Ontario

Ministry of the Environment, Conservation and Parks

Ministère de l'Environnement, de la Protection de la nature et des Parcs

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: 4680-DR2PHE
Risk Assessment number: 2805-D65GCS

Owner: Hamilton 188 GP Inc.
178 Queens Quay East, Unit 2
Toronto, Ontario, M5A 2P3

Beneficial Owner(s): Hamilton 188 LP
178 Queens Quay East, Unit 2
Toronto, Ontario, M5A 2P3

Property: 188 Cannon Street East, Hamilton Ontario, L8L 2A8 and 134 Ferguson Avenue North, Hamilton, Ontario, L8R 1L7 (Property)

Legally described as: PT LT 69-71 PL 255 PT 2 62R16833; SAVE AND EXCEPT PART 1, PLAN 62R22566; CITY OF HAMILTON

Being all of PIN: 17164-0373 (LT)

AND

PT LT 69 PL 255 PT 4 62R16833; CITY OF HAMILTON

Being part of PIN: 17164-0175 (LT)

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

Summary:

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

i) CPU requirements addressed in Part 4 of the CPU, Director Requirements, are summarized as follows:

a. Installing/maintaining any equipment	Yes
b. Monitoring any contaminant	Yes
c. Refraining from constructing any building specified	Yes
d. Refraining from using the Property for any use specified	Yes
e. Other: implementing a soil and groundwater management plan and health and safety plan during intrusive activities, garden restriction	Yes

ii) Duration of Risk Management Measures identified in Part 4 of the CPU is summarized as follows:

a. The soil and groundwater management plan, health and safety plan, garden restriction, building restrictions and vapour intrusion mitigation for new buildings shall be required for the Property for as long as the Contaminants of Concern are present on the Property.

b. All other Risk Management Measures shall continue indefinitely until the Director alters or revokes the CPU.

Part 1: Interpretation

In this CPU, the following capitalised terms 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.

"Applicable Site Condition Standards" and "ASCS" means the relevant soil or groundwater criteria identified in Table 3: Full Depth Generic Site Condition Standards in a Non-Potable Ground Water Condition (fine to medium textured soil) 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;

"ASTM" means the American Society for Testing and Materials.

“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), made under the *Building Code Act*, 1992, S.O. 1992, c. 23.

“Capping Soil” means,

a. soil found on, in or under the Property in which no Property Specific Contaminants of Concern are present, or
b. soil that meets the applicable site condition standards for the Property, as specified in condition 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 **4680-DR2PHE** issued for the Property by the Director under section 168.6 of the Act, as it may be amended from time to time and includes all schedules attached hereto.

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

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

“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 3 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.

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

“First Storey” has the same meaning as in the Building Code.

“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 ground water, which may disturb or expose Property Specific Contaminants of Concern at the Property.

“Licensed Professional Engineer” means a person who holds a license, limited license or temporary license under the *Professional Engineers Act*, R.S.O. 1990, c. P.28 qualified to carry out the specific Risk Management Measures as required by the CPU.

“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.

“Property Specific Contaminants of Concern” 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 and any higher standards for the contaminant or contaminants, and as specified in section 3 of the Risk Assessment.

“Property Specific Standards” or “PSS” means the property specific standards established for the Contaminants of Concern in the Risk Assessment and in condition 3.2 of this 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 prescribed in subsection 5 (2) of O. Reg. 153/04.

“Risk Assessment” means the risk assessment number **2805-D65GCS** submitted with respect to the Property and accepted by a Director under section 168.5 of the Act on **February 6, 2026**, and set out in the following documents:

- **“Pre-Submission Form for 188 Cannon Street East and 134 Ferguson Avenue North, Hamilton, Ontario”, report prepared by DS Consultants Ltd., dated June 10, 2024**
- **“Tier 3 Risk Assessment 188 Cannon Street East and 134 Ferguson Avenue North, Hamilton, Ontario”, report prepared by DS Consultants Ltd., dated December 20, 2024**

- **“Revised Tier 3 Risk Assessment 188 Cannon Street East and 134 Ferguson Avenue North, Hamilton, Ontario”, report prepared by DS Consultants Ltd., dated June 13, 2025**
- **“Revised Tier 3 Risk Assessment 188 Cannon Street East and 134 Ferguson Avenue North, Hamilton, Ontario”, report prepared by DS Consultants Ltd., dated October 24, 2025**
- **“RE: Request for Additional Information: 188 Cannon St. E. and 134 Ferguson Avenue North, Hamilton [RA2245-24, IDS Ref No. 2805-D65GCS]”, email from Reese McMillan, DS Consultants Ltd., received by TASDB on February 3, 2026, with following document[s] attached:**
    - **Cannon RA Amendment January 2026.pdf**
    - **Cannon Figure F-3.pdf**

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

“Storage Garage” has the same meaning as in the Building Code.

“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 any one or more of,

a. the performance of any action specified in the certificate of property use;
b. 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
c. measures appropriate to prevent adverse effects in respect of the property to which the certificate of property use relates.

2.3 Section 168.6 (1) of the Act states that if a risk assessment related to the 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:

a. Take any action that is 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.

b. Refrain from using the property for any use specified in the certificate or from constructing any building specified in the certificate on the property.

2.4 Subsection 168.6(2) of the Act states that a certificate of property use shall not require an owner of property to take any action that would have the effect of reducing the concentration of a contaminant on, in or under the property to a level below the level that is required to meet the standards specified for the Contaminant in the risk assessment.

2.5 Subsection 168.6(3) of the Act states that the Director may, on his or her own initiative or on application by the owner of the property in respect of which a certificate has been issued under subsection 168.6(1),

a. alter any terms and conditions in the certificate or impose new terms and conditions; or
b. revoke the certificate.

2.6 Subsection 168.6(4) of the Act states that if a certificate of property use contains a provision requiring the owner of property to refrain from using the property for a specified use or from constructing a specified Building on the property,

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

2.7 Subsection 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 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 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: **"mixed commercial and residential use"** as defined in O. Reg. 153/04.

