

# 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: 8575-CVDNVA  
Risk assessment number: 6602-BVNHUJ

Owner:

**ABNA Investments Ltd.**

588 Scotland Road  
Odessa, Ontario  
K0H 2H0

Property:

**9 North Street, Kingston**

with a legal description described below:

Part Farm Lot A, Concession West of the Great Cataraqui River, being Part 1, 2 and 3 on Reference Plan 13R-20953; City of Kingston, County of Frontenac

Being All of PIN: 36001-0186 (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.**

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

## **Part 1: Interpretation**

In the CPU the following terms shall have the meanings defined below:

- “Adverse Effect” has the same meaning as in the Act; namely,
- (a) impairment of the quality of the natural environment for any use that can be made of it,
  - (b) injury or damage to property or to plant or animal life,
  - (c) harm or material discomfort to any person,
  - (d) an adverse effect on the health of any person,
  - (e) impairment of the safety of any person,
  - (f) rendering any property or plant or animal life unfit for human use,
  - (g) loss of enjoyment of normal use of property, and
  - (h) interference with the normal conduct of business;

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

“Applicable Site Condition Standards” and “ASCS” means soil and groundwater that meets the soil or groundwater criteria identified for residential/parkland/institutional/industrial/commercial/community property use in **Table 1** 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

“Building (s)” means an enclosed structure (s) occupying an area greater than ten square metres consisting of a wall

or walls, roof and floor;

“Building Code” means Ontario Regulation 332/12 (Building Code) as amended to January 1, 2015, made under the *Building Code Act, 1992*, S.O. 1992, c. 23.

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

“Contaminant of Concern” and “COC” has the meaning as set out in Section 3.2 of the CPU;

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

“CPU” means this Certificate of Property Use Number No. **8575-CVDNVA** as may be amended from time to time;

"Director" means the undersigned Director or any other person appointed as a Director for the purpose of issuing a certificate of property use;

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

“Environmental Compliance Approval” has the same meaning as set out in the Act;

“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 and has obtained the appropriate education and training and demonstrated expertise in the areas related to the work required to be carried out in this CPU;

"Ministry" means the ministry of the government of Ontario responsible for the administration of the Act, currently named the Ministry of the Environment, Conservation and Parks;

“O. Reg. 153/04” means Ontario Regulation 153/04 (Record of Site Condition – Part XV.1 of the Act), made under the Act;

“Owner” means the owner(s) of the Property, described in the “Owner” section on page 1 above, and any subsequent registered or beneficial owner of the Property;

"OWRA" means the *Ontario Water Resources Act*, R.S.O. 1990 c. O.40;

“Property” means the property that is the subject of the CPU and described in the “Property” section on page 1 above, and illustrated in Schedule ‘A’: Figure 1: Site Plan (**Figure 1**), which is attached to and forms part of this CPU;

“Property Specific Standards” and “PSS” means the property specific standards established for the Contaminants of Concern set out in the Risk Assessment and in Section 3.2 of the CPU;

“Property Management Oversight” means management, on an ongoing basis, of all structural, mechanical, electrical, ventilation and other Building and Property services that relate to the vapour mitigation system as specified in Section 4.2(i) and 4.2(l) of this CPU including oversight of operation, inspection, monitoring, maintenance and repair activities, and of operational and reserve funding for these activities, by a property manager or management company engaged by the Owner or, in the case of collective ownership, by an authorized representative or representatives of the collective ownership of the Building and Property, such as a condominium board.

"Provincial Officer" means a person who is designated as a provincial officer for the purposes of the Act;

“Qualified Person” means a person who meets the qualifications prescribed in O. Reg. 153/04;

"Risk Assessment" and “RA” means the Risk Assessment **No. 6602-BVNHUJ** accepted by the Director on **June 8, 2023** and set out in the following final documents:

- “Risk Assessment Pre-submission Form for 9 North Street, Kingston, Ontario”, prepared by XCG Consulting Limited and dated November 17, 2020
- “Risk Assessment and Risk Management Plan 9 North Street, Kingston, Ontario”, report prepared by XCG Consulting Limited and dated October 21, 2021
- “Risk Assessment and Risk Management Plan 9 North Street, Kingston, Ontario”, report prepared by XCG Consulting Limited and dated September 26, 2022
- “Risk Assessment and Risk Management Plan 9 North Street, Kingston, Ontario”, report prepared by XCG Consulting Limited and dated March 10, 2023
- “RE: Request for Additional Information - RA for 9 North Street, Kingston, Ontario [RA1919-20c; IDS#6602-BVNHUJ]”, email from Erica Gray, XCG Consulting Limited, received by TASDB on May 25, 2023, with following documents attached:
  - RA18981704005App B8 .pdf
  - RA18981704005May2423.pdf

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

“Risk Management Plan” and “RMP” means the risk management plan detailed in Section 7 of the RA dated March 10, 2023; and,

“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 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** Subsection 168.6 (1) of the Act states that if the Director accepts a risk assessment relating to a property, he or she may, when giving notice under clause 168.5 (1)(a), issue a certificate of property use to the owner of the property, requiring the owner to do any of the following things
- a. Take any action specified in the certificate that, in the Director’s opinion, is necessary to prevent, eliminate or ameliorate any adverse effect on the property, 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 the property to take any action that would have the effect of reducing the concentration of a contaminant on, in or under the property to a level below the level that is required to meet the standards specified for the contaminant in the risk assessment.

