

## 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 5673-D9QJTA  
Risk Assessment number 5285-C7YPSD

**Registered Owner:** 2640323 Ontario Inc.  
19 Whistler St  
Hannon, ON L0R 1P0

**Site:** 11 Elizabeth Road, Simcoe, Ontario

with a legal description described below:

LOT 6 PLAN 279, PART 1 ON 37R11488 NORFOLK COUNTY

Being ALL of PIN 50189-0145(LT)

The conditions of this Certificate of Property Use (CPU) address the Risk Management Measures in the Risk Assessment noted above and described 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.

**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 this CPU, the following capitalized terms have the meanings described below. These terms are also defined in the Approved Model. Not all of these terms may be used in this CPU.

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

“Adverse Effect” has the same meaning as in the Act; namely, one or more of

- 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.

“Applicable Site Condition Standards” means soil and groundwater that meets the soil or groundwater criteria identified in **Table 2: Full Depth Generic Site Condition Standards in a Potable Ground Water Condition (coarse textured soils)** 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;

“Barrier” means a Fill Cap Barrier or Hard Cap Barrier.

“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.

“Capping Soil” means,

- (a) soil that meets the applicable site condition standards for the Property and does not contain any contaminant for which no applicable site condition standard for soil is prescribed under Part IX (Site Condition Standards and Risk Assessment) and which is associated with any potentially contaminating activity described in the Risk Assessment, or
- (b) soil that meets the applicable site condition standards for the Property, as specified in Item 3.2 of the CPU, and does not contain any contaminant for which no applicable site condition standard for soil is prescribed under Part IX (Site Condition Standards and Risk Assessment) and which is associated with any potentially contaminating activity described in the Risk Assessment.

“Certificate of Property Use” or “CPU” means this certificate of property use bearing the number **5673-D9QJTA** issued for the Property by the Director under section 168.6 of the Act, as it may be amended from time to time.

“Contaminants of Concern” or “COC” has the same meaning as in O. Reg. 153/04, which, for the Property, means one or more contaminants found on, in or under the Property at a concentration that exceeds the applicable site condition standards for the Property, as specified in section 7 of the Risk Assessment report and in Schedule A 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.

“Garden Soil” means soil that meets the soil criteria identified in **Table 1: Full Depth Background Site Condition Standards** 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;

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

“Intrusive Activities” means any intrusive activity undertaken at the Property, such as excavating or drilling into soil or groundwater, which may disturb or expose Contaminants of Concern at the Property.

“Licensed Professional Engineer” means a person who 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.

“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, described in the “Owner” section on page 1 above, and any subsequent registered or beneficial owner of the Property.

“Property” means the property that is the subject of the Risk Assessment and is described in the property “Site” section on page 1 above, and as further shown on Schedule C – Site Plan.

“Property Specific Standards” means the standards established as the maximum allowable concentrations for the Contaminants of Concern at the Property, as specified in section 6 of the Risk Assessment report and in Schedule A 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.

“Risk Assessment” means the risk assessment number **5285-C7YPSD** submitted with respect to the Property and accepted by a Director under section 168.5 of the Act on **October 9, 2024** and set out in the following documents:

- **“Pre-Submission Form for 11 Elizabeth Road, Simcoe, Ontario”, report prepared by A & A Environmental Consultants Inc., dated October 20, 2021**

- **“Risk Assessment 11 Elizabeth Road, Simcoe, Ontario”, report prepared by A & A Environmental Consultants Inc., dated September 2022**
- **“Revised Risk Assessment 11 Elizabeth Road, Simcoe, Ontario”, report prepared by A & A Environmental Consultants Inc., dated February 2023**
- **“Revised Risk Assessment 11 Elizabeth Road, Simcoe, Ontario”, report prepared by A & A Environmental Consultants Inc., dated July 5, 2023**
- **“Revised Risk Assessment 11 Elizabeth Road, Simcoe, Ontario”, report prepared by A & A Environmental Consultants Inc., dated November 2023**
- **“Revised Risk Assessment 11 Elizabeth Road, Simcoe, Ontario”, report prepared by A & A Environmental Consultants Inc., dated May 2024**
- **“Revised Risk Assessment 11 Elizabeth Road, Simcoe, Ontario”, report prepared by A & A Environmental Consultants Inc., dated September 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.

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

## **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 168.6(1) of the Act states that if a risk assessment relating to a property has been accepted under clause 168.5(1)(a), the Director may 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 and that, in the Director’s opinion, is necessary to prevent, eliminate or ameliorate any adverse effect that has been identified in the risk assessment, 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.
- 2.3 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.

- 2.4 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 of property use 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.
- 2.5 Subsection 168.6(4) of the Act states that if a certificate of property use contains a provision requiring the owner of 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; and
  - (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.
- 2.6 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.
- 2.7 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.
- 2.8 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.
- 2.9 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 on behalf of the Owner to assess the human health risks and ecological risks associated with the presence or discharge of Contaminants of Concern 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: **RESIDENTIAL**, 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** are set out in the Risk Assessment and in Schedule A (Contaminants of Concern). The Standards for these Contaminants of Concern are also set out in Schedule A which is attached to and forms part of the CPU. Also attached to and forming part of the CPU is a copy of a current plan of survey of the Property and/or a site plan of the Property.
- 3.3 I am of the opinion, for the reasons set out in the Risk Assessment that the Risk Management Measures described therein and in Part 4 of the CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property that has been identified in the Risk Assessment.
- 3.4 I am of the opinion, for the reasons set out in the Risk Assessment, that Contaminants of Concern require on-going pathway elimination and it is necessary to restrict the use of the Property and/or the construction of Buildings and/or the notice provisions as outlined in Part 5 of this CPU.
- 3.5 I am of the opinion, that the requirements set out in Part 6 of this CPU are necessary to supplement the Risk Management Measures described in the Risk Assessment and in Part 4 of the CPU.
- 3.6 I believe for the reasons set out in the Risk Assessment that it is also advisable to require the disclosure of this CPU and the registration of notice of the CPU on title to the Property as set out in the order requirements in Part 7 of this CPU.

## Part 4: CPU Risk Management Measures and Requirements Relating to the Risk Assessment and the Property

I hereby require the Owner to do or cause to be done the following under the authority of paragraph 168.6(1)1 of the Act:

- 4.0 Implement, and thereafter maintain or cause to be maintained, the following Risk Management Measures and requirements identified in the Risk Assessment and set out in Items 4.1 to 4.9 and 5.1 to 5.2 as applicable.

