

SITE PROFILE PROCESS  
**IDENTIFICATION OF POTENTIALLY  
CONTAMINATED SITES**



DISCUSSION PAPER SERIES  
Review of British Columbia's Site Remediation Legal Regime

B.C. MINISTRY OF ENVIRONMENT  
LAND REMEDIATION SECTION





IDENTIFICATION OF POTENTIALLY CONTAMINATED SITES:  
SITE PROFILE PROCESS – DISCUSSION PAPER

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## 1. INTRODUCTION

The Ministry of Environment (the ministry) is reviewing aspects of British Columbia’s site remediation legal regime. The review encompasses a number of components, including provisions addressing soil relocation and the mechanism for identifying potentially contaminated sites (the site profile process).

This discussion paper focuses on the identification of potentially contaminated sites. The paper:

- Provides background information on the current site profile process.
- Outlines concerns with the current process.
- Sets out ministry priorities and objectives.
- Discusses options for amending the process for identifying potentially contaminated sites.
- Describes the means for providing comment to the ministry and consultation questions.

Input received in response to this paper will inform ministry actions in creating a process for identifying potentially contaminated sites that meets ministry priorities and objectives, as well as addressing concerns with the existing process.

For additional information see the ministry’s [Land Remediation website](#).

## 2. BACKGROUND

### WHAT IS THE SITE PROFILE PROCESS?

The site profile process involves a series of legal provisions intended to bring potentially contaminated sites to the attention of the ministry at a time when a parcel of land is conducive to investigation and remediation, such as before reuse or redevelopment of the parcel. This process has been in effect since 1997.

A “site profile” is a form that includes readily available information about past and present uses of a site, as well as a basic description of the land. The assistance of an environmental consultant is generally not required to complete a site profile form. Public access to this basic information is provided through the provincial Site Registry.

The ministry has prepared a number of fact sheets and guidance documents to provide information about the site profile process. These can be viewed and downloaded from the ministry’s [Land Remediation – site profiles website](#).

## WHY WAS THE SITE PROFILE PROCESS ESTABLISHED?

On April 1, 1997, following significant public consultation on B.C.'s proposed contaminated sites legislation, the site profile requirements set out in the *Environmental Management Act* (the Act) and the Contaminated Sites Regulation (the Regulation) came into force. The site profile provisions evolved largely as a result of concerns raised by local governments across the province. These concerns included:

- Potential liability for local governments due to deficiencies in the review of applications for development of sites that might be contaminated.
- Insufficient provincial assurances that sites have been satisfactorily remediated.
- Gaps in the integration of provincial and local government processes relating to contaminated sites screening and assessment.

In short, local governments wanted a legally defined and uniform process to screen for potential contamination and to ensure that remediation occurs before a change in land use.

## HOW DOES THE SITE PROFILE PROCESS WORK?

Under the Act and Regulation, the ministry and local governments have separate but integrated duties to ensure that: (1) site profiles are submitted and satisfactorily completed; and (2) local government authorizations – including zoning, subdivision, soil removal, demolition, development and development variance permits – are not approved until the requirement for site investigation is met.

The Act's provisions apply to sites used for commercial and industrial purposes and activities as listed in [Schedule 2 of the Regulation](#). They set out the actions which may trigger a requirement for the submission of a site profile to the ministry – either directly (for site decommissioning or foreclosure proceedings), or via the relevant local government (for applications for subdivision, development, development variance, zoning, demolition, and soil removal). The Regulation sets out several exemptions to the site profile submission requirements, and allows individual local governments to opt out of the site profile administration process.

## 3. CONCERNS WITH THE CURRENT PROCESS

Over the time that the site profile process has been in place, a number of weaknesses and gaps have become apparent:

- The multi-step process is confusing and inefficient, with significant administrative burden for all involved (ministry, local government, and applicant).
- Variability in local government bylaws and permitting processes result in uncertainties and inconsistencies in the system.

- Local governments are able to “opt out” of the site profile process, resulting in a patchwork system across the province – screening of potentially contaminated sites is taking place in some local government districts but not in others.
- Too many triggers initiate the process, often bringing sites to ministry attention at an inappropriate time (for example, minor zoning changes, lot line adjustments, demolition of buildings). This concern led to the development of the “release” process described in the [Land Remediation Section Administrative Guidance document 6](#) (“Site Profile Decisions and Requesting Releases Where Local Government Approvals are Required”).
- Schedule 1 (the site profile form) can be completed by anyone to the best of their knowledge. Applicants are not required to complete historical searches to determine site use, therefore, declarations on the form may not always be accurate.
- Existing site profile exemptions are not always clear and some exemptions are outdated. This creates inconsistency in the implementation of site profile requirements.
- The consequences of submitting a site profile to the ministry are not clear. An applicant must wait for a response from the Director before planning next steps, which can lead to delays in the development process.
- The enforcement of requirements imposed in release letters is difficult and time consuming for ministry.