- 2.5 Subsection 168.6(3) of the Act states that the Director may, on his or her own initiative or on application by the owner of the property in respect of which a certificate has been issued under subsection 168.6(1),
- 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 the 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 (RA) was undertaken for the Property on behalf of the Owner to assess the human health risks and ecological risks associated with the presence or discharge of Contaminants of Concern on, in or under the Property and to identify appropriate Risk Management Measures (RMMs) to be implemented to ensure that the Property is suitable for the intended use: “**Residential**” as defined in O. Reg. 153/04.
- 3.2 The Contaminants of Concern on, in, or under the Property that are present above the residential/parkland/institutional/industrial/commercial/community property use standards within **Table 1** 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 or for which there are no such standards, are set out in the RA as the Contaminants of Concern. The Property Specific Standards for these Contaminants of Concern are set out in Schedule ‘A’: Table A – Property Specific Standards (PSS) – Soils (**Table A**) and Schedule ‘A’: Table B – Property Specific Standards (PSS) – Groundwater (**Table B**) which are attached to and form part of the CPU.
- 3.3 I am of the opinion, for the reasons set out in the RA that the RMMs described therein and outlined in Part 4 of the CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property that has been identified in the RA.
- 3.4 The RA indicates the presence of Contaminants of Concern in soil and groundwater which requires on- going restriction of land use and pathway elimination. As such, it is necessary to restrict the use of the Property and

impose Building restrictions and implement RMMs as set out in the RA and in Parts 4 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 this CPU.

3.6 I believe for the reasons set out in the RA that it is also advisable to require the disclosure of this CPU and the registration of notice of the CPU on title to the Property as set out in section 197 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 the authority vested in me under subsection 168.6(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 Risk Management Measures.

4.2 Without restricting the generality of the foregoing in Section 4.1, carry out or cause to be carried out the following key elements of the RMMs:

##### Soil Barriers

- a) The Property shall be covered in its entirety with a barrier to site soils designed, installed and maintained in accordance with the RA so as to prevent exposure to the Contaminants of Concern (COCs) and shall be maintained for as long as the COCs are present on the Property at concentrations that exceed the PSS. The barriers should be Soil barriers shall be installed under the direction and supervision of a Licensed Professional Engineer. The barrier to the site soils shall consist of hard caps, soil fill caps, or foundations:
  - i. Hard caps on the Property shall have a minimum thickness of 0.225 metres consisting of at least 0.075 metres of hot mix asphalt or poured concrete underlain by granular 'A' aggregate or equivalent material as illustrated in Figure 2 – Soil Barriers (**Figure 2**), which is attached to and forms part of this CPU.
  - ii. Soil fill caps on the property shall have a minimum thickness of 0.5 metres consisting of granular fill and/or soil meeting the ASCS as illustrated in **Figure 2**.
- b) Within 90 days of completion of the installation of any new soil barriers on the Property or portion of the Property, the Owner shall submit to the Director written confirmation signed by a Licensed Professional Engineer that the barriers have been installed in accordance with the RA and Section 4(a) of this CPU. This written confirmation should include final design specifications/drawings and or as built drawings and a site plan that clearly identifies the final location of each of the barriers.
- c) In relation to Section 4.2(a) of this CPU, areas of the Property that are not in use or not under development, do not require soil barriers so long as exposure to the COCs is prevented by a fence that restricts access to those areas of the Property and any exposed soil at the site is covered by a layer of crushed granular material at least 100mm in thickness. The Owner shall inspect the fencing and the layer of crushed granular material on a semi-annual basis (spring and fall) at minimum for deficiencies that may allow unauthorized access to any portion of the Property until such time as the redevelopment of the Property or portions of the property is completed. Any identified deficiencies shall be repaired within a reasonable period of time. The Owner shall keep records of the inspections and maintenance and make them available for review by the Ministry upon request.
- d) An inspection and maintenance program shall be implemented to ensure the continuing integrity of any installed soil barriers as long as the COCs are present on the Property. The inspection program shall include at a minimum, semi-annual (every six months) inspections of the integrity of any soil barriers installed on the Property in accordance with the inspection and maintenance program as detailed in Section 7.5.1 of the RA. Any deficiencies in the soil barriers shall be repaired within a reasonable period of time in accordance with

the contingency plans identified in Section 7.5.1 of the RA. The Owner shall keep records of the inspections and any completed maintenance and repairs and make them available for review by the Ministry upon request.

#### Impermeable Barrier

- e) An impermeable barrier shall be installed and maintained in accordance with Section 7.3.2 of the RA and as illustrated in Figure 3 – Impermeable Barrier Location (**Figure 3**) and Figure 4 – Impermeable Barrier Design (**Figure 4**) so as to prevent exposure to the COCs and shall be maintained for as long as the COCs are present on the Property at concentrations that exceed the ASCS. The Impermeable Barrier shall be installed under the direction and supervision of a Licensed Professional Engineer.
- f) Within 90 days of completion of the installation of the Impermeable Barrier on the Property, the Owner shall submit to the Director written confirmation signed by a Licensed Professional Engineer that the Impermeable Barrier has been installed in accordance with the RA and Section 4.2(e) of this CPU. This written confirmation should include final design specifications/drawings and or as built drawings and a site plan that clearly identifies the final location of each of the barriers.
- g) In relation to Section 4.2(e) of this CPU, prior to the development of the site, the barrier need not be installed so long as exposure to the COCs is prevented by a fence that restricts access to those areas of the Property. The Owner shall inspect the fence on a semi-annual basis (spring and fall) at minimum for deficiencies that may allow unauthorized access to any portion of the Property until such time as the redevelopment of the Property or portions of the property is completed. Any identified deficiencies shall be repaired within a reasonable period of time. The Owner shall keep records of the inspections and maintenance and make them available for review by the Ministry upon request.
- h) An inspection and maintenance program shall be implemented to ensure the continuing integrity of the Impermeable Barrier as long as the COCs are present on the Property. The inspection program shall include at a minimum, semi-annual (every six months) inspections of the integrity of the barrier in accordance with the inspection and maintenance program as detailed in Section 7.5.2 of the RA. Any deficiencies in the barrier shall be repaired within a reasonable period of time in accordance with the contingency plans identified in Section 7.5.2 of the RA. The Owner shall keep records of the inspections and any completed maintenance and repairs and make them available for review by the Ministry upon request.