**4.1 Hard Cap Barrier or Fill Cap Barrier Risk Management Measure:**

- a. Prior to the occupancy of any new Building(s) to be constructed on the Property, a barrier shall be installed across the entire Property to prevent exposures to COCs occurring on the Property. The barriers are to be maintained for as long as COCs are present on the Property and may consist entirely of a fill cap, or entirely of a hard cap, or of a hard cap in some areas of the Property and a fill cap in other areas of the Property. Barriers shall be constructed in accordance with Figure 1 or Figure 2 of Schedule A of this CPU and Section 3.3 of the Risk Management Plan and be comprised of:
  - i. fill cap - capping of areas on the Property where Impacted Soils are present at or within 1.0 m below the soil surface with a minimum of 1.0 m of Unimpacted Soil;
  - ii. hard cap - capping of areas on the Property where Impacted Soils are not covered by at least 1.0 m of Unimpacted Soil with asphalt, concrete, a building slab, or a building foundation and floor slab, consisting of at least 150 mm of Ontario Provincial Standard Specification (OPSS) Granular "A" product or equivalent material overlain by at least 75 mm of hot mix asphaltic concrete or concrete.
- b. the use of any native soils on the Property in the construction of the barriers set out by this part of the CPU is only possible if the soil is determined to be Unimpacted Soil in accordance with Section 36 of Schedule E of the Regulation.
- c. Prior to the development of all or any part of the Property, the Owner shall implement dust control measures for any part of the Property requiring barriers specified by paragraph a of Item 4.1 of this CPU but which has not been covered, so as to prevent exposure to COCs at the Property. The dust control measures are to be maintained until the installation of the barriers described by paragraph a of Item 4.1 of this CPU is complete.

**4.2 Inspection, maintenance and reporting requirements for all Barriers:**

- a. Prepare and implement a written inspection and maintenance program, prepared by a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, so as to ensure the continuing integrity of each Barrier at the Property so long as the Contaminants of Concern are present at the Property, including, at a minimum:
  - i. procedures and timing for implementing the program;
  - ii. semi-annual inspections, in spring and fall, of the Barrier;
  - iii. noting any deficiencies in the Barrier observed during the inspections, or at

any other time;

- iv. repairing promptly any such deficiencies, to the original design specifications, with written confirmation that the Barrier has been properly repaired;
- v. contingency measures, such as fencing, to be implemented if cracks, breaches or any loss of integrity of the Barrier cannot be repaired or addressed in a timely manner, to prevent exposure to the Contaminants of Concern in that area of the Property;
- vi. recording, in writing, all inspections, deficiencies, repairs and implementation of contingency measures, to be retained by the Owner and be available for inspection upon request by a Provincial Officer;

and which is,

- vii. delivered to the Owner before use of all or any part of the Property begins, or within 90 days following completion of covering of all or any part of the Property, whichever is earlier; and
- viii. updated and delivered to the Owner within 30 days following making any alteration to the program;

- b. Prepare a site plan of the entire Property, prepared by a Licensed Professional Engineer and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, showing the Property, any fencing, and the location, type and design of each Barrier at the Property, including cross-sectional drawings of the Barrier showing its design and vertical and lateral extent;

and which is,

- i. delivered to the Owner before use of all or any part of the Property begins, or within 90 days following completion of covering of all or any part of the Property, whichever is earlier; and
  - ii. updated and delivered to the Owner within 30 days following making any alteration to the location, design or extent of the Barrier, or other relevant feature shown on the site plan;
- c. Prepare and implement written procedures, prepared by a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, for written and oral communication to all persons who may be involved in Intrusive Activities at the Property that may disturb a Barrier at the Property, so as to ensure the persons are made aware of the presence and significance of the Barrier and the Contaminants of Concern at the Property and the precautions to be taken to ensure the continued integrity of the Barrier when undertaking the Intrusive Activities, and if damaged, to ensure that the Barrier is repaired promptly to the original design specifications, or, if it cannot be repaired



promptly, to ensure that the contingency measures are implemented, and records kept, as specified in the inspection and maintenance program;

and which are,

- i. delivered to the Owner before any Intrusive Activities are undertaken at the Property; and
- ii. updated and delivered to the Owner within 30 days following making any alteration to the procedures.

#### **4.3 New Enclosed Building(s)**

Refrain from constructing any Building on the Property unless the Building includes a Vapour Barrier Systems that meets requirements in Item 4.4 and is constructed as slab-on-grade.

#### **4.4 Vapour Barrier System Risk Management Measure:**

- a. Refrain from constructing any Building on, unless the building(s) is constructed with a vapour barrier system, as specified in Appendix K of the Risk Assessment as well as Section 3.1, section 6.5, Figure 3 and Figure 4 of Appendix A of the Risk Management Plan (RMP), which reduces potential vapour intrusion, designed by a Licensed Professional Engineer and which shall consist, as a minimum, of:
  - i. A non-woven geotextile layer above the subgrade, with a 40 mil. thickness vapour barrier above the non-woven geotextile;
  - ii. A non-woven geotextile above the vapour barrier, with a minimum 300 mm clear gravel layer above the non-woven geotextile with 100 mm perforated drainage covered with 100 mm concrete slab floor;
  - iii. monitoring devices installed for the purpose of confirmatory sub-slab vapour and indoor air monitoring, as approved by the Director, which are considered appropriate by the Licensed Professional Engineer in consultation with the Qualified Person, taking into account factors such as the Building Area and the design and configuration of the Building foundation.
- b. Within 90 calendar days of the completion of the construction of Building(s) as specified in Item 4.3 of this CPU and prior to first occupancy, the Owner shall submit to the Director as-built drawings and detailed design specifications of the membrane barrier, including any verification and QA/QC reports, prepared by the qualified Licensed Professional Engineer along with a statement from the qualified Licensed Professional Engineer that the membrane barrier has been installed in accordance with the original design specifications and that it has been designed to meet the requirements and objectives specified in section 3.1 in Appendix K of the RMP along with paragraphs a of Item 4.4 of this CPU.

