

Ministry of the Environment,  
Conservation and Parks  
Ministère de l'Environnement, de la Protection  
de la nature et des Parcs

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## Certificate of Property Use

Environmental Protection Act, R.S.O. 1990, c.E.19, s.168.6

Certificate of Property Use number: 0237-BF2J8B  
Risk Assessment number: 1547-A6XTYN

**Owner:**

Siemens Canada Limited  
1577 North Service Rd E  
Oakville, Ontario, L6H 0H6

**Site:**

30 Milton Avenue, Hamilton, Ontario

**Legal Description:**

LTS 62, 63, 64, 65, 66, 67 & 68, PL 167; HAMILTON  
PIN No. 17194-0073 (LT)

**The conditions of this Certificate of Property Use (CPU) address the Risk Management Measures in the Risk Assessment noted above and described in detail in Part 1 below (Risk Assessment). In the event of a conflict between the CPU and the Risk Assessment, the conditions of the CPU take precedence.**

**Summary: Refer to Part 1 of the CPU, Interpretation, for the meaning of all the defined capitalized terms that apply to the CPU.**

- i) CPU requirements addressed in Part 4 of the CPU, Director Requirements, are summarized as follows:
  - a. Installing/maintaining any equipment Yes
  - b. Monitoring any contaminant Yes
  - c. Refraining from constructing any building specified Yes
  - d. Refraining from using the Property for any use specified Yes
  - e. Other: see ii below for details Yes
  
- ii) Duration of Risk Management Measures identified in Part 4 of the CPU is summarized as follows:

- a. The existing barriers; or any new barriers that may be installed on the Property are required to be maintained for as long as the Contaminants of Concern are present on the Property;
- b. The restriction on the construction of Building(s) on the Property unless the Building(s) incorporate either a Storage Garage or a soil vapour mitigation system shall be required for as long as the Contaminants of Concern are present on the Property;
- c. The health and safety plan for all intrusive work and excavation activities potentially exposing the Contaminants of Concern identified on the Property shall be required for as long as the Contaminants of Concern are present on the Property;
- d. The soil and groundwater management plan for work that may potentially expose Contaminants of Concern identified on the Property shall be required for as long as the Contaminants of Concern are present on the Property;
- e. The other Risk Management Measures shall continue indefinitely until the Director amends or revokes the CPU.

## **Part 1: Interpretation**

In the CPU the following terms shall have the meanings described below:

“Adverse Effect” has the same meaning as in the Act; namely,

- (a) impairment of the quality of the natural environment for any use that can be made of it,
- (b) injury or damage to property or to plant or animal life,
- (c) harm or material discomfort to any person,
- (d) an adverse effect on the health of any person,
- (e) impairment of the safety of any person,
- (f) rendering any property or plant or animal life unfit for human use,
- (g) loss of enjoyment of normal use of property, and
- (h) interference with the normal conduct of business;

“Act” means the Environmental Protection Act, R.S.O. 1990, c. E. 19, as amended;

“Building” means an enclosed structure occupying an area greater than ten square metres consisting of a wall or walls, roof and floor.

“Contaminant” has the same meaning as in the Act; namely any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them, resulting directly or indirectly from human activities that may cause an Adverse Effect;

“Contaminant of Concern” & “COC” has the meaning as set out in section 3.2 of the CPU;

“CPU” means this Certificate of Property Use Number No. **0237-BF2J8B** as may be amended from time to time;

"Director" means the undersigned Director or any other person appointed as a Director for the purpose of issuing a certificate of property use;

“EBR” means the Environmental Bill of Rights, 1993, .S.O. 1993, c.28, as amended;

“Environmental Compliance Approval” has the same meaning as set out in the Environmental Protection Act, R.S.O. 1990, Chapter E.19;

“Impacted Soils” means soil in which one or more Contaminants are present at concentrations equal to or greater than the soil criteria identified in **Table 7: Generic Site Condition Standards for Shallow Soils in a Non-Potable Ground Water Condition of the Act** for **medium and fine** textured soils in an **Industrial, Commercial, Community** property use published by the Ministry and dated April 15, 2011.

“Licensed Professional Engineer” means a person who holds a license, limited license or temporary license under the Professional Engineers Act, R.R.O. 1990, c.P.28, as amended;

"Ministry" means Ontario Ministry of the Environment, Conservation and Parks;

“Owner” means **Siemens Canada Limited**, the current owner of the Property, and any future Property Owner (s);

"OWRA" means the Ontario Water Resources Act, R.S.O. 1990, c.0.40, as amended;

“Property” means the property that is the subject of the CPU and described in the “Property” section on page 1 above, and illustrated in **Figure 1** of Schedule A which is attached to and forms part of this CPU;

“Property Specific Standards” means the property specific standards established for the Contaminants of Concern set out in the Risk Assessment and in section 3.2 of the CPU;

"Provincial Officer" means a person who is designated as a provincial officer for the purposes of the Act;

“Qualified Person” means a person who meets the qualifications prescribed in O. Reg. 153/04, as amended, made under the Act;

“Risk Assessment” (RA) means the Risk Assessment No. **1547-A6XTYN** accepted by the Director on **August 14, 2019** (“RA”), and set out in the following documents:

- “A Risk Assessment of 30 Milton Avenue, Hamilton, Ontario”, by Intrinsic Corp., dated December 2016; and
- “A Risk Assessment of 30 Milton Avenue, Hamilton, Ontario”, by Intrinsic Corp., dated April 2019

“Risk Management Measures” means the risk management measures specific to the Property described in the Risk Assessment and/or Part 4 of the CPU;

“Risk Management Plan” means the final version of the risk management plan as set out in section 7 and Appendix M of the “Risk Assessment” report dated **April 2019**;

“Storage Garage” has the same meaning as the Building Code and includes a mechanical ventilation system designed to provide a continuous supply of outdoor air at a rate of not less than 3.9 litres per second for each square metre of floor area. The Storage Garage shall comply with all applicable requirements of the Building Code, including the provisions governing:

- i. the design of a mechanical ventilation system as set out in Division B, Article 6.2.2.3. (Ventilation of Storage and Repair Garages) of the Building Code;
- ii. interconnection of air duct systems as set out in Division B, Sentence (2) of Article 6.2.3.9. (Interconnection of Systems) of the Building Code; and
- iii. air leakage as set out in Division B, Section 5.4. (Air Leakage) of the Building Code.

“Tribunal” has the same meaning as in the Act; namely, the Environmental Review Tribunal;

“Unimpacted Soil” means soil in which one or more Contaminants are present at concentrations less than the soil criteria identified in **Table 7: Generic Site Condition Standards for Shallow Soils in a Non-Potable Ground Water Condition of the Act** for **medium and fine** textured soils in an **Industrial, Commercial, Community** property use published by the Ministry and dated April 15, 2011.