3.2 The Contaminants on, in or under the Property that are present above the residential/parkland/institutional property use standards within **Table 3** of the ***Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act*** for **medium to fine** grained soils published by the Ministry and dated April 15, 2011, or for which there are no such standards are defined as the Contaminants of Concern. The Property Specific Standards for these Contaminants of Concern are 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 are the following figures:

- Figure 1: Plan of Survey
- Figure 2: Hard Cap or Fill Cap Barrier Schematic
- Figure 3: Conceptual Vapour Mitigation System (Vapour Membrane) – Cross Section
- Figure 4: Sub-Slab Vapour Sampling Locations

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 The Risk Assessment indicates the presence of Contaminants of Concern require on-going pathway elimination. As such, it is necessary to restrict the use of the Property, impose building restrictions and implement Risk Management Measures as set out in the Risk Assessment and in Parts 4 and 5 of the 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

Pursuant to my authority under paragraph 168.8(1)1 of the Act, I hereby require the Owner to do or cause to be done the following:

Risk Management Measures

4.1 Implement, and thereafter maintain or cause to be maintained, the following Risk Management Measures and requirements identified in the Risk Assessment and set out in conditions 4.3 to 4.13 as applicable.

4.2 Without restricting the generality of the foregoing in condition 4.1, carry out or cause to be carried out the following key elements of the Risk Management Measures:

4.3 **Hard Cap or Fill Cap Barriers**

a. The Property shall be covered by a barrier to site soils designed, installed, and maintained in accordance with the Risk Assessment so as to prevent exposure to the Contaminants of Concern. The barrier to site soils shall consist of a hard cap, fill/soil cap and/or fence as specified below at minimum:

   i. Hard cap on the property shall consist of a geotextile material overlain by at least 225 mm of Ontario Provincial Standard Specification (OPSS) Granular 'A' or equivalent material overlain by a minimum of 75 mm cover of hot mix asphaltic concrete or concrete that has a total combined minimum thickness of 300 millimeters (mm); (as illustrated in Figure 2 of the CPU)
   ii. Fill cap on the Property shall be a minimum thickness of 1.0 m consisting of a geotextile material overlain by capping soil and 150mm of Ontario Provincial Standard Specification (OPSS) Granular 'A' or equivalent material (as illustrated in Figure 2 of the CPU).
   iii. Fill caps for deep rooting plants (including trees or deep rooting bushes with roots that extend beyond the 1.0 m depth) shall include a minimum radius of 2.4 m surrounding the plant with a minimum thickness of 1.5 m consisting of soil meeting the Applicable Site Condition Standards, (as illustrated in Figure 2 of the CPU).

b. Within 90 days of completion of the installation of any hard cap barrier(s), fill or soil 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 qualified Licensed Professional Engineer that the barriers have been installed in accordance with the requirements of condition 4.3(a) of this CPU along with final design specifications/drawings and or as built drawings.

c. Within 90 days of completion of the installation of any hard 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.

d. In relation to condition 4.3(a) 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 Contaminants of Concern at concentrations that exceed the Applicable Site Condition Standards is prevented by a fence barrier that restricts access to those areas of the Property and a dust control plan is implemented.

4.4 **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 inspection and maintenance 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,

   1. 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

   2. updated and delivered to the Owner within 30 days following any alteration to the inspection and maintenance 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,

   1. 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

2. 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 required by section 4.4(a)(v) and (vi);

and which are,

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 any alteration to the procedures.

4.5 **Prohibition of Planting of Fruit and Vegetables for Consumption:**

a. 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 0.6 m thick layer of Garden Soil as outlined in Figure 2 of this CPU. The planting of fruit and vegetables for consumption on the Property is prohibited unless otherwise specified for as long as the COCs in soil remain present.

4.6 **Building with no first storey residential, institutional or parkland use Risk Management Measure:**

Refrain from constructing any Building on the Property, unless:

a. the intended and actual use of the Property is commercial use, community use, residential use, parkland use or institutional use, as defined in O. Reg. 153/04, or a combination thereof;

b. the intended and actual use of the Building on its First Storey and below Grade is not residential use, parkland use or institutional use, or a combination thereof;

c. the ventilation and air duct systems serving the First Storey of the Building and any area below this are separate systems from the ones serving all stories above the First Storey; and

d. the Building complies with all applicable requirements of the Building Code, such as the provisions governing:

i. interconnection of air duct systems as set out in Division B, Sentence (2) of Article 6.2.3.7 (Interconnection of Systems) of the Building Code; and

ii. air leakage as set out in Division B, Section 5.4. (Air Leakage) of the Building Code.

4.7 **Building with Storage Garage (intermittent 3.9 Litres/second of Ventilation):**

Refrain from constructing any Building on the Property unless the Building includes a Storage Garage as described in this condition on portions of the Building Area that do not include a Soil Vapour Intrusion Mitigation System (SVIMS) as outlined in condition 4.8:

a. the Storage Garage is constructed at the Grade of the Building;

b. the Storage Garage area covers the entire Building Area at Grade not underlain by a Soil Vapour Intrusion Mitigation System (SVIMS) outlined in condition 4.8;

c. the Storage Garage complies with all applicable requirements of the Building Code, such as the provisions governing:

i. design of a mechanical ventilation system as set out in Division B, Article 6.2.2.3. (Ventilation of Storage and Repair Garages) of the Building Code;

ii. interconnection of air duct systems as set out in Division B, Sentence (2) of Article 6.2.3.9. (Interconnection of Systems) of the Building Code; and

iii. air leakage as set out in Division B, Section 5.4. (Air Leakage) of the Building Code.

d. the mechanical ventilation system for the Storage Garage is designed to provide, during operating hours a continuous supply of outdoor air at a rate of not less than 3.9 litres per second for each square metre of floor area or be activated on an as-needed basis by carbon monoxide or nitrogen dioxide monitoring devices as required by the Building Code.

4.8 **Soil Vapour Intrusion Mitigation System (SVIMS)**

a. Refrain from constructing any Building on the Property unless the Building includes a passive or active SVIMS as described in this condition (and in Section 3.2.3 of Appendix F of the Risk Assessment) on portions of the building area that do not include a Storage Garage as described in condition 4.7 of this CPU.