#### Vapour Intrusion Mitigation – Existing Building

- i) Occupancy of the existing Building on the property is prohibited unless the Building is constructed with a vapour membrane barrier and active vapour mitigation system (VMS) as outlined in Section 7.3.4 of the RA and in accordance with Schedule ‘A’: Figure 5 – Sub-Slab Ventilation (**Figure 5**) and Schedule ‘A’: Figure 6 – Sub-Slab Ventilation and Wall Construction (**Figure 6**), which are attached and form part of this CPU. The installation of the VMS shall be completed under the supervision of a Licensed Professional Engineer.
- j) Within 90 calendar days of the completion of the installation and the commissioning of a vapour membrane barrier and active VMS as outlined in Section 4.2(i) of this CPU, and prior to first occupancy, the Owner shall submit to the Director as-built drawings as well as the details and results of quality assurance and quality control measures taken to ensure the integrity of the vapour membrane and VMS and shall include (but not be limited to) the completion of smoke testing. The submission shall be prepared by the Licensed Professional Engineer along with a statement from the Licensed Professional Engineer that the VMS has been installed in accordance with the design specifications and has been designed to meet the requirements and objectives specified in Section 7.3.4 of the RA.
- k) The Owner shall obtain an ECA, as necessary, and any other permits or approvals as may be required for the VMS outlined in Section 4.2(i) of this CPU.

#### Vapour Intrusion Mitigation – New Buildings or Expansion of the Existing Building

- l) The construction of any new building or the expansion of the existing building on the Property is prohibited unless the new or expanded Building(s) is constructed with a vapour membrane barrier and active VMS as



outlined in Section 7.3.4 of the RA and in accordance with Schedule 'A': Figure 7 – Vapour Barrier with Active Venting (**Figure 7**) and Schedule 'A': Figure 8 – Typical Vent Riser (**Figure 8**), which are attached and form part of this CPU. The installation of the VMS shall be completed under the supervision of a Licensed Professional Engineer.

- m) Within 90 calendar days of the completion of the construction of any new Building(s) and prior to first occupancy, the Owner shall submit to the Director as-built drawings and detailed design specifications pertaining to the building foundation and VMS design as required by Section 4.2(l) of this CPU, as well as the details and results of quality assurance and quality control measures taken to ensure the integrity of the vapour membrane and VMS and shall include (but not be limited to) the completion of smoke testing. The submission shall be prepared by the Licensed Professional Engineer along with a statement from the Licensed Professional Engineer that the building and the VMS have been installed in accordance with the design specifications and has been designed to meet the requirements and objectives specified in Section 7.3.4 of the RA.
- n) The Owner shall obtain an ECA, as necessary, and any other permits or approvals as may be required for the VMS outlined in Section 4.2(l) of this CPU.

Vapour Mitigation System – Monitoring and Maintenance

- o) Those VMS associated with Sections 4.2(i) and 4.2(l) of this CPU shall be operated, monitored, and maintained by the Owner as detailed in Section 7.5.3 of the RA for as long as the COCs are present on the Property. The Licensed Professional Engineer that designed the VMS shall prepare an operation, monitoring, and maintenance program, including a contingency plan as described in Section 7.5.3 of the RA. The operation, monitoring, and maintenance program shall be implemented to ensure the continued integrity of the building floor slab and VMS for as long as the COCs are present on the Property, and shall be developed and implemented prior to occupancy of the building. Any major cracks, breaches or loss of integrity observed in the building floor slab or any observed deficiencies or necessary maintenance requirements with the VMS shall be repaired forthwith to the original design specification, at minimum. Repairs or maintenance shall be made by a contractor, under the supervision of a Licensed Professional Engineer as necessary. If repairs to the building floor slab and/or VMS cannot be completed in a timely manner, the Owner shall ensure that contingency measures prepared by a Licensed Professional Engineer are implemented as necessary. All repairs to the VMS are to be inspected by a Licensed Professional Engineer and signed documentation shall be provided to the Owner that states that the repairs meet the original design specifications, at minimum. The Owner shall submit to the Director the written confirmation, prepared and signed by a Licensed Professional Engineer, that the VMS has been repaired to meet the original design specifications, at minimum. The written confirmation shall also include a description of any contingency measures that were put in place and shall be submitted to the Director within 30 days of the completion of any repairs to the VMS. The Owner shall keep a copy of the operation, monitoring, and maintenance program and any records related to the inspection, monitoring and maintenance program, along with documentation of all repairs that were required to be undertaken, and these records shall be made available by the Owner to the Ministry for review upon request.
- p) The Owner shall ensure that all individuals/contractors intending to undertake work which could potentially come into contact with or interfere with the operation of the VMS associated with Sections 4.2(i) or 4.2(l) are made aware of the presence of the VMS and the need to take appropriate precautions to ensure the integrity of the vapour barrier system or SSDS at all times. If the VMS is damaged at any time, the Owner shall ensure that it is repaired forthwith by a contractor, under the supervision of a Licensed Professional Engineer as necessary, to the original design specifications, at minimum. If repairs to the VMS cannot be completed in a timely manner, the Owner shall ensure that the contingency measures prepared by a Licensed Professional Engineer are implemented. All repairs to the VMS are to be inspected by a Licensed Professional Engineer and signed documentation shall be provided to the Owner that states that the repairs meet the original design specifications, at minimum. The Owner shall submit to the Director the written confirmation, prepared and signed by a Licensed Professional Engineer, that the VMS has been repaired to meet the original design specifications, at minimum. The written confirmation shall also include a description of any contingency measures that were put in place and shall be submitted to the Director within 30 calendar days of the completion of any repairs to the VMS. The Owner shall maintain records of all activities and

repairs in relation to the VMS and these records shall be made available by the Owner to the Ministry for review upon request.