## 4. MINISTRY PRIORITIES AND OBJECTIVES

It is important for B.C. to have an effective screening mechanism that identifies potentially contaminated sites before land that has been used for industrial or commercial activities is reused or redeveloped. The ministry has identified the following priorities and objectives for use when considering amendments to the process for identification of potentially contaminated sites.

### Priorities:

- Create a process for identifying potentially contaminated sites that is uniform and consistent across the province.
- “Hardwire” clear and transparent requirements into the legislation, eliminating statutory decision making by the Director and the need for oversight by ministry staff.
- Provide stakeholders with increased certainty and predictability of process.

### Objectives:

- Streamline the site profile system by identifying potentially contaminated sites at an appropriate time in the redevelopment process.
- Ensure that potentially contaminated sites are adequately investigated and, if necessary, remediated before reuse or redevelopment.

## 5. OPTIONS FOR AMENDING THE PROCESS FOR IDENTIFYING POTENTIALLY CONTAMINATED SITES

This section provides information on possible changes to three aspects of the process for identifying potentially contaminated sites: (1) activities triggering site profile requirements; (2) the site profile form; and (3) the local government process for site profiles. On consideration of consultation comments, other aspects of the legal regime may also be amended. These include the purposes and activities listed in Schedule 2 of the Regulation, and exemptions from the process. The options presented below were developed in keeping with the ministry's priorities and objectives and address concerns with the current process.

In all cases, the ministry is considering "hardwiring" site investigation requirements into the legislation. For example, once the site profile process is triggered, if a site has an associated Schedule 2 activity, the applicant would be required to complete a preliminary site investigation, and a detailed site investigation if contamination is identified, possibly followed by site remediation.

### 5.1 ACTIVITIES TRIGGERING SITE PROFILE REQUIREMENTS

In light of the ministry's objective to identify potentially contaminated sites at an appropriate time in the redevelopment process, the following options for amendments to the activities that trigger the site profile requirements of the legal regime are under consideration.

#### A. LOCAL GOVERNMENT APPLICATIONS (DEMOLITION, ZONING, SUBDIVISION, SOIL REMOVAL, DEVELOPMENT, DEVELOPMENT VARIANCE)

- Remove some or all of the following triggers – soil removal, demolition, subdivision, and zoning. These particular triggers are normally considered "interim" steps to site redevelopment. Currently these triggers can be "released", delaying site investigations to the development permit stage.
- Leave triggers as is – but amend the exemptions so that the triggers only apply in certain instances (for example redevelopment to a new use).

#### B. SITE DECOMMISSIONING

- Clarify the definition of site decommissioning.
- "Hardwire" requirements to submit to the Director: (1) site investigation reports; and (2) a Site Risk Classification Report – within a specified timeframe following decommissioning (if there will be no immediate site redevelopment). The ministry is currently accomplishing this through requirements imposed by the Director in site profile

response letters for decommissioning sites (reports must be submitted within one year of the date on the letter).

- Repeal the requirement to submit a site profile upon decommissioning – and, as an alternative to this requirement, introduce provisions outside of the site profile process that would require perimeter monitoring at all operating sites with Schedule 2 activities (this would identify contamination before neighbouring parcels are affected by migrating substances). A provision requiring financial security before startup of a Schedule 2 activity could also be introduced. The financial security could be used on decommissioning if the site had not been sufficiently investigated or remediated. This option would require other amendments to the Act, Regulation and Codes of Practice.

## 5.2 SITE PROFILE FORM

The ministry is considering the following changes to improve the accuracy and completeness of information provided on the site profile form:

- For all properties used for commercial or industrial purposes, require completion of the site profile form by a qualified professional.
- Before completing a site profile form, require basic searches to determine historical site use (for example, contact local government for business license information and other records, review street directories, interview current and former owners, undertake a Site Registry search, review previous reports for site).
- Require site profile records to be updated if new information becomes available.
- Remove the question sections (VI through IX) from the form. Requirements for site investigation would be based on the presence of a Schedule 2 activity. This would remove uncertainty when it is unknown if the question should be marked “yes” or “no”.