DESIGN, INSTALLATION AND OPERATION

b. Design, install and operate a SVIMS for the Building, designed by a Licensed Professional Engineer in consultation with a Qualified Person and installed by a

person acceptable to and under the supervision of a Licensed Professional Engineer, so as to remove soil vapour from below the Building and prevent soil vapour containing the Contaminants of Concern from entering the Building air, including the following requirements and components for the SVIMS:

SYSTEM REQUIREMENTS

c. the SVIMS shall:

   i. be designed, installed and operated with the objective of achieving during all seasons a lower air pressure differential below the foundation floor slab, relative to the indoor air pressure within the Building, across at least 90% of the Building Area;

   ii. be able to be readily converted to operation as an Active SVIMS, if necessary, to ensure soil vapour is being sufficiently removed from below the Building, including making provision to readily allow installation and operation of an electrical powered fan on each vent riser, with the objective of achieving during all seasons at least a 6 Pascal lower air pressure differential below the foundation floor slab, relative to the indoor air pressure within the Building, across at least 90% of the Building Area, and making provision for an automated monitoring system of electrical fan operation which remotely detects and indicates system malfunctions; and

   iii. have in place or be able to easily put in place, measures, as appropriate based on an assessment carried out in accordance with ASTM E1998;

SUB-SLAB FOUNDATION LAYER

d. throughout the Building Area below the foundation floor slab, install a sub-slab foundation layer, above soil containing the Contaminants of Concern, designed by a Licensed Professional Engineer for the Building constructor in consultation with the Licensed Professional Engineer for the SVIMS;

SOIL VAPOUR VENTING LAYER

e. throughout the Building Area below the foundation floor slab and above the sub-slab foundation layer, install a soil vapour venting layer designed for collection and venting of soil vapour from below the floor slab to vent risers for venting to the outdoor air, with the soil vapour venting layer consisting of:

   i. perforated collection pipes or geocomposite strips of sufficient size or diameter, frequency and locations to promote efficient collection and venting, embedded in granular materials of sufficient air permeability and depth;

   or,

other soil vapour collection and venting products used to construct a soil vapour venting layer with continuous open void space, such as an aerated sub-floor below the floor slab and around the exterior walls, which provides similar or greater air permeability and collection and venting efficiency;

ii. for a Building with isolated soil vapour venting layer areas caused by interior grade beams or areas of thickened slabs, ventilation pipes to connect the isolated areas or a soil vapour venting layer that extends below these elements of the Building foundation; and

iii. clean-outs, drains or openings to ensure drainage and removal of condensate or water, including any entrained dust, that may enter collection pipes, geocomposite strips or vent risers, and, if required, to ensure drainage or dewatering of the soil vapour venting layer in Property areas with a shallow ground water table;

SOIL VAPOUR BARRIER MEMBRANE

f. throughout the Building Area, install a continuous leak free soil vapour barrier membrane, such as a sheet geomembrane or spray applied membrane, below the foundation floor slab and above the soil vapour venting layer, and below and along the walls of any subsurface structures such as a sump, as described in Section 3.2.3.1 of Appendix F of the Risk Assessment, and Figures 3 of this CPU and which:

    i. is of appropriate thickness and meets the appropriate gas permeability and chemical resistance specifications to be considered substantially impermeable to the soil vapour, in accordance with the appropriate ASTM standards such as D412 and D543, as applicable and meeting the characteristics of the Table within section 3.2.3.1 of Appendix F of the Risk Assessment; and

    ii. has a suitable protective geotextile, or other suitable protective material, such as a sand layer, immediately below or above the soil vapour barrier membrane, as considered appropriate by the Licensed Professional Engineer;

VENT RISERS

g. vent risers must be of sufficient size or diameter, frequency and locations to promote efficient venting and terminate above the roof of the Building, to convey soil vapour from the soil vapour venting layer to the outdoor air above the roof of the Building and discharge at an appropriate distance from Building air intakes and openable windows, doors and other openings through which exhausted vapours could be entrained in Building air and, consistent with the separation provisions in ASTM E2121 but modified as appropriate for the characteristics of the soil vapour and Building, including:

i. at least one vent riser per isolated section of the soil vapour venting layer caused by interior grade beams or thickened slabs, unless analysis or testing indicates a lesser number of vent risers is required;

ii. vent pipe riser diameter that is greater than the collection pipe diameter, to promote efficient venting;

iii. vent risers located within the Building, where appropriate, to promote temperature induced convective venting during colder weather; and

iv. a wind turbine or solar powered wind turbine on each vent risers for a Passive SVIMS and an electrical powered fan on each vent risers, and an automated monitoring system of fan operation which remotely detects and indicates system malfunctions.

MONITORING DEVICES

h. monitoring devices must be installed below the foundation floor slab across the Building Area to measure the (lower) air pressure differential, relative to the indoor air pressure within the Building, being achieved by the soil vapour venting layer, with the number and locations of the monitoring devices installed being as 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;

LABELING OF EQUIPMENT

i. equipment for the SVIMS must be clearly labelled, including information such as the installer's name, date of installation and identification of all visible piping, consistent with the labeling provisions in ASTM E1465 but modified as appropriate for the characteristics of the soil vapour and Building;

UTILITY SEALING

j. where utilities or subsurface Building penetrations are a potential conduit for soil vapour migration,
    i. utility trench dams, consisting of a soil-bentonite mixture, sand-cement slurry or other appropriate material must be installed as a precautionary measure to reduce the potential for soil vapour to migrate beneath the Building through relatively permeable trench backfill; and

    ii. conduit seals constructed of closed cell polyurethane foam, or other inert gas-impermeable material must be installed at the termination of all utility conduits and at subsurface Building penetrations, such as sumps, to reduce the potential for vapour migration along the conduit to the interior of the Building.

QUALITY ASSURANCE / QUALITY CONTROL

k. Prepare and implement a quality assurance and quality control program, prepared by a Licensed Professional Engineer and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, so as to ensure that the SVIMS is being, and has been, properly installed and the installation documented, including inspections, verification testing and documenting of the installation as it is carried out, including at a minimum:

   i. procedures and timing for implementing the program, by a person acceptable to and under the supervision of a Licensed Professional Engineer; and

   ii. daily inspections of the installation of the SVIMS, including of the quality assurance and quality control measures and procedures undertaken by the installer; and

   iii. undertaking, at a minimum, the following quality control measures and verification testing of the soil vapour barrier membrane:

      1. daily inspection reports noting any deficiencies and corrective actions taken;

      2. smoke testing of the soil vapour barrier membrane, or equivalent alternative testing method that provides comparable results;

      3. verification of the type and thickness of the soil vapour barrier membrane through testing of representative samples of materials used, including destructive testing and repair of portions of the membranes to be conducted in a manner and at a frequency that meets or exceeds manufacturer's recommendations;

      4. verification of field seams of sheet geomembranes as being continuous and leak free, through vacuum or pressure testing, geophysical testing or other appropriate means; and

      5. verification that appropriate measures to prevent post-construction damage or degradation to the soil vapour barrier membrane have been taken, including at a minimum, appropriate preparation of the sub-slab foundation layer, placement of a protective geotextile, or other suitable protective material, below or above the soil vapour barrier membrane, if included in the design, and work practices to prevent post-construction damage.

   iv. noting any deficiencies in the materials or installation of the SVIMS;

   v. ensuring the prompt repair of any deficiencies, to the design specifications;

   vi. preparing a written report of all inspections, quality control measures and verification testing undertaken, and any deficiencies and repairs, prepared by

the Licensed Professional Engineer and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer;

and which are,

1. delivered to the Owner before installation of the SVIMS begins; and
2. updated and delivered to the Owner within 30 days of any alteration to the program.