Vapour Mitigation System - Performance Monitoring

- q) Prior to occupancy of any existing, new, or expanded buildings, the Owner shall implement an operational monitoring program in accordance with Section 7.5.3 of the RA to demonstrate that the vapour mitigation system is performing as intended. Specifically, the operational monitoring program shall include the following key components:
- i. Be overseen by a Licensed Professional Engineer.
  - ii. The collection of indoor air sampling at an appropriate number of representative locations within the building that is adequate for the size and configuration of any new Building(s) as determined appropriate by the Licensed Professional Engineer and discussed in Section 7.5.3 of the RA.
  - iii. The completion of pressure differential and sub-slab vapour sampling as described in Section 7.5.3 of the RA, or an alternative form of monitoring, as deemed appropriate by the Licensed Professional Engineer, and approved by the Director.
  - iv. Notwithstanding the frequencies outlined elsewhere in this CPU and in the RA, Sub-slab vent monitoring and pressure differential monitoring shall be completed at the following minimum frequency:
    - a. On at least one occasion prior to first occupancy;
    - b. Quarterly for one year;
    - c. Semi-Annually (summer and winter) thereafter for a minimum of four years, and until written approval by the Director following a request made a Licensed Professional Engineer on behalf of the owner to discontinue the indoor air monitoring program.
  - v. The indoor air and sub-slab vent samples shall be sent to an accredited laboratory and analyzed for the Target Analytes listed in Schedule 'A': Table C: Target Indoor Air Concentrations (**Table C**) and Schedule 'A': Table D: Target Sub-Slab Vent Concentrations (**Table C**), which are attached to and form part of this CPU.
  - vi. Pressure differential monitoring results shall be evaluated to ensure that the SVMs is 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.
  - vii. An annual report documenting the results of the performance monitoring program shall be prepared by a Licensed Professional Engineer and submitted to the Director on or before **March 31st** of the following calendar year, until written approval to discontinue the program is received from the Director. The annual report shall include, but not be limited to:
    - a. Laboratory results and laboratory certificates of analysis;
    - b. Field logs and documentation of QA/QC processes;
    - c. Discussion and interpretation of the indoor air sampling results in comparison to the respective Target Indoor Air Concentrations as listed in **Table C**; and,
    - d. Discussion and interpretation of the sub-slab vent sampling results in comparison to the respective Target Indoor Air Concentrations as listed in **Table D**; and,
    - e. Conclusions and recommendations with respect to the need for additional and or continued monitoring as may be warranted.
  - viii. In the event that the performance monitoring program detailed in Section 4.2 (q) of this CPU identifies one or more of the Target Analytes in indoor air at concentrations above the Target Indoor Air Concentrations specified in **Table C**, or one or more of the Target Analytes in a sub-slab vent sample at concentrations above the Target Sub-Slab Vent Concentrations specified in **Table D**, or the identified pressure differential is less than 6 Pascals, the Owner shall implement the contingency measures detailed in Section 7.4.3 of the RA, including the following:
    - a. Confirmatory sampling shall occur within 7 calendar days from the date of the Owner's receipt of the laboratory analysis unless it is assumed that the original sample exceedance(s) are valid and resampling is not required.



- b. In the event that the confirmatory indoor air or sub-slab vent sampling program verifies the exceedance of one or more of the Target Analytes at concentrations above the respective Target Concentrations specified in **Table C** and **Table D**, as applicable, or the original exceedance(s) are assumed to be valid without completing confirmatory sampling, the Owner shall submit to the Director written notice of the exceedance(s) within 7 calendar days of the Owners receipt of the laboratory results. This notice shall be prepared by a Licensed Professional Engineer and include the indoor air results, the sub-slab vent results, the laboratory certificates of analysis, and relevant details pertaining to the sampling method.
- c. Within 30 calendar days of the owners receipt of the laboratory results, the Owner shall submit to the Director a report prepared by a Licensed Professional Engineer that demonstrates that the identified Target Indoor Air Concentration exceedances are due to background sources, or a report prepared by a Licensed Professional Engineer that includes an assessment of the suspected cause of the identified exceedance(s) and the contingency measures that will be implemented, and a schedule for the implementation of contingency measures.

Soil and Groundwater Management Plan

- r) A project specific soil and groundwater management plan (Plan) shall be developed and implemented prior to site redevelopment and for all intrusive activities at the Property that could potentially result in contact with or exposing soil. The Plan shall be developed in accordance with the details provided in Section 7.3.6 of the RA. A copy of the Plan shall be maintained on the Property for the duration of all planned intrusive activities. Any short-term intrusive activities required for the purposes of emergency repairs (i.e. for repairs to underground utilities etc.) will not require the submission of the Plan prior to undertaking the short-term emergency repairs. For planned intrusive activities, this Plan shall be submitted to the Director by the Owner at least 14 calendar days prior to any such intrusive activities being undertaken. The Plan shall include, but not be limited to, the following key components as deemed necessary by a Qualified Person:
  - i. oversight by a Qualified Person;
  - ii. dust control measures and prevention of soils tracking by vehicles and personnel from the Property;
  - iii. management of excavated soils including cleaning equipment, placement of materials for stockpiling on designated areas lined and covered with polyethylene sheeting, bermed and fenced to prevent access, runoff control to minimize contact and provisions for discharge to sanitary sewers or other approved treatment;
  - iv. storm water management measures to control the potential transport of COCs off-site during on-site construction/redevelopment activities. This shall include, but to not be limited to, silt fences and filter socks on catch-basins and utility covers as necessary;
  - v. characterization of excavated soils to determine if the excavated soils exceed the Property Specific Standards listed in Table A of Schedule “A” attached to this CPU (Table A) and/or the ASCS and require off-site disposal in accordance with the provisions of Ontario Regulation 347, as amended, made under the Act;
  - vi. record keeping, which shall include, but not be limited to, dates and duration of work, weather and site conditions, location and depth of excavation activities, dust control measures, stockpile management, and drainage, all soil and characterization results obtained as part of the soil management plan, names of the Qualified Person(s), contractor(s), hauler(s) and receiving site(s) for any excavated excess soils or waste soils removed from the Property, and any complaints received relating to the Property activities; and,
  - vii. a copy of the Plan and any amendments and the records kept thereunder shall be made available for review by the Ministry upon request.