- c. The Owner shall ensure that all individuals/contractors intending to undertake work which could potentially come into contact with or interfere with the membrane barrier as specified in Appendix K, Section 3.1 of the RMP along with paragraphs a and b of Item 4.4 of this CPU are made aware of the presence of the membrane barrier and the need to take appropriate precautions to ensure the integrity of the membrane barrier at all times. If the membrane barrier is damaged at any time, the Owner shall ensure that it is repaired forthwith by a qualified contractor, under the supervision of a qualified Licensed Professional Engineer as necessary, to the original design specifications, at minimum. If repairs to the membrane barrier cannot be completed in a timely manner, the Owner shall ensure that the contingency measures prepared by a qualified Professional Engineer are implemented. All repairs to the membrane barrier are to be inspected by a qualified Licensed Professional Engineer and signed documentation shall be provided to the Owner that states that the repairs meet the original design specifications, at minimum. The Owner shall submit to the Director the written confirmation, prepared and signed by a qualified Licensed Professional Engineer, that the membrane barrier has been repaired to meet the original design specifications, at minimum. The written confirmation shall also include a description of any contingency measures that were put in place and shall be submitted to the Director within 30 calendar days of the completion of any repairs to the membrane barrier. The Owner shall maintain records of all activities and repairs in relation to the membrane barrier and these records shall be made available by the Owner to the Ministry for review upon request.
- d. Upon completion of the construction of any new Building, and prior to first occupancy, the Owner shall implement a written program, overseen by a qualified Licensed Engineer to undertake the confirmatory sub-slab vapour and indoor air monitoring program as specified in Appendix K, Section 6.5 of the RMP and at Director approved locations as required in paragraph a of Item 4.4. of this CPU. Specifically, the confirmatory sub-slab and indoor air monitoring program shall include the following key components:
- i. procedures and timing for implementing the program, by a person meeting the qualifications as set out in the program;
  - ii. clearly defined locations for the collection of sub-slab vapour and indoor air samples along with the description of the devices and equipment used for each monitoring event;
  - iii. procedures for undertaking the testing, measurement and evaluation during a monitoring event, including calibration of operational, monitoring and other equipment, as appropriate;
  - iv. undertake the confirmatory sub-slab vapour and indoor air monitoring, including recording of the monitoring results, as follows:
    1. The collection of sub-slab vapour and indoor air samples including an adequate number of QA/QC samples as determined by the qualified Licensed Professional Engineer at the following frequency:

- a. Prior to first occupancy; and,
  - b. Two times per year sampling on a semi-annual basis, until written approval to discontinue the sub-slab and indoor air monitoring program by the Director is received by the Owner.
- v. The sub-slab vapour and indoor air samples shall be sent to an accredited laboratory and analyzed for COCs listed in Table 2 and Table 3 of Schedule A of this CPU, which is attached to and forms part of this CPU.
- vi. An annual report documenting the sub-slab and indoor air monitoring program shall be prepared by a qualified Licensed Professional Engineer and submitted to the Director on or before March 31st following each year of monitoring until written approval to discontinue the program is received by the Owner from the Director. The annual report shall include, but not be limited to:
  - 1. Laboratory results and laboratory certificates of analysis;
  - 2. Field logs, leak testing (as necessary) and documentation of QA/QC;
  - 3. Discussion and interpretation of the results in comparison to the respective Sub-slab Vapour and Indoor Air Trigger Levels as listed in Table 2 and Table 3 of Schedule A of this CPU;
  - 4. Conclusions and recommendations with respect to the need for additional and or continued monitoring as may be warranted; and,
- vii. In the event that the sub-slab vapour and indoor air monitoring program detailed in paragraph d of Item 4.4 of this CPU identifies one or more of the Target COCs at concentrations above the Soil Vapour or Indoor Air Trigger Levels specified in Table 2 and Table 3 of Schedule A of this CPU, the Owner shall implement the contingency measures as follows:
- viii. Written notice shall be submitted to the Director by the Owner within 10 calendar days of the Owner's receipt of the laboratory analysis. This written notice shall include the sub-slab vapour and indoor air sampling results, the laboratory certificates of analysis and the anticipated timeline for the implementation of the confirmatory sampling program along with any additional work as may be deemed necessary, by a qualified Licensed Professional Engineer. Confirmatory sampling shall occur within 30 calendar days from the date of the Owner's receipt of the laboratory analysis and be completed by a qualified Licensed Professional Engineer.
- ix. If the confirmatory sub-slab vapour sampling and or indoor air sampling verifies the exceedances of one or more of the Target COCs at concentrations specified in Table 2 and Table 3 of Schedule A of this CPU and where the concentrations of the observed Target COCs are determined by the qualified

Licensed Professional Engineer to be a result of soil vapour intrusion, the Owner shall:

1. Submit written notice to the Director within 10 calendar days of the Owner's receipt of the laboratory analysis. This written notice shall include the sub-slab vapour results, along with any indoor air sampling results as may be necessary, the laboratory certificates of analysis and the details of, and the anticipated timeline to implement appropriate contingency measures. The implementation of contingency measures, along with the implementation of a confirmatory sub-slab and indoor air sampling program shall occur within 14 calendar days of the Owner's submission of the written notice of the exceedance to the Director;
2. Within 30 calendar days of the implementation of the contingency measures, the Owner shall submit to the Director a report prepared by a qualified Licensed Professional Engineer documenting the implementation of contingency measures, results of the implementation of the confirmatory sampling program along with the details and timelines for the implementation of a performance indoor air monitoring program as necessary. The report shall include, but not be limited to:
  - a. Laboratory results and laboratory certificates of analysis;
  - b. Field logs, leak testing (as necessary) and documentation of QA/QC;
  - c. Discussion and interpretation of the results in comparison to the respective Target Sub-Slab and Target Indoor Air Concentrations as listed in Table 2 and Table 3 of Schedule A of this CPU; and,
  - d. Conclusions and recommendations for additional work and/or continued monitoring as may be deemed warranted.