AS CONSTRUCTED PLANS

l. Prepare as constructed plans of the SVIMS, 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 location of the Building and the location and specifications of the installed SVIMS, including cross-sectional drawings specifying the design and the vertical and lateral extent of the SVIMS relative to the Building and the ground surface,

and which are:

i. delivered to the Owner before use of all or any part of the Building begins, or within 90 days following completion of installation of the SVIMS, whichever is earlier; and

ii. updated and delivered to the Owner within 30 days following making any alteration to the SVIMS, or other relevant feature shown on the plans; and

INSPECTION AND MAINTENANCE

m. Prepare and implement a written inspection and maintenance program, prepared by a Licensed Professional Engineer and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, to ensure the continued integrity and effectiveness of the SVIMS, including, at a minimum:

i. procedures and timing for implementing the program, by a person meeting the qualifications as set out in the program;

ii. maintenance and calibration of operational, monitoring and other equipment, as appropriate;

iii. inspections of the SVIMS including:

1. semi-annual inspections, in spring and fall, of the visible areas of the foundation floor slab or subsurface walls in contact with soil, to identify any cracks, breaches or other deficiencies that may allow soil vapour to enter the Building;

2. semi-annual inspections, in spring and fall, the visible components of the SVIMS, to identify any cracks, breaches or other deficiencies that may hinder the collection or venting of soil vapour from below the Building;

3. additional inspections, on a more frequent basis as appropriate, of the wind turbine(s) or solar powered wind turbine(s) to determine whether they turn frequently and/or of the electrical powered fans to confirm they turn freely, to confirm the automated monitoring system of fan operation is operational and to confirm operational parameters such as amperage levels are within appropriate ranges;

4. additional inspections during winter, as appropriate, to identify any significant accumulation of snow or ice requiring removal;

iv. noting any deficiencies with the floor slab and SVIMS identified during any inspection, or at any other time;

v. repairing promptly any deficiencies, including under the supervision of a Licensed Professional Engineer for a deficiency referred to in part iii above;

vi. factors and considerations for determining if additional inspections or monitoring should be undertaken;

vii. a contingency plan to be implemented in the event the deficiencies cannot be repaired promptly, including prompt notification of the Ministry if such deficiencies, along with operational monitoring results and any additional lines of evidence suggest that soil vapour intrusion into the Building may occur, as determined by a Licensed Professional Engineer;

viii. preparing a written report of all inspections, deficiencies, repairs and maintenance, and of implementation of the contingency plan if necessary, prepared by a Licensed Professional Engineer and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer;

and which are,

1. delivered to the Owner before use of all or any part of the Building begins, or within 90 days following completion of installation of the SVIMS, whichever is earlier; and

2. updated and delivered to the Owner within 30 days following any alteration to the program.

OPERATIONAL MONITORING

n. Prepare and implement a written program for monitoring of the operation of the installed SVIMS, prepared by a Licensed Professional Engineer in consultation with a Qualified Person and to be retained by the Owner, and be available for inspection

upon request by a Provincial Officer, to ensure the continued integrity and effectiveness of the SVIMS, including, at a minimum:

i. procedures and timing for implementing the program, by a person meeting the qualifications as set out in the program;

ii. locations and description of the devices and equipment used, or tested, 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. undertaking operational monitoring, including recording of the monitoring results, in accordance with the following:

1. at least once before occupancy and as considered appropriate by a Licensed Professional Engineer after occupancy has commenced, vacuum testing of the soil vapour venting system by conducting pilot testing using temporary or permanently installed electrically powered fan(s), including with respect to the soil vapour venting layer being able to achieve a 6 Pascal lower air pressure differential objective below the foundation floor slab across the Building Area, relative to the indoor air pressure within the Building; and
2. at least once before occupancy, quarterly during the first two years after occupancy has commenced and semi-annually thereafter measuring of the (lower) air pressure differential below the foundation floor slab across the Building Area, relative to the indoor air pressure within the Building, being achieved by the soil vapour venting layer, using all of the monitoring devices, including those referred to in the relevant part above;

v. for each year, undertaking an assessment and preparing a written monitoring report, by a Licensed Professional Engineer in consultation with a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, on the operational monitoring undertaken and its results and findings with respect to the integrity and effectiveness of the installed SVIMS, including taking into account previous monitoring undertaken, and with recommendations and any follow-up actions to be taken,

such as:

1. the need to repeat or undertake additional or follow-up operational monitoring and assessment, or additional inspections;

2. changes to the frequency or nature of the monitoring;

3. the need to make repairs or changes to the design or operation of the SVIMS;

4. if necessary, implementation of the contingency plan in the event needed repairs or changes to the SVIMS cannot be made promptly, including notification of the Ministry if the operational monitoring results, inspections and any additional lines of evidence suggest that soil vapour intrusion into the Building may occur, as determined by a Licensed Professional Engineer;

and which are,

1. delivered to the Owner before use of all or any part of the Building begins, or within 90 days following completion of installation of the SVIMS, whichever is earlier; and

2. updated and delivered to the Owner within 30 days of following any alteration to the program.

INTRUSIVE ACTIVITIES CAUTION

o. 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 an installed SVIMS, so as to ensure the persons are made aware of the presence and significance of the SVIMS and the Contaminants of Concern at the Property and the precautions to be taken to ensure the continued integrity of the SVIMS when undertaking the Intrusive Activities, and if damaged, to ensure the SVIMS is repaired promptly to the original design specifications, or if it cannot be repaired promptly, to ensure 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 any alteration to the procedures.

4.9 **Soil and Groundwater Management Plan**

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 excavated soil or soil brought to the Property, and, if any, ground water from dewatering during Intrusive Activities at the Property, so as to prevent exposure to or uncontrolled movement or discharge of the Contaminants of Concern in soil or ground water at the Property, including, at a minimum:

a. procedures and timing for implementing the plan, including the supervision of persons implementing the plan;

b. measures to control dust and prevent tracking of soil by vehicles and persons from the Property, including the cleaning of equipment and vehicles;

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 Property Specific Standards; or
        3. exceeds the Property Specific 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.

d. measures to manage storm water and any ground water from dewatering at the Property to prevent the movement of entrained soil and Contaminants of Concern within and away from the Property, including, in addition to any applicable measures specified pursuant to other applicable law or other instruments, measures such as silt fences, filter socks for catch-basins and utility covers, and provision for discharge to a sanitary sewer or to other approved treatment if needed; and

e. 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 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 Intrusive 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 any alteration to the plan.

