

**CITY OF VAUGHAN**  
**BACKGROUND REPORT**  
**ON**  
**POLICY AND PROCEDURES FOR DEALING**  
**WITH CONTAMINATED OR**  
**POTENTIALLY CONTAMINATED SITES**  
**MAY 2001**

## 1.0 Background

This report describes the issues relevant to establishing procedures and a City policy with respect to potentially contaminated sites in light of the Provincial down-loading to municipalities from the Ministry of Environment (MOE) following their release of the *Guideline For Use At Contaminated Sites in Ontario* in June 1996, (as amended February 1997). The Guideline, which replaces the previous one released in 1989, provides several new contaminant criteria and detailed procedures for the completion of site assessments to determine whether soil and ground water on a property are contaminated, and whether remediation is required. The Guideline is advisory and not mandatory and does not replace the existing environmental legislative framework in Ontario, namely, the *Environmental Protection Act* (EPA) and the *Ontario Water Resources Act* (OWRA).

Prior to the release of the Guideline in 1996, MOE commented on planning applications in Vaughan, (official plan amendment, subdivision), circulated to them by the Ministry of Municipal Affairs and the Region of York. MOE staff assessed the potential for sites being contaminated based on their knowledge and experience in the area, available records and site visits. As part of their review, MOE determined whether studies were required to assess the level of contamination, if any, present on the site. These studies were then reviewed by MOE staff and if warranted MOE would request, wording in the Official Plan, or conditions of draft approval, addressing contamination issues. Following MOE's receipt of confirmatory sampling from the owner showing that sites had been cleaned up to the appropriate criteria, MOE would clear the applicable conditions.

With the release of the Guideline, the MOE is no longer commenting on development proposals with respect to potential contamination and in effect has shifted the onus to the landowner and their consultants to ensure that there is either no contamination on site, or that the contamination is not causing, or would likely cause, an adverse effect. The Guideline recommends that municipalities adopt policies and procedures that permit the development of these sites from an environmental/contamination perspective through existing legislation such as the Planning Act. The MOE are only involved in the review of clean-up plans where contaminants have been identified and are proposed to either remain at a site under the MOE site specific risk assessment approach, (SSRA), or where the site was used as a waste disposal site which is covered by the Environmental Protection Act.

Where clean-up of the contaminants has been undertaken, the MOE will only acknowledge receipt of a Record of Site Condition (RSC) which includes the owner's and consultant's affidavit that the site has been cleaned up to appropriate levels. This acknowledgement by MOE is limited to ensuring that the Record of Site Condition forms have been properly filled out. MOE no longer reviews or approves the

contents of the studies, but does carry out an on-going audit function of the various consultant reports submitted to evaluate the effectiveness of the Guideline. Municipalities are to be consulted at certain times in the process and can elect to take a role in requiring and reviewing soil remediation plans.

## **2.0 Legislative Framework**

### **2.1 Planning Act**

In accordance with Section 2 of the Planning Act, the City must have regard for matters of Provincial Interest which include the “orderly development of safe and healthy communities” in exercising its role as an approval authority. The Province defines matters of Provincial interest through the release of provincial policy statements pursuant to Section 3 of the Planning Act. Under Section 3 (5) of the Act, Council shall have regard to these policy statements in exercising its authority on planning matters. The most recent Provincial Policy Statement released by the Province on May 22, 1996 requires: “Contaminated sites will be restored as necessary prior to any activity on the site associated with the proposed use such that there will be no adverse effect”. As such the suitability of a site for development or redevelopment to a particular use is a planning concern which must be considered by the municipality in approving development.

### **2.2 Environmental Protection Act**

The Environmental Protection Act prohibits the discharge of a pollutant or contaminant into the natural environment in excess of provincial regulations and authorizes the MOE to issue a control order where there is an adverse effect to the environment. The Environmental Protection Act does not require contaminated sites to be cleaned up as long as the contaminants are not migrating off-site and there are no adverse effects on the environment. However, when a landowner is proposing a change in land use and the site conditions do not meet the regulations for the intended use, the site must be remediated. The Environmental Protection Act does not define what constitutes a change in land use and decisions are made on a site by site basis as to when to invoke the regulations.

