

## Certificate of Property Use

Issued under the authority of the *Environmental Protection Act*, R.S.O. 1990, c.  
E.19, sections 168.6 (CPU) and 197 (Order)

Certificate of Property Use number: 0368-BURK7K  
Risk Assessment number: 2333-9JGGGN

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

**Site:** 20 Myler Street, Hamilton, Ontario

### Legal Description:

PT LT 10, CON 1 BARTON , AS IN HA78664 (FIRSTLY, SECONDLY & FOURTHLY), HA87469 & HA190906 ; LTS 17, 18, 19, 20, 21, 22, 23, 24, 25 & 26, PL 167 ; LTS 40, 41, 42, 43, 44, 45, 46, 47, 48 & 49, PL 167 ; PT LT 39, PL 167 , AS IN HA78664 (FIFTHLY) ; PT LT 50, PL 167 , AS IN HA78664 (FIFTHLY) ; PT PRINCESS ST, PL 167 , CLOSED BY UNREGISTERED BYLAW #285, AS IN HA78664 (SIXTHLY) ; PT SANFORD AV, PL 167, (AKA BURLINGTON ST) CLOSED BY UNREGISTERED BYLAW #285, AS IN HA78664 (SIXTHLY) ; PT WESTINGHOUSE AV, PL 167, (FORMERLY BRANT ST), CLOSED BY UNREGISTERED BYLAW #285, AS IN HA78664 (SIXTHLY); PT ALLEY, PL 167, AS IN HA78664 (SEVENTHLY) ; PT ALLEY, PL 167 , AS IN HA78664 (EIGHTHLY) ; RESERVE, PL 167 ; PT LTS 2 & 3, PL 363, AS IN HA138158 (SECONDLY) ; PT LT 4, PL 363 , AS IN HA135553 (FIRSTLY), EXCEPT THE EASEMENT THEREIN, & HA138158 (THIRDLY); LTS 5, 6 & 7, PL 363 ; PT LT 8, PL 363 , AS IN HA135553 (FOURTHLY) & HA138158 (FIRSTLY) ; LANE, PL 363 , CLOSED BY BL322; PT FULLERTON AV, PL 363 , (FORMERLY ROGERS PLACE & ROSEDALE AV), CLOSED BY BL322, AS IN HA139691; S/T HA139691 & HA138158; HAMILTON

Being All of PIN No. 17194-0074 (LT);

-and-

PT LTS 1, 2, 3, 4 AND 8 PL 363, PT FULLERTON AVE PL 363 CLOSED BY BL352, PART 1 ON 62R17697; HAMILTON

Being All of PIN No. 17194-0319 (LT);

-and-

PT LTS 1 & 2, PL 363, AS IN VM69968; HAMILTON

Being All of PIN No. 17194-0286 (LT);

-and-

PT LTS 1 & 2, PL 363, AS IN NS178007; PT FULLERTON AV, PL 363, (FORMERLY RODGERS PLACE & ROSEDALE AV), CLOSED BY BL352, AS IN NS178007; HAMILTON

Being All of PIN No. 17194-0287 (LT)

This Certificate of Property Use and section 197 Order set out the requirements regarding the above-noted Property and the Risk Assessment carried out in relation to the Property which was assigned the number noted above and is described in more detail in Part 1 below.

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

### **Part 1: Interpretation**

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

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

“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.

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

“Building Area” means the horizontal area of a Building at Grade within the outside surface of the exterior wall or walls.

“Building Code” means Ontario Regulation 332/12 (Building Code) as amended to January 1, 2015, made under the *Building Code Act, 1992*, S.O. 1992, c. 23.

“Certificate of Property Use” or “CPU” means this certificate of property use bearing the number **0368-BURK7K** issued for the Property by the Director under section 168.6 of the Act, as it may be amended from time to time.

“Competent Person” has the same meaning as in the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1.

“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.

“Director” means a person in the Ministry appointed as a director for the purpose of issuing a certificate of property use under section 168.6 of the Act.

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

“Grade” has the same meaning as in the Building Code.

“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 3: Full Depth Generic Site Condition Standards 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 has obtained the appropriate education and training and has demonstrated experience and expertise in the areas related to the work required to be carried out in this CPU and holds a licence, limited licence or temporary licence under the Professional Engineers Act, R.S.O. 1990, c. P.28.

“Minister” means the Minister of the Ministry.

“Ministry” means the ministry of the government of Ontario responsible for the administration of the Act, currently named the Ministry of the Environment, Conservation and Parks.

“Oil House” means a Building on the Property located as shown on Figure 2, Schedule A of this CPU.

“O. Reg. 153/04” means Ontario Regulation 153/04, “Record of Site Condition – Part XV.1 of the Act” made under the Act.

“Owner” means the owner(s) of the Property, beginning with the person(s) to whom the Certificate of Property Use for the Property is first issued by the Director under section 168.6 of the Act based on the Risk Assessment, and any subsequent owner of the Property.

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

“Property” means the property that is the subject of the CPU and described in the “Property” section on page 1 above and shown on **Figure 1** of Schedule A attached to and forming 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” has the same meaning as in the Act, namely, a person who is designated by the Minister as a provincial officer for the purposes of the Act and the regulations.

“Qualified Person” means a person who meets the qualifications set out in subsection 5 (2) of O. Reg. 153/04.

