

## Certificate of Property Use - DRAFT

**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: 7166-DJ2J34  
Risk assessment number: 7344-CU6GZN

Owner: 351 MARGARET LIMITED

(“Registered Owner”)

131 McNabb Street, Suite 201  
Markham, Ontario, L3R 5V7

And 351 MARGARET LIMITED PARTNERSHIP

(“Beneficial Owner”)

131 McNabb Street, Suite 201  
Markham, Ontario, L3R 5V7

Property: 351 Margaret Avenue, Kitchener

(“Property”)

Legally described as:

**PT LT 9-10, 15-16 PL 373 KITCHENER PT 1&2, 58R13780; KITCHENER, SUBJECT TO  
AN EASEMENT OVER PT. 1 ON 58R-17790 IN FAVOUR OF BELL CANADA AS IN  
WR793007.**

Being ALL of PIN: 22333-0056 (LT)

**The conditions of this Certificate of Property Use (“CPU”) address the Risk Management Measures in the  
Risk Assessment noted above and as defined in Part 1 below.**

**Summary:**

The following is a summary of Risk Management Measures (“RMMs”) identified in Part 4 of this CPU, which are required to be implemented. This summary does not create any binding requirements and is being provided for convenience only. Refer to Part 1 of the CPU for the meaning of any capitalized terms. Key RMMs in Part 4 of the CPU include, but are not limited to:

- Inspecting and maintaining any Existing Hard Cap Barriers on the Property and installing, inspecting, and maintaining any new Hard Cap and Fill Cap Barriers on the Property or portions of the Property as detailed Sections 4.3 to 4.7 of this CPU.
- Implementing a soil management plan during any Intrusive Activities undertaken on the Property potentially in contact with Contaminants of Concern (“COCs”) in soil that exceed the Applicable Site Condition Standards (“ASCS”) as detailed in Section 4.8 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 exceed the ASCS as detailed in Section 4.9 of this CPU.
- Prohibiting the planting of fruit and vegetables for consumption, other than those planted in above-ground containers such that they are isolated from the subsurface conditions as per Section 5.1 of this CPU; and,
- 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 Part 7 of this 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.

“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 2: Full Depth Generic Site Condition Standards in a Potable Ground Water Condition (coarse textured soils) (residential/institutional and parkland 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.

“Capping Soil” means soil that meets the ASCS.

“Competent Person” has the same meaning as set out 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” and “COC” has the meaning as set out in Section 3.2 of the CPU.

“CPU” means this Certificate of Property Use Number No. **7166-DJ2J34** as may be amended from time to time, and includes all schedules attached hereto.

"Director" means the undersigned Director or any other person appointed as a Director for the purpose of issuing a certificate of property use under section 168.8 of the Act.

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

"Existing Hard Cap Barrier(s)" means hard cap barrier or barriers that exist on the Property, specifically the existing asphalt paved parking areas and the existing building footprint, at the time this CPU was issued and as identified in **Figure 2**

"Figure 2" means Figure 2: Existing Hard Cap Barriers of Schedule 'A', which is attached to and forms part of this CPU.

"Figure 3" means Figure 3: Engineered Barriers – Conceptual Design (not to scale) of Schedule 'A', which is attached to and forms part of this CPU.

"Fill Cap Barrier(s)" means a fill cap barrier or barriers that consist of the following:

- a. the fill cap barrier(s) shall consist of a minimum of 1.0 m thick cover of Capping Soil immediately above the impacted soil specified in **Figure 3**; and/or,
- b. in landscaped areas where deep rooting vegetation is planned, the fill cap barrier (s) shall be installed consistent with **Figure 3** with the thickness of the Capping Soil being at least 1.5 m immediately above the impacted soil and that extends laterally across the anticipated drip-line of the mature vegetation or where it meets a Hard Cap Barrier.

"Fill Material" means loose, granular material from an Ontario Ministry of Natural Resources (MNR)-licensed quarry or other non-soil surface material or commercial products such as compost bark chips, concrete, unshrinkable fill, crushed concrete, asphalt, concrete-based materials, or equivalent."Hard Cap Barrier(s)" means a hard cap barrier or barriers that consist of at least 150 mm of Ontario Provincial Standard Specification (OPSS) Granular 'A' or equivalent material overlain by a minimum of 75 millimetres (mm) cover of hot mix asphaltic concrete or concrete or that has a total combined minimum thickness of 225 mm as specified in **Figure 3**.