#### **4.5 Soil and Ground Water Management Plan Requirement:**

Prepare and implement a written soil and ground water management plan for the Property, prepared by a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, for managing soil excavated, removed or brought to the Property, and ground water during construction and maintenance activities at the property, so as to prevent any exposure to human and ecological receptors or uncontrolled movement or discharge of the Contaminants of Concern in soil or groundwater, including, at a minimum:

- a. procedures and timing for implementing the plan, including the supervision of persons implementing the plan; and
- b. measures to control dust and prevent tracking of soil by vehicles and persons from the Property, including the cleaning of equipment and vehicles; and

- c. measures, in addition to any applicable measures specified in O. Reg. 153/04 or O. Reg. 406/19, to manage soil excavated at the Property and any soil brought to or removed from the property, including:
  - i. characterizing for contaminant quality all excavated soil and any soil brought to the Property, including determining whether the soil:
    - 1. is Capping Soil;
    - 2. meets the Standards; or
    - 3. exceeds the Standards;
  - ii. managing excavated soil separately from any soil brought to the Property, including any excavated soil that is to be:
    - 1. used as Capping Soil at the Property;
    - 2. otherwise used as fill at the Property;
    - 3. removed from the Property for off-site storage or processing but is to be returned for use as fill at the Property; or-
    - 4. removed from the Property for off-site use as fill or disposal; and
  - iii. stockpiling of excavated soil and any soil brought to the Property in separate designated areas that:
    - 1. reflect the distinctions described in parts (c) i and ii; and
    - 2. have been lined and covered, as appropriate, to prevent uncontrolled movement or discharge of the Contaminants of Concern; and
    - 3. have been bermed or fenced, as appropriate, to restrict access by persons; and
    - 4. 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; and
- d. management measures and an action plan (including dust and odour control measures along with appropriate disposal options) for non-aqueous phase liquids (NAPL). If NAPL is encountered, the Owner shall notify the Director in writing as soon as practicable after the NAPL is encountered.
- e. 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 slit 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
- f. 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 O. Reg. 406/19, 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:
  - i. dates and duration of the Intrusive Activities being undertaken;
  - ii. weather and site conditions during the Intrusive Activities;

- iii. the location and depth of excavation activities, and dewatering activities, if any;
- iv. dust control and soil tracking control measures, such as wetting/covering exposed soils, minimizing traffic, applying dust suppressant, and hauling records;
- v. characterization results for excavated soil and any soil brought to or removed from the Property, and for any ground water from dewatering;
- vi. soil management activities including soil quantities excavated and brought to and removed from the Property, and stockpile management and storm water runoff control;
- vii. management activities for any ground water from dewatering;
- viii. names and contact information for the Qualified Persons and on-site contractors involved in the Intrusive Activities;
- ix. names and contact information for any haulers and owners or operators of receiving sites for soil and any ground water removed from the Property, and for haulers and owners or operators of project areas (also known as source sites) of any soil brought to the Property;
- x. any complaints received relating to the Construction and Maintenance Activities, including the soil, storm water and any ground water management activities;

and which is,

- 1. delivered to the Owner before any Intrusive Activities are undertaken at the Property; and
- 2. updated and delivered to the Owner within 30 days following making any alteration to the plan.

#### **4.6 Groundwater Monitoring Program:**

Within 60 days of the completion of construction and prior to first occupancy of any new Building(s), the groundwater monitoring program shall be implemented by the Owner in accordance with Section 6.6. of the RMP. Specifically, the groundwater monitoring program shall include, but not be limited to, the following components:

- a. Be overseen by a Qualified Person;
- b. Consist of the measurement of groundwater levels, collection of groundwater samples and the measuring/monitoring for NAPL (i.e. PHC free product) from groundwater monitoring wells MW20-1, MW20-2, MW20-3, MW20-4 and MW-4 as identified in the attached Schedule A: Figure 4 – Proposed Groundwater Monitoring Locations (Figure 4), which is attached to and forms part of this CPU, at minimum or at equivalent locations as deemed appropriate by a Qualified Person and upon receipt of written approval from the Director;
- c. The groundwater monitoring shall occur on a semi-annual basis for a minimum of two years and until written approval to reduce the frequency or discontinue the monitoring program is received by the Owner from the Director.
- d. An annual report detailing the groundwater monitoring results and sample locations shall be prepared on or before March 31st following each year of monitoring until

- written approval to discontinue the program from the Director is received by the Owner; and,
- e. If NAPL is observed, the Owner shall notify the Director in writing within 14 calendar days of the date that NAPL is observed. Written notification shall be prepared by a Qualified Person and include the groundwater monitoring results and sample locations, an assessment of the potential for off-property migration of impacted groundwater and a timeline for the submission of an Action Plan for review and approval. The Action Plan shall be submitted to the Director within 30 days from the date that NAPL is observed. The Action Plan shall be prepared by a Qualified Person and include, but not be limited to, a detailed interpretation of the available data collected to date along with recommendations for any additional investigation/monitoring as may be required and or recommendations for the implementation of additional remedial/contingency measures and or mitigation measures that deemed necessary.
  - f. Upon the Owner receiving written approval from the Director, the Owner shall implement the approved Action Plan.
  - g. Within 30 days of completion of the Action Plan, the Owner shall submit written confirmation, along with supporting documentation, prepared by a Qualified Person that the Remedial Action Plan has been implemented.

#### **4.7 No ground water use Risk Management Measure:**

Upon issuance of the CPU, the Owner shall take all actions necessary or advisable to prevent any use of ground water in or under the Property as a potable water source. The Owner shall,

- a. Refrain from using ground water in or under the Property as a potable source of water; and
- b. Except, as may be required for continued use as a monitoring well, as defined in the Ontario Water Resources Act, R.S.O. 1990, c. O.40 (OWRA):
  - i. properly abandon on the Property any wells, as described or defined in the OWRA, according to the requirements set out in Regulation 903 of the Revised Regulations of Ontario 1990: (Wells), made under the OWRA; and,
  - ii. refrain from constructing on the Property any wells as described or defined in the OWRA.

#### **4.8 Prohibition of Planting of Fruit and Vegetables for Consumption:**

The Owner shall refrain from planting fruit and vegetables for consumption on the Property unless planted in above ground containers such that they plants are isolated from the subsurface conditions, in raised beds on ground surface with a minimum of a 1.0 m thick layer of Garden Soil. The planting of fruit and vegetables for consumption on the Property is prohibited unless otherwise specified for as long and the COCs in soil remain present.

#### **4.9 Financial Assurance:**

- a. Prior to occupancy and prior to the implementation of the monitoring programs required by paragraph d of Item 4.4 and Item 4.6 of this CPU, the Owner shall submit to the Director, a detailed written cost estimate, prepared by a Qualified Person, to complete the approved monitoring programs as required by paragraph d of Item 4.4 and Item 4.6 of this CPU for a period of two years.
- b. Within 15 days of the Owner's receipt of written approval from the Director of the acceptance of the cost estimate amount specified in paragraph d of Item 4.4 and Item 4.6 of this CPU, the Owner shall provide financial assurance to the Crown in the right of Ontario in the same amount that was approved by the Director. The financial assurance shall be in the form of a certified cheque payable to the Ontario Minister of Finance, or an irrevocable letter of credit issued by a Canadian Chartered Bank as outlined in the Ministry's *Financial Assurance Guideline* F-15. This amount is to cover the costs associated with the monitoring programs.
- c. The amount of financial assurance required in paragraph a of Item 4.9 of this CPU shall be reviewed every two years, for as long as the performance monitoring program is required, by a Qualified Person, for the Owner, and an updated cost estimate shall be included in the annual monitoring report as required by Item 4.10 of this CPU.