### **2.3 Guideline for Use at Contaminated Sites in Ontario, June 1996 as revised February 1997**

The Guideline provides advice and information to property owners and consultants on assessing the environmental condition of a property, determining whether or not restoration is required and options for clean-up based on "Background", "Generic" and "Site Specific Risk Assessment" (SSRA) approaches.

The Guideline supercedes previous MOE policies and guidelines related to the assessment of properties containing potentially impacted soil and groundwater (Decommissioning Guidelines). The development of the Guidelines was based on a more flexible risk assessment based approach to determine remediation criteria, and is modelled largely on the approach in use in the State of Massachusetts. The Guideline criteria are effects-based for the protection of human health and the environment, with consideration of current available criteria or ceiling concentrations for various materials, background levels, and attainable analytical detection limits. The generic approach is considered to be conservative.

The approach to be used for a voluntary site clean-up may be in accordance with the generic criteria, through the use of background criteria, or through the use of site specific risk assessment. Support documentation dealing with risk assessments, sample collection and methods, and the generic guidelines have been developed to assist the various parties with the use of the Guidelines.

i) Summary of Options for Clean-up of Contaminated Sites

1. Background approach involves the use of soil quality criteria to restore the site to ambient or naturally occurring background conditions.
2. Generic approach involves the use of criteria reflecting soil and groundwater quality developed to provide protection against the potential for adverse effects to human and ecological health and the natural environment. Criteria are set out for agricultural, residential parkland and industrial commercial land uses as well as for potable and non-potable groundwater use. The criteria also allow for a stratified restoration using different generic criteria if the contamination extends below 1.5 m allowing the site to be remediated to different standards at different depths.
3. Site Specific Risk Assessment (SSRA) approach can be used instead of the background or generic approaches to establish criteria for a specific site or for a level of exposure protection based on risk. It is a scientific technique which estimates the health risk posed to humans and the natural environment from exposure to a contaminant. Through risk management, decisions may lead to the use of techniques to manage, control the movement, or reduce the concentrations of contaminants overtime, independent of, or in connection with the site reuse. When a risk management decision includes the use of engineered measures to reduce the levels of risk at a site, the type of monitoring and maintenance required for the techniques used and the responsibility for ensuring that they continue to operate as designed must be included in a risk management plan. The proponent must confirm that the use of SSRA has been discussed with the municipality. The guideline also includes that a community-based public communication

program should be implemented to provide input into the risk assessment process and the development of the remedial plan. Depending on the risk management controls and techniques to be implemented, municipal approvals or permits may be required. The MOE will conduct a technical review of the SSRA and/or the associated risk management plan and provide comments.

ii) Site Assessment and Restoration Processes

Step 1 Phase I Environmental Site Assessment

The *1996 Guideline for Use at Contaminated Sites* sets out a site assessment process which may be used in identifying actual or potential contamination and a restoration process. The first step is referred to as a Phase I Environmental Site Assessment (ESA) which is a widely accepted process for identifying actual or potential contamination. It usually takes the form of a report prepared by a firm of qualified consulting engineers which undertake a historical review of land use practices on the site, interviews with present and past occupants, neighbours and site visits. The Phase I report determines the need for further site investigation. Since soil and groundwater samples are not normally collected in a Phase 1 ESA, accurate and comprehensive gathering of historical site information is critical and will normally direct the need for any further site investigations.

A Phase 1 ESA report will provide an indication that either the site is free of contamination and that no further investigation is necessary, or that there is a need for further investigation, (called a Phase 2) and the type of sampling and analysis required, which may lead to remediation or site restoration (Step 3).