## **Part 2: Legal Authority**

- 2.1 Section 19 of the Act states that a certificate of property use is binding on the executor, administrator, administrator with the will annexed, guardian of property

or attorney for property of the person to whom it was directed, and on any other successor or assignee of the person to whom it was directed.

- 2.2 Subsection 132(1.1) of the Act states that the Director may include in a certificate of property use a requirement that the person to whom the certificate is issued provide financial assurance to the Crown in right of Ontario for any one or more of,
- a. the performance of any action specified in the certificate of property use;
  - b. the provision of alternate water supplies to replace those that the Director has reasonable and probable grounds to believe are or are likely to be contaminated or otherwise interfered with by a contaminant on, in or under the property to which the certificate of property use relates; and
  - c. measures appropriate to prevent adverse effects in respect of the property to which the certificate of property use relates.
- 2.3 Section 168.6 (1) of the Act states that if the Director accepts a risk assessment relating to a property, he or she may, when giving notice under clause 168.5 (1)(a), issue a certificate of property use to the owner of the property, requiring the owner to do any of the following things:
1. Take any action specified in the certificate that, in the Director's opinion, is necessary to prevent, eliminate or ameliorate any adverse effect on the property, including installing any equipment, monitoring any contaminant or recording or reporting information for that purpose.
  2. Refrain from using the property for any use specified in the certificate or from constructing any building specified in the certificate on the property.
- 2.4 Subsection 168.6(2) of the Act states that a certificate of property use shall not require an owner of property to take any action that would have the effect of reducing the concentration of a contaminant on, in or under the property to a level below the level that is required to meet the standards specified for the contaminant in the risk assessment.
- 2.5 Subsection 168.6(3) of the Act states that the Director may, on his or her own initiative or on application by the owner of the property in respect of which a certificate has been issued under subsection 168.6(1),
- a. alter any terms and conditions in the certificate or impose new terms and conditions; or
  - b. revoke the certificate.
- 2.6 Subsection 168.6(4) of the Act states that if a certificate of property use contains a provision requiring the owner of the property to refrain from using the property for a specified use or from constructing a specified building on the property,
- a. the owner of the property shall ensure that a copy of the provision is given to every occupant of the property;

- b. the provision applies, with necessary modifications, to every occupant of the property who receives a copy of the provision; and
  - c. the owner of the property shall ensure that every occupant of the property complies with the provision.
- 2.7 Subsection 196(1) of the Act states that the authority to make an order under the Act includes the authority to require the person or body to whom the order is directed to take such intermediate action or such procedural steps or both as are related to the action required or prohibited by the order and as are specified in the order.
- 2.8 Subsection 197(1) of the Act states that a person who has authority under the Act to make an order or decision affecting real property also has authority to make an order requiring any person with an interest in the property, before dealing with the property in any way, to give a copy of the order or decision affecting the property to every person who will acquire an interest in the property as a result of the dealing.
- 2.9 Subsection 197(2) of the Act states that a certificate setting out a requirement imposed under subsection 197(1) may be registered in the proper land registry office on the title of the real property to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection 197(1) and is accompanied by a registrable description of the property.
- 2.10 Subsection 197(3) of the Act states that a requirement, imposed under subsection 197(1) that is set out in a certificate registered under subsection 197(2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property.
- 2.11 Subsection 197(4) of the Act states that a dealing with real property by a person who is subject to a requirement imposed under subsection 197(1) or 197(3) is voidable at the instance of a person who was not given the copy of the order or decision in accordance with the requirement.

### **Part 3: Background**

- 3.1 The Risk Assessment (RA) was undertaken for the Property to establish the risks that the Contaminants identified in the Risk Assessment may pose to future users and to identify appropriate Risk Management Measures to be implemented to ensure that the Property is suitable for the intended uses: **Industrial, Commercial, Community** as defined in O. Reg. 153/04, as amended, made under the Act.

- 3.2 The Contaminants on, in or under the Property that are present either above the **Table 7: Generic Site Condition Standards for Shallow Soils in a Non-Potable Ground Water Condition** of the Act in an **Industrial, Commercial, Community** property use published by the Ministry and dated April 15, 2011, for **medium and fine** textured soils or for which there are no such standards, are set out in the Risk Assessment (Contaminants of Concern). The Property Specific Standards for these Contaminants of Concern are set out in **Table 1A and Table 1B of Schedule 'A'** which is attached to and forms part of the CPU.
- 3.3 I am of the opinion, for the reasons set out in the Risk Assessment that the Risk Management Measures described therein and outlined in Part 4 of the CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property.
- 3.4 The Risk Assessment indicates the presence of Contaminants of Concern in soil and groundwater which require on-going restriction of land use and pathway elimination. As such, it is necessary to restrict the use of the Property and impose building restrictions and implement Risk Management Measures as set out in the Risk Assessment and in Part 4 of the CPU.

#### **Part 4: Director Requirements**

Pursuant to the authority vested in me under section 168.6(1) of the Act, I hereby require the Owner to do or cause to be done the following:

#### **Risk Management Measures**

- 4.1 Implement, and thereafter maintain or cause to be maintained, the Risk Management Measures.
- 4.2 Without restricting the generality of the foregoing in Section 4.1, carry out or cause to be carried out the following key elements of the Risk Management Measures:
- 4.2.1 The existing barriers on the Property are required to be inspected and maintained to prevent exposure to the Contaminants of Concern (COC) identified on the Property and shall be maintained for as long as the COC are present on the Property.
- 4.2.2 Removal of the existing barrier or portions of the barrier on the Property shall be replaced with new fill cap or hard cap barriers or a combination thereof installed in accordance with the Risk Management Plan, configured as set out on Figure 2 of Schedule 'A' of this CPU and incorporate the following:
- i. fill cap barrier(s) shall consist of a capping of Impacted Soils on the Property where Impacted Soils are present at or within 0.5 metre below the soil surface with at least 0.5 metre of Unimpacted Soil immediately on

top of a geotextile material, and, above the Unimpacted Soil, may also include up to 0.5 metre of non-soil surface treatment such as asphalt, concrete or aggregate.

- ii. hard cap barrier(s) shall consist of a capping of Impacted Soils on the Property not covered by at least 0.5 metre of Unimpacted Soil with asphalt, concrete, a building slab or a building foundation and floor slab consisting of at least 150 millimetres of Granular 'A' or equivalent material overlain by at least 75 millimetres of hot mix asphalt or concrete.

4.2.3 Within 90 days of completion of the installation of the barriers described by Part 4.2.2 of this CPU, the Owner shall submit to the Director written confirmation signed by a qualified Licensed Professional Engineer that the barriers have been installed in accordance with the requirements of the Risk Management Plan and this CPU along with final design specifications/drawings and or as-built drawings.