Health and Safety Plan

- s) A property specific health and safety plan (plan) shall be developed for the Property and implemented during all planned intrusive activities and a copy shall be maintained on the Property for the duration of the

intrusive work. The Owner shall ensure that the Property specific health and safety plan takes into account the presence of the COCs and is implemented prior to any intrusive work being done on the Property in order to protect workers from exposure to the COCs. In addition to the requirements detailed in Section 7.3.5 of the RA, the health and safety plan shall be prepared in accordance with applicable Ministry of Labour health and safety regulations, along with all potential risks identified in the RA and include, but not limited to, occupational hygiene requirements, personal protective equipment, contingency plans and contact information. Prior to initiation of any Project on the Property, the local Ministry of Labour office shall be notified, where so prescribed under the OHSA, of the proposed activities and that COCs have been identified in soils and groundwater. The plan shall be overseen by a Competent Person to review the provisions of the plan with respect to the proposed site work and conduct daily inspections. The Owner shall retain a copy of the plan to be available for review by the Ministry upon request.

#### Prohibition of Potable Groundwater Wells

- t) Upon issuance of the CPU, the Owner shall take all actions necessary or advisable to prevent any use of ground water in or under the Property as a potable water source. The Owner shall, Refrain from using groundwater in or under the Property as a potable source of water; and, Except, as may be required for continued use as a monitoring well, as defined in the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40 (OWRA): properly abandon on the Property any wells, as described or defined in the OWRA, according to the requirements set out in Regulation 903 of the Revised Regulations of Ontario 1990: (Wells), made under the OWRA; and, refrain from constructing on the Property any wells as described or defined in the OWRA.

#### Prohibition of Growing Produce for Consumption:

- u) The Owner shall refrain from planting any plants or produce that are edible or intended for human consumption unless grown in raised beds or planters having no contact with the site soils.

#### Prohibition of Deep-Rooting Vegetation:

- v) The Owner shall refrain from planting any deep-rooting trees or vegetation that have rooting depths greater than 500 mm. This prohibition is intended to ensure the ecological protection of the vegetation and integrity of the soil barriers required under Section 4.2(a) of this CPU.

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

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

- 5.1 The Owner shall ensure that all residential use freehold dwellings/Buildings constructed on the Property or portions of the Property have Property Management Oversight. Residential use freehold dwellings/Buildings constructed on the Property or portions of the Property that do not have Property Management Oversight is prohibited.
- 5.2 Refrain from using the Property for any of the following use(s): “Agricultural or Other Use”, as specified in O. Reg. 153/04.
- 5.3 Refrain from constructing the following building(s): Any building except as may be permitted in the CPU including by implementing on any Building, the Risk Management Measures as may be applicable.
- 5.4 The Owner shall ensure that every occupant of the Property is given notice that the Ministry has issued this CPU and that it contains the provisions noted above in Items 5.1, 5.2, and 5.3, unless noted N/A. For the purposes of this requirement, an occupant means any person with whom the Owner has a contractual relationship regarding the occupancy of all or part of the Property.

### **Part 6: Additional Requirements**

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

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

In the event of a change in the physical site conditions or receptor characteristics at the Property that may affect the RMMs and/or any underlying basis for the RMMs, forthwith notify the Director of such changes and the steps taken, to implement, maintain and operate any further RMMs as are necessary to prevent, eliminate or ameliorate any Adverse Effect that will result from the presence on, in or under the Property or the discharge of any Contaminant of Concern into the natural environment from the Property. An amendment to the CPU will be issued to address the changes set out in the notice received and any further changes that the Director considers necessary in the circumstances.

### **6.2 Report Retention Requirements**

The Owner shall retain a copy of any reports required under the CPU, the Risk Assessment and any reports referred to in the Risk Assessment (until otherwise notified by the Director) and within ten (10) days of the Director or a Provincial Officer making a request for a report, provide a copy to the Director or Provincial Officer.

### **6.3 Owner Change**

While the CPU is in effect, forthwith report in writing to the Director any changes of ownership, of the Property, except that while the Property is registered under the *Condominium Act, 1998*, S.O. 1998, c.19, no notice shall be given of changes in the ownership of individual condominium units or any related common elements on the Property.

### **6.4 Financial Assurance**

The Director has not included in the CPU a requirement that the Owner provide financial assurance to the Crown in right of Ontario.

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

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

### **7.1 Property Notice**

For the reasons set out in the CPU and pursuant to the authority vested in me under subsection 197(1) of the Act, I hereby order you and any other person with an interest in the Property, before dealing with the Property in any way, to give a copy of the CPU, including any amendments thereto, to every person who will acquire an interest in the Property, as a result of the dealing.

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

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

### **7.3 Verification**

Within five (5) calendar days after registering of the certificate of requirement, provide to the Director a copy of the registered certificate and of the parcel register (s) for the Property confirming that the certificate of requirement has been registered on title to the Property.

## **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 sub section 168.6(3) of the Act to alter any terms and conditions in the CPU, or impose new terms and conditions, 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 a requirement of the CPU constitutes an offence.
- 8.4 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.
- 8.5 The requirements of the CPU are minimum requirements only and do not relieve you from, complying with any other applicable order, statute, regulation, municipal, provincial or federal law, or obtaining any approvals or consents not specified in the CPU.
- 8.6 Notwithstanding the issuance of the CPU, further requirements may be imposed in accordance with legislation as circumstances require.
- 8.7 In the event that any person is, in the opinion of the Director, rendered unable to comply with any requirements in the CPU because of,
- 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.
- 8.8 Failure to comply with a requirement of the CPU by the date specified does not relive the Owner(s) from compliance with the requirement. The obligation to complete the requirement shall continue each day thereafter.
- 8.9 The Risk Management Measures identified in the Risk Assessment and also in Part 4 of the CPU and all other requirements of the CPU shall commence upon the issuance of the CPU and continue in full force and effect in accordance with the terms and conditions of the CPU until such time as the Director alters or revokes the CPU.
- 8.10 In the event that the Owner complies with provisions of Sections 7.2 and 7.3 of the CPU regarding the registration of the certificate of requirement on title to the Property, and then creates a condominium corporation by the registration of a declaration and description with respect to the Property pursuant to the *Condominium Act, 1998*, S.O. 1998, c.19, and then transfers ownership of the Property to various condominium unit owners, the ongoing obligations of the Owner under this CPU may be carried out and satisfied by the condominium corporation by and on behalf of the new Owners of the Property.
- 8.11 Where there is more than one Owner each person is jointly and severally liable to comply with any requirements of the CPU unless otherwise indicated.