Given that Phase 1 ESAs are often now carried out at the time of the sale of land intended for future development and given that most lending institutions now require environmental assessments for industrial, commercial and residential developments in order to secure development financing, the Phase 1 ESA should not pose an additional study requirement for proponents in most cases.

For purposes of land conveyance to the municipality, the preparation a Phase 1 ESA and additional reports if required provide the necessary environmental screening to ensure that the municipality is not accepting contaminated lands and the potential liabilities associated with any future clean up of them.

Step 2 Phase II Environmental Site Assessment

If in the findings of the Phase 1 ESA report there is evidence of, or reason to suspect, presence of contamination on the property, the second step in the assessment process is a Phase 2 ESA which should

confirm and identify the type, nature and extent of the contamination at a site or confirm that the suspected contaminant is not present. Testing may include but not be limited to surface and subsurface soil, ground water, soil vapour, plant and aquatic species sampling and testing of building materials. At the end of this step the information gathered will assist in determining the need for a remedial work plan, or that site conditions are appropriate for the intended use and that a remedial work plan is not required.

### Step 3 Site Restoration

This phase involves the development and implementation of a plan to remove, treat or otherwise manage the contamination found on the site. It identifies the site restoration approach to be used, an assessment of the options for dealing with the contaminated material, detailed design and implementation, monitoring and verification sampling. There may be components of the plan that require a Certificate of Approval from the Ministry of Environment. At the end of Step 3, the site will be restored so that it is suitable for the proposed use.

### Step 4 Completion

This phase involves documenting the entire process followed and may involve providing a Record of Site Condition (RSC) which contains information on the site condition achieved through restoration and a summary of risk management measures, if any. A Record of Site Condition can be completed and filed with MOE following completion of either a phase 1 or phase 2 report which indicates that the site is free of contamination or following site restoration of a contaminated site.

#### Record of Site Condition (RSC)

The completion phase of the Guideline involves documenting the entire process followed and may involve providing a Record of Site Condition (RSC) which contains information on the site condition achieved through restoration and a summary of risk management measures, if any, along with statements to be signed by the property owner and the consultant. The Record of Site Condition contains a sworn affidavit in which the land owner's consultant confirms that the level of site restoration is suitable for the intended use of the site and that the site meets the criteria for the intended land use and that the consultant is not aware of any contamination on the site which would interfere with the sites intended land uses.

The statement of the Owner confirms that they agree to provide all reports listed in the RSC to municipal authorities and a party acquiring an interest in the site. The Owner also confirms that they have undertaken reasonable inquiry into the previous ownership and uses of the property and have provided the

consultant information relevant to their investigation of the environmental condition of the site. The Owner acknowledges that the RSC becomes a public document after it has been acknowledged by MOE.

The Guideline however, does not require that an owner submit a record of site condition to the MOE for acknowledgement, except in the limited circumstances of a stratified site remediation, or where a Level 2 site specific risk assessment is used. In these limited situations, the MOE may issue a Director's Order which notes that changes to the site, may result in an adverse effect which will require further management. The Director's Order may also require the owner to register a Certificate of Prohibition against the title of the lands requiring future owners to be provided with a copy of the Director's Order.

Therefore, in order for a municipality to ensure that the necessary remediation has been completed, prior to development occurring, the municipality would need to require such acknowledgement as a condition of approval where Phase 1 and 2 ESA reports indicate the presence of contamination requiring remediation.

### **3.0 Regional Planning Commissioners of Ontario (RPCO) Working Group on Contaminated Sites**

A Regional Planning Commissioners Group on Contaminated Sites was established in the fall of 1997 to identify and address common concerns regarding municipal land use planning for contaminated and potentially contaminated sites. This working group included representation from City of Toronto and several of the Regions in the Province including York, the Ministry of Environment and the Ministry of Municipal Affairs and Housing. In January 2000 the RPCO Working Group endorsed a discussion paper, "A Standard Municipal Model for Development Approvals at Potentially Contaminated Sites", and approved its release and distribution to municipalities and other stakeholders as an advisory document. The discussion paper identifies that there needs to be a "standard duty of care" that is consistent with the MOE Guideline that satisfies municipal responsibilities, limits municipal exposure to liability and streamlines the municipal review process. In the discussion paper the RPCO Working Group puts forward a Standard Model which could be used by municipalities to guide their involvement in development applications on sites that are known or suspected of being contaminated.