"Intrusive Activities" means any intrusive activity undertaken at the Property, such as excavating or drilling into soil, 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.R.O. 1990, c. P.28 qualified to carry out the specific RMMs as required by the CPU.

"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(s) of the Property.

"Property" means the property that is the subject of the CPU and described in the "Property" section on page 1 above and illustrated in **Figure 1A – Plan of Survey & Figure 1B – Site Plan** of Schedule A which is attached to and forms part of this CPU.

“Property Specific Standards” and “PSS” means the property specific standards established for the Contaminants of Concern set out in the Risk Assessment and are set out in **Table A – Property Specific Standards (PSS) – Soil (Table A)** of Schedule ‘A’ which is attached to and forms part of this CPU.

“Provincial Officer” means a person who is designated as a provincial officer for the purposes of the Act.

“Qualified Person” means a person who meets the qualifications prescribed in O. Reg. 153/04 at section 5(2).

“Risk Assessment” and “RA” means the Risk Assessment **No. 7344-CU6GZN** accepted by the Director on **January 10, 2025**, and set out in the following final documents:

- **Pre-Submission Form for 351 Margaret Avenue, Kitchener, ON, report prepared by MTE Consultants and Chung & Vander Doelen Engineering Ltd., dated July 27, 2023.**
- **Risk Assessment for 351 Margaret Avenue, Kitchener, ON”, report prepared by MTE Consultants and Chung & Vander Doelen Engineering Ltd., dated February 6, 2024.**
- **Revised Risk Assessment for 351 Margaret Avenue, Kitchener, ON”, report prepared by MTE Consultants and Chung & Vander Doelen Engineering Ltd., dated August 21, 2024; and,**
- **Email Re: “RE: Request for Additional Information - RA for 351 Margaret Ave., Kitchener, ON [RA2164-23b; IDS#7344-CU6GZN]”, email from Joel Nichols, MTE Consultants Inc., received by TASDB on January 10, 2025, with following document[s] attached:**
  - **50914-100\_2025-01-10\_Response to Request for Additional Information\_FINAL.**

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

“Risk Management Plan” and “RMP” means the risk management plan detailed in Appendix G of the RA.

“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 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 anyone or more of,
  - i. the performance of any action specified in the certificate of property use;
  - ii. the provision of temporary or permanent 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
  - iii. measures appropriate to prevent Adverse Effects in respect of the property to which the certificate of property use relates.
- 2.3 Subsection 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:
  - i. Take any action specified in the certificate 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.

- ii. 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 the 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),

- i. alter any terms and conditions in the certificate or impose new terms and conditions; or
- ii. 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,

- i. the owner of the property shall ensure that a copy of the provision is given to every occupant of the property;
- ii. the provision applies, with necessary modifications, to every occupant of the property who receives a copy of the provision; and
- iii. the owner of the property shall ensure that every occupant of the property complies with the provision.

2.7 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.

2.8 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.

2.9 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.

2.10 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 RA was undertaken for the Property to establish the risks that the Contaminants identified in the RA may pose to future users and to identify appropriate RMMs to be implemented to ensure that the Property is suitable for the intended use: **commercial, community, residential, and institutional use** as defined in O. Reg. 153/04.

3.2 The Contaminants on, in, or under the Property that are present either above **Table 2 Full Depth Generic Site Condition Standards in a Potable Ground Water Condition (coarse textured soils)** (**residential/institutional and parkland use**) for Use under Part XV.1 of the Act published by the Ministry and dated April 15, 2011, or for which there are no such standards, are set out in the RA (Contaminants of Concern). The Property Specific Standards for these Contaminants of Concern are set out in **Table A 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 RA that the RMMs described therein and outlined in Part 4 of the CPU and the requirements in Parts 5 to 7 of this CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property that has been identified in the RA.
- 3.4 The RA indicates the presence of Contaminants of Concern in **soil** which requires 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 RMMs as set out in the RA and in Parts 4 to 7 of the CPU.
- 3.5 I believe for the reasons set out in the RA 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 Part 7 of this CPU.

## **Part 4: Risk Management Measures and Director Requirements**

Pursuant to my authority vested under the authorities described in Part 2 of this CPU, I hereby require the Owner to do or cause to be done the following:

- 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 RMMs set out in this Part of the CPU.