4.2.4 Within three months of the issuance of this CPU, an inspection and maintenance program shall be implemented to ensure the continuing integrity of the barriers described by Parts 4.2.1 and 4.2.2 of this CPU for as long as the COC are present on the Property. The inspection program shall include semi-annual inspections of the barrier's integrity in accordance with the inspection and maintenance program set out in the Risk Management Plan. Any barrier deficiencies shall be repaired forthwith in accordance with the Risk Management Plan. If cracks, breaches or any loss of integrity in the barriers cannot be repaired or addressed in a timely manner, contingency measures shall be implemented to ensure no exposure to the COC present on the Property. The restoration of any damaged portions of the barriers shall meet the requirements set out, at minimum, in Part 4.2.1 and 4.2.2 of this CPU as applicable and the Risk Management Plan. In the event of a repair to a barrier, the Owner shall obtain written confirmation prepared and signed by a Licensed Professional Engineer that the barriers have been repaired in accordance with the requirements of this CPU and the Risk Management Plan. The written confirmation shall also include a description of any contingency measures put in place and shall be delivered to the Owner within 30 days of the completion of any barrier repairs and/or restorations. The Owner shall keep records of the inspections, maintenance and restorations and make them available for review by the Ministry upon request.

4.2.5 Within three months of the issuance of this CPU, the Owner shall implement an inspection, monitoring and maintenance program focused on the prevention of soil vapour migration into the existing Building on the Property. This program is to be developed by a Qualified Person and remain in place for as long as the existing Building and COC remain on the property. The program shall consist of the following:



- i. oversight by a Qualified Person;
- ii. semi-annual inspections of the visible areas of the foundation floor slab including, but not limited to, floor drains, seams along the building perimeter, utility access points and subsurface walls contacting soil to identify any cracks, breaches or other deficiencies that may allow soil vapor migration into the building;
- iii. the repair forthwith of any cracks, breaches or loss of integrity observed in the locations identified by Part 4.2.5 ii. of this CPU or any other locations identified by the Qualified Person as potential soil vapour migration pathway (s) into the Building;
- iv. all repairs or maintenance shall be made by an appropriately qualified contractor, under the supervision of a qualified Licensed Professional Engineer;
- v. propose and implement contingency actions in accordance with the applicable items of Part 4.2.12. vii. 2. a. of this CPU including considerations to modify the Building's HVAC system;
- vi. set out measures to be implemented following any activities that may compromise the integrity of the locations described by Part 4.2.5 ii. of this CPU to ensure that preferential pathways for the migration of vapours to indoor air are addressed as determined by a qualified Licensed Professional Engineer. The Owner shall keep records of the inspection, monitoring and maintenance program and make them available for review by the Ministry upon request.

4.2.6 Refrain from constructing any Building on the Property unless the Building:

- i. is constructed with a sub-grade Storage Garage which covers the entire area of the building footprint at the final grade of the building; or
- ii. is constructed with a passive soil vapour intrusion mitigation system (SVIMS) described by the Risk Management Plan and shown conceptually on Figure 3 of Schedule 'A' of this CPU;

4.2.7 For the Building described by Part 4.2.6 i. of this CPU, the ventilation and air duct system(s) serving the sub-grade level (s) of the building shall be separate system(s) from the ventilation system(s) serving all stories above ground level.

4.2.8 For a Building described by Part 4.2.6 ii. of this CPU, the design, installation and commissioning of the SVIMS shall be in accordance with the Risk Management Plan and include the following:

- i. the passive SVIMS shall be designed and installed such that it can be converted to an active ventilated system;

- ii. the installation of the SVIMS shall be completed under the supervision of a qualified Licensed Professional Engineer and a Qualified Person;
- iii. A quality assurance/quality control (QA/QC) program shall be undertaken during the installation of the SVIMS and shall be completed by, and clearly documented in a report prepared by, a qualified contractor and overseen by a qualified Licensed Professional Engineer and Qualified Person; and
- iv. The Owner shall obtain an Environmental Compliance Approval, as necessary, and any other permits or approvals as may be required.

4.2.9 Within 90 days of the commissioning of the SVIMS described by Part 4.2.6 ii. of this CPU, the Owner shall submit to the Director, the following information prepared by the qualified Licensed Professional Engineer:

- i. As-built drawings and detailed design specifications of the SVIMS, including any verification and QA/QC reports;
- ii. A written statement from the qualified Licensed Professional Engineer indicating that the SVIMS has been installed in accordance with the design specifications and that it has been designed to meet the requirements and objectives of the Risk Assessment and Risk Management Plan; and
- iii. An operation, monitoring, maintenance program and contingency plan report to be implemented by the Owner, prior to first occupancy.

4.2.10 An inspection and maintenance program shall be implemented to ensure the proper operation and continuing integrity of the installed SVIMS described by Part 4.2.6. ii. of this CPU. The inspection program shall be implemented and conducted at the frequency set out in the Risk Management Plan and any noted deficiencies shall be corrected forthwith in accordance with the Risk Management Plan. In the event of a corrective action, the Owner shall submit to the Director written confirmation prepared and signed by a Licensed Professional Engineer that the SVIMS has been repaired in accordance with the requirements of this CPU and the Risk Management Plan. The written confirmation shall also include a description of any contingency measures put in place and shall be submitted to the Director within 30 days of the completion of any corrective actions. The Owner shall keep records of the inspections and maintenance and make them available for review by the Ministry upon request.

4.2.11 The Owner shall ensure that all individuals/contractors intending to undertake work which could potentially come into contact with or interfere with the SVIMS described by Part 4.2.6 ii. of this CPU are made aware of the

presence of the SVIMS and the need to take appropriate precautions to ensure the integrity of the system at all times. If the SVIMS is damaged at any time, the Owner shall ensure that it is repaired to meet the design objectives and specifications set out by the Risk Management Plan.