The Standard Municipal Model consists of four linkages between site assessment/cleanup process and the development application process. These include that known or suspected contaminated sites should be "**screened**", proponents be "**informed**" of the policies and processes that apply, and that municipalities "**secure**" conditions or agreements as part of the approval process and "**receive**" a completed Record of

Site Condition either prior to development approval or prior to the release of conditions or the issuance of building permits.

The Standard Municipal Model notes that as part of the screening, municipalities may wish to supplement its knowledge of sites suspected of being contaminated by requesting applicants to complete a "**site screening questionnaire**". The policy and procedures outlined in this report include the use of such a questionnaire as part of the screening process.

The policy and procedures in this report are consistent with the approach set out in the RPCO Working Group Standard Municipal Model and address the recommended stages of "screening", "informing", "securing" and "receiving".

#### **4.0 Implications for the City of Vaughan**

##### **4.1 Development Application Review**

The MOE is no longer commenting on development applications with respect to potential contamination and are no longer providing a clearance letter to advise that a site has been remediated in accordance with the Guideline. The Guideline does not provide specific direction to municipalities to ensure that sites are remediated as part of the development approval process. The Guidelines provide general suggestions that "Municipalities may consider whether completion of a Phase 1 ESA is to be requested prior to the planning application being received by the local municipality."

While the *MOE Guideline for Use at Contaminated Sites in Ontario* provides fairly clear direction on the procedures associated with the preparation of studies and the Record of Site Condition, it does not specify when studies are required as part of the development application review process, the extent of the clean-up necessary, or how known, suspected and potentially contaminated sites are to be identified.

##### **4.2 City Real Estate Transactions/City Standards for Lands to be Conveyed to the City (Parkland, Open Space and Roads)**

The City in accepting lands as part of a development approval or in acquiring lands outside of the development planning process, should be ensuring that any lands which the City is receiving are free of environmental contamination for the intended use, eg. parkland.

When a development proposal includes the dedication of lands to the City, such as parks, open space or road allowances, the City has a direct interest in ensuring that the lands it receives are acceptable for the

proposed use. The City currently has no formal policy or requirement through the planning process for environmental clearances for lands being conveyed to the municipality for public purposes. The City in acquiring lands as part of a real estate transaction outside of the development approval process should also be requiring that a phase 1 ESA be prepared as a condition of the purchase. It is noted that the City Real Estate Division has recently instituted this as a practice in its purchase transactions. Where municipalities become an owner of land, they may also become responsible for the clean up of previous contamination. Therefore, in order to protect the City from possible liability, a standardized process should be established to ensure that the municipality is not accepting contaminated lands.

The policy provides that exceptions to the requirement for a phase 1 ESA report may be granted in the case of road widenings, easements and acquisitions of a minor nature, which shall be determined on a case-by-case basis by the Engineering Department.

## **5.0 City Action To Date**

Official Plan Amendment No. 450 (Employment Area) OPA 600, (covering Vellore, Patterson, Woodbridge Expansion Area Rural Area and the Vaughan Centre) and OPA 601 (Kleinburg-Nashville Community Plan) include policies respecting contaminated or potentially contaminated sites and the need for studies as part of the Block Plan process and subsequent development approvals process.

OPA No. 600 and 601 include that prior to permitting development on contaminated sites, that the impacted area of the site be established in consultation with the City on the basis of technical studies and that the proponent submit studies identifying the level of contamination, proposed remediation measures and post clean-up conditions necessary for the proposed use. OPA 600 and 601 also provide for the use of holding zones where the City has determined the land use for an area or parcel of land, but the development of the lands for the intended use is premature until verification is provided that the site has been cleaned-up and made suitable for the intended use.