### **Existing and new Hard Cap Barrier(s) and Fill Cap Barrier(s):**

- 4.3 Subject to Section 4.6 of this CPU, the Existing Hard Cap Barrier(s) as identified in **Figure 2**, and any new Hard Cap and/or Fill Cap Barrier(s) that are to be installed, are required over the entire Property, and are required to be inspected and maintained to prevent exposure to the COCs on the Property for as long as the COCs are present at concentrations that exceed the ASCS. In the event that any new Hard Cap Barriers and/or Fill Cap Barriers are required to be installed on the Property, they shall be installed in accordance with Appendix G, Section 7.2.3 RMP along with **Figure 3**, which is attached to and forms part of this CPU.
- 4.4 Within ninety (90) days of completion of the installation of any Hard Cap Barrier(s) or Fill Cap Barrier(s) on the Property, and upon issuance of this CPU if installation occurred prior to the CPU being issued, 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 Section 4.3 of this CPU, and which includes final design specifications/drawings and/or as built drawings.
- 4.5 Within ninety (90) days of completion of the installation of any Hard Cap Barrier(s) or Fill Cap Barrier(s) on the Property, the Owner shall submit to the Director a site plan that clearly identifies the final location of each of the different barriers.
- 4.6 Despite Section 4.3 of this CPU, areas of the Property that are **not in use or not under development**, Hard Cap Barriers or Fill Cap Barriers are not required as long as exposure to the COCs at concentrations that exceed the ASCS is prevented by a fence barrier that restricts access to those areas of the Property and a dust control plan is implemented.
- 4.7 An inspection and maintenance program shall be implemented to ensure the continuing integrity of any Existing Hard Cap Barrier(s) or any newly installed Hard Cap Barrier(s) or Fill Cap Barrier(s), for as long as the COCs are present on the Property at concentrations that exceed the ASCS. The inspection program shall include semi-annual (spring and fall) inspections of the barriers' integrity in accordance with the inspection and maintenance program as detailed in Appendix G, Section 7.2.3.1 of the RMP. Any barrier deficiencies shall be repaired within a reasonable period of time in accordance with Appendix G, Section 7.2.3.3 of the RMP. If cracks, breeches, 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 COCs that have been observed on the Property, in accordance with Appendix G, Section 7.2.3.3 of the

RMP. The restoration of any damaged portions of the Existing Hard Cap Barrier(s) shall meet the original conditions, at minimum. For any newly installed Hard Cap Barrier(s) or Fill Cap Barrier(s), restoration shall meet the design specifications as detailed in Section 4.3 of this CPU, at minimum. The Owner shall submit to the Director written confirmation prepared and signed by a Licensed Professional Engineer that the barriers have been repaired in accordance with the applicable requirements of this CPU. The written confirmation shall also include a description of any contingency measures put in place and shall be submitted to the Director within thirty (30) days of the completion of any barrier repairs and/or restorations. The Owner shall keep records of the inspections and maintenance and make them available for review by the Ministry upon request.

**Soil management plan:**

4.8 Within thirty (30) days of the issuance of this CPU, a soil management plan shall be developed for the Property by a Qualified Person that has been retained by the Owner and made available for inspection upon request by the Ministry. The soil management plan shall be implemented during all Intrusive Activities potentially in contact with or exposing COCs in soil that exceed the ASCS on the Property as detailed in Appendix G, Section 7.2.1 of the RMP. Before starting any planned Intrusive Activities on the Property, the existing soil management plan must be reviewed and updated, where necessary, by a Qualified Person. A copy of the soil management plan must be kept on the Property for the entire duration of the Intrusive Activities.

The soil management plan shall be submitted to the Director by the Owner at least fourteen (14) days prior to any such planned Intrusive Activities being undertaken and shall be consistent with the measures specified in Appendix G, Section 7.2.1 of the RMP.

Any short-term Intrusive Activities required for the purposes of emergency repairs (i.e., for repairs to underground utilities, etc.) will not require the submission of the soil management plan prior to undertaking the short-term emergency repairs.

The soil management plan 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 shall include, but to not be limited to, silt fences and filter socks on catch-basins and utility covers as necessary.
- v. Characterization of excavated excess soils to determine if the excavated excess soils exceed the Property Specific Standards listed in **Table A** and/or the ASCS for parameters other than those identified in **Table A** and require off-site disposal in accordance with the provisions of Ontario Regulation 347 made under the Act.
- vi. Characterization and management of groundwater because of dewatering activities. This shall include the management of and proper characterization of groundwater prior to and during any dewatering activities to ensure proper disposal of the groundwater in accordance with all applicable acts, regulations, permits and approvals.
- vii. Include record keeping. Record keeping is to include, but not to be limited to, dates and duration of work, weather and site conditions, location and depth of excavation activities/dewatering activities, dust control measures, stockpile management and drainage, all soil and groundwater characterization results obtained as part of the soil and groundwater

management plan, names of the Qualified Persons, contractors, haulers and receiving sites for any excavated excess soils, and groundwater, as a result of dewatering activities, removed from the property and any complaints received relating to site activities. and,

