Engineering Review  
Engineering and Construction Services

Environmental Site Assessment for Land Conveyances

Directive No. ENV-01-2013 Rev. 1  
August 21, 2013

**Purpose:** To rescind and replace any and all prior Directives regarding "Environmental Site Assessment for Land Conveyances" and "Harmonized Peer Review Process", and to provide guidance to staff regarding:

1. Legislative changes to the *Environmental Protection Act* and the Record of Site Condition (RSC) Regulation (O. Reg. 153/04; as amended);
2. City Policy & Conditions for Accepting Risk Assessed Lands; and
3. Triggers for requiring Environmental Site Assessments and RSCs under the Harmonized Peer Review Process (HPRP).

**When to Apply:** The HPRP is required when, under the *Planning Act*, lands are to be conveyed to the City or where easements are required for maintenance and installation of future underground municipal infrastructure (including modifications to existing municipal infrastructure).

Requirements for remediation of lands where easements are required on existing infrastructure shall be discussed with the respective District Manager and the Soil & Groundwater Quality (SGQ) Manager on a case-by-case basis.

This Directive does not apply to surface easements such as walkways or passageways.

The triggers to require (or in certain scenarios, to be exempt from) the HPRP and RSC obligations during land conveyances, or acquisitions of easements, are described in Attachment 1: Application Table.

**Process:** When land or easements are to be conveyed or granted to the City, the Case Manager shall:

1. Use the Application Table (Attachment 1) to determine the applicable conditions and the timing that the subject conditions need to be satisfied. The applicable condition shall be based on the type of development application submitted, and the type and size of land or easement to be conveyed or granted to the City.
2. Include the applicable General Conditions (Attachment 2) for Site Plan and Consent applications in the standard response memorandum to City Planning. For Plan of Subdivision applications, all applicable conditions are secured in the body of the Agreement, however those conditions should also be reflected in the response memorandum to City Planning to ensure the applicant is aware of requirements.
3. Initiate and conduct the administrative protocol and procedural steps in the HPRP.
4. Ensure that the applicable conditions are secured in the applicable Site Plan Agreement, Consent Agreement or Subdivision Agreement.

The above noted process is to be followed in cases where Site plan and Subdivisions Applications are combined with Official Plan or Zoning By-law amendments.

<table>
<thead>
<tr>
<th>Comments:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. City Council at its April 25, 26 and 27, 2006 meeting (Works Committee Report 2, Clause 18) approved a Risk Assessment approach for remediation of lands to be conveyed to the City. In cases where the applicant is proposing to use the Risk Assessment approach of the Council-adopted policy, the Case Manager shall advise the applicant, in the standard response memorandum to City Planning, of the conditions for the Acceptance of Risk Assessed Lands for Conveyance to the City provided in Attachment 3.</td>
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<tr>
<td>2. For easements that are required by the City for future underground municipal infrastructure and where the easement lands are former or current industrial lands or known to be contaminated, the HPRP should be followed with the exception that a RSC is not required (see Attachment 1: Application Table, and Attachment 2: General Conditions). This will ensure future maintenance and operation activities are not affected by the presence of contaminated site conditions. The easement lands are not in City ownership and any contamination on these lands will continue to be the responsibility of the owner.</td>
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<tr>
<td>3. The City of Toronto policy requires Peer Review in some cases where land use is not changing in order to ensure site conditions on the land that is conveyed to the City meets the appropriate use (see Attachment 1: Application Table).</td>
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<tr>
<td>4. Peer Reviewers (5) are currently contracted by the City for a three-year period (January 01, 2011 – December 31, 2013).</td>
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<tr>
<td>5. City staff do not have the authority to amend, broker, appeal or waive the Council approved land conveyance policy. The current policy is applied equally across all districts.</td>
</tr>
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The requirements in the General Conditions are further described and discussed in staff reports listed below in the Related Documents section of this Directive.