4.2.12 Within three months of the issuance of this CPU, the owner shall implement, as applicable, an indoor air quality (IAQ) and sub-slab vapour (SSV) monitoring program (herein “program”) in accordance with the Risk Management Plan for the existing Building on the Property and for any new Building (s) incorporating a SVIMS as described by Part 4.2.6 ii. of this CPU. All monitoring results shall be compared to the applicable trigger criteria set out on **Tables 1C and 1D**, Schedule ‘A’ of this CPU. Comparisons of the IAQ and SSV results to the trigger criteria set out on **Table 1C** is for the assessment of potential vapour intrusion into the existing or new Building (s) on the Property. Comparisons of the SSV results to the SSV criteria set out on **Table 1D** is for the assessment of potential off-site soil vapour impacts to neighbouring properties due to the presence of the COC on the Property. Specifically, the program shall include, but not be limited to, the following components:

- i. Be overseen by a Qualified Person.
- ii. Be carried out semi-annually once from December to February and once from June to August.
- iii. An outdoor air sample shall be collected contemporaneously with each monitoring event and shall be located on the Property to be representative of ambient air occurring on the Property.
- iv. For the existing Building, samples shall be collected from the locations identified on Figure 4, Schedule ‘A’ of this CPU and as described by the Risk Management Plan.
- v. For any new Building (s) incorporating a SVIMS as described by Part 4.2.6 ii. of this CPU, samples shall be collected from at least two locations within each Building(s) as identified by Qualified Person to be representative of potential exposures within the Building and potential off-property impacts to the east of the Property as set out by the Risk Management Plan.
- vi. If a measured concentration exceeds the criteria set out on **Tables 1C and/or 1D** of Schedule ‘A’ of this CPU, at any of the locations described by Parts 4.2.12 iv. and v. of this CPU, the Owner shall notify the Director in writing within 30 days of receipt of the analytical results.
- vii. If a measured concentration exceeds the values set out on **Tables 1C and/or 1D**, Schedule ‘A’ of this CPU, at any of the locations described

by Part 4.2.12 iv. and v. of this CPU, then the Owner shall collect an additional (confirmatory) sample at the locations described by Parts 4.2.12 iv. and v. of this CPU, for all COC listed on **Tables 1C and/or 1D**, Schedule 'A' within 30 days of receipt of the analytical results and undertake the following as applicable:

1. If none of the concentrations of the COC exceed the values set out on **Tables 1C and/or 1D**, Schedule 'A' of this CPU on the confirmatory monitoring event, then monitoring shall be carried out as described by Parts 4.2.12 i., ii., iii., iv. and v. of this CPU;
  2. If any of the air concentrations of the COC exceed the values set out on **Tables 1C and/or 1D**, Schedule 'A' of this CPU, on the confirmatory monitoring event, then an appropriately qualified Licensed Professional Engineer shall be retained by the Owner and within 30 days of the receipt of the analytical results, shall:
    - a. Develop and submit a work plan with timelines to the Director for further investigations and recommendations (contingency actions) to minimize/mitigate vapour intrusion into the Building(s) on the Property for an exceedance of the Table 1C criteria and/or to the adjacent properties for an exceedance of the Table 1D criteria; or
    - b. Develop and submit a report to the Director confirming that the IAQ exceedances are due to ambient (outdoor) air sources and continue sampling as directed by Parts 4.2.12 i., ii., iii., iv. and v. of this CPU.
  3. Upon the Owner receiving written approval from the Director regarding the contingency plan submitted as required by Part 4.2.12 vii. 2 a. of this CPU, the Owner shall forthwith implement the plan and provide confirmation to the Director. The contingency plan shall be completed under the supervision of an appropriately qualified Licensed Professional Engineer.
- viii. Upon the occurrence of two consecutive years of monitoring results that are less than the values set out on **Table 1C and 1D**, Schedule 'A' of this CPU, at the locations described by Part 4.2.12 iv. and v. of this CPU; the Owner may apply to the Director to alter the frequency or revoke the indoor air quality monitoring program in accordance with Part 5.2 a) of this CPU.
- ix. The Owner shall keep a copy of all sampling data available for inspection by a Provincial Officer upon request.

- 4.2.13 Upon issuance of this CPU, the Owner shall implement a groundwater monitoring program in accordance with the Risk Management Plan. Specifically, the groundwater monitoring program shall include, but not be limited to, the following components:
- i. Be overseen by a Qualified Person;
  - ii. Be conducted at the groundwater wells specified on **Figure 4**, Schedule 'A' of this CPU, namely, BH-S-404, BH-S-503, BH-S-403, BH-S-502 and BH-S-402
  - iii. Consist of the semi-annual collection of groundwater samples from the locations described by Part 4.2.13 ii. of this CPU, once from December to February and once from June to August;
  - iv. Groundwater samples shall be sent to an appropriately qualified laboratory and analyzed for the COC identified in **Table 1E**, Schedule 'A' of this CPU;
  - v. The results of the groundwater samples shall be compared to the trigger criteria set out on **Table 1E** of Schedule 'A' of this CPU or the applicable **Table 7: Generic Site Condition Standards for Shallow Soils in a Non-Potable Ground Water Condition** should these standards be amended after the date of this CPU;
  - vi. Groundwater samples collected as set out by Part 4.2.13 i., ii., iii. and iv. of this CPU with concentrations equal to or greater than the criteria set out by Part 4.2.13 v. of this CPU, shall be analyzed for the occurrence of an increasing trend in concentration(s) as specified by Section 4.2 of the Risk Management Plan. If an increasing trend is identified, the Owner shall collect an additional sample(s) (confirmatory) within 30 days of receiving the analytical results from the location(s) where the increasing trend(s) is identified.
    1. If the analysis of the sample(s) collected as required by Part 4.2.13 vi. of this CPU no longer indicates an increasing trend determined in accordance with Section 4.2 of the Risk Management Plan, then groundwater monitoring shall continue as set out by Parts 4.2.13 i., ii., iii., iv. and v. of this CPU and the Risk Management Plan;
    2. If the analysis of the sample(s) collected as required by Part 4.2.13 vi. of this CPU continues to demonstrate an increasing trend in concentration as determined in accordance with Section 4.2 of the Risk Management Plan, then the Owner shall notify the Director within 5 business days of receiving the analytical results and retain a Qualified Person to develop and submit the contingency plan described by

Section 4.5 of the Risk Management Plan to the Director within 45 days of receipt of the analytical results.

- vii. Upon the Owner receiving written approval from the Director regarding the contingency plan submitted as directed by Part 4.2.13 vi. 2. of this CPU, the Owner shall forthwith implement the plan and provide confirmation to the Director. The contingency plan shall be completed under the supervision of a Qualified Person.
- viii. At the occurrence of two years of groundwater monitoring results for the monitoring carried out in accordance with Parts 4.2.13 i., ii., iii. and iv. of this CPU a request can be made to the Director in accordance of Part 5.2 a) of this CPU;
- ix. In the event that one or more of the monitoring wells identified in Part 4.2.13 ii. of this CPU are damaged or destroyed, the Owner shall provide written notification to the Director forthwith and the damaged or destroyed monitoring wells shall be either repaired or replaced, as warranted, by a newly installed monitoring well in the same location and be of similar construction, to the extent practicable, as the original monitoring well that was destroyed prior to the next scheduled groundwater sampling event. All damaged monitoring wells that cannot reasonably be repaired shall be decommissioned in accordance with Ontario Regulation 903 as amended from time to time. Monitoring wells may be removed from the groundwater monitoring program upon the Owner receiving written approval from the Director;
- x. The Owner shall keep a copy of all sampling data available for inspection by a Provincial Officer upon request.