#### **4.10 Annual Reports Requirement:**

The Owner shall prepare by March 31<sup>st</sup> each year, an annual report documenting activities relating to the Risk Management Measures undertaken during the previous calendar year. A copy of this report shall be maintained on file by the Owner and shall be made available upon request by a Provincial Officer. The report shall include, but not be limited to, the following minimum information requirements as applicable:

- a. a copy of all records relating to the inspection and maintenance program for the Barrier to site soils and vapour barrier;
- b. a copy of all records relating to the soil and ground water management plan;
- c. a copy of signed site plans as constructed plans for the vapour barrier for any Building;
- d. a copy of the annual report documenting the sub-slab and indoor air monitoring program as required by paragraph d of Item 4.4;
- e. a copy of the information collected related to the groundwater monitoring program as required by paragraph d of Item 4.6;
- f. a copy of documentation to justify the financial assurance calculation and to meet the record keeping requirements as outlined in Item 4.9.
- g. a copy of signed site plans including any alterations.

## **Part 5: CPU Restrictions on Property Use, Building Construction and Notice Requirements**

I hereby require the Owner to do or cause to be done the following under the authority of paragraph 168.6(1)2 of the Act:



### **5.1 Property Use Restriction**

Refrain from using the Property for any of the following use(s): any type of property use specified in O. Reg. 153/04 which is more sensitive than **RESIDENTIAL** as specified in O. Reg. 153/04.

### **5.2 Building Construction Restrictions**

Refrain from constructing the following Building(s): Any Building except as may be permitted in the CPU including by implementing on any Building, the Risk Management Measures as may be applicable.

### **5.3 Notice of Restrictions**

Pursuant to the requirements of subsection 168.6(4) of the Act, the Owner shall ensure that every occupant of the Property is given notice that the Ministry has issued this CPU and that it contains the provisions noted above in Items 5.1 and 5.2, and that every occupant complies with such provisions. For the purposes of this requirement, an occupant means any person with whom the Owner has a contractual relationship regarding the occupancy of all or part of the Property.

## **Part 6: Additional Requirements**

I hereby require the Owner to do or cause to be done the following things under the authority of paragraph 168.6(1)1 of the Act:

### **6.1 Site Changes Affecting Risk Management Measures**

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, the Owner shall 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. In support of this work, a new risk assessment may need to be completed in accordance with O. Reg. 153/04 and submitted to the Ministry for acceptance. An amendment to the CPU will be issued to address the changes set out in any notice received and any future changes that the Director considers necessary in the circumstances.

### **6.2 Report Retention Requirements**

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.

### **6.3 Owner Change Notification**

While the CPU is in effect, the Owner shall, 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 no notice shall be given of changes in the ownership of individual condominium units or any appurtenant common elements on the Property.

## **Part 7: Section 197 Order (Property Notice and Certificate of Requirement Registration) Requirements**

I hereby order the Owner to do or cause to be done the following under the authority of subsections 197(1) and 197 (2) of the Act:

### **7.1 Property Notice Requirement**

For the reasons set out in the CPU and pursuant to the authority vested in me by 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.

### **7.2 Certificate of Requirement Registration**

Within fifteen (15) days from the date of receipt of a certificate of requirement issued under subsection 197(2) of the Act completed as outlined in Schedule B register the certificate of requirement on title to the Property, in the appropriate land registry office.

### **7.3 Verification**

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.

## **Part 8: General Requirements**

- 8.1 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.
- 8.2 An application under subsection 168.6(3) of the Act to alter any terms and conditions in the CPU, or impose new terms and conditions, or revoke the CPU, shall be made in writing to the Director, with reasons for the request.
- 8.3 Subsection 186(3) of the Act provides that failure to comply with the requirements of the CPU constitutes an offence.

- 8.4 The requirements of the CPU are minimum requirements only and do not relieve the Owner from, complying with any other applicable order, statute, regulation, municipal, provincial or federal law, or obtaining any approvals or consents not specified in the CPU.
- 8.5 Notwithstanding the issuance of the CPU, further requirements may be imposed in accordance with legislation as circumstances require.
- 8.6 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.

- 8.7 Failure to comply with a requirement of the CPU by a date specified does not relieve the Owner(s) from compliance with the requirement. The obligation to complete the requirement shall continue each day thereafter.
- 8.8 The Risk Management Measures identified in the Risk Assessment and also in Part 4 of the CPU and all the other requirements in the CPU shall commence upon the issuance of the CPU and continue in full force and effect in accordance with the terms and conditions of the CPU until such time as the Director alters or revokes the CPU.
- 8.9 The provisions of the CPU shall take precedence in the event of a conflict between the provisions of the CPU and the Risk Assessment.
- 8.10 In the event that the Owner complies with the provisions of Items 7.2 and 7.3 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 and then transfers ownership of the Property to various condominium unit owners, the ongoing obligations of the Owner under this CPU can be carried out by the condominium corporation on behalf of the new Owners of the Property.
- 8.11 Where there is more than one Owner each person is jointly and severally liable to comply with any requirements of the CPU unless otherwise indicated.

## **Part 9: Information regarding a Hearing before the Ontario Land 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:

- 9.1 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.
- 9.2 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.
- 9.3 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 Registrar  
Ontario Land Tribunal  
655 Bay Street, Suite 1500  
Toronto, ON, M5G 1E5  
Email: OLT.Registrar@ontario.ca

and

Stephen Burt, Hamilton District Manager  
Ministry of the Environment, Conservation and Parks  
119 King Street West, 9<sup>th</sup> Floor  
Hamilton, Ontario  
L8P 4Y7  
Fax: (905) 521-7806  
Email: [stephen.burt@ontario.ca](mailto:stephen.burt@ontario.ca)

The contact information of the Ontario Land Tribunal and further information regarding its appeal requirements can be obtained directly from the Tribunal at: Tel: (416) 212-6349 or Toll Free 1 (866) 448-2248 or [www.olt.gov.on.ca](http://www.olt.gov.on.ca).