“Reg. 347” means Ontario Regulation R.R.O. 1990, Reg. 347, “General — Waste Management” made under the Act

"Risk Assessment" (RA) means the Risk Assessment No. **2333-9JGGGN** accepted by the Director on **October 27, 2020** (“RA”), and set out in the following documents:

- **“A Risk Assessment of 30 Milton Avenue, 42 Westinghouse Avenue and 20 Myler Street, Hamilton, Ontario”, prepared by Intrinsic Environmental Sciences Inc., dated October 2014; and**
- **“Appendices: A Risk Assessment of 30 Milton Avenue, 42 Westinghouse Avenue and 20 Myler Street, Hamilton, Ontario”, prepared by Intrinsic Environmental Sciences Inc., dated October 2014.**
- **“A Risk Assessment of 20 Myler Street, Hamilton, Ontario”, by Intrinsic Environmental Sciences Inc., dated July 2015.**
- **“A Risk Assessment of 20 Myler Street, Hamilton, Ontario”, by Intrinsic Corp., dated January 2017.**

- “A Risk Assessment of 20 Myler Street, Hamilton, Ontario”, by Intrinsic Corp., dated July 29, 2019.
- Revised Risk Assessment Report for 20 Myler Street, Hamilton, Ontario, report prepared by Intrinsic Corp., dated June 30, 2020.

“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 K of the “Risk Assessment” report dated June 30, 2020;

“Storage Garage” has the same meaning as in 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 3: Full Depth Generic Site Condition Standards 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 3: Full Depth Generic Site Condition Standards 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, in the locations indicated on Figure 2 and configured as set out on Figure 3 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 Item 4.2.2 of this CPU, the Owner shall submit to the Director written confirmation signed by a 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 Items 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 Item 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 Occupancy of the Oil House is not permitted for as long as the concentration of airborne COC are equal to or exceed the indoor air quality criteria set out by Table 1C, Schedule A of this CPU.
- 4.2.6 Occupancy of the Oil House is permitted in the circumstance that a Licensed Professional Engineer certifies that the modifications to the Oil House described in the Risk Management Plan have been implemented and that the levels of COC are below the indoor air quality criteria set out by Table 1C, Schedule A of this CPU. This information is to be documented in the annual report required by Item 4.2.18 of this CPU.
- 4.2.7 Upon the issuance of this CPU, the Owner shall ensure that mitigative measures are implemented to prevent the migration of soil vapour into

existing and new Building(s) on the Property as a result of modifications made to the Building(s). These modifications may include but are not limited to items such as penetrations through the floor slab and basement walls, modifications to plumbing drains and ventilation changes affecting Building pressure. The implementation of the mitigative measures shall be overseen by a Licensed Professional Engineer and any information regarding these measures such as design drawings, air testing, and/or an inspection reports shall be documented in the annual report required out by Item 4.2.18 of this CPU.

4.2.8 Refrain from constructing any Building on the Property unless the Building is constructed with one of following configurations covering the entire area of the Building footprint at final grade:

- i. an at-grade or below-grade Storage Garage.
- ii. a passive soil vapour intrusion mitigation system (SVIMS).
- iii. a combination of Items 4.2.8 i. and ii.

4.2.9 For a Building described by Item 4.2.8 i. of this CPU, the ventilation and air duct system(s) serving the Storage Garage level (s) of the building shall be separate system(s) from the ventilation system(s) serving all levels above the Storage Garage.

4.2.10 For a Building described by Items 4.2.8 ii. and iii. of this CPU, the design, construction and commissioning of the SVIMS shown conceptually on Figure 4 of Schedule A 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 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 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.

- 4.2.11 Within 90 days of the commissioning of the SVIMS described by Items 4.2.8 ii. and iii. of this CPU, the Owner shall submit to the Director, the following information prepared by the 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 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.
- 4.2.12 An inspection and maintenance program shall be implemented to ensure the proper operation and continuing integrity of the installed SVIMS described by Items 4.2.8. ii. and iii. 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.
- 4.2.13 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 Items 4.2.8 ii. and iii. 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.
- 4.2.14 Within three months of the issuance of this CPU, the owner shall implement an indoor air quality (IAQ) and sub-slab vapour (SSV) monitoring program (herein “program”) in accordance with the Risk Management Plan for existing Buildings on the Property and for any new Building(s) incorporating a SVIMS as described by Items 4.2.8 ii. and iii. of this CPU. All monitoring results shall be compared to the applicable trigger criteria set out on Table 1C, Schedule A

of this CPU. 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 existing Buildings, samples shall be collected from the locations identified on **Figure 5**, 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 Items 4.2.8 ii. and iii. 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.
- vi. If a measured concentration exceeds the criteria set out on Table 1C, Schedule A of this CPU, at any of the locations described by Items 4.2.14 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 Table 1C, Schedule A of this CPU, at any of the locations described by Items 4.2.14 iv. and v. of this CPU; the Owner shall collect an additional (confirmatory) sample at the location(s) where the result(s) exceeded the applicable criteria set out on Table 1C, 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 Table 1C, Schedule A of this CPU on the confirmatory monitoring event, then monitoring shall be carried out as described by Items 4.2.14 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 Table 1C, Schedule A of this CPU, on the confirmatory monitoring event, then a 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; 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 Items 4.2.14 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 Item 4.2.14 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 a 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, Schedule A of this CPU, at the locations described by Item 4.2.14 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 Item 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.