4.2.14 A property specific Health and Safety Plan shall be developed and implemented prior to all intrusive activities potentially in contact with or exposing COC identified on the Property or portion (s) of the Property and a copy shall be maintained at the Property for the duration of all intrusive activities. The Health and Safety plan shall be prepared in accordance with applicable Ministry of Labour health and safety regulations to mitigate the potential risks identified in the Risk Management Plan and include, but not be limited to, occupational hygiene requirements, personal protective equipment, contingency plans and contact information. The Owner shall retain a copy of the plan to be available for review by the Ministry upon request.

4.2.15 A property specific Soil and Groundwater Management Plan (Plan) shall be developed for the Property and implemented during all intrusive activities potentially in contact with or exposing COCs identified in on-site soils and/or groundwater on the Property as detailed in the Risk Management Plan. A copy of the Plan shall be maintained on the Property for the duration of all

planned intrusive activities and include, but not be limited to, the following components as deemed necessary by a Qualified Person:

- i. oversight by a Qualified Person;
- ii. dust control measures and prevention of soils tracking by vehicles and personnel from the Property;
- iii. management of excavated soils including cleaning equipment, placement of materials for stockpiling on designated areas lined and covered with polyethylene sheeting, bermed and fenced to prevent access, runoff control to minimize contact and provisions for discharge to sanitary sewers or other approved treatment;
- iv. storm water management measures to control the potential transport of COCs off-site during on-site construction/redevelopment activities. This shall include, but to not be limited to, silt fences and filter socks on catch-basins and utility covers as necessary;
- v. characterization of excavated soils to determine if the excavated soils exceed the Property Specific Standards listed in **Table 1A** of Schedule 'A' attached to this CPU and/or the applicable generic site condition standards for parameters other than those identified in **Table 1A** and require off-site disposal in accordance with the provisions of Ontario Regulation 347, as amended, made under the Act;
- vi. procedures for the management, collection and containment of ground water that may be extracted and/or exposed during future sub-surface work on the Property.
- vii. characterization of extracted and/or exposed groundwater to determine if the groundwater exceeds the Property Specific Standards listed in **Table 1B** of Schedule 'A' attached to this CPU and/or the applicable generic site condition standards for parameters other than those identified in **Table 1B** and require off-site disposal in accordance with the provisions of Ontario Regulation 347, as amended, made under the Act;
- viii. record keeping, including but not be limited to, dates and duration of work, weather and site conditions, location and depth of excavation activities/dewatering activities, dust control measures, stockpile management and drainage, all soil and groundwater characterization results obtained as part of the Plan, names of the Qualified Persons, contractors, haulers and receiving sites for any excavated excess soils and groundwater, as a result of dewatering activities, removed from the property and any complaints received relating to site activities; and,

- ix. a copy of the plan and any amendments and the records kept thereunder shall be made available for review by the Ministry upon request.

4.2.16 Before April 30<sup>th</sup> of the year following the year in which this CPU is issued and annually thereafter, the Owner shall prepare an annual report documenting the activities relating to the Risk Management Measures undertaken during the previous calendar year. This report is to be prepared by a Qualified Person and a copy is to be at the Property for inspection and be made available upon request by the Ministry. The report shall include the following information:

- i. Inspection and maintenance activities in regard to the surface barriers described by Parts 4.2.1 and 4.2.2 of this CPU;
- ii. Inspection and maintenance activities in regard to existing building and the potential for soil vapour intrusion into the existing building as described by Part 4.2.5 of this CPU;
- iii. Inspection and maintenance activities in regard to the SVIMS as described by Part 4.2.8 of this CPU;
- iv. Indoor air and sub-slab vapour monitoring activities as described by Part 4.2.12 of this CPU;
- v. Groundwater monitoring activities as described by Parts 4.2.13 of this CPU;
- vi. Soil and ground water management activities described by Part 4.2.15 of this CPU; and
- vii. Any other information determined to be necessary by the Qualified Person.

### Site Changes

4.3 In the event of a change in the physical site conditions or receptor characteristics at the Property that may affect the Risk Management Measures and/or any underlying basis for the Risk Management Measures, forthwith notify the Director of such changes and the steps taken, to implement, maintain and operate any further Risk Management Measures as are necessary to prevent, eliminate or ameliorate any Adverse Effect that will result from the presence on, in or under the Property or the discharge of any Contaminant of Concern into the natural environment from the Property. An amendment to the CPU will be issued to address the changes set out in the notice received and any further changes that the Director considers necessary in the circumstances.

### Reports

4.4 Retain a copy of any reports required under the CPU, the Risk Assessment and any reports referred to in the Risk Assessment (until otherwise notified by the Director) and within ten (10) days of the Director or a Provincial Officer making a request for a report, provide a copy to the Director or Provincial Officer.



### Property Requirement

- 4.5 For the reasons set out in the CPU and pursuant to the authority vested in me under subsection 197(1) of the Act, I hereby order you and any other person with an interest in the Property, before dealing with the Property in any way, to give a copy of the CPU, including any amendments thereto, to every person who will acquire an interest in the Property, as a result of the dealing.

### Certificate of Requirement

- 4.6 Within fifteen (15) days from the date of receipt of a certificate of requirement, issued under subsection 197(2) of the Act, register the certificate of requirement on title to the Property in the appropriate Land Registry Office.
- 4.7 Immediately after registration of the certificate of requirement, provide to the Director written verification that the certificate of requirement has been registered on title to the Property.

### Owner / Occupant Change

- 4.8 While the CPU is in effect, forthwith report in writing to the Director any changes of ownership, of the Property, except that while the Property is registered under the Condominium Act, 1998, S.O. 1998, c.19, as amended, no notice shall be given of changes in the ownership of individual condominium units or any related common elements on the Property.

### Financial Assurance

- 4.9 The Director has not included in the CPU a requirement that the Owner provide financial assurance to the Crown in right of Ontario.

### **Part 5: General**

- 5.1 The requirements of the CPU are severable. If any requirement of the CPU or the application of any requirement to any circumstance is held invalid, the application of such requirement to other circumstances and the remainder of the CPU shall not be affected thereby.
- 5.2 An application under sub section 168.6(3) of the Act to,
- a) alter any terms and conditions in the CPU or impose new terms and conditions; or
  - b) revoke the CPU;

shall be made in writing to the Director, with reasons for the request.