Further information regarding service can be obtained from e-Laws at [www.ontario.ca/laws](http://www.ontario.ca/laws). Please note where service is made by mail, it is deemed to be made on the fifth day after the date of mailing and choosing service by mail does not extend any timelines.

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

9.5 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 Environmental Registry of Ontario. The notice must include a brief description of the CPU (sufficient to identify it) and a brief description of the grounds for the appeal.

The notice must be delivered to the Minister of the Environment, Conservation and Parks who will place it on the Environmental Registry of Ontario. The notice must be delivered to the Minister of the Ministry of the Environment, Conservation and Parks, College Park 5th Flr, 777 Bay St, Toronto, ON M7A 2J3 by the earlier of:

- (a) two (2) days after the day on which the appeal before the Tribunal was commenced; and
- (b) fifteen (15) days after service on you of a copy of the CPU.

9.6 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.

9.7 Pursuant to section 38 of the EBR, any person resident in Ontario with an interest in the CPU may seek leave to appeal the CPU. Pursuant to section 40 of the EBR, the application for leave to appeal must be made to the Tribunal by the earlier of:

- (a) fifteen (15) days after the day on which notice of the decision to issue the CPU is given in the Environmental Registry of Ontario; and
- (b) if you appeal, fifteen (15) days after the day on which your notice of appeal is given in the Environmental Registry of Ontario.

9.8 The procedures and other information provided in this Part 9 are intended as a guide. The legislation should be consultant for additional details and accurate reference. Further information can be obtained from e-Laws at [www.ontario.ca/laws](http://www.ontario.ca/laws).

Issued this [DAY] day of [MONTH], [YEAR]

Director, section 168.6 of the Act  
Stephen Burt

## Schedule A

**Table 1: Property Specific Standards (Soil and Groundwater) for each Contaminant of Concern**

<b>Contaminants of Concern (COC)</b>	<b>Property Specific Standards for Soil (µg/g)</b>	<b>Property Specific Standards for Groundwater (µg/L)</b>
PHC F1	102	708
PHC F2	4800	2160
PHC F3	2760	1680
Benzene	N/A	25.2
Ethylbenzene	N/A	28.8

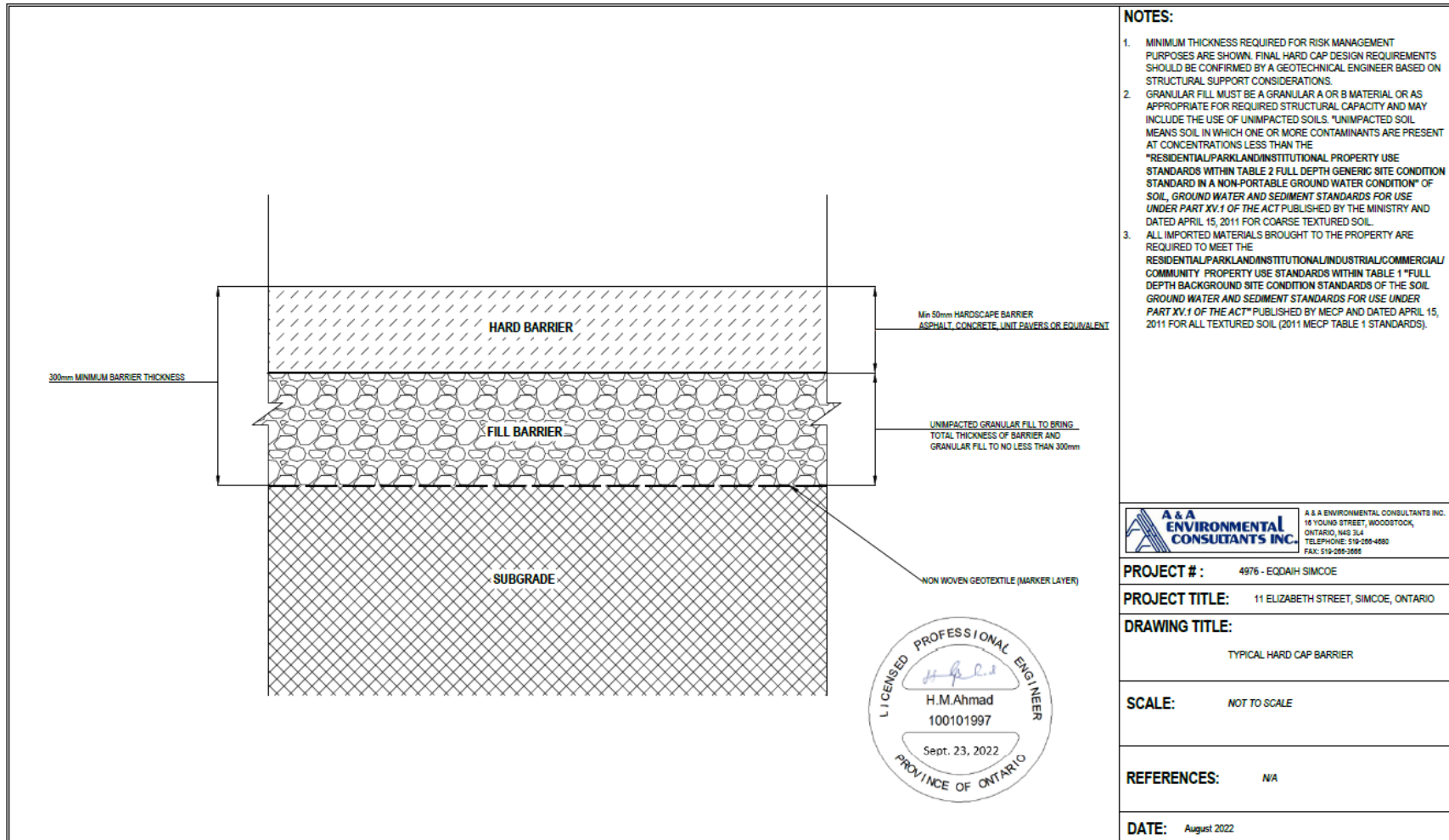
**Table 2: Soil Vapour Trigger Levels**

<b>Contaminants of Concern (COC)</b>	<b>Soil Vapour Trigger Level (µg/m3)</b>
Benzene	2.53E+02
PHC F1	1.65E+05
PHC F2	2.35E+05