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

With respect to those provisions relating to my authority in issuing a certificate of property use under section 168.6 and an order under section 197 of the Act:

- 9.1 Pursuant to section 139 of the Act, you may require a hearing before the Ontario Land Tribunal (the “Tribunal”), if within fifteen (15) days after service on you of a copy of the CPU, you serve written notice upon the Director and the Tribunal.
- 9.2 Pursuant to section 142 of the Act, the notice requiring the hearing must include a statement of the portions of the CPU and the grounds on which you intend to rely at the hearing. Except by leave of the Tribunal, you are not entitled to appeal a portion of the CPU, or to rely on a ground, that is not stated in the notice requiring the hearing.
- 9.3 Service of a notice requiring a hearing must be carried out in a manner set out in section 182 of the Act and Ontario Regulation 227/07: Service of Documents, made under the Act. The contact information for the Director and the Tribunal is the following:

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

and

District Manager  
Kingston District Office  
Ministry of the Environment, Conservation and Parks  
1259 Gardiners Road, Unit 3  
Kingston, ON K7P 3J6  
Fax: 613-548-6920  
Email: [cathy.chisholm@ontario.ca](mailto:cathy.chisholm@ontario.ca)

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

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

- 9.4 Unless stayed by the Tribunal under section 143 of the Act, the CPU is effective from the date of issue.
- 9.5 If you commence an appeal before the Tribunal, under section 47 of the *Environmental Bill of Rights, 1993* (the “EBR”), you must give notice to the public in the Environmental Registry of Ontario. The notice must include a brief description of the CPU (sufficient to identify it) and a brief description of the grounds 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, in order to provide fair and adequate representation of the private and public interests, including governmental interests, involved in the appeal.
- 9.7 Pursuant to section 38 of the EBR, any person resident in Ontario with an interest in the CPU may seek leave to appeal the CPU. Pursuant to section 40 of the EBR, the application for leave to appeal must be made to the Tribunal by the earlier of:
- a. fifteen (15) days after the day on which notice of the decision to issue the CPU is given in the Environmental Registry of Ontario; and

- b. if you appeal, fifteen (15) days after the day on which your notice of appeal is given in the Environmental Registry of Ontario.

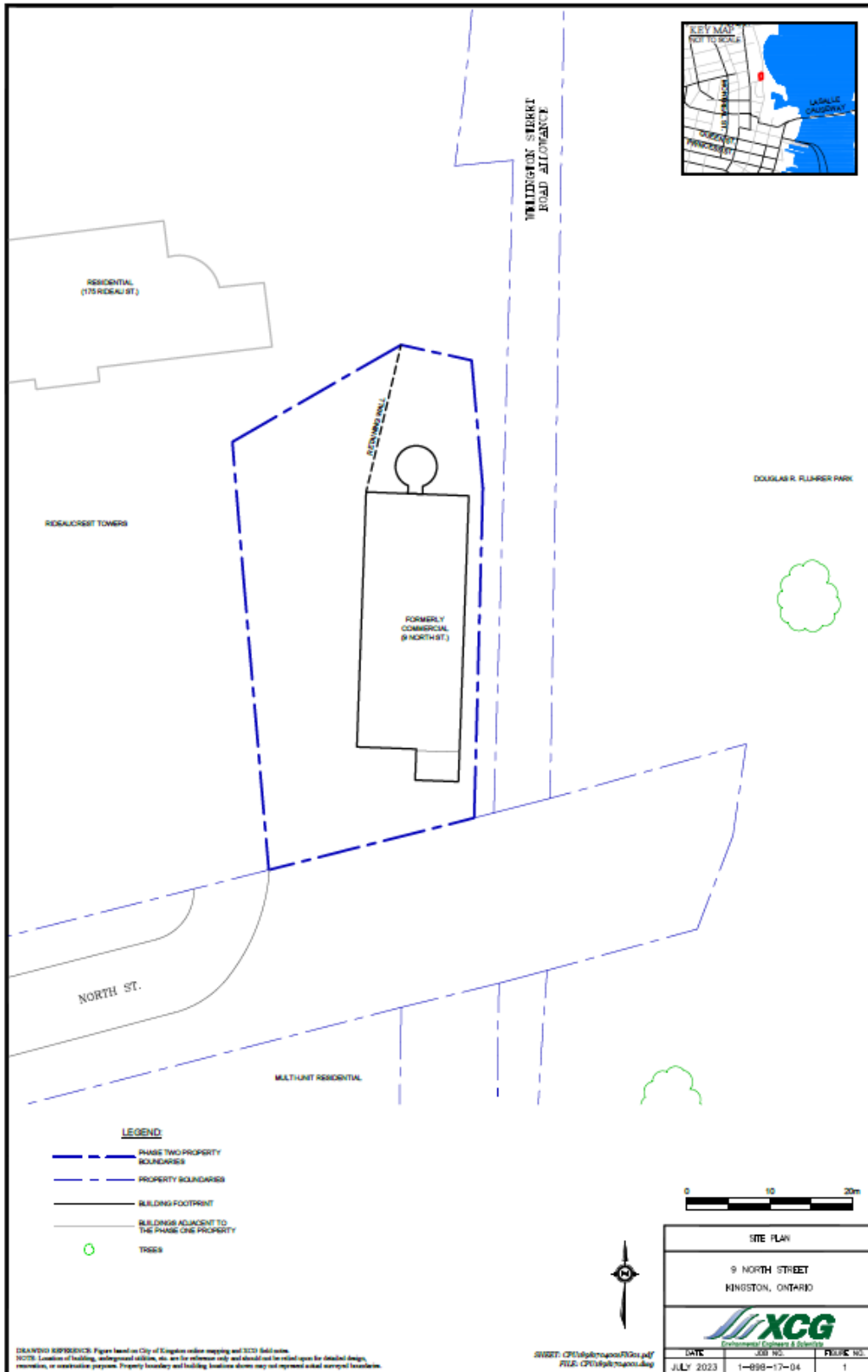
**9.8** The procedures and other information provided in this Part 9 are intended as a guide. The legislation should be consultant for additional details and accurate reference. Further information can be obtained from e- Laws at [www.ontario.ca/laws](http://www.ontario.ca/laws)

Issued on this **XX** day of **MONTH**, 2024.