- 5.3 The Director may amend the CPU under subsections 132(2) or (3) of the Act to change a requirement as to financial assurance, including that the financial assurance may be increased or provided, reduced or released in stages. The total financial assurance required may be reduced from time to time or released by an order issued by the Director under section 134 of the Act upon request and submission of such supporting documentation as required by the Director.
- 5.4 Subsection 186(3) of the Act provides that non-compliance with the requirements of the CPU constitutes an offence.
- 5.5 The requirements of the CPU are minimum requirements only and do not relieve you from,
- a) complying with any other applicable order, statute, regulation, municipal, provincial or federal law; or
  - b) obtaining any approvals or consents not specified in the CPU.
- 5.6 Notwithstanding the issuance of the CPU, further requirements may be imposed in accordance with legislation as circumstances require.
- 5.7 In the event that, any person is, in the opinion of the Director, rendered unable to comply with any requirements in the CPU because of,
- a) natural phenomena of an inevitable or irresistible nature, or insurrections,
  - b) strikes, lockouts or other labour disturbances,
  - c) inability to obtain materials or equipment for reasons beyond your control, or
  - d) any other cause whether similar to or different from the foregoing beyond your control,

the requirements shall be adjusted in a manner defined by the Director. To obtain such an adjustment, the Director must be notified immediately of any of the above occurrences, providing details that demonstrate that no practical alternatives are feasible in order to meet the requirements in question.

- 5.8 Failure to comply with a requirement of the CPU by the date specified does not absolve you from compliance with the requirement. The obligation to complete the requirement shall continue each day thereafter.
- 5.9 In the event that the Owner complies with provisions of Parts 4.6 and 4.7 of the CPU regarding the registration of the certificate of requirement on title to the Property, and then creates a condominium corporation by the registration of a declaration and description with respect to the Property pursuant to the *Condominium Act*, 1998, S.O. 1998, c.19, as amended, and then transfers ownership of the Property to various condominium unit owners, the ongoing obligations of the Owner under this CPU may be carried out and satisfied by the condominium corporation by and on behalf of the new Owners of the Property.

## Part 6: Hearing before the Environmental Review Tribunal

- 6.1 Pursuant to section 139 of the Act, you may require a hearing before the Environmental Review Tribunal (the "Tribunal"), if within fifteen (15) days after service on you of a copy of the CPU, you serve written notice upon the Director and the Tribunal.
- 6.2 Pursuant to section 142 of the Act, the notice requiring the hearing must include a statement of the portions of the CPU and the grounds on which you intend to rely at the hearing. Except by leave of the Tribunal, you are not entitled to appeal a portion of the CPU or to rely on a ground that is not stated in the notice requiring the hearing.
- 6.3 Service of a notice requiring a hearing must be carried out in a manner set out in section 182 of the Act and Ontario Regulation 227/07: Service of Documents, made under the Act as they may be amended from time to time. The address, email address and fax numbers of the Director and the Tribunal are:

The Secretary  
Environmental Review Tribunal  
655 Bay Street, Suite 1500  
Toronto, ON, M5G 1E5

Fax: (416) 326-5370  
Fax Toll Free: 1(844) 213-3474  
Email: ERTTribunalSecretary@ontario.ca

and

Paul Widmeyer  
Director  
119 King Street West, 9th Floor  
Hamilton, Ontario  
L8P 4Y7

Fax: (905) 521-7806  
Email: Paul.Widmeyer@ontario.ca

- 6.4 Unless stayed by application to the Tribunal under section 143 of the Act, the CPU is effective from the date of issue.
- 6.5 If you commence an appeal before the Tribunal, under section 47 of the Environmental Bill of Rights, 1993 (the "EBR"), you must give notice to the public in the EBR registry. The notice must include a brief description of the CPU (sufficient to identify it) and a brief description of the grounds of appeal.

The notice must be delivered to the Minister of the Environment, Conservation and Parks who will place it on the EBR registry. The notice must be delivered to the Minister of the Environment, Conservation and Parks at 777 Bay Street, 5<sup>th</sup> Floor, Toronto, Ontario M7A 2J3 by the earlier of:

6.5.1 two (2) days after the day on which the appeal before the Tribunal was commenced; and

6.5.2 fifteen (15) days after service on you of a copy of the CPU.

6.6 Pursuant to subsection 47(7) of the EBR, the Tribunal may permit any person to participate in the appeal, as a party or otherwise, in order to provide fair and adequate representation of the private and public interests, including governmental interests, involved in the appeal.

6.7 For your information, under section 38 of the EBR, any person resident in Ontario with an interest in the CPU may seek leave to appeal the CPU. Under section 40 of the EBR, the application for leave to appeal must be made to the Tribunal by the earlier of:

6.7.1 fifteen (15) days after the day on which notice of the issuance of the CPU is given in the EBR registry; and

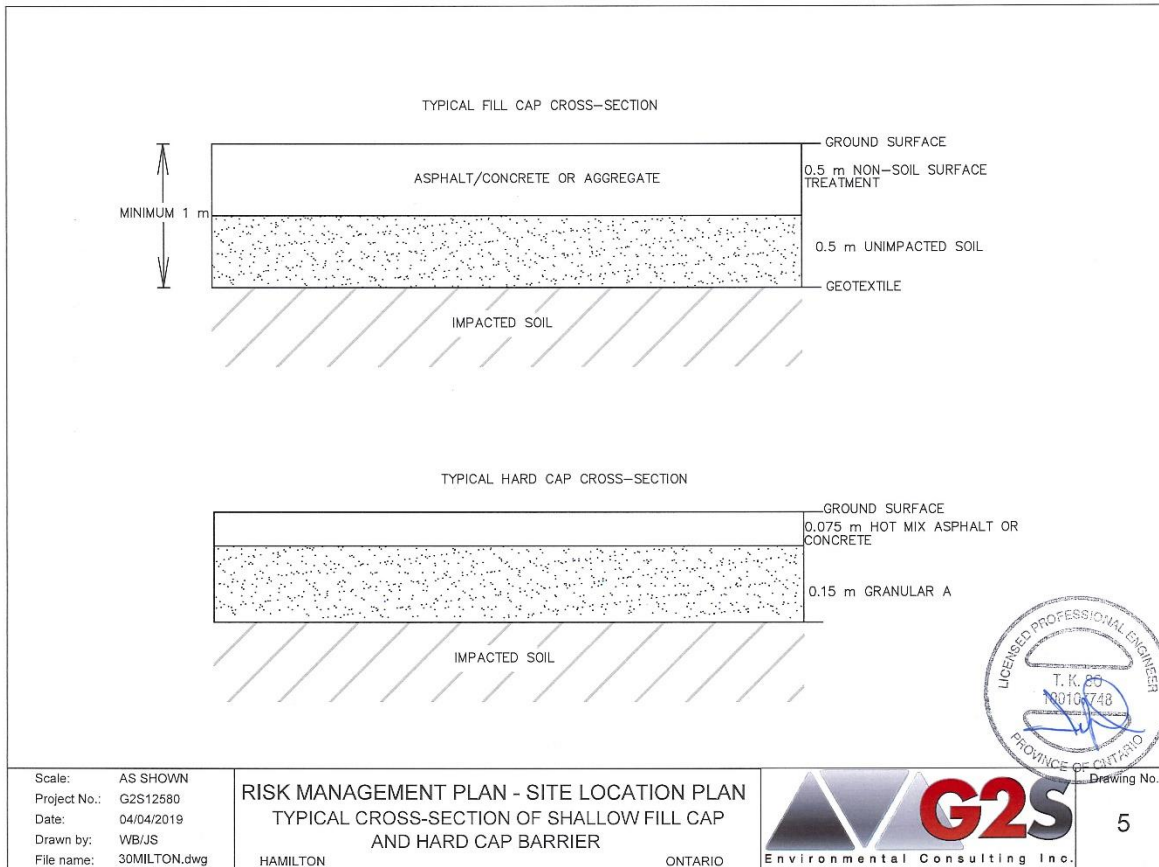
6.7.2 if you appeal, fifteen (15) days after the day on which your notice of appeal is given in the EBR registry.