4.10 **Health and Safety Plan**

In addition to any requirements under the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, prepare and implement a written health and safety plan for the Property, prepared by a Competent Person in consultation with a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, that includes information concerning the potential hazards and safe work measures and procedures with respect to the Contaminants of Concern at the Property and the communication of this information to all persons who may be involved in Intrusive Activities at the Property, including, at a minimum:

a. the procedures and timing for implementing the plan, including the supervision of persons implementing the plan;
b. all relevant information concerning the presence of, human exposure to, and risk posed by, the Contaminants of Concern through dermal contact, soil or ground water ingestion and inhalation of soil particles or vapour, and concerning any

biogenic gases such as methane that may be present at the Property including information in the Risk Assessment;

c. all relevant information, measures and procedures concerning protection of the persons from exposure to the Contaminants of Concern and the precautions to be taken when undertaking Intrusive Activities, including the supervision of workers, occupational hygiene requirements, use of personal protective equipment, provision of air flow augmentation in excavations or other areas or situations of minimal air ventilation, and other protective measures and procedures as appropriate;
d. all relevant information concerning the presence and significance of the Risk Management Measures and requirements which are being, or have been, implemented at the Property;
e. the procedures and timing for implementing emergency response and contingency measures and procedures, including contact information, in the event of a health and safety incident;
f. the recording, in writing, of the implementation of the plan and any health and safety incidents that occur, to be retained by the Owner and be available for inspection upon request by a Provincial Officer;

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 any alteration to the plan.

4.11 **Air Monitoring Program**

a. Upon completion of the construction of any new Building as specified in condition 4.7 or 4.8 of this CPU, and prior to first occupancy, the Owner shall implement the confirmatory indoor air and sub-slab vapour monitoring program as specified in Section 3.7.1 of Appendix F of the Risk Assessment. Specifically, the confirmatory indoor air and sub-slab vapour monitoring program shall include the following key components:
    i. Be overseen by a qualified Licensed Professional Engineer.
    ii. The collection of indoor air and sub-slab vapour samples as specified from the proposed locations identified in Figure 4 of Schedule A of this CPU at a minimum or equivalent locations, including an adequate number of QA/QC samples as determined by the qualified Licensed Professional Engineer at the following frequency:
        1. Prior to first occupancy; and,
        2. Four times per year sampling on a quarterly basis (every three months) for a minimum of one year and semi-annually thereafter, until written approval to discontinue the indoor air and sub-slab monitoring program by the Director is received by the Owner.

iii. The indoor air and sub-slab vapour 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.

iv. An annual report documenting the indoor air and sub-slab 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 for a minimum of one year and 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 indoor air and Sub-slab Vapour Target Concentrations 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,
5. An updated cost estimate for the financial assurance as required by condition 4.12 of this CPU for the continuation of the sub-slab vapour monitoring program for another year for as long as monitoring is required by the Director.

b. In the event that the indoor air or sub-slab vapour monitoring program detailed in paragraph a of condition 4.11 of this CPU identifies one or more of the COCs at concentrations above the Indoor Air Criteria or Sub-Slab vapour Trigger Limit Concentrations specified in Table 2 and Table 3 of Schedule A of this CPU the Owner shall implement the contingency measures as follows:

i. 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 indoor air and sub-slab vapour 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, and;

ii. If the confirmatory sub-slab vapour sampling and/or indoor air sampling verifies the exceedances of one or more of the COCs at concentrations above the Target Sub-Slab vapour Concentrations or Indoor Air Criteria 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 indoor air and sub-slab vapour results, 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, and;

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 Indoor Air Criteria as listed in Table 2 and Table 3 of Schedule A of this CPU; and,
    d) Conclusions and recommendations with respect to the performance of the Building's ventilation system along with the need for additional work and/or continued monitoring as may be deemed warranted.

4.12 **Financial Assurance:**

a. Within thirty (30) days of the date of the CPU, the Owner shall provide financial assurance to the Crown in right of Ontario in the amount of **180,309.58** in a form satisfactory to the Director and in accordance with Part XII of the Act to cover costs for the performance of all actions required to be carried out under the CPU.

b. A written review of the financial assurance estimate outlined in Section 4 of Appendix F of the Risk Assessment shall be included in the annual report referred to in condition 4.13 with an updated cost estimate with respect to the matters dealt with in condition 4.11 above.

4.13 **Annual Reports Requirement**

a. The Owner shall prepare by March 31 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:

i. a copy of all records relating to the construction, operational monitoring, inspection and maintenance program for the Barrier to site soils and SVIMS;
ii. a copy of all records relating to the soil and ground water management plan;
iii. a copy of all records relating to the health and safety plan;
iv. a copy of any signed as constructed plans for the SVIMS for any Building;
v. a copy of signed site plans including any alterations; and
vi. a copy of documentation to justify the financial assurance calculation and to meet the record keeping requirements as outlined in condition 4.12.

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

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

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 Mixed Commercial and Residential Use as specified in O. Reg 153/04.

5.2 Building Construction Restrictions: Refrain from constructing any new Building(s) unless construction is in accordance with conditions 4.6, 4.7 and 4.8 of the CPU.

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 conditions 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 subsection 168.6(1) of the Act.

6.1 **Site Changes**
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 of any Contaminants of Concern on, in or under the Property or the discharge of any Contaminants 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 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 of the Property.

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

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

7.1 **Disclosure of Certificate of Property Use**
Upon services of this CPU, the Owner and any other person with an interest in the Property shall, 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 and as set out in Schedule ‘B’, register the certificate of requirement on title to the Property, in the appropriate land registry office.

7.3 **Certificate of Requirement 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 section 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 The Director may amend the CPU under subsections 132(2) or (3) of the Act to change a requirement as to financial assurance, including that the financial assurance may be increased or provided, reduced or released in stages. The total financial assurance required may be reduced from time to time or released by an order issued by the Director under section 134 of the Act upon request and submission of such supporting documentation as required by the Director.

8.6 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 absolve the Owner 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 save and except for the Part 4 Risk Management Measures.

8.10 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 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.

8.12 Where the CPU requires that the Director must be notified or receive a report this should be done by email at environment.hamilton@ontario.ca.

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, 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. 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

and

District Manager
Hamilton District Office
Ministry of the Environment, Conservation and Parks
119 King Street West, 9th Floor
Hamilton, Ontario
Email: Environment.Hamilton@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.

