

Certificate of Property Use
Environmental Protection Act, R.S.O. 1990, c.E.19, s.168.6

Certificate of property use number: 8654-D8YJ9Q

Risk assessment number: 0832-BG7H28

Owner: Cynthia Diane Brigden
513 Taylors Road
Oakwood, Ontario K0M 2M0 (Owner)

Site: 513 Taylors Road, Oakwood, Ontario (Property)

With a Legal Description of:

**North Half Lot 19, Concession 10, Geographic Township of Mariposa, save
and except Part 1, Plan 57R-8711; Kawartha Lakes**

being PIN 63184-0099

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 (definition of 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) Risk Management Measures (RMMs) that are required to be implemented are found in Part 4 of the CPU, Director Requirements. Key RMMs specified in Part 4 include, but are not limited to:
 - Installing, inspecting and maintaining any new hard cap or soil cap barriers in an area of the Property as per Section 4.2 (a) of this CPU;
 - Implementing a soil management plan during any intrusive activities undertaken on the Property potentially in contact with COCs in soil that have been identified in the RA at concentrations that exceed the applicable site condition standards as per Section 4.2(h) of this CPU.

- Implementing a health and safety plan during any intrusive activities undertaken on the Property potentially in contact with COCs in soil that have been identified in the RA at concentrations that exceed the applicable site condition standards as specified in Section 4.3 of this CPU;
 - Registering a certificate on the Property title in accordance with Section 197 of the *Environmental Protection Act* and that before dealing with the Property in any way, a copy of the CPU is to be given to any person who will acquire an interest in the Property as per Section 4.8, 4.9 and 4.10 of this CPU.
- ii) Duration of Risk Management Measures identified in Part 4 of the CPU is summarized as follows:
- a. The soil management plan and the health and safety plan shall be required for the Property during any activities potentially in contact with or exposing site soils that have been identified in the RA at concentrations that exceed the applicable site condition standards for as long as the Contaminants of Concern are present on the Property.
 - b. All other Risk Management Measures shall continue indefinitely until the Director alters 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;

“Applicable Site Condition Standards” and “ASCS” means soil and groundwater that meets the soil or groundwater criteria identified in Table 9: Generic Site Condition Standards for Use within 30m of a Water Body in a Non-Potable Ground Water Condition (coarse textured soils) (Residential/Parkland/Institutional use) of the Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Act published by the Ministry and dated April 15, 2011;

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

“Competent Person” as defined in the Ontario *Occupational Health and Safety Act*.

“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;

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

“CPU” means this Certificate of Property Use as it may be altered from time to time and bearing document # 8654-D8YJ9Q;

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

“Granular A” means a set of requirements for dense graded aggregates intended for use as granular base within the pavement structure, granular shouldering, and backfill, as specified in Ontario Provincial Standard Specification 1010 (OPSS.MUNI 1010);

“Impacted Soil” is soil in which one or more contaminants are present at a concentration greater than the Property Specific Standard for the contaminant as specified in Table 1A – Schedule A of this CPU without incorporation of risk management measures;

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

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

“O. Reg. 153/04” means *Ontario Regulation 153/04 Records of Site Condition – Part XV.1 of the Act* under Environmental Protection Act, R.S.O. 1990, c. E.19.

“Reg. 347” means *R.R.O. 1990, Regulation 347: General - Waste Management* under Environmental Protection Act, R.S.O. 1990, c. E.19.

“O. Reg. 406” means *Ontario Regulation 406/19: On-Site and Excess Soil Management* under Environmental Protection Act, R.S.O. 1990, c. E.19.

“Owner” means **Cynthia Diane Brigden**, the current owner of the Property, and any future Property Owner(s);

“Property” means the property that is the subject of the CPU and described in the “Site” 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 or PSS” 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 and are the same standards specified in the Risk Assessment;

"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 subsection 5(2) of O. Reg. 153/04;

"Risk Assessment" (RA) means the Risk Assessment No. **0832-BG7H28** accepted by the Director on May 7, 2024, and set out in the following documents:

- “Risk Assessment Pre-Submission Report for 513 Taylors Road, Oakwood, Ontario”, report prepared by Intrinsik Corp., dated September 1, 2019
- “A Risk Assessment of 513 Taylors Road, Oakwood, Ontario”, report prepared by Intrinsik Corp., dated June 2021
- “A Revised Risk Assessment of 513 Taylors Road, Oakwood, Ontario” report prepared by Intrinsik Corp., dated October 2022
- “A Revised Risk Assessment of 513 Taylors Road, Oakwood, Ontario” report prepared by Intrinsik Corp., dated August 2023
- “A Revised Risk Assessment of 513 Taylors Road, Oakwood, Ontario” report prepared by Intrinsik Corp., dated January 2024