Issued at Hamilton this                      day of                      2019.

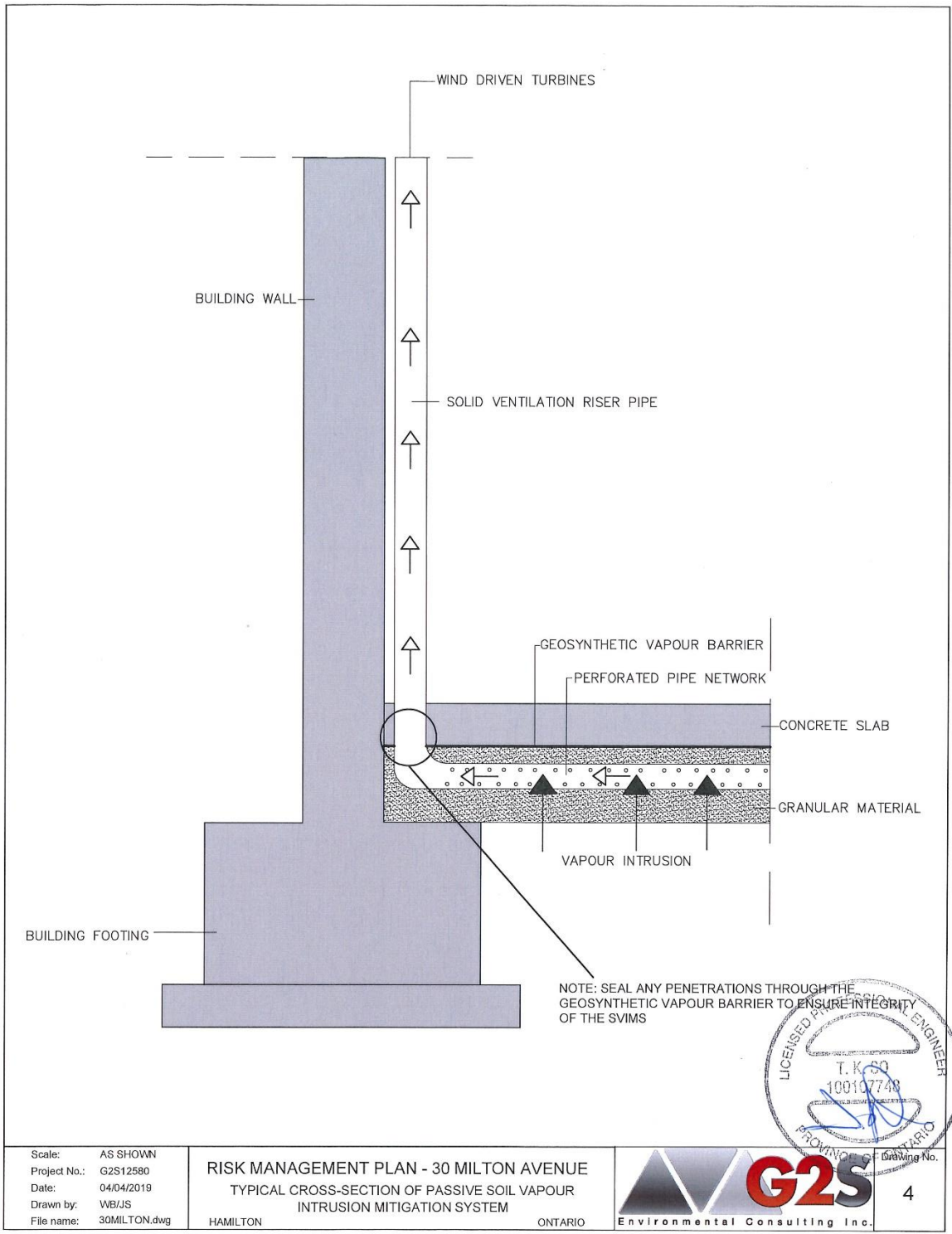
Paul Widmeyer  
Director, section 168.6 of the Act



