisions

The Contaminated Sites Regulation (the Regulation) requires that where a purpose or activity in Schedule 2 of the Regulation is listed in Section III of the site profile and 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 would be required.

For sites being decommissioned, the Director would also require submission of the site investigation reports and a complete Site Risk Classification Report (as per [Protocol 12, "Site Risk Classification, Reclassification and Reporting"](#)) within one year.

### No site investigation required decision

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

- A Voluntary Remediation Agreement has been entered into for the parcel and the Director has received a written opinion from

an Approved Professional indicating that no additional contamination exists at or neighbouring the site 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 a Numerical Standards and/or Risk-based Standards Approved Professional indicating that he or she has reviewed the investigation information and confirms the parcel is not a high risk site; and
  - ⇒ is satisfied that there is no human health or environmental protection reason to require additional 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 and include any requirements imposed by the Director.

### 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 and Figure 1 also provide a summary of the process to request a release in each of the five scenarios.

#### Letter template for requesting release notices

The ministry has created a release request letter template for use by applicants. The template 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. An applicant wishing to obtain a release under this scenario should submit a request to the ministry confirming whether the demolition permit is required for site decommissioning only, or if future applications under Section 40 (1) of the Act would be required for redevelopment of the site. The Director would normally provide a release notice indicating that "no site investigation is required" before the demolition activities. The release would be granted for the limited purpose of the demolition. The Director would also require that a site investigation be completed following the demolition activities. This requirement would freeze the approval of all future applications under section 40 (1) of the Act until another release is granted.

Where the demolition is associated with site decommissioning and there are no current plans to redevelop the site, the Director would normally require submission of the site investigation reports and a complete Site Risk

Classification Report within one year of the issue date of the release letter.

### **Scenario 2. Release of preliminary or interim authorizations**

A release under this scenario would be granted where an authorization is required before redevelopment of a parcel or for minor site upgrades or lot line adjustments. It 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; or
- Where a development or development variance permit is required to complete minor construction on a parcel where minimal soil disturbance is required, such as during paving, landscaping or installation of signage or utilities.

An applicant wishing to obtain a release under this scenario should submit a request to the ministry confirming that additional authorizations will be required for future redevelopment of the parcel. The Director would normally provide a release notice indicating that “no site investigation is required” before the approval of the specified application. The release would be granted for the limited purpose of the specified application. The Director would also require that a site investigation be completed following approval of that application. This requirement would freeze the approval of any further applications under section 40 (1) of the Act until another release is granted.

This scenario cannot be used in situations where there will be no further approvals required for redevelopment of a parcel. In this case, a release should be obtained under Scenario 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:

- all relevant site investigation reports (hard copy and digital);
- confirmation that the site activity will continue on one of the parcels following subdivision;
- proposed new Parcel Identifiers (PID numbers) and associated proposed land use (if known); and
- a written opinion from a Numerical Standards and/or Risk-Based Standards Approved Professional confirming that:
  - ⇒ the parcel is not high risk;
  - ⇒ investigations have been carried out at the parcel to adequately delineate contamination at and neighbouring the site; and
  - ⇒ any existing contamination has not migrated to the portion of the parcel to be subdivided from the area with the continuing 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 only apply to the parcel with the continuing site activity. No further approvals listed in section 40 (1) of the Act could be obtained for that parcel until another release is granted.

#### Scenario 4. Facility upgrades

This scenario is used when 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 need only complete partial remediation. At minimum, remediation must be completed within any proposed construction area.

Only those sites classified as Type 1A, 1B or 2 are eligible for release under this scenario. For a Type 3 site an Approval in Principle or other legal instrument must be obtained in order to release the freeze on local government approvals. This is because the failure of risk controls at a Type 3 site would likely result in immediate unacceptable risk to human health or the environment.

Applicants requesting release under this scenario must provide the following information to the ministry:

- All relevant site investigation reports, a remediation plan and schedule for completion of remediation (hard copy & digital);
- A written opinion from a Numerical Standards and/or Risk-Based Standards Approved Professional confirming that:
  - ⇒ the parcel is not high risk,
  - ⇒ all contamination at and migrating from the proponent's parcel has been delineated on the proponent's parcel and neighbouring parcels,
  - ⇒ implementation of the remediation plan will, during redevelopment, result in the appropriate management of any contamination encountered; and
  - ⇒ remediation will be completed before one of the following endpoints: issuance of a building permit, issuance of an occupancy permit, or completion of a final building inspection.

If site investigations have not identified contamination at the time of submitting the

release request, but there remains a potential for contamination to exist at the parcel, the confirmation above regarding delineation of contamination does not apply and must be replaced by a statement indicating that contamination has not been encountered at the parcel to date but there remains a potential for contamination to exist at the parcel.