<table>
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<tr>
<th>Related Documents:</th>
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</table>
Affected Operating Division(s): N/A

Approved: Date: August 21, 2013

Helen Noehammer, P. Eng.
Director, Engineering Review
Engineering and Construction Services

Attachment 1: Application Table: “Environmental Requirements for Conveyance of Land to the City Under the Planning Act”

Attachment 2: “General Conditions for Environmental Site Assessment of Lands to be Conveyed to the City, or Easements”

Attachment 3: Appendix A: “Policies and Conditions for Acceptance of Risk Assessed Lands for Conveyance to the City of Toronto”

Attachment 4: Qualified Person Preliminary Statement Letter (letter template)

Attachment 5: Reliance Letter (letter template)

References:
## Application Table

How and When to apply the Environmental Directive for Land Conveyances

<table>
<thead>
<tr>
<th>Application Type</th>
<th>Description / Purpose</th>
<th>Authority</th>
<th>Scenario Where Directive Applies</th>
<th>Current Policy</th>
<th>Timing for Fulfillment of Environmental Conditions&lt;sup&gt;5&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consent Application</td>
<td>To seek approval to sever/divide a parcel of land. Applicant has 1 year from the date of the Committee’s decision to satisfy all conditions.</td>
<td>Authority to approve Consent applications is delegated to the Committee of Adjustment.</td>
<td>Applicant is required to convey/grant lands for parks, road/road widening purposes and/or easements to the City.</td>
<td>RSC - RPI&lt;br&gt; ICC - ICC&lt;br&gt; NO - YES - YES</td>
<td>Prior to: Issuance of Any Building Permit (if no Agreement, then prior to issuance of Certificate of Consent Approval).</td>
</tr>
<tr>
<td>Site Plan Application</td>
<td>To seek approval to develop property that is currently in compliance with the existing zoning by-law.</td>
<td>Authority to approve site plan applications is delegated to the Chief Planner. However, a Councillor may request that the application be &quot;bumped up&quot; to Community Council.</td>
<td>Applicant is required to convey/grant lands for parks (in accordance with Section 42 of the Planning Act), road widening purposes and/or easements to the City.</td>
<td>RPI - RPI&lt;br&gt; ICC - ICC&lt;br&gt; NO - YES - YES</td>
<td>Prior to: Final Site Plan Approval.</td>
</tr>
<tr>
<td>Subdivision Application</td>
<td>To seek approval to sever and divide land into lots, blocks, parks, and roads.</td>
<td>Authority to approve a plan of Subdivision application is delegated to the Chief Planner.</td>
<td>Applicant is required to convey lands to the City for road, road widening, easements, and/or parks.</td>
<td>All roads, blocks, and parks conveyance require Peer Review and RSC.</td>
<td>Prior to: 1) Standard Draft Plan Conditions; and 2) Standard Subdivision Agreement Template.</td>
</tr>
</tbody>
</table>

### Notes:
1. Application type may include combined applications with Official Plan or Zoning by-law amendments.
2. Stratified Conveyance is defined as conveyance of a horizontal layer of land having a defined profile within a vertical column having multiple layers and ownerships.
3. Land use change may be supported by a letter from the applicant’s Qualified Person (QP, as per O. Reg. 153/04, as amended) and stated on the application.
4. The supporting materials prepared in accordance with O. Reg. 153/04 (as amended), should be submitted in conjunction with the development application or as soon as the requirement for land conveyances to the City is known.
5. The Peer Review process is administered by the Engineering and Construction Services Division (see Engineering Review Directive, “Administration of the Harmonized Peer Review Process” ENV-02-2013 Rev.1).
6. If there is any deviation from the preferred timing in this table, case managers must consult with their District Manager, Soil Groundwater Quality (SGQ) staff and Legal Services prior to proceeding.

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August 21, 2013
GENERAL CONDITIONS FOR ENVIRONMENTAL SITE ASSESSMENT OF LANDS TO BE CONVEYED TO THE CITY, OR EASEMENTS

(All six of these conditions must be satisfied prior to conveyance. For Easements, replace the phrase “land to be conveyed to the City” to “easements” and Condition #6 is not required. For Subdivisions, additional or specific conditions may be itemized in Schedule 'B' of the Subdivision Agreement.)