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

**Health and safety plan:**

4.9 A health and safety plan shall be developed for the Property and implemented during all planned Intrusive Activities undertaken potentially in contact with the COCs in soil that have been identified in the RA at concentrations that exceed the ASCS for which potential risks have been identified as detailed in Appendix G, Section 7.2.2 of the RMP. A copy of the health and safety plan shall be maintained on the Property for the duration of all Intrusive Activities. The Owner shall ensure that the health and safety plan accounts for the presence of the COCs and is implemented prior to any Intrusive Activities being undertaken on the Property to protect workers from exposure to the COCs. The health and safety 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 on the Property or portion (s) of the Property, the local Ministry of Labour office shall be notified, where so prescribed under the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, of the proposed activities and that COCs have been identified in soil on the Property. The health and safety plan shall be overseen by a Competent Person to review the provisions of the health and safety plan with respect to the proposed site work and conduct daily inspections. The Owner shall retain a copy of the health and safety plan to be available for review by a Provincial Officer upon request.

**Part 5: CPU Restrictions on Property Use – Prohibitions**

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

**Prohibition of planting of fruit and vegetables for consumption:**

5.1 The Owner shall refrain from planting fruit and vegetables for consumption on, in or under the Property unless planted in above-ground containers such that the plants are isolated from the subsurface conditions or in an area where a Fill Cap Barrier has been installed and is consistent with Appendix G, Section 7.2.4. The planting of fruit and vegetables for consumption on, in or under the Property is prohibited for as long as the COCs in soil remain present.

**Part 6: Additional Requirements**

**Site Changes**

6.1 In the event of a change in the physical site conditions or receptor characteristics at the Property that may affect the RMMs and/or any underlying basis for the RMMs, forthwith notify the Director of such changes and the steps taken to implement, maintain and operate any further RMMs as are necessary to prevent, eliminate or ameliorate any Adverse Effect that will result from the presence of any Contaminant of Concern 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**

6.2 The Owner shall 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.

## **Part 7: Ownership, Disclosure and Registration Requirements**

Pursuant to my authority under subsection 197(1) of the Act, I order you as follows:

### **Disclosure of CPU**

7.1 Upon service of this CPU, the Owner and any other person with an interest in the Property shall, before dealing with the Property in any way, 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**

7.2 Within fifteen (15) days from the date of receipt of an acknowledgment and direction package signed by the Director, register a certificate of requirement, issued under subsection 197(2) of the Act and completed as outlined in Schedule 'B', on title to the Property in the appropriate land registry office.

7.3 Within five (5) days after registering of 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 the registration has been completed.

### **Owner Change**

7.4 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, no notice shall be given of changes in the ownership of individual condominium units or any related common elements on the Property.

## **Part 8: General**

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 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 provided, increased, reduced or released in stages. The total financial assurance required may be 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.

8.4 Subsection 186(3) of the Act provides that failure to comply with a requirement of the CPU constitutes an offence.

8.5 The requirements of the CPU are minimum requirements only and do not relieve you from,

- 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.

8.6 Notwithstanding the issuance of the CPU, further requirements may be imposed in accordance with legislation as circumstances require.

8.7 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,

- c) natural phenomena of an inevitable or irresistible nature, or insurrections,
- d) strikes, lockouts or other labour disturbances,
- e) inability to obtain materials or equipment for reasons beyond your control, or
- f) 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.

8.8 Failure to comply with a requirement of the CPU by the date specified does not relieve the Owner(s) from compliance with the requirement. The obligation to complete the requirement shall continue each day thereafter.

8.9 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.

8.10 The provisions of the CPU shall take precedence in the event of a conflict between the provisions of the CPU and Risk Assessment.

8.11 In the event that the Owner complies with the provisions of Part 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, 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.