- A commitment in writing from the proponent that:
  - ⇒ there will be no change in site activity;
  - ⇒ the proponent will remediate the parcel in accordance with the remediation plan; and
  - ⇒ any required remediation will be completed within any proposed construction area before the endpoint or event as specified by the Approved Professional.

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 in the applicable 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 would normally be required to submit progress reports at specified intervals as well as a Confirmation of Remediation report once remediation is complete;
- ⇒ for Type 1B and 2 sites, submit a performance verification plan (PVP) following completion of remediation; and
- ⇒ immediately notify the Director and register a covenant, incorporating the contents of the

remediation plan, if the property is sold before completion of development.

Note that noncompliance with requirements imposed by the Director regarding independent remediation is an offence under the Act.

#### **Scenario 5. Redevelopment with change in site activity**

In this scenario independent remediation is also being conducted, but normally the activity at the parcel will change following redevelopment. However, this scenario also applies when upgrades are being conducted at a parcel where the current use is not listed in Schedule 2.

Only those sites classified as Type 1A, 1B or 2 are eligible for release under this scenario. For a Type 3 site an Approval in Principle or other legal instrument must be obtained in order to release the freeze on local government approvals. This is because the failure of risk controls at a Type 3 site would likely result in immediate unacceptable risk to human health or the environment.

Applicants requesting a release under this scenario must provide the following information to the ministry:

- All relevant site investigation reports, a remediation plan and schedule for completion (hard copy & digital);
- A written opinion from a Numerical Standards and/or Risk-Based Standards Approved Professional confirming that:
  - ⇒ the parcel is not high risk,
  - ⇒ all contamination at and migrating from the proponent's parcel has been delineated on the proponent's parcel and neighbouring parcels, and
  - ⇒ remediation of contamination at the parcel to applicable standards is achievable before one of the following endpoints: issuance of a building permit; issuance of an occupancy permit; or

completion of a final building inspection; and

- ⇒ once remediation is complete, the proponent's parcel will meet the applicable environmental quality standards and criteria in the Regulation and will be eligible for a Certificate of Compliance.

If site investigations have not identified contamination at the time of submitting the release request, but there remains a potential for contamination to exist at the parcel, the confirmation above regarding delineation of contamination does not apply and must be replaced by a statement indicating that contamination has not been encountered at the parcel to date but there remains a potential for contamination to exist at the parcel. It should also be noted that if contamination is not encountered during redevelopment the parcel would then be eligible for a Determination that the site is not contaminated.

- A commitment in writing from the proponent that the parcel will be remediated 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 in the applicable 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.

#### **Approvals to not delineate or remediate the entire area of contamination**

In some cases, the requirement to delineate or remediate the entire area of contamination may not apply at a parcel. Common scenarios where

this may occur are described in **Administrative Guidance 15, "Approvals Not to Delineate or Remediate the Entire Extent of Contamination at a Site"**. The approvals described in that document must be obtained prior to submission of a release request.

The Approved Professional must include a statement in the release request indicating that an approval was obtained to not delineate or remediate (as applicable) the entire area of contamination. The approval letter must be included with the release request submission.

### **Parcels classified as high risk**

A parcel classified as high risk is not eligible for the release of applications under Scenarios 1 to 5. Nevertheless, releases for such sites can be obtained and will be handled on a case-by-case basis outside the provisions of those Scenarios. For more information on the release of applications for a high risk site, please send a message to [siteprofiles@gov.bc.ca](mailto:siteprofiles@gov.bc.ca) or contact the ministry case file 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. If your release request does not conform to Scenarios 1 to 5, please review all available options for release of permits provided by the applicable legislation, including the exemptions, before contacting the ministry for further advice.

### **Performance assessments**

Performance assessments may be carried out on release request submissions for Scenarios 3, 4 and 5 (all which require Approved Professional confirmation statements) at the Director's

discretion. These assessments are intended to confirm the presence of complete and convincing supporting documentation. The submissions are selected by the ministry at random to ensure administrative fairness and to ensure they are representative of the range of submissions. Performance assessments must be completed before the issuance of a release letter by the ministry. If the reviewers find that the recommendation of an Approved Professional is not supported by the documentation submitted with the release application, issuance of the release notice will be delayed pending resolution.

### **Fees for processing release requests**

Normally, the ministry does not charge a fee for processing a release request. However, under section 9 (15) (b) and Schedule 3 of the Regulation, an hourly fee may be charged if processing a request takes longer than one hour to complete. This may occur when processing complex release requests that require meetings with ministry staff; are associated with high risk sites; where the request does not conform to Scenarios 1 through 5; or where the release request package is incomplete. In these instances, the applicant will be required to submit a [Contaminated Sites Services Application form](#).