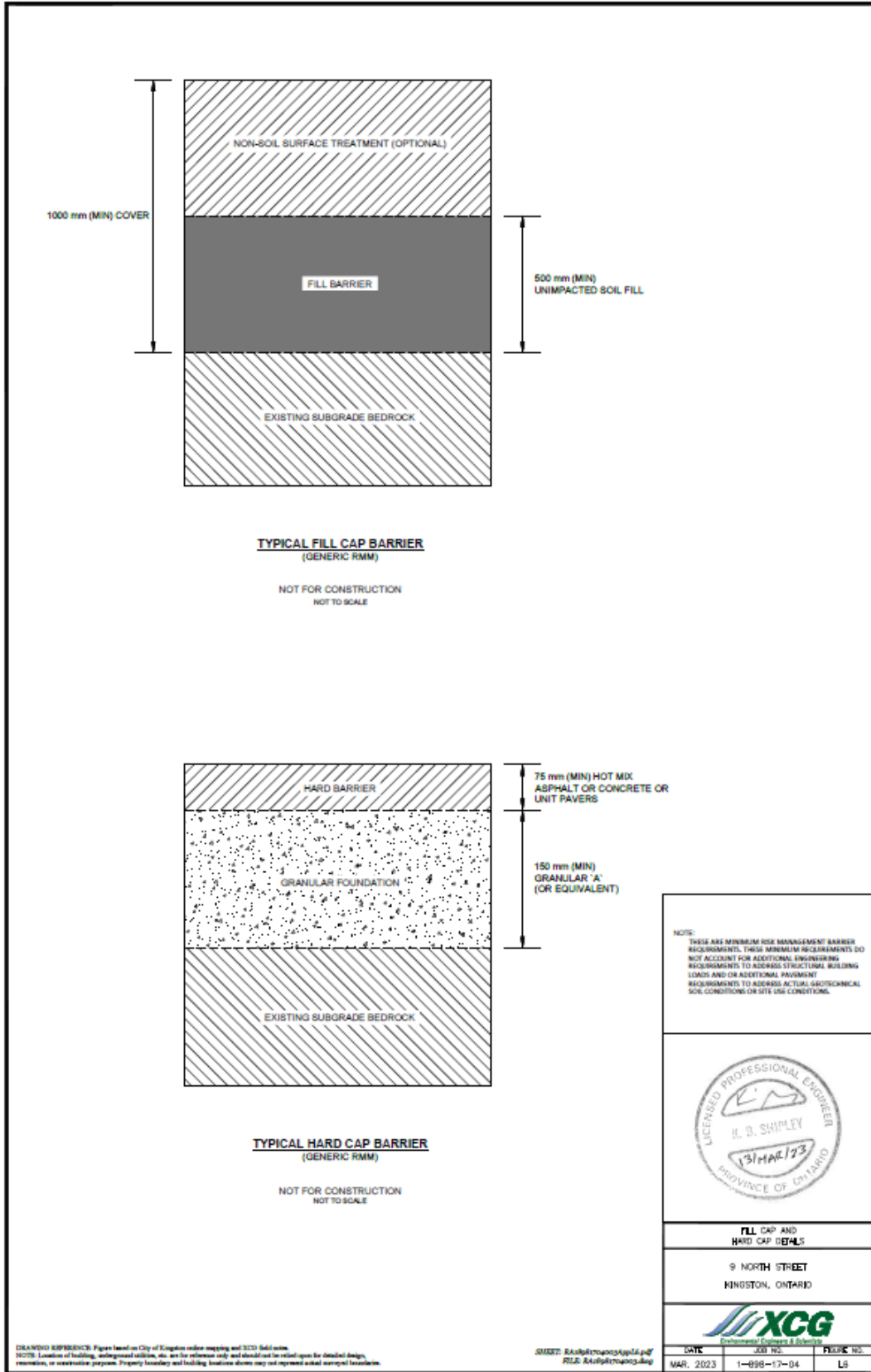
Catherine Chisholm  
Director, section 168.6 of the Act