8.12 Where the CPU requires that the Director must be notified or receive a report this should be done by email at [environment.guelph@ontario.ca](mailto:environment.guelph@ontario.ca)

8.13 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 Tribunal, if within fifteen (15) days after being served 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 in respect of which the hearing is required, and the grounds on which you intend to rely at the hearing. Except ~~by~~ with 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. The contact information for the Director and the Tribunal is the following:

Registrar

Ontario Land Tribunal

655 Bay Street, Suite 1500  
Toronto, ON, M5G 1E5  
Email: [OLT.Registrar@ontario.ca](mailto:OLT.Registrar@ontario.ca)

and

Director

Ministry of the Environment, Conservation and Parks  
1 Stone Rd. West, 4th Floor  
Guelph, ON  
N1G 4Y2

Fax: 519-826-4286  
Email: [environment.guelph@ontario.ca](mailto:environment.guelph@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 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 of 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 Environment, Conservation and Parks, College Park 5th Floor, 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 the day on which you were served 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 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 consulted for additional details and accurate reference. Further information can be obtained from e-Laws at [www.ontario.ca/laws](http://www.ontario.ca/laws)

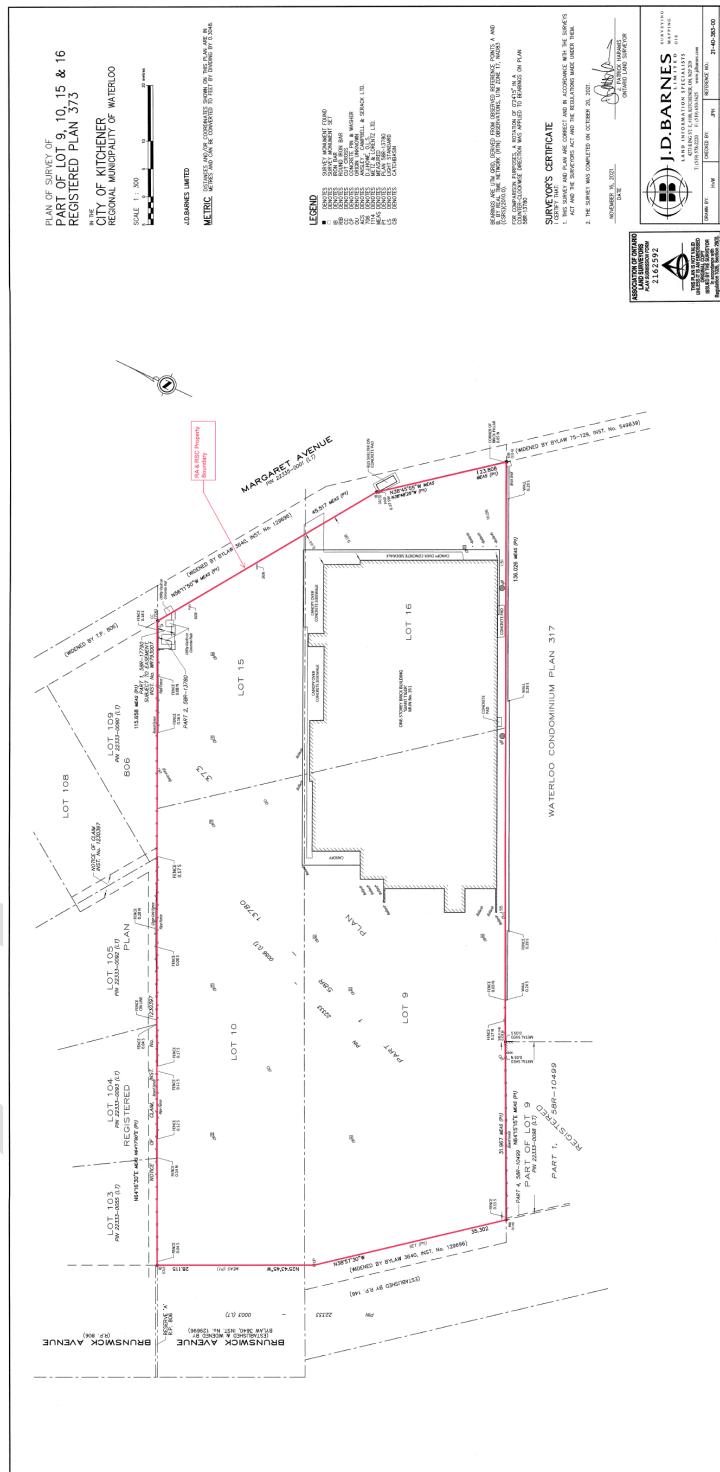
Issued at Guelph this XX day of XXXX, 2026.