4.2.15 Upon issuance of this CPU, the Owner shall implement a groundwater monitoring program in accordance with the Risk Management Plan. 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 be collected from the locations identified on **Figure 6**, Schedule A of this CPU, namely BH-B-805, BH-B-701, BH-P-229, BH-PS-158, BH-D-228, BH-D-157, BH-D-156, BH-D-712, BH-P-102, MW301, MW302, MW303, MW304, BH-F-501, BH-L-161, BH-F-502, and BH-F-703 and as described by the Risk Management Plan.
- iii. Consist of the semi-annual collection of groundwater samples from the locations described by Item 4.2.15 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 1B**, Schedule A of this CPU;
- v. The results of the groundwater samples shall be compared to the criteria set out by Section 4.3 of the Risk Management Plan;
- vi. Groundwater samples collected as set out by Items 4.2.15 i., ii., iii. and iv. of this CPU, shall be assessed for the occurrence of an increasing trend in concentration(s) and where present, an increasing thickness of free product as specified by Section 4.3 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 Item 4.2.15 vi. of this CPU no longer indicates an increasing trend determined in accordance with Section 4.3 of the Risk Management Plan, then groundwater monitoring shall continue as set out by Items 4.2.15 i., ii., iii., and iv. of this CPU and the Risk Management Plan;
  - 2. If the analysis of the sample(s) collected as required by Item 4.2.15 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 4.4 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 Item 4.2.15 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 Items 4.2.15 i., ii., iii. and iv. of this CPU a request can be made to the Director in accordance of Item 5.2 a) of this CPU;
- ix. In the event that one or more of the monitoring wells identified in Item 4.2.15 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.

4.2.16 A Health and Safety Plan (HASP) shall be developed by a Competent Person, in consultation with a Qualified Person and implemented prior to all intrusive activities potentially in contact with or exposing COCs identified on the Property or portion(s) of the Property. A copy of the plan shall be maintained at the Property for the duration of all intrusive activities. The HASP shall be prepared in accordance with the requirements set out 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 HASP to be available for review upon request.

4.2.17 The Owner shall prepare a written soil and groundwater management plan (herein "Plan") for the Property, prepared by a Qualified Person and be implemented during intrusive activities to prevent exposure to or uncontrolled movement or discharge of COCs in soil or ground water at the Property. The Plan must be delivered to the Owner prior to undertaking any intrusive activities at the Property, and if alterations are made to the Plan, the Plan must be updated and delivered to the Owner within 30 days following the alterations to the Plan. The Plan shall include the requirements of the Risk Management Plan as well as the following components:

- i. oversight by a Qualified Person;
- ii. procedures and timing for implementing the plan, including the supervision of persons implementing the plan;
- iii. requirements that all excavation shall be done in accordance with the Occupational Health and Safety Act, including requirements for shoring and dewatering;
- iv. measures to control dust and prevent tracking of soil by vehicles and persons from the Property, including the cleaning of equipment and vehicles;

- v. measures, in addition to any applicable measures specified by O. Reg. 153/04 and O. Reg. 406/19, to manage soil excavated at the Property and any soil brought to or removed from the Property, including:
  - a. characterizing for contaminant quality all excavated soil and any soil brought to the Property, including determining whether the soil:
    - i. is Unimpacted Soil;
    - ii. meets the Property Specific Standards; or
    - iii. exceeds the Property Specific Standards;
  - b. managing excavated soil separately from any soil brought to the Property in accordance with the applicable requirements of O. Reg. 406/19, including any excavated soil that is to be:
    - i. used as Unimpacted Soil at the Property;
    - ii. removed from the Property for off-site storage or processing but is to be returned to the Property; or
    - iii. removed from the Property for off-site reuse or disposal; and
  - c. stockpiling of excavated soil and any soil brought to the Property in separate designated areas that:
    - i. reflect the distinctions described in Items 4.2.17 v. (a) and (b) of this CPU;
    - ii. have been lined and covered, as appropriate, to prevent uncontrolled movement or discharge of the COCs;
    - iii. have been bermed or fenced, as appropriate, to restrict access by persons; and
    - iv. have storm water runoff controls in place to minimize storm water runoff contacting stockpiled soil, with provision for discharge of storm water runoff to a sanitary sewer or to other approved treatment if needed;
- vi. measures to manage storm water and any ground water from dewatering at the Property to prevent the movement of entrained soil and Contaminants of Concern within and away from the Property, including, in addition to any applicable measures specified pursuant to other applicable law or other instruments, measures such as silt fences, filter socks for catch basins and utility covers, and provisions for discharge to a sanitary sewer or to other approved treatment if needed; and
- vii. measures for when there is a need for temporary construction dewatering to keep an excavation free of groundwater; dewatering



activities will be conducted in a manner that will not involve any discharges to the natural environment. Excess water will be temporarily stored on-site prior to off-site removal to an approved water treatment facility or treated and discharged to the sanitary sewer through an agreement with the City of Hamilton.

- viii. recording, in writing, the soil, storm water and any ground water management measures undertaken, in addition to any applicable record keeping requirements specified in O. Reg. 153/04 or pursuant to other applicable law or other instruments, to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, including:
  - a. dates and duration of the intrusive activities being undertaken;
  - b. weather and site conditions during the intrusive activities;
  - c. the location and depth of excavation activities, and dewatering activities, if any;
  - d. dust control and soil tracking control measures;
  - e. characterization results for excavated soil and any soil brought to or removed from the Property, and for any ground water from dewatering;
  - f. soil management activities including soil quantities excavated and brought to and removed from the Property, and stockpile management and storm water runoff control;
  - g. management activities for any ground water from dewatering;
  - h. names and contact information for the Qualified Persons and on-site contractors involved in the intrusive activities;
  - i. names and contact information for any haulers and receiving sites for soil and any ground water removed from the Property, and for haulers and source sites of any soil brought to the Property; and
  - j. any complaints received relating to the intrusive activities; including the soil, storm water and any ground water management activities.