“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 or RMP” means the risk management plan specific to the Property detailed in Section 7.0 and Appendix K of the Risk Assessment and/or Part 4 of the CPU;

“Tribunal” has the same meaning as in the Act; namely, the Ontario Land Tribunal;

“Unimpacted Soil” means soil that meets the soil criteria identified in Table 2: Full Depth Generic Site Condition Standards in a Potable Ground Water Condition of the Ministry’s *Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act* 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:
- a. 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.
 - b. 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 was undertaken for the Property to assess the human health risks and ecological risks associated with the presence or discharge of Contaminants on, in or under the Property and to identify appropriate Risk Management Measures to be implemented to ensure that the Property is suitable for the intended use: Industrial/Commercial as defined in O. Reg. 153/04.
- 3.2 The Contaminants on, in or under the Property that are present above **Table 2: Full Depth Generic Site Condition Standards in a Potable Ground Water Condition** of the ***Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act, published by the Ministry and dated April 15, 2011*** for coarse textured soils and groundwater or for which there are no such standards, are defined as the Contaminants of Concern. The Property Specific Standards for these Contaminants of Concern are set out in **Table 1 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 I am further of the opinion for the reasons set out in the Risk Assessment that it is necessary to restrict the use of the Property and/or the construction of Buildings at the Property as outlined 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 Risk Management Measures:

Barriers to Soil:

- a. Subject to section 4.2(b), fill cap and hard cap barriers shall be installed over the Property in accordance with the RMP and Figure K-1, wherever there is less than 0.5 m of Unimpacted Soil below the soil surface, so as to prevent exposure to the Contaminants of Concern (COCs) identified on the Property and shall be maintained for as long as the COCs are present on the Property.
- b. In relation to Section 4.2(a) of this CPU, areas of the Property that are not in use nor under development, hard cap and soil cap barriers are not required as long as exposure to the COCs at concentrations that exceed the ASCS (as determined by a Qualified Person) is prevented by a fence barrier that restricts access to those areas of the Property and a dust control plan is implemented as may be necessary to prevent surface soil from impacting adjacent areas.
- c. The fill cap and hard cap barriers shall consist of the following, at minimum:
- (i) Subject to subsection (ii) fill cap barrier(s) shall consist of a minimum 0.5 metre of Unimpacted Soil (Table 2).
 - (ii) For plants with root structure typically extending beyond the thickness of the cap, the planting hole diameter should be 2 times the root ball diameter and extend to a depth at least 0.5 metre beyond the root ball, per Section K-4.1 and illustrated in Figure K-1 of the RMP.
 - (iii) The hard cap barrier(s) shall consist of a minimum 75 millimetres of asphalt, concrete, or other surface treatment followed by a minimum of 150 millimetres of granular base or other suitable material and 275 millimetres of Unimpacted Soil, as per Section K-4.2 and illustrated in Figure K-1 of the RMP.

- d. Following the installation of any new Barriers to Soil on the Property, 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 RMP and Section 4.2(c) of this CPU along with final design specifications/drawings and/or as-built drawings.
- e. Following the installation of any new Barriers to Soil on the Property, the Owner shall submit to the Director a site plan that clearly identifies the final location(s) of each of the different barriers.
- f. An inspection and maintenance program shall be prepared and implemented to ensure the continuing integrity of the fill and hard cap barriers as long as the COCs are present on the Property at concentrations that exceed the ASCS. The inspection program shall include semi-annual inspections (spring and fall) of the barriers' integrity in accordance with Section K-4.7 of the RMP. Any barrier deficiencies shall be repaired within a reasonable period of time in accordance with Section K-4.7 of the RMP. If cracks, breaches or any loss of integrity in the barriers cannot be repaired or addressed in a timely manner, contingency measures, in accordance with Section K-4.5 of the RMP, shall be implemented to ensure that no exposure to the COCs occurs. The restoration of any damaged portions of the barriers shall, at minimum, meet the original design specifications and Section 4.2(c) of this CPU. The Owner shall keep records of the inspections, maintenance and repairs and make them available for review by a Provincial Officer upon request.
- g. An inspection and maintenance program, as described in Section 4.2(f), with respect to any fencing on the Property or any part thereof shall be implemented so long as fencing is required.