**DRAFT**

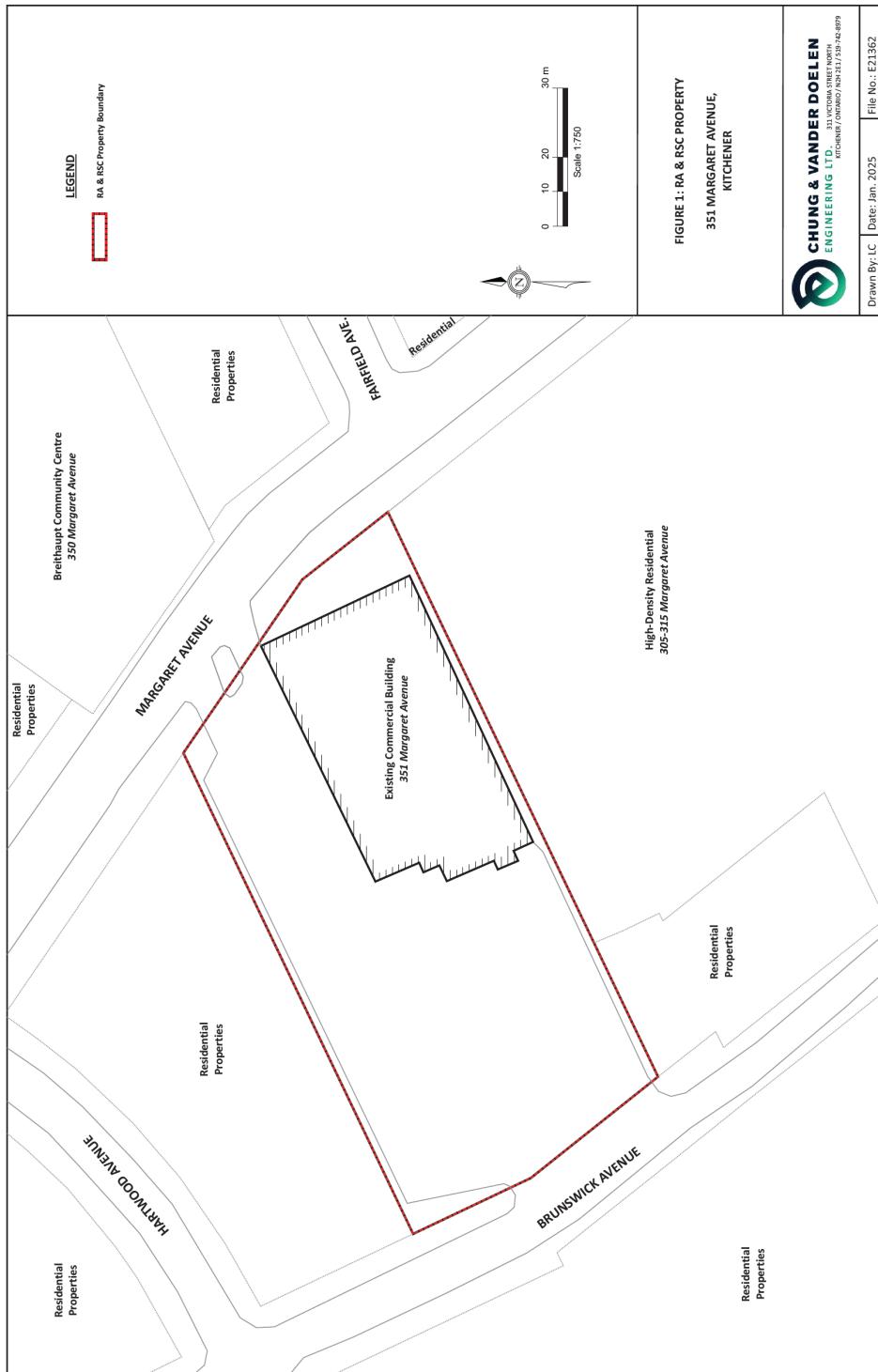
Aaron Todd,  
Director, sections 168.6 and 197 of the Act