4.2.18 Before March 31<sup>st</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. Barrier inspection and maintenance activities described by Item 4.2.4 of this CPU;
- ii. Documentation regarding the Oil House described by Item 4.2.6 of this CPU;

- iii. Documentation regarding soil vapour intrusion mitigation measures described by Item 4.2.7 of this CPU;
- iv. SVIMS inspection and maintenance activities described by Item 4.2.12 of this CPU;
- v. Indoor air and sub-slab vapour monitoring activities described by Item 4.2.14 of this CPU;
- vi. Groundwater monitoring activities as described by Items 4.2.15 of this CPU;
- vii. Soil and groundwater management activities described by Item 4.2.17 of this CPU; and
- viii. 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 The Owner shall retain a copy of any reports required under the CPU for a period of seven (7) years from the date the report is created and within ten (10) days of the Director or a Provincial Officer making a request for a report, provide a copy to the requesting 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 and as set out in Schedule B, register

the certificate of requirement on title to the Property in the appropriate land registry office.

- 4.7 Within five (5) days after registering the certificate of requirement, provide to the Director a copy of the registered certificate and of the parcel register(s) for the Property confirming that registration has been completed.

#### 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](mailto:ERTTribunalSecretary@ontario.ca)

and

Stephen Burt  
Director  
119 King Street West, 9th Floor  
Hamilton, Ontario  
L8P 4Y7

Fax: (905) 521-7806  
Email: [Stephen.Burt@ontario.ca](mailto:Stephen.Burt@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.
- 6.8 Unless stayed by application to the Tribunal under section 143 of the Act, the CPU is effective from the date of issue.

Further information on the requirements of the Tribunal regarding an appeal can be obtained directly from the Tribunal by:

Tel: (416) 212-6349

Fax: (416) 326-5370

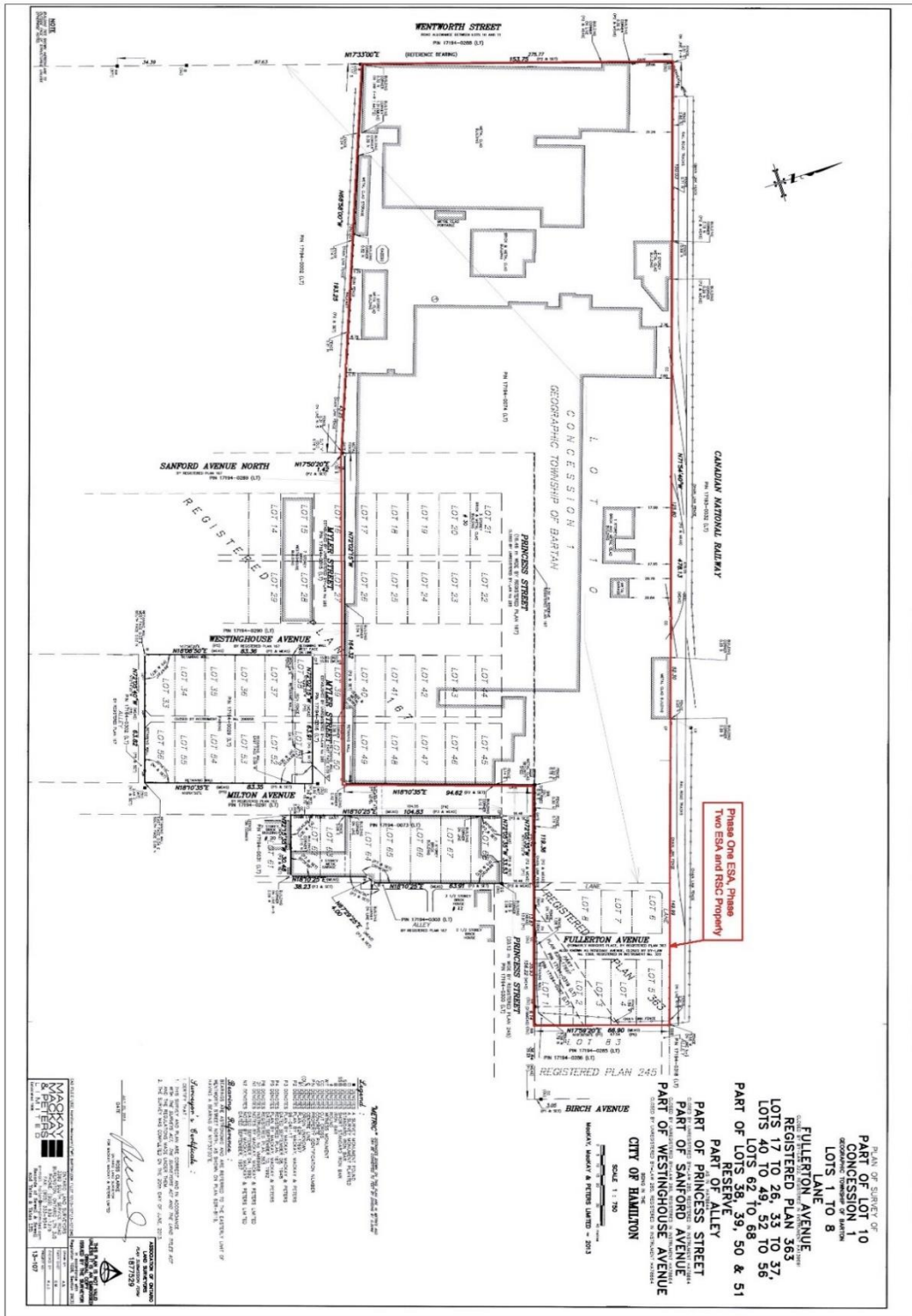
[www.elto.gov.on.ca](http://www.elto.gov.on.ca)

Issued at Hamilton this **8<sup>th</sup>** day of **February 2021**.

