
AUGUST 3, 2016

CLIENT BULLETIN

IDENTIFICATION OF CONTAMINATED SITES – CHANGES IN STORE FOR LOCAL GOVERNMENTS

The Ministry of Environment has extended the period for stakeholder comments on its Intentions Paper regarding Identification of Contaminated Sites

http://www2.gov.bc.ca/assets/gov/environment/air-land-water/site-remediation/docs/requests-for-comments/site_id_intentions_paper.pdf.

Comments should be directed to margaret_shaw@shaw.ca.

Local governments and approving officers, including those who have opted out of the contaminated sites identification process under existing legislation, are encouraged to review the Intentions Paper if they have not already done so, to see whether the proposed changes to the site profiles regime warrant comment on their behalf. From a local government perspective the following changes seem particularly significant:

- Local governments and approving officers will no longer be able to opt out of the site identification process
- Subdivision, soil removal, and demolition permit applications will no longer trigger contaminated site identification
- Building permit applications will trigger contaminated site identification
- Zoning amendment, development permit and development variance permit application triggers for contaminated site identification will remain in place
- Compliance with remediation requirements resulting from contaminated site identification will be policed by local governments at the final building inspection or occupancy permit stage of redevelopment

The addition of the building permit trigger could potentially add considerably to the number of site identifications that have been triggered via a local government permit application process. For several years, MOE officials have been suggesting that local governments may adopt zoning amendments and issue DVPs and DPs as long as the developer provides evidence of compliance with site remediation requirements prior to occupancy permits being issued, but this approach has not appeared to be consistent with the governing legislation. The changes proposed in this paper will clearly mandate that approach. While the Intentions Paper states that responsibility for enforcing requirements related to the site identification process will rest with the Ministry

of Environment and not with local government, there is a scenario where real estate purchasers may occupy their properties without occupancy permits or final inspections where their developer has not completed site remediation obligations; this would be a local government enforcement matter. The Ministry is specifically seeking comments on this change.

Bill Buholzer