Approximately 60 draft plan of subdivision approvals have been granted since January 1998 that have included conditions regarding the submission of environmental site assessment reports and the requirement for a record of site condition prior to registration. Several of these plans are located within the area “flagged” in OPA 600 as a “Waste Disposal Assessment Area”, (Passer Estate property), requiring environmental investigations with respect to contamination.

Staff engaged in a peer review process initially in the fall of 1997 on the properties in the "Waste Disposal Assessment Area" around the Passer Estate property in Urban Village 1. Council considered a

report on the Passer property on September 27, 1999, which identified the clean-up being proposed and the recommendations of the City's peer reviewer.

To date, phase 1 and 2 environmental reports have been submitted as conditions of draft plan approval on approximately 50 properties since 1998, which have been peer reviewed by consultants retained by the City, at the applicant's expense. To date, the City has received approximately 20 Records of Site Condition from landowners documenting the site investigations and site remediation which was required, (if any), in order to address the MOE Guideline. It is recommended that this process continue for the applications currently in process.

In general, the process which the City has engaged in to-date in attempting to address the issue of contamination has been some-what on an ad-hoc basis, demonstrating the need for the issue to be addressed on a comprehensive basis, establishing policies, procedures thereby bringing consistency and certainty to the matter and to the development community.

## **6.0 Approaches in other Municipalities**

Staff have reviewed several interim policies and procedures from other municipalities, including Mississauga, Markham, Aurora, Cambridge, the Regions of Waterloo, Durham and Hamilton Wentworth and the former Cities of North York and Etobicoke. All of these policy strategies were prepared in the last few years in response to the release of the Guidelines and MOE's reduced role in planning input and development review. The various approaches range from the requirement for Phase I Environmental Site Assessment reports for only those applications which include lands to be conveyed to the municipality to also include any applications where past uses may have generated some level of contamination. In some municipalities a cursory review of the applicant's reports is conducted by municipal staff with no approval of the reports being granted, in others the reports are accepted with no municipal or peer review. Unlike the City of Toronto which has a significant amount of "brown fields" redevelopment, most of the development in Vaughan is currently on "green fields" sites where the use of the lands prior to development has been primarily for agricultural purposes. It is noted however that the rural areas at the urban fringe have also provided convenient dumping grounds for a variety of materials that would otherwise not typically be expected. Further, it can be expected that overtime "Brownfield" redevelopment in Vaughan will increase, particularly in some of the older industrial areas of the municipality and the redevelopment of service stations to other uses.

To date, Aurora, and Markham are the only municipalities in York Region which have adopted policies or procedures in dealing with contaminated or potentially contaminated sites. Markham's policy is focussed

only on environmental clearances for lands being acquired by the municipality. Aurora's policy provides that the municipality accept the applicant's environmental assessment reports with there to be no staff or peer review of the reports.

Given that Cambridge and the Region of Waterloo rely solely upon ground water for drinking, and have significant old industrial areas, their policy and procedures appear to be more onerous than may be warranted for Vaughan. The policies and approaches in the former municipalities in the amalgamated City of Toronto are primarily focussed at redevelopment where the potential extent and degree of site contamination is generally much greater than in "green field" areas.

Most of the municipal approaches include the use of a site screening questionnaire to assist in screening out those sites (applications) which do not require a Phase 1 ESA.

## **7.0 Proposed Procedure**

### **7.1 Site Screening Questionnaire**

In order to ensure that the potential for adverse effects are kept to a minimum to the extent practicable, without unduly restricting or slowing down the development review process, a site screening questionnaire is proposed to screen out those sites which do not require a Phase 1 Environmental Site Assessment. The Cities of Mississauga, Cambridge and Town of Aurora and the Regions of Durham and Waterloo currently use a similar screening questionnaire.