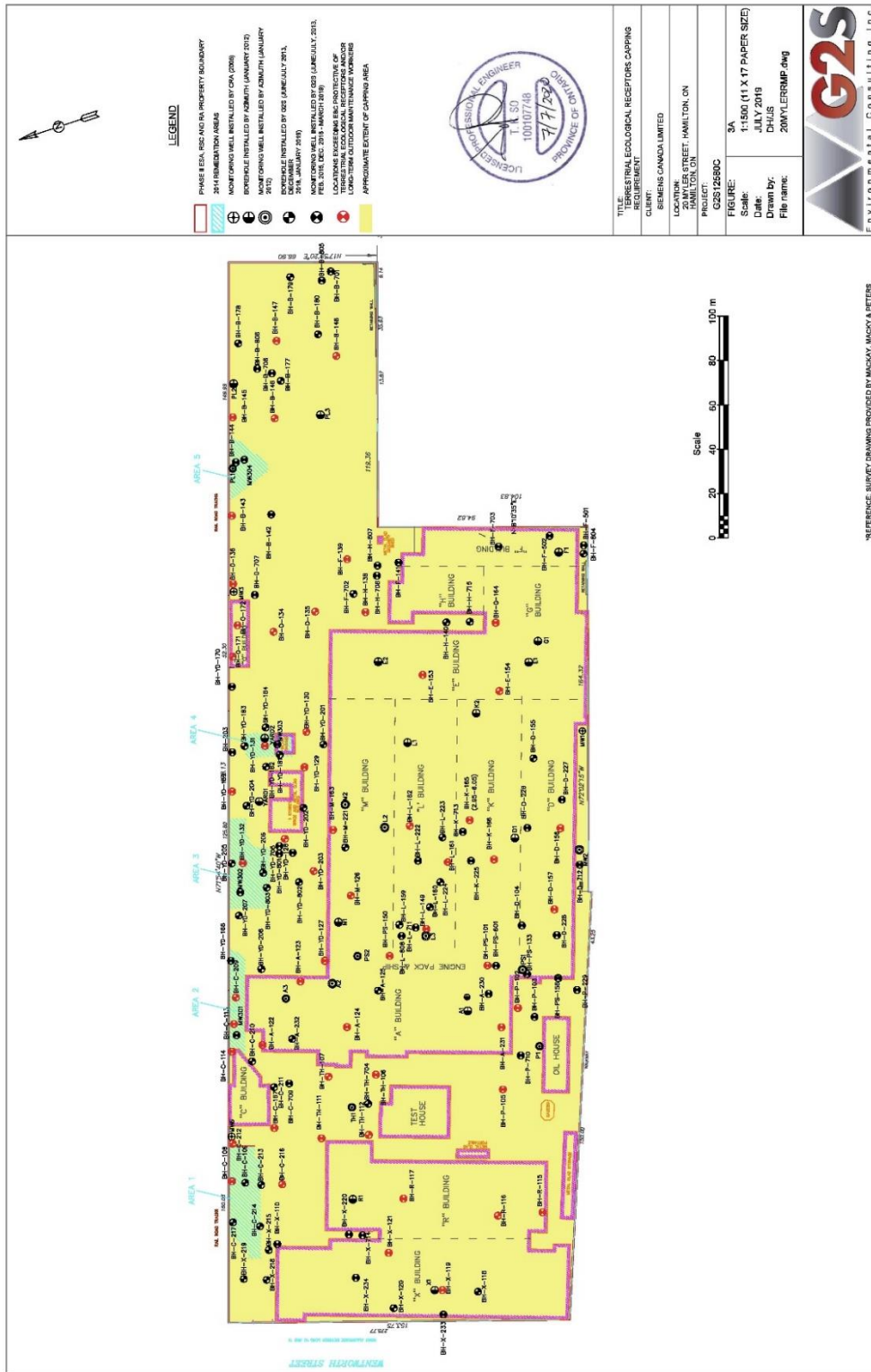
***Original Signed***

Stephen Burt  
Director, section 168.6 of the Act

# Schedule A: Figure 1 – Site Plan (not to scale)

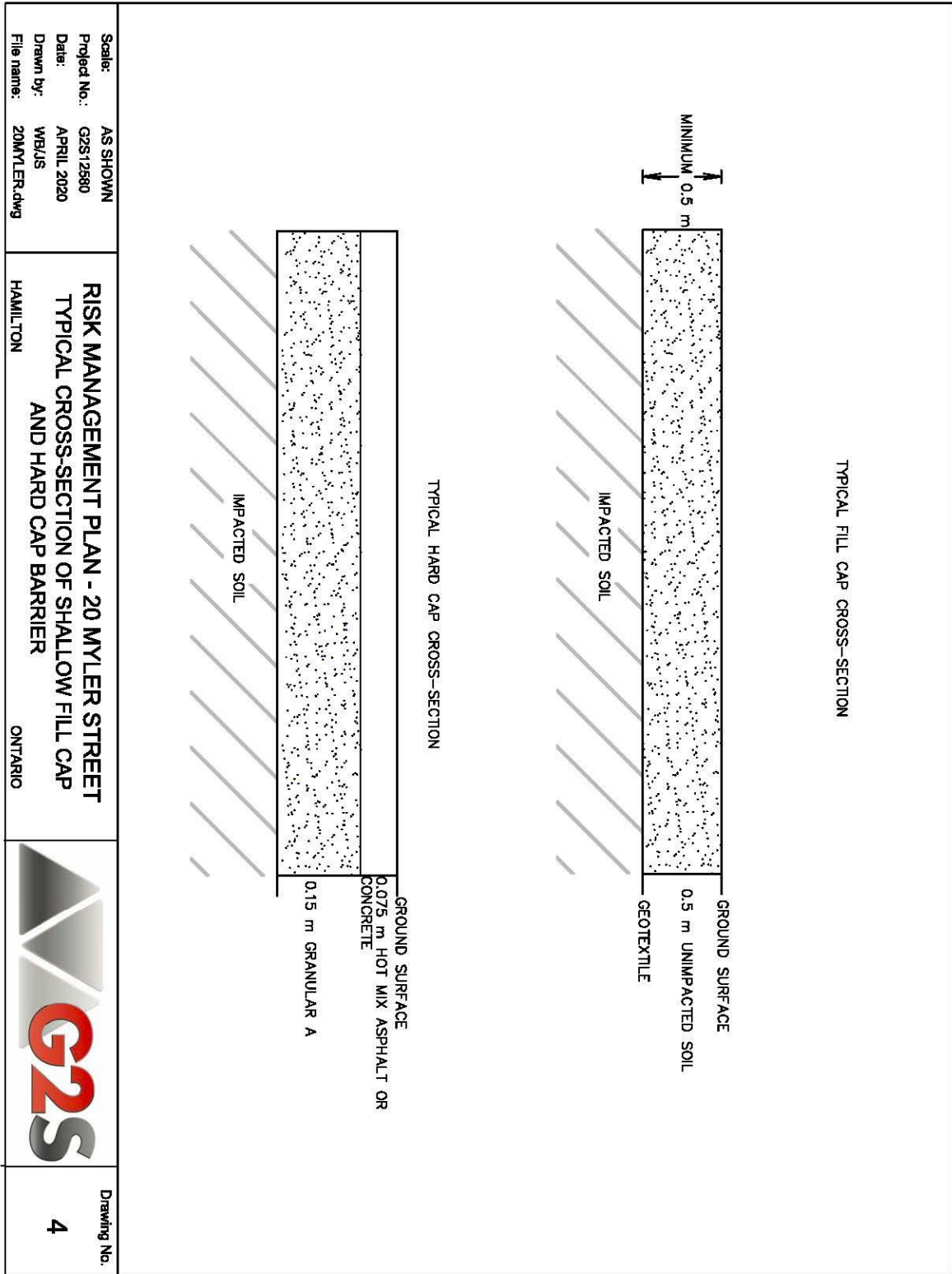


# Schedule A: Figure 2 – Locations where Fill Cap and Hard Cap requirements apply (not to scale)



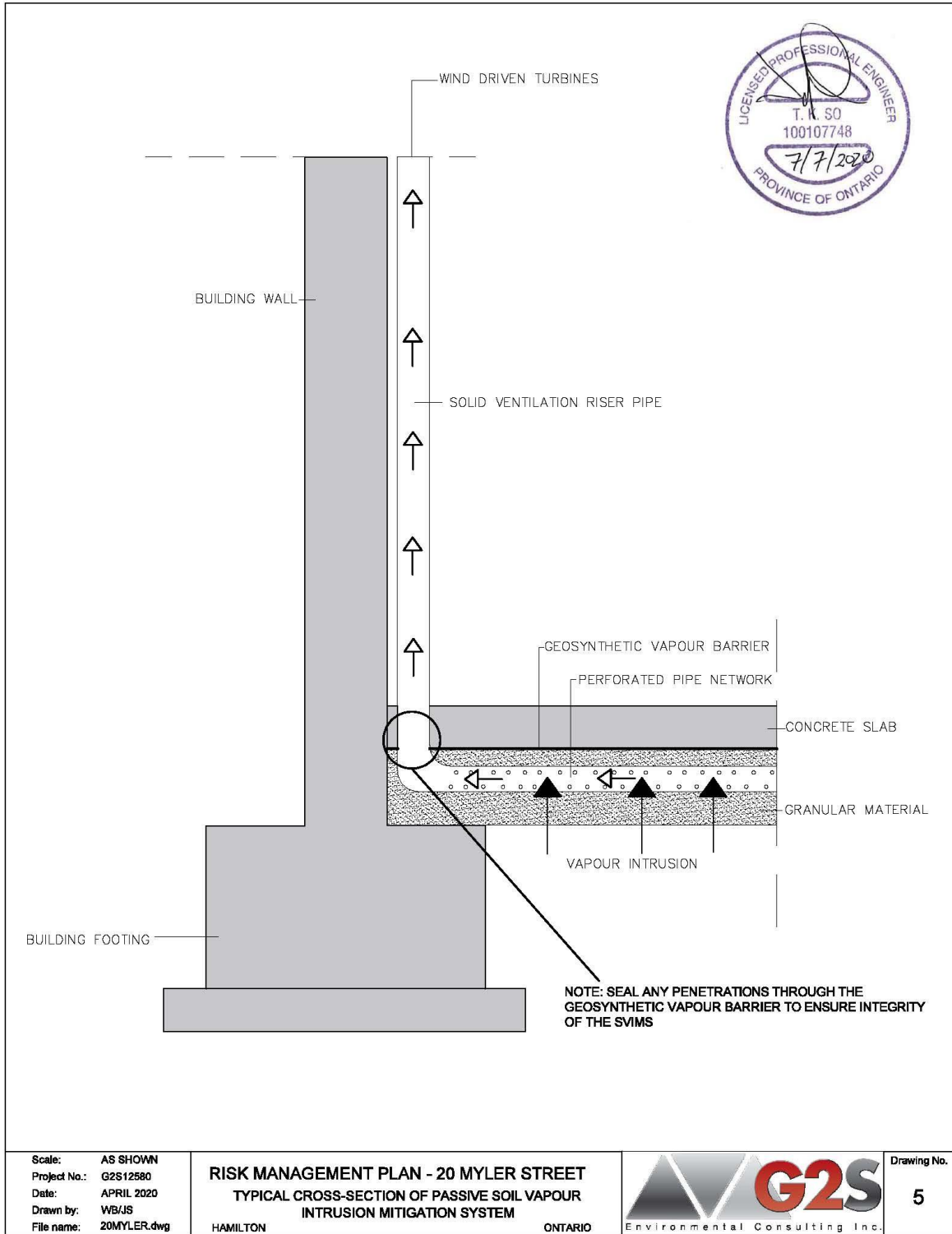