1. Submit a Qualified Person Preliminary Statement Letter (Attachment 4 template), that is stamped, dated and signed by the applicant's Qualified Person (the "QP"), as defined in O. Reg. 153/04, as amended, describing the lands to be conveyed to the City, and identifying what environmental documentation will be provided to the City's Peer Reviewer to support this conveyance; all environmental documentation shall be submitted without any limitation regarding liability, indemnity or reliance;

2. Pay all costs associated with the City retaining a third-party Peer Reviewer including a 7% administrative cost to the City, and submit a certified cheque payable to the City of Toronto in the amount of $5,000.00 ($8,000.00 for subdivisions), as an initial deposit towards the cost of the peer review to the Executive Director, Engineering and Construction Services. Submit further deposits when requested to cover all costs of retaining a third-party peer reviewer (unused funds will be refunded to the applicant by the City);

3. Submit, to the satisfaction of the City's Peer Reviewer, all Environmental Site Assessment reports prepared in accordance with the Record of Site Condition Regulation (O. Reg. 153/04, as amended) describing the current conditions of the land to be conveyed to the City and the proposed Remedial Action Plan based on the site condition standards approach, to the Executive Director, Engineering and Construction Services;

4. At the completion of the site assessment/remediation process, submit a Statement from the Qualified Person, to the Executive Director, Engineering and Construction Services, for peer review and concurrence that based on all necessary supporting environmental documents:

   (a) it is unlikely that there is any off-site contamination resulting from past land uses on the development site that has migrated on to adjacent City lands that would exceed the applicable Site Condition Standards and,

   (b) that land to be conveyed to the City meets either:

      (i) the applicable MOE Generic Site Condition Standards (Tables 1, 2, 3, 6, 7, 8 and 9) for the most environmentally sensitive adjacent land use, or

      (ii) the Property Specific Standards (PSSs) as approved by the MOE for a Risk Assessment/Risk Management Plan which was conducted in accordance with the City Policies and Conditions for the Acceptance of Risk Assessed Lands (Clause 18, of Works Committee Report 2, April 25, 26 and 27, 2006);
5. The QP's statement, referenced in 4 above, will include a Reliance Letter (Attachment 5 template), that is stamped, dated and signed by the applicant's Qualified Person (the "QP"), as defined in O. Reg. 153/04, as amended confirming that both the City and the City's Peer Reviewer can rely on the environmental documentation submitted and the QP’s opinion as to the conditions of the site.

6. For conveyance of lands requiring a Record of Site Condition (the "RSC"),

   (i) File the RSC on the Ontario Environmental Site Registry, and
   (ii) Submit the Ministry of the Environment's Letter of Acknowledgement of Filing of the RSC confirming that the RSC has been prepared and filed in accordance with O. Reg. 153/04, as amended, to the Executive Director, Engineering and Construction Services.
Appendix A

Policies and Conditions for the Acceptance for Risk Assessed Lands for Conveyance to the City of Toronto

The acceptance of the RA approach should be based on the following:

Policies:

(1) The City may, under the conditions noted below, accept contaminated lands that have been risk assessed, and where the RA and the risk management plan have been approved by the MOE.
(2) The City’s decision is final regarding whether the lands are acceptable from an environmental perspective for conveyance to the City.
(3) The decision to accept risk assessed land is delegated to the Executive Director, Technical Services and in consultation with the General Manager of Parks, Forestry and Recreation where it is a parkland dedication.
(4) The site condition standards must meet the standards of the intended land use or the most sensitive adjacent land uses, whichever are more stringent.
(5) Any deviation from the above policies and/or the following conditions will require approval by Council.

Conditions:

(1) Only in-situ contaminated materials are to remain in the lands to be conveyed, (i.e., new contaminated soil cannot be imported and buried in the lands to be conveyed).
(2) All Phase I and Phase II Environmental Site Assessment reports, the Pre-submission Form (PSF), risk management plan, Certificate of Property Use (CPU), if any, and Record of Site Conditions will be submitted to the City for peer review and concurrence, in accordance with the City’s Harmonized Peer Review Process.
(3) The owner will be responsible for all costs associated with the peer review, including the City’s administrative fee of 7 percent of the peer review service.
(4) The PSF must consider the future use of the conveyed lands including construction workers in trenches as potential receptors, and the presence of underground municipal services and private utilities.
(5) There is to be no risk management measures or CPU associated with the conveyed lands that will impact or restrict the intended use of the lands or will result in any significant future cost implication to the City.
(6) MOE approval of the RA and acknowledgement of the RSC for the conveyed lands are required.
Qualified Person Preliminary Statement Letter

(Presented on Consultant Overhead)

This form must be completed for all development applications where land conveyance is required in accordance with City of Toronto Environmental Procedures and Triggers for Conveyance of Land to the City policy.