Further information regarding service can be obtained from e-Laws at www.ontario.ca/laws. Please note that 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 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 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, on 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 the 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.

Issued this 11th day of June 2026.

Stephen Burt
Director, section 168.6 and 197 of the Act

Schedule ‘A’

Table 1: Contaminants of Concern and Property Specific Standards

Media	Contaminants of Concern (COC)	Units	Property Specific Standards
Soil	Barium	µg / g	636
Soil	Copper	µg / g	264
Soil	Lead	µg / g	840
Soil	Zinc	µg / g	516
Soil	Benzene	µg / g	0.672
Soil	Xylenes	µg / g	31.2
Soil	F1 (C6-C10)	µg / g	360
Soil	F2 (C10-C16)	µg / g	744
Soil	F3 (C16-C34)	µg / g	16800
Soil	1,2-Dichlorobenzene	µg / g	8.04
Soil	1,4-Dichlorobenzene	µg / g	1.92
Soil	Acenaphthylene	µg / g	0.228
Soil	Benzo(a)anthracene	µg / g	3.48
Soil	Benzo(a)pyrene	µg / g	2.4
Soil	Benzo(b)fluoranthene	µg / g	2.64
Soil	Benzo(k)fluoranthene	µg / g	0.984
Soil	Dibenzo(a,h)anthracene	µg / g	0.324
Soil	Fluoranthene	µg / g	5.52
Soil	Indeno(1,2,3-cd)pyrene	µg / g	1.02
Soil	Naphthalene	µg / g	1.92
Groundwater	Benzene	µg / L	1.92
Groundwater	F2 (C10-C16)	µg / L	5400
Groundwater	F3 (C16-C34)	µg / L	4560
Groundwater	F4 (C34-C50)	µg / L	672
Groundwater	1,4-Dichlorobenzene	µg / L	0.672
Groundwater	1,2-Dichloroethane	µg / L	7.44
Groundwater	1,2-Dichloropropane	µg / L	0.73
Groundwater	Tetrachloroethylene	µg / L	27.6
Groundwater	Vinyl Chloride	µg / L	3.25

Table 2: Sub-Slab Vapour Trigger Limits (μg/m³)

Contaminants of Concern	Sub-Slab Vapour Trigger Limits (μg/m³)
Benzene	406
F1 (C6-C10)	282,000
F2 (C10-C16)	403,000
1,4-Dichlorobenzene	223
Ethylene Dibromide	1.49
Tetrachloroethylene	3440
Vinyl Chloride	203

Table 3: Indoor Air Trigger Criteria (μg/m³)

Contaminants of Concern	Health-Based Indoor Air Criteria (μg/m³)
Benzene	1.63
F1 (C6-C10)	1130
F2 (C10-C16)	1610
1,4-Dichlorobenzene	0.894
Ethylene Dibromide	0.00596
Tetrachloroethylene	13.8
Vinyl Chloride	0.813