**Schedule 'A': Figure 2 – Capping Details  
(not to scale)**



**Schedule 'A': Figure 3 – Soil Vapour Intrusion Mitigation System Typical Cross Section (not to scale)**

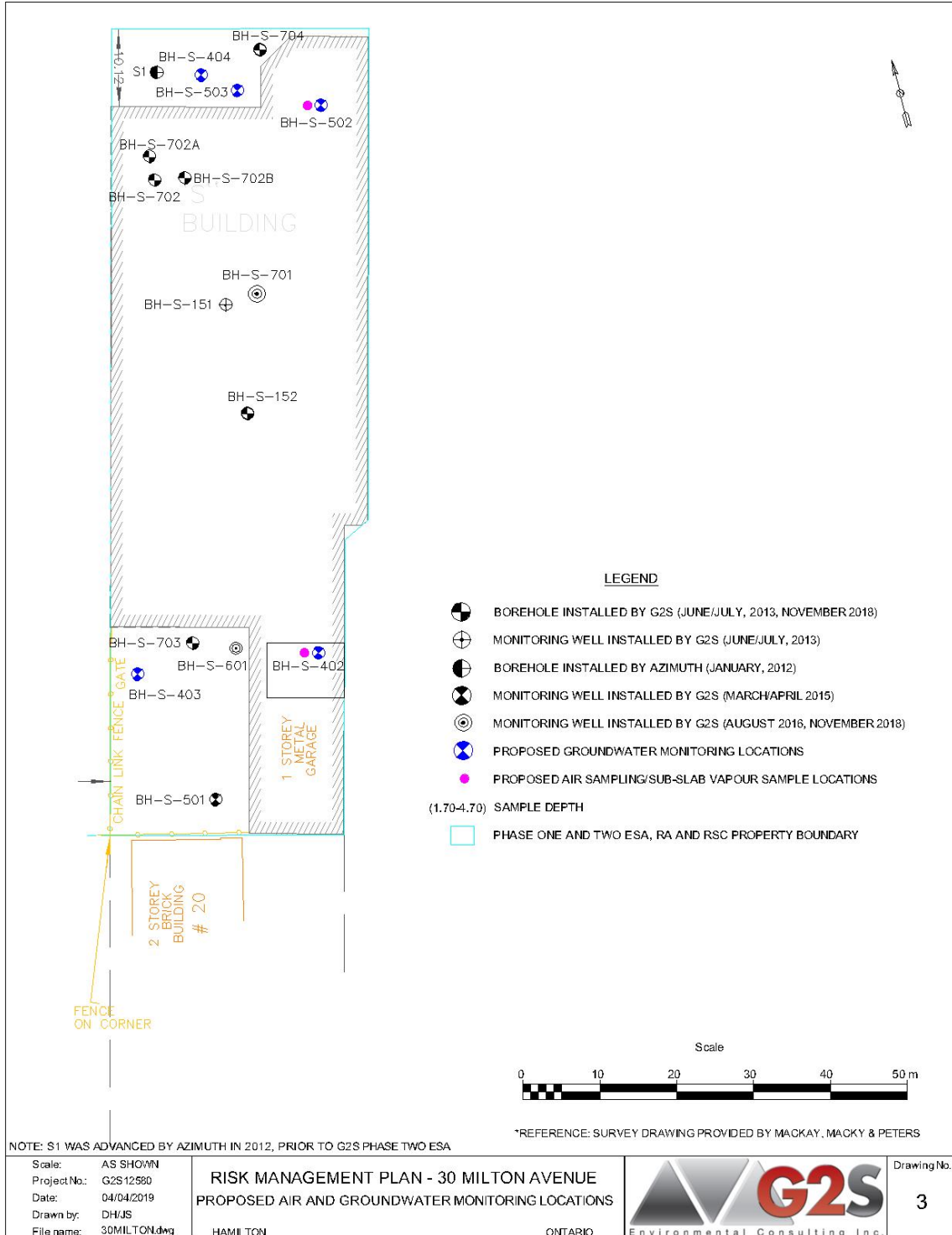


Scale: AS SHOWN  
 Project No.: G2S12580  
 Date: 04/04/2019  
 Drawn by: WB/JS  
 File name: 30MILTON.dwg

RISK MANAGEMENT PLAN - 30 MILTON AVENUE  
 TYPICAL CROSS-SECTION OF PASSIVE SOIL VAPOUR  
 INTRUSION MITIGATION SYSTEM  
 HAMILTON ONTARIO

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## Schedule 'A': Figure 4 – Groundwater, Indoor Air and Sub-Slab Vapour Monitoring Locations (not to scale)





**Schedule 'A': Table 1A: Property Specific Standards – Soil**

*All values in micrograms per gram except where indicated*

<b>Contaminant of Concern</b>	<b>Property-Specific Standard</b>
Acenaphthylene	0.26
Benz(a)anthracene	2.8
Benzo(a)pyrene	2.5
Benzo(b)fluoranthene	2.7
Benzo(k)fluoranthene	1.9
Dibenz(a,h)anthracene	0.63
Indeno(1,2,3-cd)pyrene	1.7
Tetrachloroethane, 1,1,2,2-	0.22

## Schedule 'A': Table 1B – Property Specific Standards - Groundwater

*All values in micrograms per litre except where indicated*

<b>Contaminant of Concern</b>	<b>Property-Specific Standard</b>
Benzene	2.6
Carbon Tetrachloride	54
Chloroform	8.9
Dichlorobenzene, 1,4-	0.70
Dichloroethane, 1,2-	5.7
Dichloroethylene, 1,1-	0.85
Dichloroethylene, cis-1,2-	27
Dichloropropane, 1,2-	9.3
PHC F2	240
PCBs	0.48
Tetrachloroethane, 1,1,1,2-	3.0
Tetrachloroethane, 1,1,2,2-	0.84
Tetrachloroethylene	660
Trichloroethane, 1,1,2-	8.0
Trichloroethylene	9.6
Vinyl Chloride	12

**Schedule 'A': Table 1C – Indoor Air and Sub-slab Trigger Criteria – Existing or New Buildings**

*All values in micrograms per cubic metre except where indicated*

<b><i>Contaminant of Concern</i></b>	<b><i>Indoor Air</i></b>	<b><i>Subslab</i></b>
Carbon tetrachloride	0.60	150
Chloroform	71.5	17,900
1,2-Dichloroethane	0.138	34.5
cis-1,2-Dichloroethylene	107	26,800
1,1,1,2-Tetrachloroethane	0.483	120
Tetrachloroethylene	13.8	3,450
1,1,2-Trichloroethane	0.223	55.8
Trichloroethylene	0.872	218
Vinyl chloride	0.406	102
F2 (C10-C16)	1,610	403,000

**Schedule 'A': Table 1D – Indoor Air and Sub-slab Trigger Criteria – Potential Offsite Impacts**

*All values in micrograms per cubic metre except where indicated*

<b><i>Contaminant of Concern</i></b>	<b><i>Indoor Air</i></b>	<b><i>Subslab</i></b>
Carbon tetrachloride	0.19	9.5
Chloroform	20.9	1,000
1,2-Dichloroethane	0.0428	2.1
cis-1,2-Dichloroethylene	31.3	1,600
1,1,1,2-Tetrachloroethane	0.15	7.5
Tetrachloroethylene	4.28	210
1,1,2-Trichloroethane	0.0695	3.5
Trichloroethylene	0.271	14
Vinyl chloride	0.126	6.3
F2 (C10-C16)	471	24,000

## Schedule 'A': Table 1E – Ground Water Trigger Criteria

*All values in micrograms per litre except where indicated*

<b>Contaminant of Concern</b>	<b>Criteria</b>
Carbon tetrachloride	0.2
Chloroform	2
1,2-Dichloroethane	0.5
1,1-Dichloroethylene	0.5
cis-1,2-Dichloroethylene	1.6
1,2- Dichloropropane	0.58
1,1,1,2-Tetrachloroethane	1.1
1,1,2,2-Tetrachloroethane	0.5
Tetrachloroethylene	0.5
1,1,2-Trichloroethane	0.5
Trichloroethylene	0.5
Vinyl chloride	0.5