**Schedule A: Figure 3 – Fill Cap and Hard Cap Configurations  
(not to scale)**



Scale: AS SHOWN Project No.: G2S12580 Date: APRIL 2020 Drawn by: WBJ/S File name: 20MYLER.dwg	<b>RISK MANAGEMENT PLAN - 20 MYLER STREET          TYPICAL CROSS-SECTION OF SHALLOW FILL CAP          AND HARD CAP BARRIER</b> HAMILTON ONTARIO		Drawing No. <b>4</b>
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**Schedule A: Figure 4 – Soil Vapour Intrusion Mitigation System Typical Detail (not to scale)**



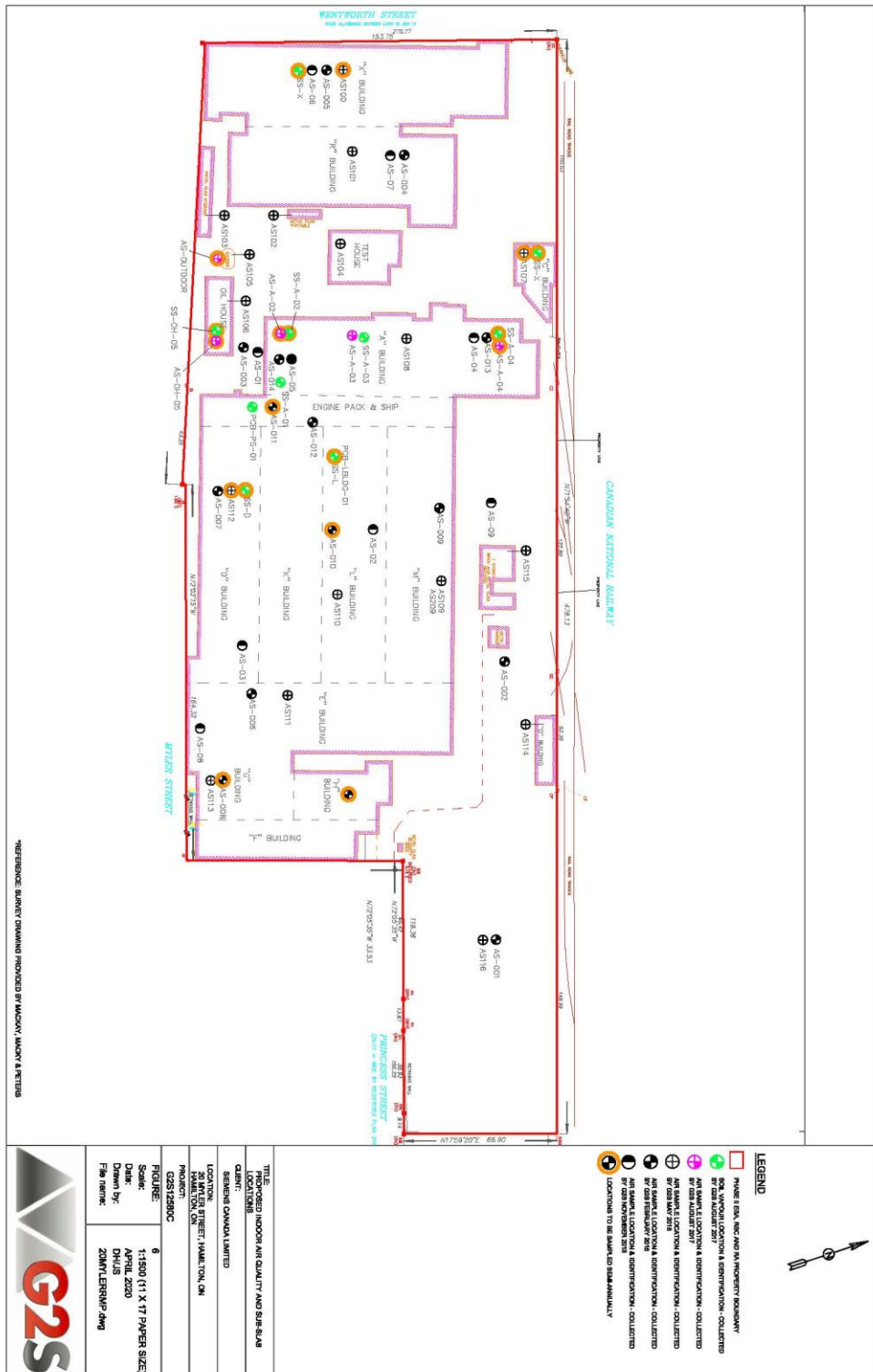
Scale: AS SHOWN  
 Project No.: G2S12580  
 Date: APRIL 2020  
 Drawn by: WB/JS  
 File name: 20MYLER.dwg

**RISK MANAGEMENT PLAN - 20 MYLER STREET**  
 TYPICAL CROSS-SECTION OF PASSIVE SOIL VAPOUR  
 INTRUSION MITIGATION SYSTEM  
 HAMILTON ONTARIO