## 5.3 SITE PROFILE “FREEZE AND RELEASE” PROVISIONS

The ministry is considering amendments to the process by which local government authorizations are suspended and then released following a site profile submission.

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### OPTION A. STREAMLINE EXISTING RELEASE PROVISIONS

Revise the release provisions in the *Oil and Gas Activities Act*, *Local Government Act*, *Land Title Act*, *Vancouver Charter* and *Islands Trust Act* so only legal instruments, such as an Approval in Principle or Certificate of Compliance, would release “frozen” applications. This would likely require amendment to certain site profile triggers and exemptions – to ensure that sites are being identified at the appropriate stage of redevelopment.

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## OPTION B. FOCUS ON THE END POINT

A site profile would be submitted to ministry when triggered by a local government application but the application would no longer be “frozen”. Site investigation requirements would be “hardwired” into the legislation. For example, if a site has an associated Schedule 2 activity, and upon redevelopment or change of use – the owner would be required to complete a preliminary site investigation, followed by a detailed site investigation if contamination is identified. Remediation of the entire area of contamination might also be required.

A negative Determination of Contaminated Site or Certificate of Compliance would have to be obtained:

- Before a certain end point (occupancy, for example – add to the Building Code the need for a negative Determination or Certificate of Compliance before final building inspection, or create a new environmental occupancy permit under the Act); or
- Within a specified timeframe (for example, 5 years).

## 6. PROVIDING COMMENT

Comments on identification of potentially contaminated sites and the site profile process can be provided to the Ministry of Environment by e-mail attachment or mail at the address listed below. Written submissions received by **February 2, 2015** will be considered by the ministry in reviewing options for amending the process.

Before submitting a response, interested parties are invited to participation in an information webinar scheduled to be held on Wednesday, January 14, 2015. If you are interested in receiving information about or participating in the webinar please contact Cindy Bertram at the email or address below for further details.

The ministry has prepared consultation questions included in this discussion paper. Those interested are invited to submit comments on the issues and options using the prepared consultation questions or by separate submission if desired.

All submissions will be treated with confidentiality by ministry staff and contractors when preparing consultation reports. Please note however that comments you provide and information that identifies you as the source of those comments may be publicly available if a Freedom of Information request is made under the *Freedom of Information and Protection of Privacy Act*.

If you have any questions or comments regarding this discussion paper, as well as comments on the ministry's schedule for the consultation process, contact Cindy Bertram of C. Rankin & Associates who has been contracted to manage consultation comments, at:

**Email:** [cindybertram@shaw.ca](mailto:cindybertram@shaw.ca)

**Mail:** PO Box 28159 Westshore RPO  
Victoria B.C. V9B 6K8

Comments to the ministry should be made on or before February 2, 2015.

**Thank you for your time and comments!**

## CONSULTATION QUESTIONS

The following topic areas and questions are based on the identification of potentially contaminated sites: site profile process discussion paper.

### **1. Ministry priorities and objectives for identification of potentially contaminated sites**

- 1.1 Do you have any comments regarding the ministry's priorities and objectives?
  
- 1.2 Are there any additional objectives that you believe should inform or guide the ministry's review of British Columbia's site remediation legal regime?

### **2. Concerns with the current site profile process**

- 2.1 Do you have any comments or concerns regarding the current site profile process?

### **3. Activities triggering site profile requirements**

- 3.1 Local government applications – Do you have any comments regarding removing or amending triggers affecting local government applications and the site profile process?
  
- 3.2 Recognizing the variability in local government permit processes, do you have any suggestions for the ministry to help ensure a consistent process for identifying contaminated sites throughout the province?
  
- 3.3 Site decommissioning – Do you have any comments regarding removing or amending requirements for a site profile upon decommissioning of a site?

### **4. Site profile form**

- 4.1 Do you have any suggestions for improving the accuracy and completeness of the site profile form?

## **5. Site profile “freeze and release” provisions**

### **5.1** *Option A. Streamline existing release provisions.*

Do you have any comments about this option? Do you believe that it would meet the ministry’s priorities and objectives?

### **5.2** *Option B. Focus on the end point.*

Do you have any comments about this option? Do you believe that it would meet the ministry’s priorities and objectives?

## **6. Suggestions for a revised site identification process**

**6.1** If you do not support the options presented, do you have any alternative suggestions for a revised process that would meet the ministry’s priorities and objectives in identifying potentially contaminated sites?

## **7. Additional comments?**

**7.1** Do you have any additional comments or suggestions regarding the ministry’s review of British Columbia’s site remediation legal regime and/or the identification of potentially contaminated sites?