*Note: This document is solely for the convenience of the reader. It does not contain and should not be construed as legal advice. The current legislation and regulations should be consulted for complete information.*

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

**Revision history**

<b>Approved Date</b>	<b>Effective Date</b>	<b>Document Version</b>	<b>Notes</b>
August 1, 2013	August 1, 2013	5.0	Updated to reflect April 1, 2013 amendments to Procedure 9, "Procedures for Processing Site Profiles.
November 7, 2013	November 15, 2013	6.0	Updated to reflect change to optional status for ministry performance assessments on Scenarios 3, 4 and 5 release request submissions.
		7.0	Updated to reflect risk assessment policy for Scenario 4 and 5 releases

**Table 1. Summary of release scenarios<sup>1</sup>**

Scenario	Local Government Application	Activity	Information Required Before Release	Recommended Decision	Conditions Imposed by Director	Implications and Explanations
1	Demolition only	Removal of structures	Confirmation that future authorizations would be required to redevelop the parcel.	Release: No site investigation required before demolition activities.  Site investigation required following demolition activities.	For demolition associated with decommissioning: Submission of site investigation reports and Site Risk Classification Report will be required within one year.	Demolition can proceed.  No further approvals may be obtained until site investigation is completed and another release is obtained.
		Decommissioning	Confirmation that demolition is required only for decommissioning.			
2	Any preliminary or interim authorization (other than demolition)	May or may not include a proposed change in activity  Approval of a specific application is required before redevelopment  Minor construction with minimal soil disturbance  Lot line adjustments	Confirmation that future authorizations will be required for redevelopment of the parcel (e.g., development permits).	No site investigation required before issuance of specified application.  Site investigation required following released authorization.	None	No further approvals may be obtained until site investigation is completed and another release is obtained.



Scenario	Local Government Application	Activity	Information Required Before Release	Recommended Decision	Conditions Imposed by Director	Implications and Explanations
3	Subdivision only	No proposed change in activity on retained portion of parcel.	<p>Confirmation that activity will continue on retained portion.</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>• investigations delineate contamination at and neighbouring the parcel;</li> <li>• any existing contamination has not migrated to the portion of the parcel to be subdivided.</li> </ul>	<p>Site investigation required.</p> <p>Release: no significant threat or risk clause.</p>	None	<p>This scenario cannot be applied if the activity at the parcel will not continue following subdivision.</p> <p>Following subdivision, the requirement for site investigation will continue to apply only to the parcel with the continuing activity.</p> <p>No further approvals may be obtained for that parcel until site investigation is completed and another release is obtained.</p>

Scenario	Local Government Application	Activity	Information Required Before Release	Recommended Decision	Conditions Imposed by Director	Implications and Explanations
4 <sup>2</sup>	<p>Development Permit</p> <p>(application package to local government may include other applications)</p>	<p>No proposed change in existing activity at the parcel.</p> <p>Parcel upgrade</p>	<p>Written opinion from an Approved Professional confirming:</p> <ul style="list-style-type: none"> <li>• parcel is not high risk;</li> <li>• contamination at and migrating from the parcel has been delineated;</li> <li>• implementation of the remediation plan will result in appropriate management of any contamination encountered; and</li> <li>• remediation will be completed before a specified end point (selected from: issuance of a building or occupancy permit, or completion of a final building inspection).</li> </ul> <p>Commitment from the proponent stating:</p> <ul style="list-style-type: none"> <li>• there will be no change in activity at the parcel;</li> <li>• he or she will remediate the parcel according to the remediation plan; and</li> <li>• remediation within the construction area will be complete before the endpoint specified by the Approved Professional, above.</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 at the parcel according to the remediation plan for as long as the project proceeds; and</li> <li>• notify the Director and register a 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 activity at the parcel will continue. At a minimum, accessible contamination beneath the new building footprint and where new facilities will be installed must be remediated during the parcel upgrade.</p> <p>Independent remediation and contaminant migration notices are required.</p> <p>This scenario does not apply to parcel upgrades where the current use of the parcel is not a Schedule 2 activity (e.g., a parcel was formerly occupied by a service station but is currently a bank. The bank applies for a development permit to add an addition to the building. This would require a release under Scenario 5).</p>

Scenario	Local Government Application	Activity	Information Required Before Release	Recommended Decision	Conditions Imposed by Director	Implications and Explanations
5 <sup>2</sup>	Development Permit  (application package to local government may include other applications)	Proposed change in parcel activity.  Redevelopment  Upgrades to facilities at a parcel where the current use is not listed in Schedule 2	Written opinion from an Approved Professional confirming: <ul style="list-style-type: none"> <li>parcel is not high risk;</li> <li>contamination at and migrating from the parcel has been delineated;</li> <li>remediation of all contamination at the parcel to applicable standards is achievable before a specified end point (selected from: issuance of a building or occupancy permit, or completion of a final building inspection) ; and</li> <li>once remediation is complete, the parcel will be eligible for a Certificate of Compliance</li> </ul> Commitment required from proponent stating he or she will remediate according to the remediation plan.	Site investigation required.  Release: receipt and acceptance of independent remediation	Same as Scenario 4 above.	Entire parcel must be remediated to appropriate standards during development.  No requirement to obtain a Certificate of Compliance; however, proponents are likely to obtain a Certificate of Compliance for other reasons.  Notification requirements for independent remediation and contaminant migration apply.