Figure 1: Plan of Survey

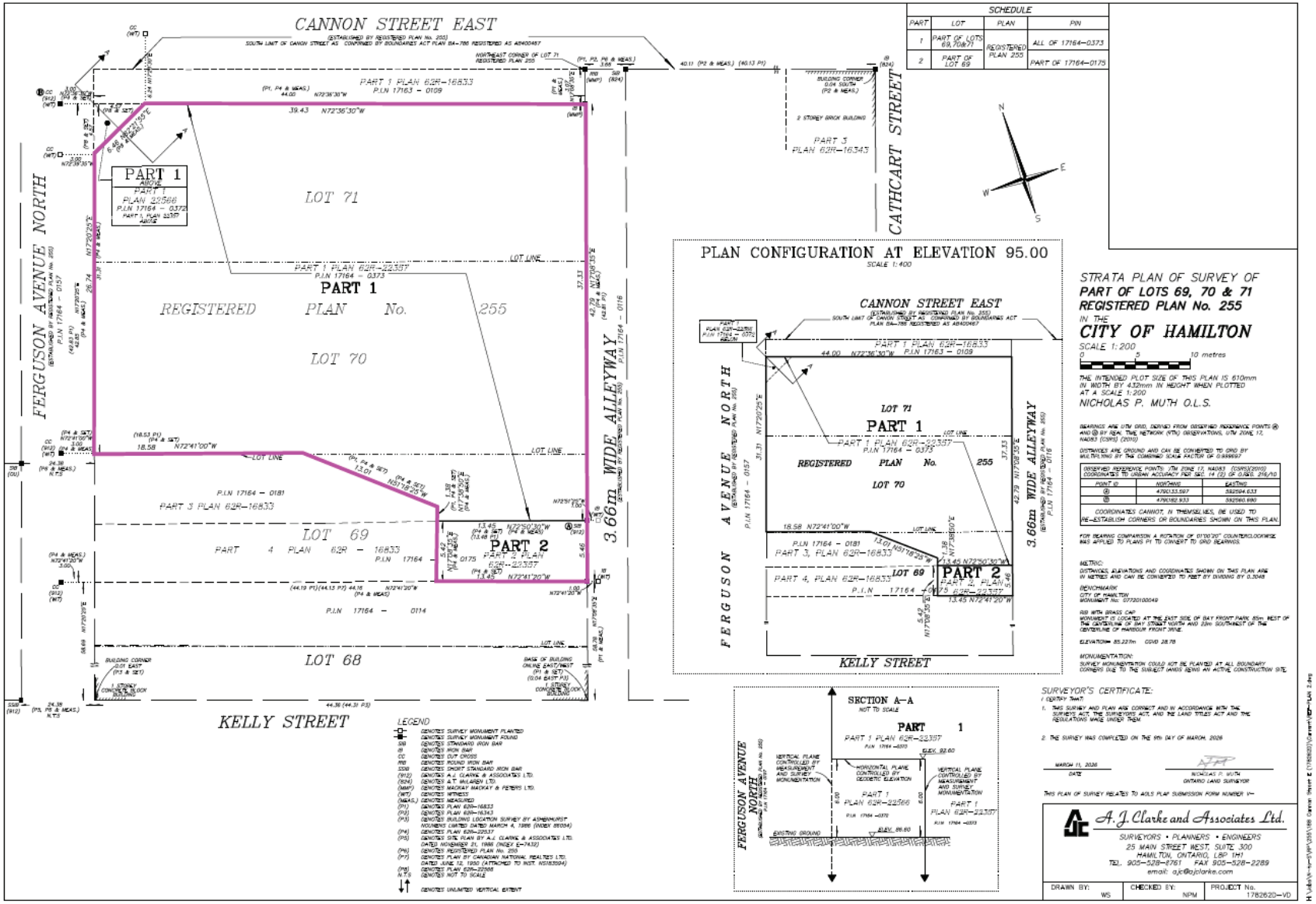


Figure 2: Hard Cap or Fill Cap Barrier Schematic

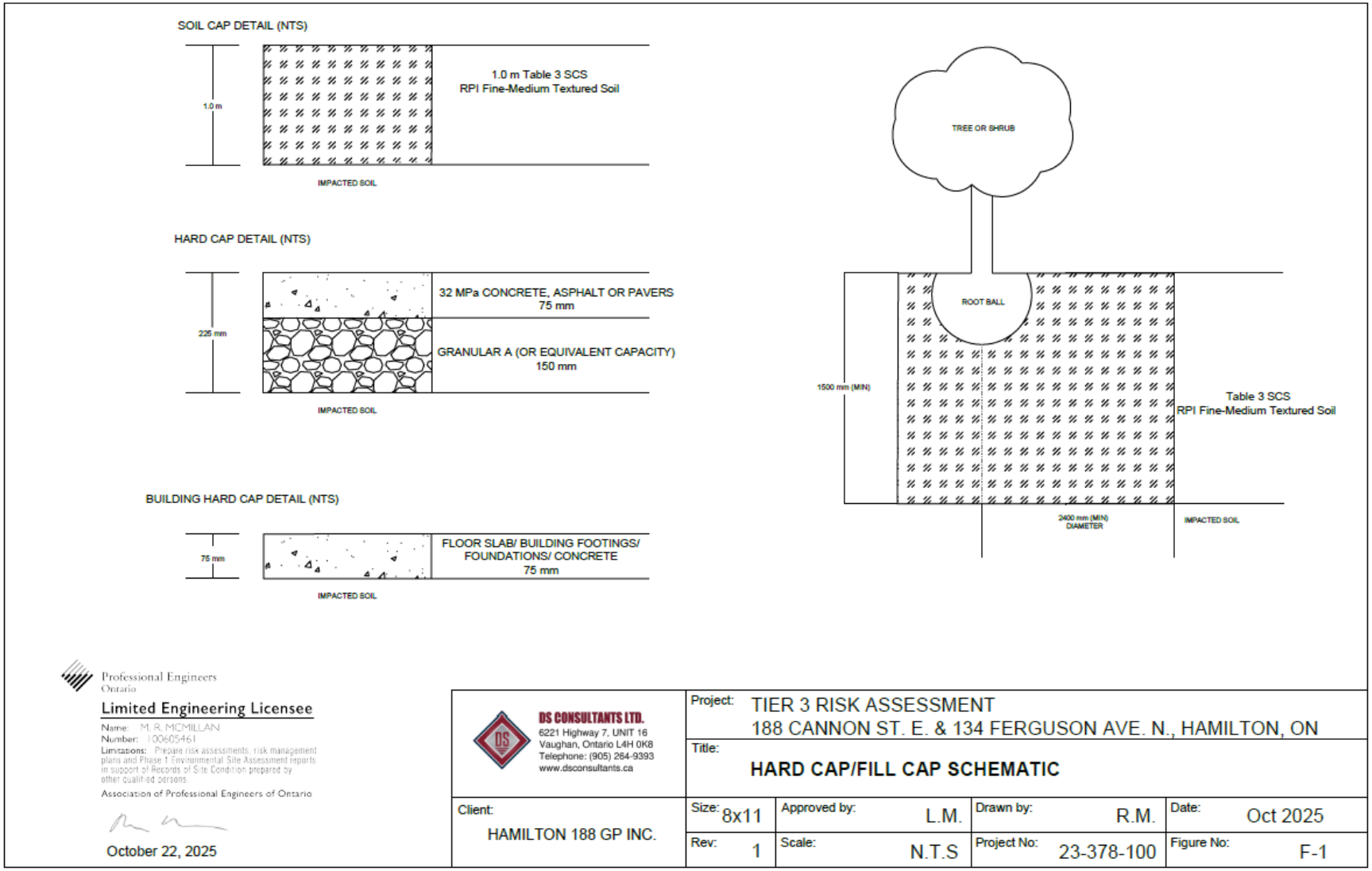


Figure 3: Conceptual Vapour Mitigation System (Vapour Membrane) – Cross Section

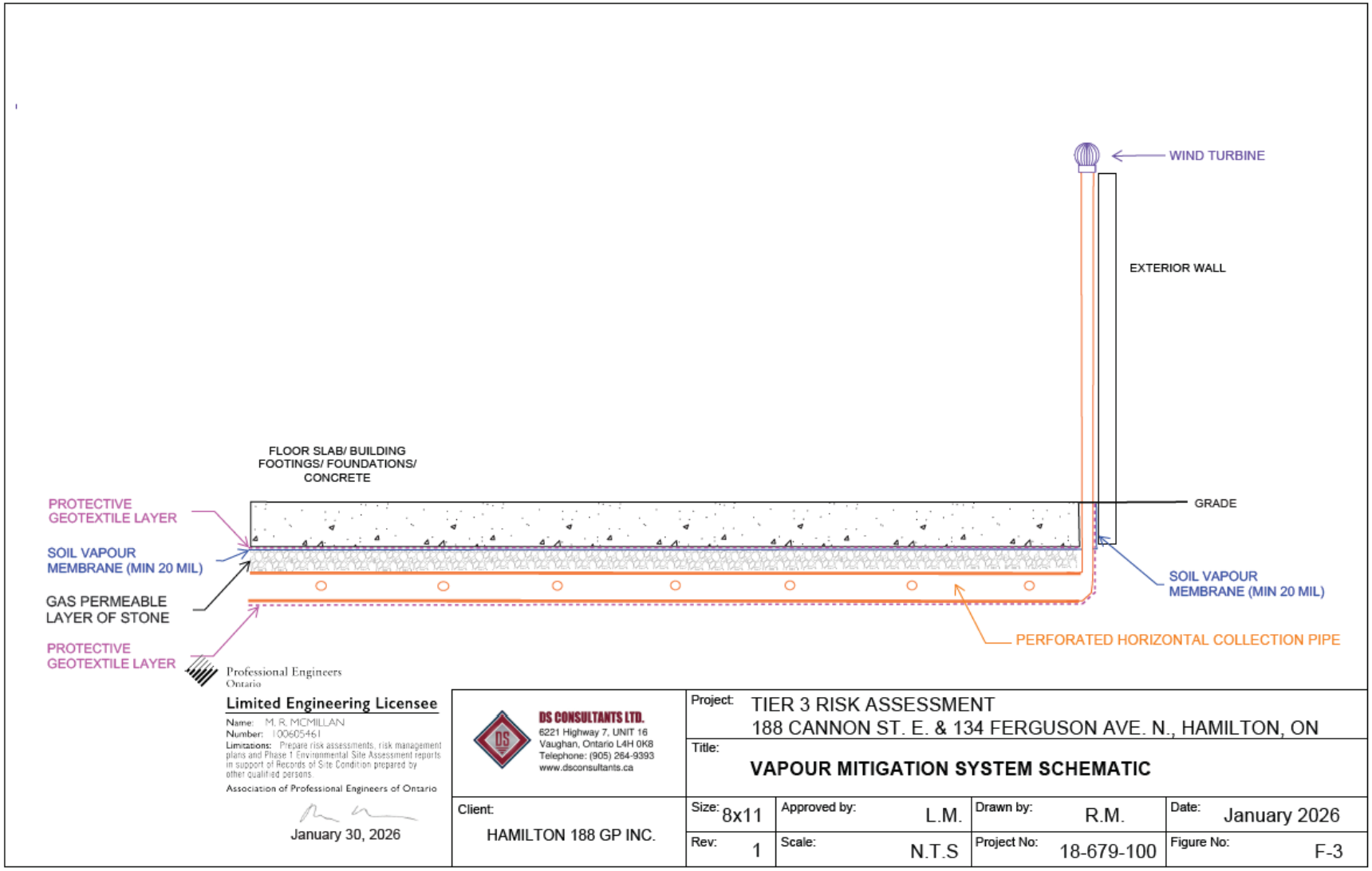
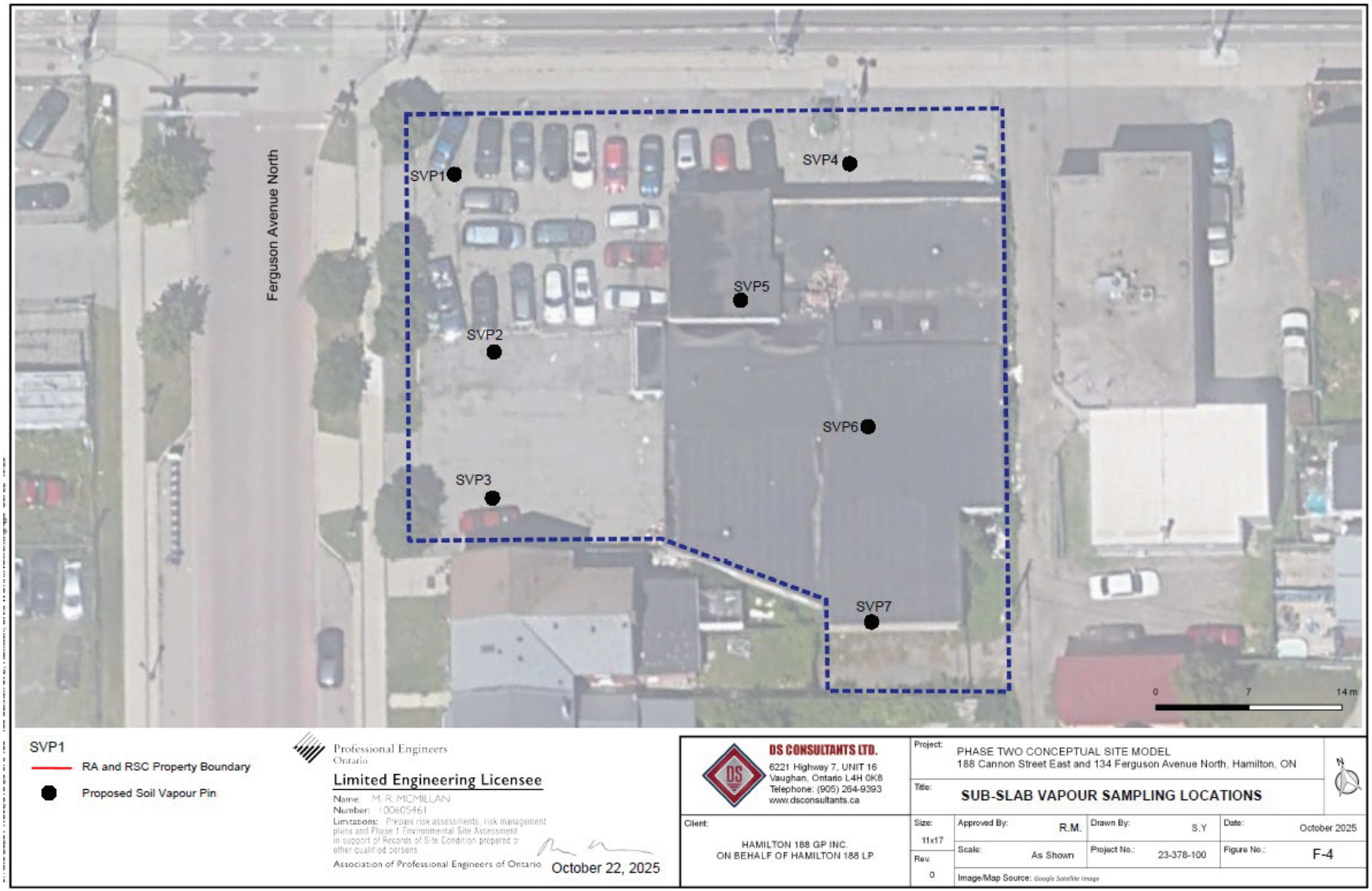


Figure 4: Sub-Slab Vapour Sampling Locations



SCHEDULE 'B'

CERTIFICATE OF REQUIREMENT

s.197(2)
Environmental Protection Act

This is to certify that pursuant to Item 7.1 of Certificate of Property **4680-DR2PHE** 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 June 11, 2026, being a Certificate of Property Use and order under subsection 197(1) of the *Environmental Protection Act* relating to the property municipally known as, **188 Cannon Street East, Hamilton, Ontario L8L 2A8 and 134 Ferguson Avenue North, Hamilton, Ontario L8R 1L7** and legally described as **ALL** of Property Identifier Numbers **17164-0373 (LT) and Part of 17164-0175 (LT)** (the "Property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property,

Hamilton 188 GP Inc. general partner, for and on behalf of the limited partnership Hamilton 188 LP

and

Hamilton 188 LP

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.