The questionnaire is to be completed by the applicant and submitted with official plan and zoning amendment, plan of subdivision, and site plan applications. The application forms will be amended to include the questionnaire and as such the owners declaration on the application would also apply to the questionnaire. The application will not be considered complete and no processing of the application shall occur until the questionnaire is completed and submitted. Given that minor variances, part lot control and plans of condominium do not in themselves involve changes in land use, a site screening questionnaire will not be required for these applications.

In order to more fully address the issue of site contamination, it is proposed that all development application forms be revised to alert applicants of their responsibility regarding soil investigation and remediation.

A Phase 1 Environmental Site assessment will be required where any one or more of the following

circumstances apply:

1. The site screening questionnaire in the application indicates the potential for contamination on the subject property, or if the owner is uncertain to the answers to the questions in the questionnaire;

**AND**

the subject lands or adjacent lands are used or have been used in the past for an industrial, automotive, or other non-residential purposes such as gas stations, automotive repair garages, dry cleaning, or the storage of raw materials, land filling or agricultural practices that may have generated some level of contamination AND the proposal includes a change in use to a more sensitive land use;

A "More Sensitive" land use is considered to be a land use and/or associated activity which may include one or more of the following:

- residential - residences or facilities where people sleep (e.g., single and multiple dwellings, nursing homes, hotels, hospitals, trailer parks, camp grounds etc.);
- Institutional - permanent structures of an institutional nature (e.g., schools, churches, community centres, daycare facilities, etc.);
- restaurants - restaurants or places where food is prepared, stored, or served, either as a sole use or as an associated use but excluding the retail of pre-packaged foods;
- parks - park lands and outdoor recreational facilities

2. Lands are to be deeded to the municipality including but not limited to roads, parks, valleylands, woodlots storm water management facilities;
3. The City has information by which it has reason to suspect that the subject lands have the potential of being contaminated.

It is anticipated that the site screening questionnaire and the situations as set out in 2 and 3 above will trigger the requirement for a Phase 1 report on only a small proportion of the total properties on which development applications are filed. It is noted however that as a Phase 1 ESA is to be required in cases

where lands are to be conveyed to the City, it is expected that all plans of subdivision will be required to submit a Phase 1 ESA. The City has been requiring Phase 1 ESA reports as a condition of approval on most plans of subdivision since 1998, and as such the proposed process and procedures will simply formalize what has largely been a standard practice of the City for plans of subdivision. One difference will be that these reports will now be required prior to draft approvals being granted as opposed to the past practice of their submission being a condition of draft approval.

## 7.2 Process

### Administration

The Community Planning Department will circulate the Site Screening Questionnaire completed by the Owner to the Engineering Department.

The applicant's ESA reports will be forwarded to the Engineering Department. The expertise to review these types of reports does not currently exist in the Engineering Department. As a result, it is proposed that these reports be peer reviewed by consultants retained by the City. The applicant shall also submit \$2,000 to the Engineering Department to cover the cost of the peer review. This is consistent with the approach of the applicant reimbursing the City for the cost of the peer reviews conducted for these and other types of reports in the past. Should additional funds be required to complete the peer review, the proponent shall provide the required amounts as requested by the Engineering Department. After the completion of the review, the remaining funds, if any, shall be returned to the applicant.

It is expected that the impacts on staffing for the Engineering Department will be minimal given that the City will be relying upon consultants it retains to undertake the detailed review of the reports. In the future, the City may want to give consideration to developing its own expertise to review these types of reports, however the implications on staffing, liability etc. would need to be reviewed in detail.

### **Review Process**

The Phase 1 ESA will be reviewed by a peer reviewer of the City's choice and will advise whether or not the submitted information is complete. If the Phase 1 ESA indicates the potential of contamination, a Phase 2 ESA (on site soil, groundwater sampling) will be required to be submitted, reviewed and accepted by the City's peer reviewer prior to Council's approval of the application. In the case that the Phase 2 ESA indicates that a remedial work plan and site restoration is required, a remedial work plan will also be required prior to approval on the development application.