DRAFT

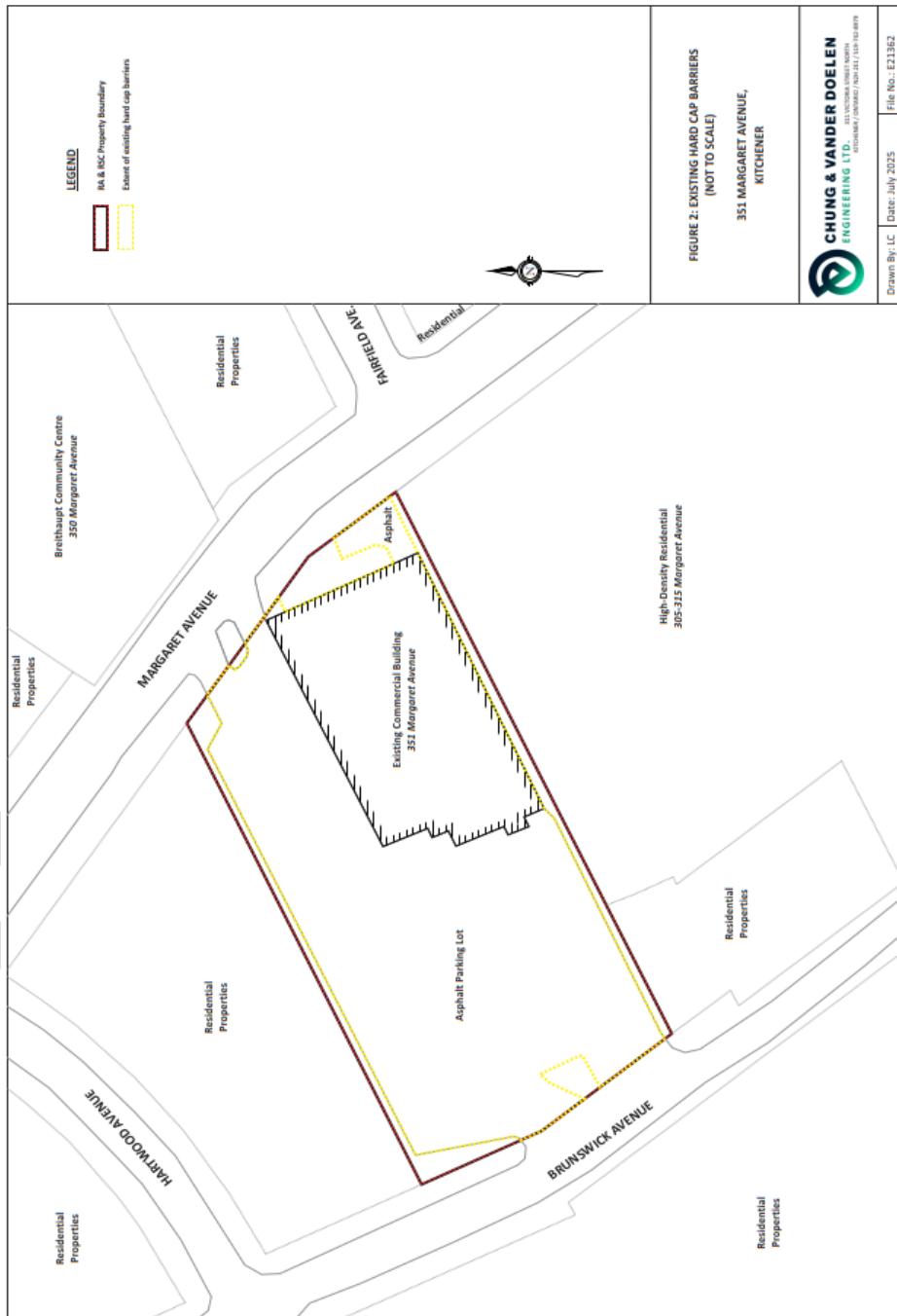
**Schedule 'A': Figure 1A- Plan of Survey (not to scale)**