Soil Management Plan:

- h. A property-specific soil management Plan (SMP) shall be developed for the Property and implemented during all intrusive activities potentially in contact with or exposing COCs in soil on the Property. A copy of the SMP shall be maintained on the Property for the duration of all planned intrusive activities. For all intrusive activities, this SMP shall be submitted to the Director by the Owner at least 14 calendar days prior to any such intrusive activities being undertaken. The SMP shall include, but not be limited to, the following key components as deemed necessary by a Qualified Person:
 - (i) oversight by a Qualified Person;
 - (ii) include 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 may include, but not be limited to, silt fences and filter socks on catch-basins and utility covers as necessary;
- (v) characterization of excavated excess soils intended for on-site reuse to determine if the excavated excess soils exceed the Property Specific Standards listed in Table 1A of Schedule "A" attached to this CPU (Table 1A) and/or the Applicable Site Condition Standards for parameters other than those identified in Table 1A, or if they require off-site disposal in accordance with the provisions of Reg. 347 and O. Reg. 406/19 made under the Act;
- (vi) record keeping. Record keeping is to include, but not to be limited to:
 - a) dates and duration of work
 - b) weather and site conditions
 - c) location and depth of excavation activities,
 - d) dust control measures,
 - e) stockpile management and drainage,
 - f) all soil characterization results obtained as part of the SMP,
 - g) names of the Qualified Persons, contractors, haulers, and receiving sites for any excavated excess soils removed from the property, and
 - h) any complaints received relating to site activities.
- (vii) copy of the SMP and any amendments and the records kept thereunder shall be made available for review by the Ministry upon request.

Health and Safety Plan:

4.3 A property-specific health and safety plan (H&S Plan) shall be developed for the Property, in accordance with Section K-4.3 of the RMP, and implemented during all planned intrusive activities undertaken potentially in contact with COCs in soil that have been identified in the RA. A copy of the H&S Plan shall be maintained on the Property for the duration of all intrusive activities. The Owner shall ensure that the H&S Plan takes into account the presence of the COCs and is implemented prior to any intrusive activities being undertaken on the Property or portion(s) of the Property in order to protect workers from exposure to the COCs. The H&S Plan shall be prepared in accordance with applicable Ministry of Labour health and safety regulations, along with all potential risks identified in the RA and include, but not limited to, occupational hygiene requirements, personal protective equipment, contingency plans and contact information. Prior to initiation of any Project as defined under O.Reg.213/91 (on the Property or portion(s) of the Property), the local Ministry of Labour office shall be notified, where so prescribed under the OHSA, of the proposed activities and that COCs have been identified in soil on the Property. The plan shall be overseen by a Competent Person to review the provisions of the plan with respect to the

proposed site work and conduct daily inspections. The Owner shall retain a copy of the plan to be available for review by the Ministry upon request.

Property Use Restrictions:

- 4.4 Refrain from using the Property for Residential, Institutional, Parkland, Agricultural or Other Use as defined in O. Reg. 153/04.

Site Changes

- 4.5 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 may 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

- 4.6 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

- 4.7 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

- 4.8 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.
- 4.9 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 for the Property confirming that registration has been completed.

Owner / Occupant Change

- 4.10 While the CPU is in effect, forthwith report in writing to the Director any changes of ownership, of the Property.

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, such finding does not invalidate or render unenforceable the requirement in other circumstances, nor does it invalidate or render unenforceable the other requirements of the CPU.

- 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 failure to comply 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.

Part 6: Hearing before the Environmental Review Tribunal

With respect to those provisions relating to my authority in issuing a certificate of property use under section 168.6 and an order under section 197 of the Act:

- 6.1 Pursuant to section 139 of the Act, you may require a hearing before the Ontario Land 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
Ontario Land Tribunal
655 Bay Street, Suite 1500
Toronto, ON, M5G 1E5

Fax: (416) 326-5370
Email: OLTtribunalSecretary@ontario.ca
and

David Bradley, Director
Ministry of the Environment and Climate Change
300 Water St., South Tower
Peterborough, ON
K9J 3C7

Email: David.Bradley@ontario.ca

- 6.4 Unless stayed by the Tribunal under section 143 of the Act, the CPU is effective from the date of issue.

Schedule 'A': Figure 1

(not to scale)

Schedule "A" – Table 1	
Final Property Specific Standards – Soil	
Contaminant of Concern	Final PSS (µg/g)
Acenaphthylene	0.48
Anthracene	2.84
Benz(a)anthracene	2.41
Benzo(a)pyrene	1.49
Benzo(b)fluoranthene	1.82
Boron (HWS)	8.47
Cadmium	14.5
Copper	413
Dibenz(a,h)anthracene	0.23
Indeno(1,2,3-cd)pyrene	1.12
Lead	875
PCBs (total)	1.44
Zinc	3,660
Total Carcinogenic PAHs	-