**Table 3: Indoor Air Trigger Levels**

<b>Contaminants of Concern (COC)</b>	<b>Indoor Air Trigger Level (µg/m3)</b>
Benzene	0.51
PHC F1	329
PHC F2	471

Figure 1: Hard Cap Barrier



**Figure 2: Fill Cap Barrier**

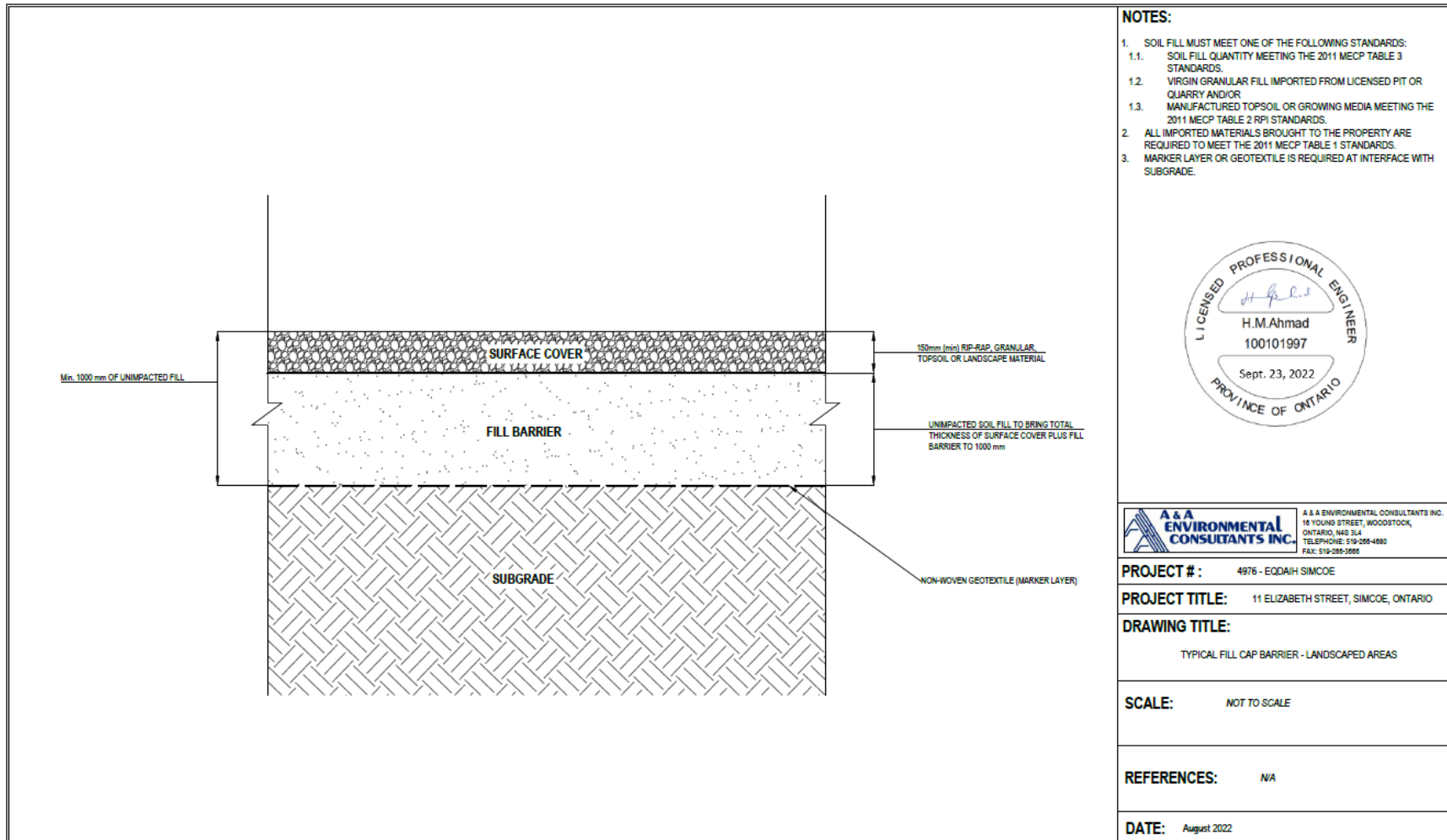




Figure 3: Vapour Barrier Design

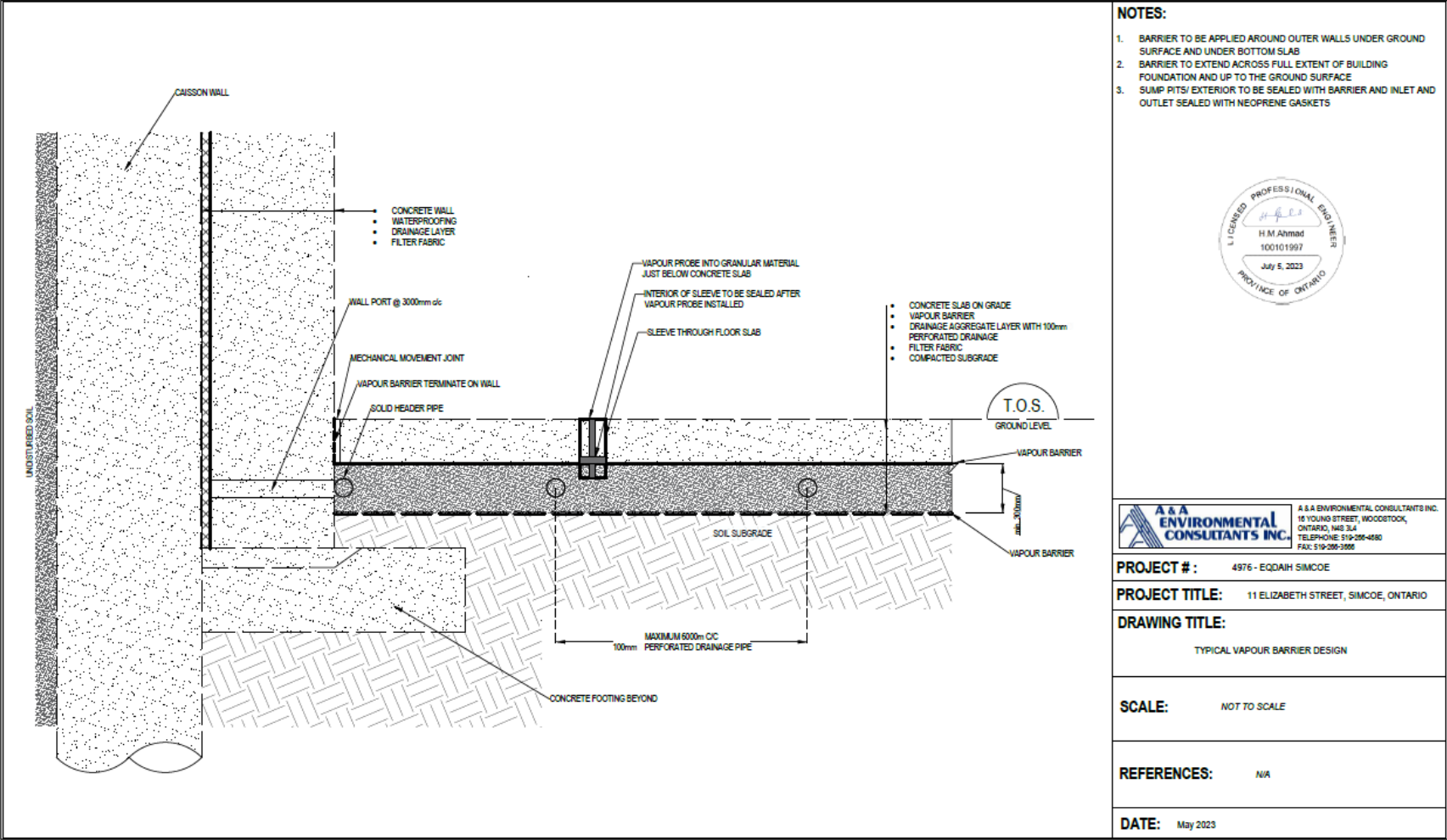
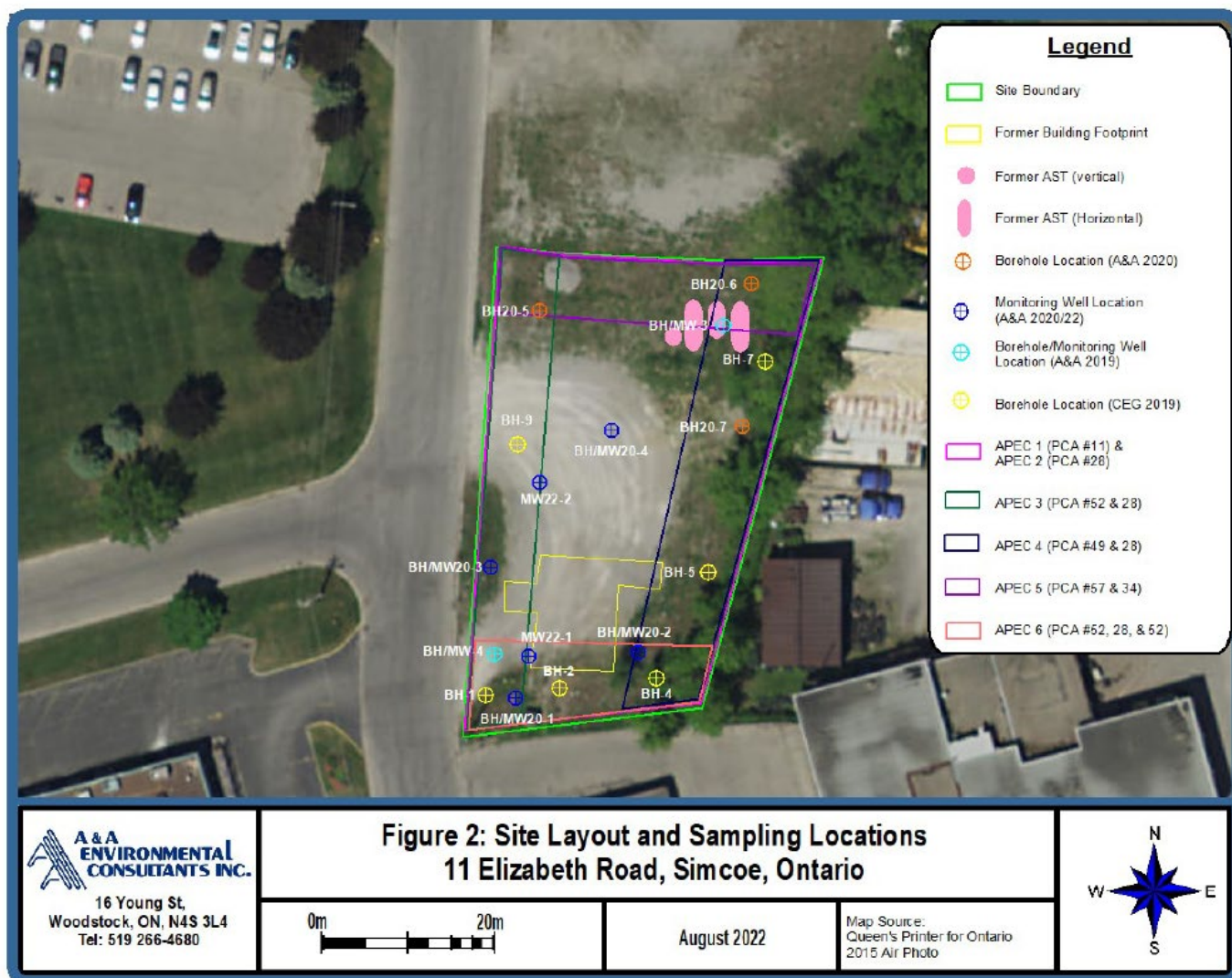


Figure 4: Proposed Groundwater Monitoring Locations



**Note:** Groundwater Monitoring Wells to be included in Groundwater Monitoring Program include MW20-1, MW20-2, MW20-3, MW20-4 and MW-4 as outlined in Section 4.6 of this CPU.

**SCHEDULE B**

**CERTIFICATE OF REQUIREMENT**

**s.197(2)**

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

This is to certify that pursuant to Item 7.1 of Certificate of Property Use number **5673-D9QJTA** 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 [DATE TO BE INSERT UPON FINALIZATION], being a Certificate of Property Use and order under subsection 197(1) of the *Environmental Protection Act* relating to the property municipally known as **11 Elizabeth Road, Simcoe**, being legally described as **ALL** of Property Identifier Number (PIN) **50189-0145 (LT)** (the "Property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property

**2640323 Ontario Inc.**

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 Property.

SCHEDULE C – Site Plan