Location of land to be conveyed:

Lot(s): _____________________________  Concession: _____________________________

(Attach figure, R-Plan is preferred)

Current land use: _____________________________________________________________

Proposed land use: ___________________________________________________________

Is a Record of Site Condition in accordance with Environmental Protection Act, Part XV.I of the Act, Ontario Regulation 153/04 required: Yes  or  No

At the request of CDE Ontario Ltd. (the applicant) and for other good and valuable consideration, ABC Engineering Ltd. represents and warrants to the City of Toronto ("City") that the work to be completed in the reports identified herein will be completed by or under the supervision of a Qualified Person per the meaning of Sections 5 and 6, as applicable, of Ontario Regulation 153/04.

ABC Engineering Ltd. agrees to provide the City with following reports for the purpose of Peer Review in support of CDE Ontario Ltd. application, ABC Engineering warrants that the reports will be completed in accordance with the amended Ontario Regulation 153/04:

Title (Phase I ESA), date, report type, author (QP), company (mandatory).
Title (Phase II ESA), date, report type, author (QP), company (If applicable).
Other Environmental Site Assessment Documentation, RSC-(PSF, RA, CPU) (if applicable).

Qualified Person: Consulting Engineer

Name (Please Print) Signature ______________________________________________________

Name of Firm: ________________________________________________________________

Address: _____________________________________________________________________

Telephone: ___________________ Fax: ____________________

Date: ____________________________

Notes: Edits to this document are only permitted in areas underlined and marked in Italics i.e.: CDE Ontario Ltd.
At the request of CDE Ontario Ltd. and for other good and valuable consideration, ABC Engineering Ltd. represents and warrants to the City of Toronto ("City") that the work completed in the reports identified herein was completed by or under the supervision of a Qualified Person per the meaning of Sections 5 and 6, as applicable, of Ontario Regulation 153/04.

If applicable, ABC Engineering Inc. also represents and warrants that it meets the MOE requirements in relation to the preparation and supervision of a risk assessment.

ABC Engineering Ltd. agrees that the City and its Peer Reviewers may rely upon the reports listed herein, including the representations, assumptions, findings, and recommendations contained in the reports:

Title (Phase I ESA), date, report type, author (QP), company (mandatory).
Title (Phase II ESA), date, report type, author (QP), company (if applicable).
Other Environmental Site Assessment Documentation, RSC-(PSF, RA, CPU) (if applicable).

ABC Engineering Ltd. further agrees that in the case of any inconsistency between this Reliance Agreement and any limitations within any reports provided to the City of Toronto, this Reliance Agreement take priority over any such limitations.

ABC further agrees that it will promptly notify the City upon receipt of notice by the Ministry of the Environment that the Ministry of the Environment intends to audit any of the reports listed herein and if so, to provide the City with written confirmation of the results of the audit including that any Record of Site Condition was approved by the Ministry of the Environment under Ontario Regulation 153/04.

ABC Engineering represents and warrants that it complies with the Ontario Regulation 153/04 and specifically, the insurance provisions contained therein.

ABC Engineering shall provide the City with proof of insurance and maintain Professional Liability insurance coverage of $2,000,000 per claim and $2 million aggregate.

CDE Ontario Ltd. agrees that it shall be responsible to indemnify and save the City harmless from any and all claims, demands, causes of action, costs, including defending against any legal proceedings or other damages howsoever arising from the City's direct or indirect reliance upon the representations, findings, assumptions and conclusions contained in the reports prepared by ABC Engineering Ltd. listed herein save and except any damages, claims, demands, actions or causes or action arising out of or as a result of the negligent actions of the City, its agents or employees.

Signed by a Qualified Person ____________________________ Date: ___________

Signed by person authorized to bind the Consulting Firm ____________________________
RELIANCE LETTER

This letter is to be presented on ABC letterhead

Property Owner, or Authorized Officer:

_______________________________________________________
Name (Please Print) Signature  
Name of Company (if Applicable): ______________________________________
Title of Authorized Officer: ______________________________________________
Address: __________________________________________________________________
Telephone: _____________________ Fax: ____________________
Date: __________________________

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