The Engineering Department will co-ordinate the review of the applicant's reports with the City peer reviewers and will provide comments on the reports to the Community Planning Department as part of their commenting on applications.

Where remediation is required the clean-up of the site could be a condition of site plan or draft plan approval. In the case of a rezoning, holding provisions could be used, with remediation of the site as a condition for lifting the H-symbol.

Further, upon the completion of a site restoration, the proponent is to submit a copy of the Record of Site Condition acknowledged by the Ministry of Environment. An MOE acknowledged Record of Site Condition is to be required where the environmental site assessment reports have identified that remediation is required to make the site suitable for the intended use.

### **Potentially Sensitive Site**

The *Guideline for Use at Contaminated Sites in Ontario* identifies various criteria for potentially sensitive sites where the generic clean-up criteria in the Guideline may not provide adequate protection requiring the use of more protective ecological criteria, or the use of background clean-up criteria, or adjustment through an ecological risk assessment.

Two of the criteria (Sections 6.1 (d) and (g) of the Guideline, envision municipalities identifying local environmentally sensitive areas and significant wetlands.

For the purposes of this Policy and Section 6.1 d) of the *Guideline for Use at Contaminated Sites in Ontario*, "a local environmentally sensitive area identified by a municipality, a conservation authority or other non-provincial body", shall include all Environmentally Significant Areas identified by the Toronto and Region Conservation Authority in the City of Vaughan and all areas designated "Woodlot" or "Tableland Woodlot" in Vaughan's Official Plan.

For the purposes of this Policy and Section 6.1 g) of the *Guideline for Use at Contaminated Sites in Ontario*, "a wetland identified as being significant by any planning jurisdiction", shall include all wetlands evaluated as Provincially and Locally Significant in the City of Vaughan.

### **7.3 Lands being acquired by the City for Parkland Purposes**

Where lands are being conveyed to the City for the purposes of parkland through the development process and where lands are being acquired for park purposes outside of any development approval process a Phase 2 environmental site assessment of the parkland area shall be prepared, to the satisfaction of the City.

The timing of the on-site sampling in the Phase 2 ESA report will be included in conditions of approval on developments in order that the sampling can address any potential impacts resulting from filling and grading required as part of the development of the park.

Should the Phase 2 report identify that remediation of the park is required to meet the applicable parkland criteria and other relevant MOE Guidelines respecting methane and other matters, the Owner shall undertake the required remediation to the satisfaction of the City and MOE as may be required.

### **8.0 Building Permits**

The Building Standards Department is responsible to ensure that proposed development is in compliance with the Ontario Building Code and other applicable law. This includes the Environmental Protection Act along with other legislative acts. The Building Department currently does not require environmental reports or an engineer's certification that sites are in compliance with MOE standards or Guidelines, prior to the issuance of building permits.

It is noted that the Policy and Procedures in this report do not address building permit applications. The implementation of additional measures at the Building Permit stage requires additional review by the Building Standards and Legal and Real Estate Departments. Staff will monitor the implementation of the policy and procedures and will report back to Council on any revisions which are considered necessary including the extension of procedures to the building permit stage.

## **9.0 Conclusion**

The issuance of the Guideline for Use at Contaminated Sites in Ontario has had the effect of shifting responsibilities concerning clean up of contaminated sites to property owners their consultants and, in part, to municipalities. The MOE is no longer performing the consultation and approval functions that they have performed in the past. The Guideline suggests that local municipalities should assume this role, although the Guideline cannot compel the municipality to do so.

To ensure that the City deals with the changes effected by the Guideline in an appropriate manner, it is recommended that the City address the issue of site contamination and how they should be dealt with through the development application process in a comprehensive manner. Subject to Council's concurrence, City Staff will follow the procedures as set out in this report. It is recognized that as the City and the development industry continue to work with the new Guidelines, there may be refinements necessary to the procedures. In this regard staff will monitor the implementation of the policy and procedures and report back to Council on any revisions which may be necessary.