


Taking Action on Brownfields

An Overview

Brownfield Training Workshops


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Ministry of Municipal Affairs and Housing

Outline

- ❖ Process to Remediate a Brownfield Property
- ❖ Comprehensive Reform: Highlights
- ❖ Municipal Role as Regulator
 - Building Permits
 - Planning Applications
 - Internal Protocols
- ❖ Coordinated Approach to Brownfields: Looking Forward
- ❖ Financial Incentives



2

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Environmental Framework

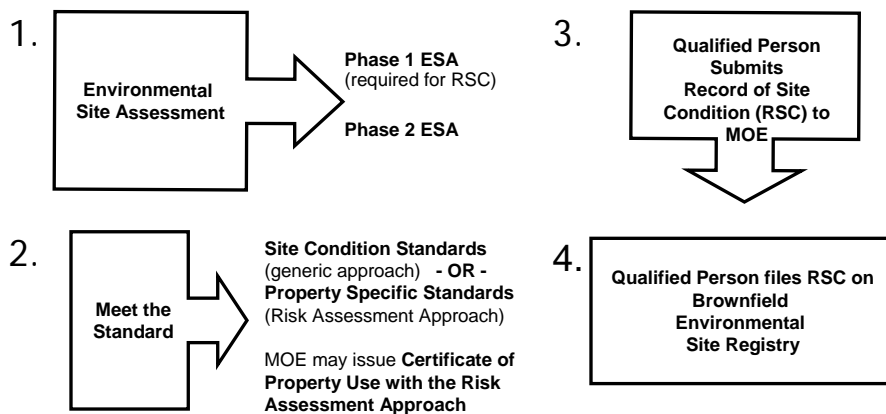
- ❖ **Province retains control and authority over the standards for remediation/ clean-up**
 - Identified “generic” standards for contaminants of concerns
 - Proponent Risk Assessment models (to use site-specific standards) reviewed and approved by Province

- ❖ **“Qualified Persons” accountable for ensuring property is remediated to those standards**
 - File a Record of Site Condition (RSC) on behalf of the property owner identifying the property is suitable for a particular use
 - Electronic registry where RSCs can be searched by anyone

- ❖ **Proponent-driven system; RSCs are only mandatory where there is a change to a more sensitive use under the EPA**

3

The Current Process to File a RSC



4

Municipal Role - Mandatory RSCs

- ❖ As of October 2005, under the *Environmental Protection Act* it is mandatory for a property owner to file a RSC before changing the use of a property to a “more sensitive use” (“mandatory filing” provision). “Property “uses” are defined in the EPA and O.Reg 153/04.
- ❖ Municipalities have a role in implementing this provision – it is applicable law under the *Building Code Act, 1992*

Standards Category 1	RSC Required to Cross to Sensitive Property Use	Standards Category 2	Standards Category 3
		Sensitive Property Uses	
Industrial		Residential	Agricultural
Commercial		Parkland	Other
Community		Institutional	

8

Municipal Role - Planning Approvals

- ❖ Unlike the mandatory requirements for filing RSCs under the *Environmental Protection Act*, there are no explicit *Planning Act* requirements for municipal requests for filed RSCs
- ❖ A RSC cannot:
 - be a requirement for the issuance of a building permit where no change of use is contemplated (exceeding mandatory requirements)
 - be required to be provided as a condition of site plan approval
- ❖ Provincial Policy Statement (PPS, 2005) links brownfields and intensification goals, and states that brownfield sites shall be remediated prior to changes of use to ensure no adverse effects

9

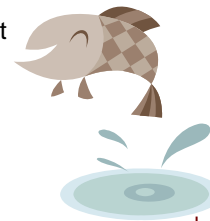
When to ask for a RSC?

- ❖ Mandatory requirements of the EPA are a minimum (change to more sensitive use)
- ❖ Beyond this, municipalities need to consider – could we defend the reasons a RSC was required at the OMB?
- ❖ Municipal response may vary:
 - Rely on O. Reg 153/04 regarding mandatory requirements for filing a RSC
 - Develop official plan policies requiring RSCs at specific planning stages (e.g. zoning with holding provision)
 - Develop protocols or planning application screening tool requiring environmental assessments / studies in specified situations

10

Municipal Role: Non-Potable Water Requests

- ❖ **Owner is required to send notice to the clerk** of the local municipality if they intend to apply non-potable standards
- ❖ **Municipalities should develop an internal protocol** to determine when/where potable and non-potable water standards will be required
- ❖ Municipal response may vary:
 - send a responding letter to the proponent requiring that potable standards be used (notice of objection)
 - send a responding letter to the proponent confirming non-potable water standards may be used
 - choose to be silent and in 30 days proponent is free to proceed using non-potable water standards



11