<sup>1</sup> This table is provided for summary purposes only. Refer to the main text of the guidance document for full details on release requirements. For Scenario 3, 4 and 5: all applicable site investigation reports must be submitted in both hard copy and digital format. For Scenario 4 and 5: a remediation plan and schedule must be submitted in both hard copy and digital format.

<sup>2</sup> For sites using risk controls, Type 3 sites are not eligible for release under Scenario 4 or 5. In these cases, a legal instrument must be obtained to release the freeze on local government approvals.

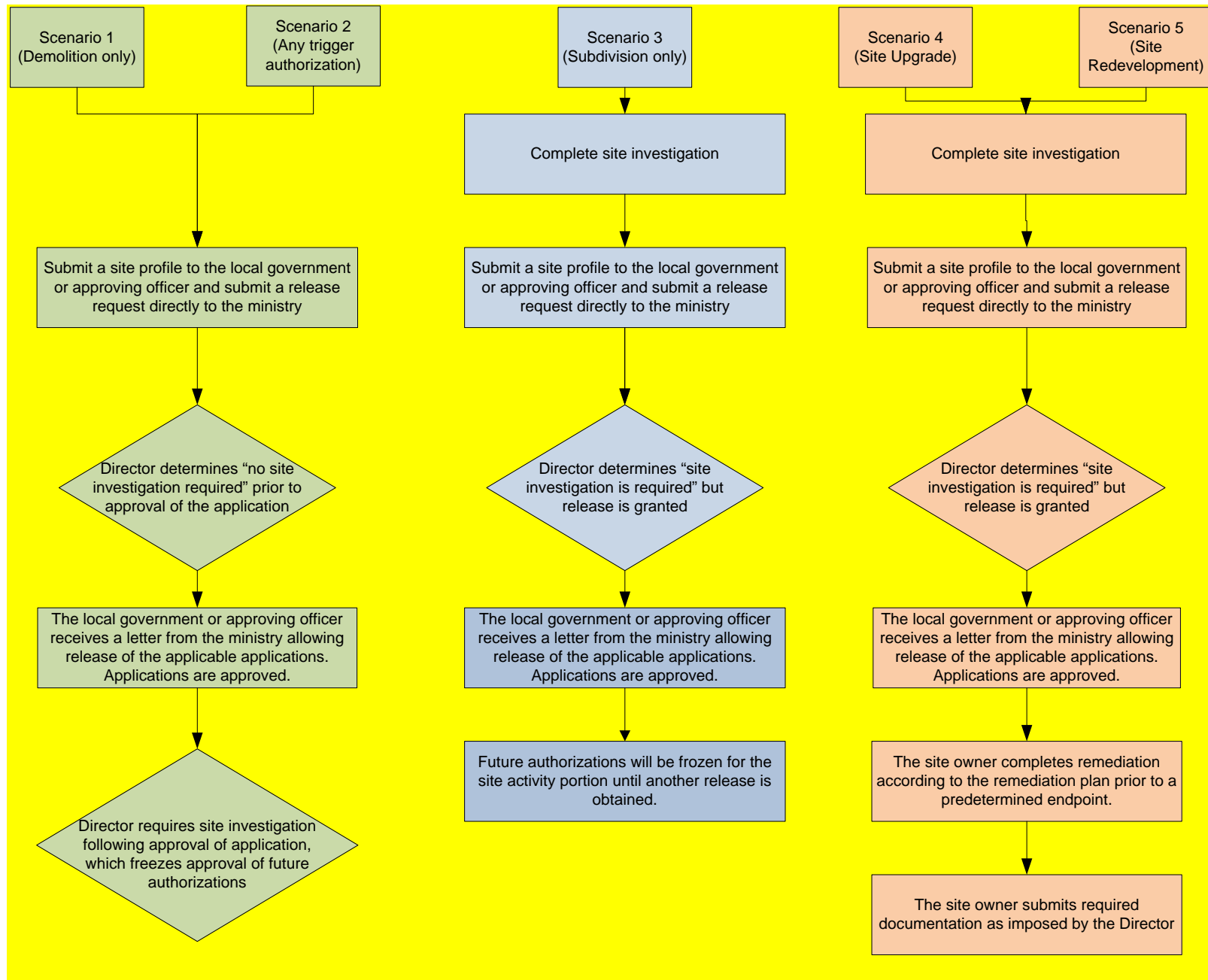


Figure 1. Process summary for requesting a release notice.