Drawing No. 5

# Schedule A: Figure 5 – Indoor Air and Sub-Slab Vapour Monitoring Locations (not to scale)



# Schedule A: Figure 6 – Groundwater 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>
Acenaphthene	130
Acenaphthylene	48
Anthracene	190
Arsenic	100
Benzene	3.7
Benz(a)anthracene	320
Benzo(a)pyrene	280
Benzo(b)fluoranthene	310
Benzo(g,h,i)perylene	230
Benzo(k)fluoranthene	230
Beryllium	140
Bromomethane	0.48
Cadmium	880
Chloroform	0.48
Chrysene	310
Copper	3,100
Dibenz(a,h)anthracene	52
Dichloroethane, 1,2-	0.48
Dichloropropene, 1,3-	0.41
Ethylene Dibromide	2.3
Fluoranthene	630
Fluorene	95
Indeno(1,2,3-cd)pyrene	260
Lead	2,700
Naphthalene	67
PCBs	50
Pentachlorophenol	12
PHC F1 (C6-C10)	2,000
PHC F2 (>C10-C16)	4,400
PHC F3 (>C16-C34)	10,400
PHC F4 (>34)	8,700
Phenanthrene	670
Pyrene	540
Tetrachloroethane, 1,1,1,2-	0.48
Tetrachloroethane, 1,1,2,2-	4.3
Trichloroethane, 1,1,2-	0.48
Trichloroethylene	55
Vanadium	130

<b><i>Contaminant of Concern</i></b>	<b><i>Property-Specific Standard</i></b>
Zinc	1,400

## 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>
Acenaphthylene	1.2
Anthracene	2.4
Benzene	1,300
Benzo(a)anthracene	2.6
Benzo(a)pyrene	4.6
Benzo(b)fluoranthene	4.1
Benzo(g,h,i)perylene	7.3
Benzo(k)fluoranthene	2.8
Cadmium	5.8
Chlorobenzene	350
Chloroform	22
Chrysene	5.0
Copper	440
Dibenz(a,h)anthracene	0.53
Dichlorobenzene, 1,4-	240
Dichloroethane, 1,1-	1,300
Dichloroethane, 1,2-	33
Dichloroethylene, 1,1-	33,000
Dichloroethylene, cis-1,2-	23,000
Dichloroethylene, trans-1,2-	1,200
Dichloropropene, 1,3-	12
Ethylbenzene	390
Hexane (n)	6.0
Indeno(1,2,3-cd)pyrene	4.8
Lead	1,100
Mercury	0.59
Methylene Chloride	180
Naphthalene	29
Nickel	720
PHC F1 (C6 – C10)	160,000
PHC F2 (>C10 – C16)	120,000
PHC F3 (>C16 – C34)	1,300,000
PHC F4 (>C34)	51,000
PCBs	270
Pyrene	33
Tetrachloroethane, 1,1,1,2-	120
Tetrachloroethane, 1,1,2,2-	0.66
Tetrachloroethylene	64,000

<b><i>Contaminant of Concern</i></b>	<b><i>Property-Specific Standard</i></b>
Toluene	45,000
Trichlorobenzene, 1,2,4-	16
Trichloroethane, 1,1,1-	170,000
Trichloroethane, 1,1,2-	71
Trichloroethylene	4,900
Vinyl Chloride	5,700
Xylene	1,600



**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>Contaminant of Concern</b>	<b>Indoor Air</b>	<b>Subslab</b>
Benzene	1.63	408
Bromomethane	3.58	895
Chlorobenzene	715	179,000
Chloroform	71.5	17,900
1,2-Dibromoethane	0.00596	1.49
1,4-Dichlorobenzene	0.894	224
1,1-Dichloroethane	118	29,500
1,2-Dichloroethane	0.138	34.5
1,1-Dichloroethylene	50.1	12,500
cis-1,2-Dichloroethylene	107	26,800
Methylene chloride	155	38,800
1,2-Dichloropropane	2.86	715
1,3-Dichloropropene	0.894	224
Ethyl benzene	715	179,000
1,1,2,2-Tetrachloroethane	0.0616	15.4
Tetrachloroethylene	13.8	3,450
Toluene	3,580	895,000
1,2,4-Trichlorobenzene	5.72	1,430
1,1,1-Trichloroethane	715	179,000
1,1,2-Trichloroethane	0.223	55.8
Trichloroethylene	0.872	218
Vinyl chloride	0.406	102
Xylene (total)	501	125,000
F1 (C6-C10)	8,450	2,110,000
F2 (C10-C16)	1,610	403,000

## Schedule B

### CERTIFICATE OF REQUIREMENT

s.197(2)

#### *Environmental Protection Act*

This is to certify that pursuant to **Item 4.5** of Certificate of Property Use number **0368-BURK7K** issued by **Stephen Burt**, Director of the Ministry of the Environment, Conservation and Parks, under sections 168.6 and 197 of the Environmental Protection Act, on **February 8, 2021**, being a Certificate of Property Use and order under subsection 197(1) of the Environmental Protection Act relating to the property municipally known as **20 Myler Street, Hamilton, Ontario** being all of Property Identifier Numbers: **17194-0074 (LT), 17194-0319 (LT), 17194-0286 (LT) and 17194-0287 (LT)** (the “property”) with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property.

#### **Siemens Canada Limited**

and any other persons having an interest in the property, are required before dealing with the property in any way, to give a copy of the Certificate of Property Use, including any amendments thereto, to every person who will acquire an interest in the property.

Under subsection 197(3) of the Environmental Protection Act, the requirement applies to each person who, subsequent to the registration of this certificate, acquires an interest in the real property.