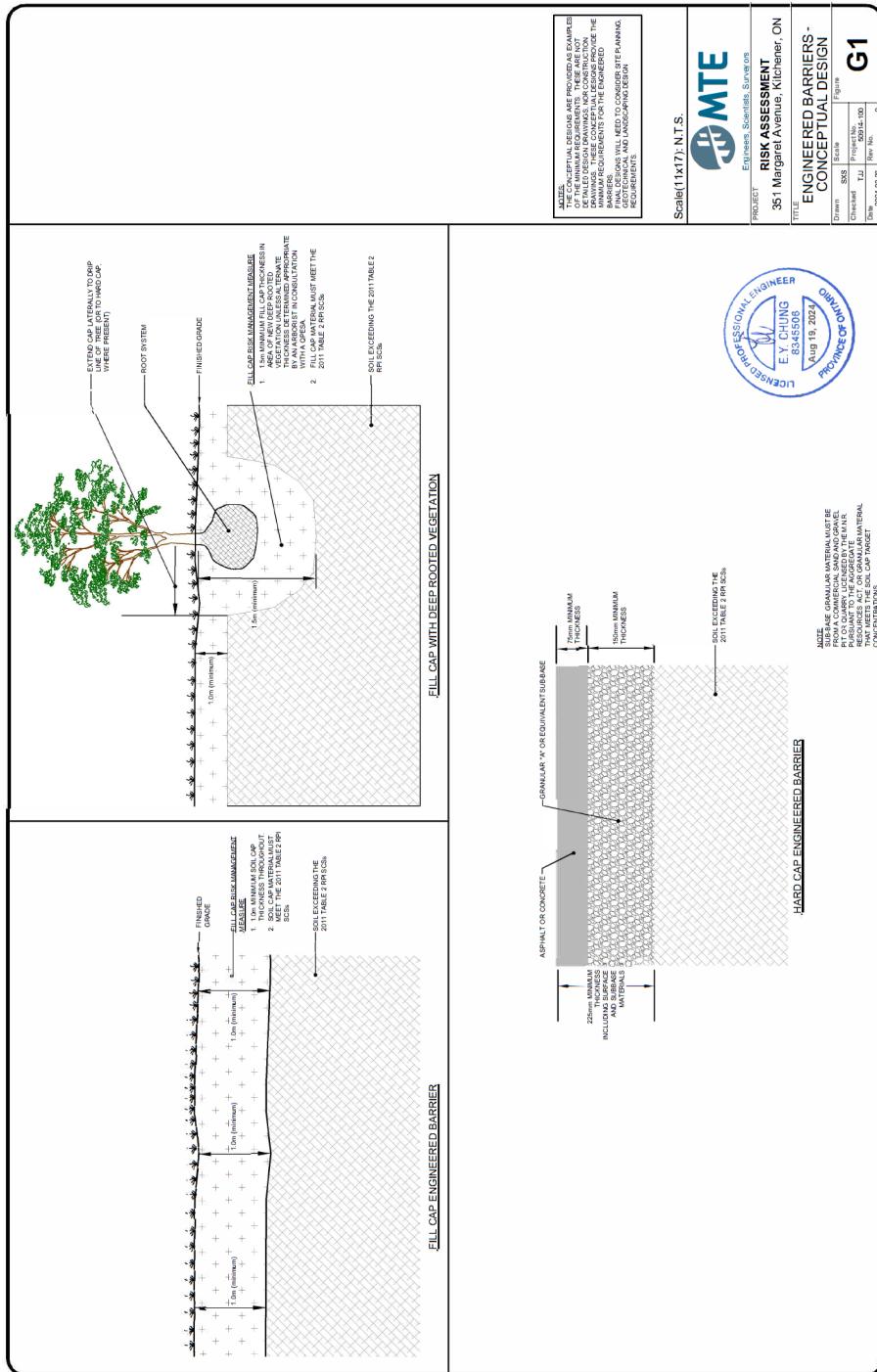
**Schedule 'A': Figure 1B: Site Plan (not to scale)**



Schedule 'A': Figure 2: Existing Hard Cap Barriers (not to scale)



## Schedule 'A': Figure 3 - Engineered Barriers – Conceptual Design (not to scale)



**Schedule 'A': Table A - Property Specific Standards (PSS) - Soil**

<i><b>Soil Contaminant of Concern (COC)</b></i>	<i><b>PSS (μg/g)</b></i>
Arsenic	92.6
Cadmium	1.48
Lead	184
Selenium	3.1
Zinc	607
Benzo(a)pyrene	0.458
Dibenz(a,h)anthracene	0.130
Fluoranthene	0.916
Petroleum Hydrocarbon Fraction 3 (PHC F3)	5616
PHC F4	60960

## SCHEDEULE 'B'

### CERTIFICATE OF REQUIREMENT

s.197(2)

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

This is to certify that pursuant to Section 7.1 of Certificate of Property Use number **7166-DJ2J34** issued by **Aaron Todd**, Director of the Ministry of Environment, Conservation and Parks under subsections 168.6 and 197(1) of the *Environmental Protection Act*, dated **XXXX XX, 2026** being a Certificate of Property Use and order under section 197(1) of the *Environmental Protection Act* relating to the property municipally known as **351 Margaret Avenue, Kitchener, Ontario** being **ALL of PIN: 22333-0056 (LT) (the "Property")** with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property,

**351 MARGARET LIMITED**

and

**351 MARGARET GP INC., general partner, for and on behalf of the limited partnership 351 MARGARET LIMITED PARTNERSHIP**

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 that may be made thereto, to every person who will acquire an interest in the Property as a result of the dealing.

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