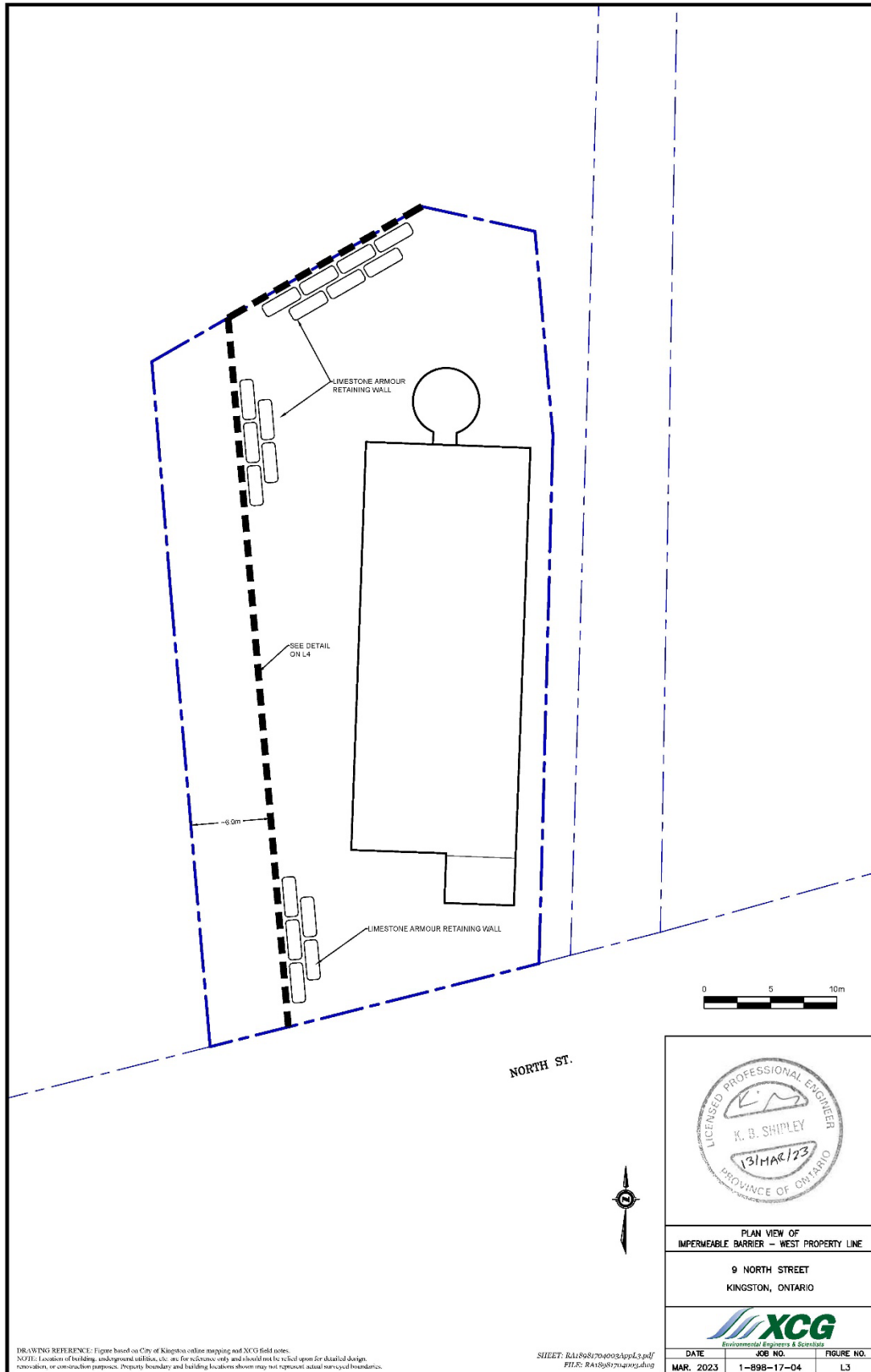
Schedule 'A': Figure 1- Site Plan (not to scale)



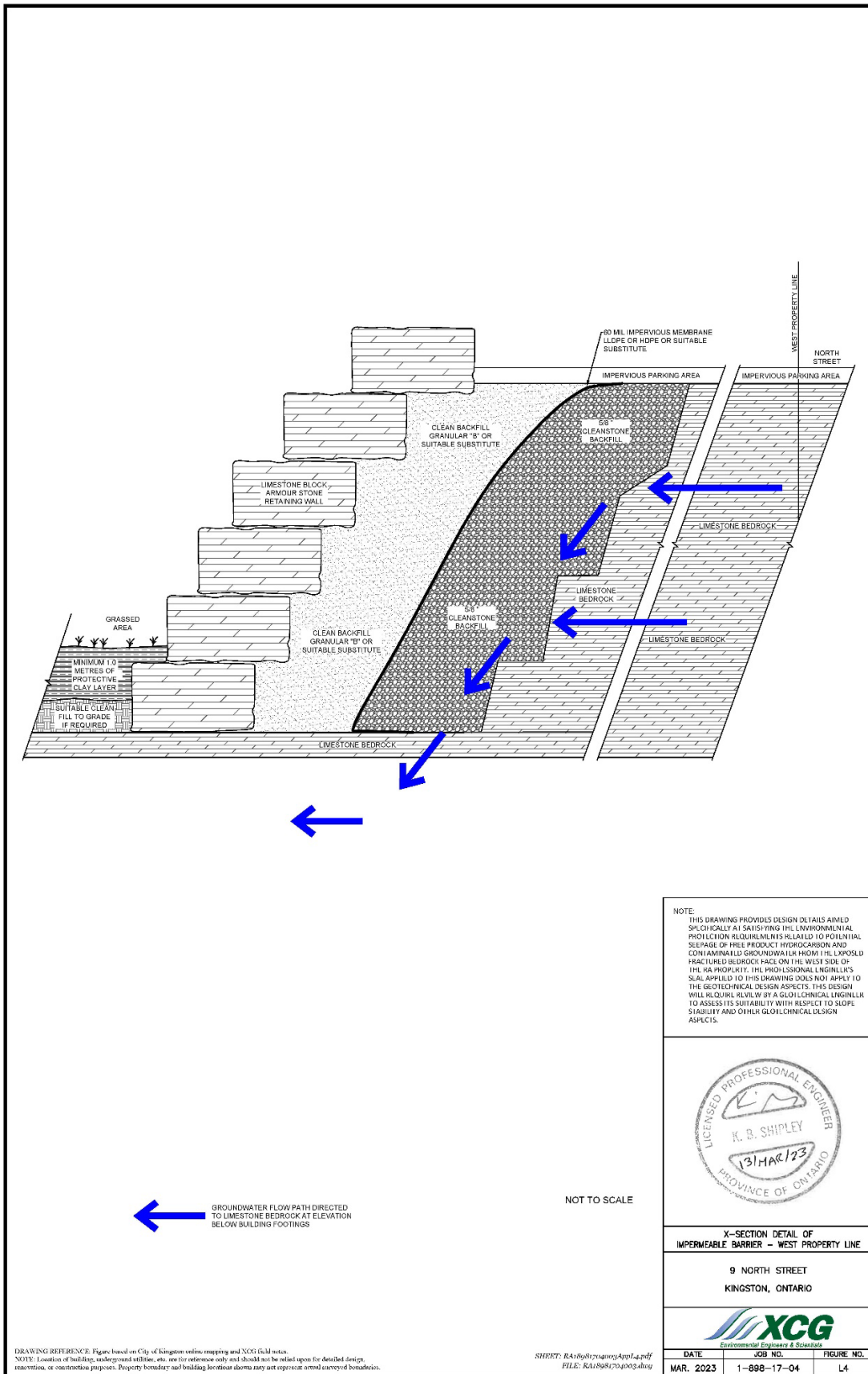
Schedule 'A': Figure 2 – Soil Barriers



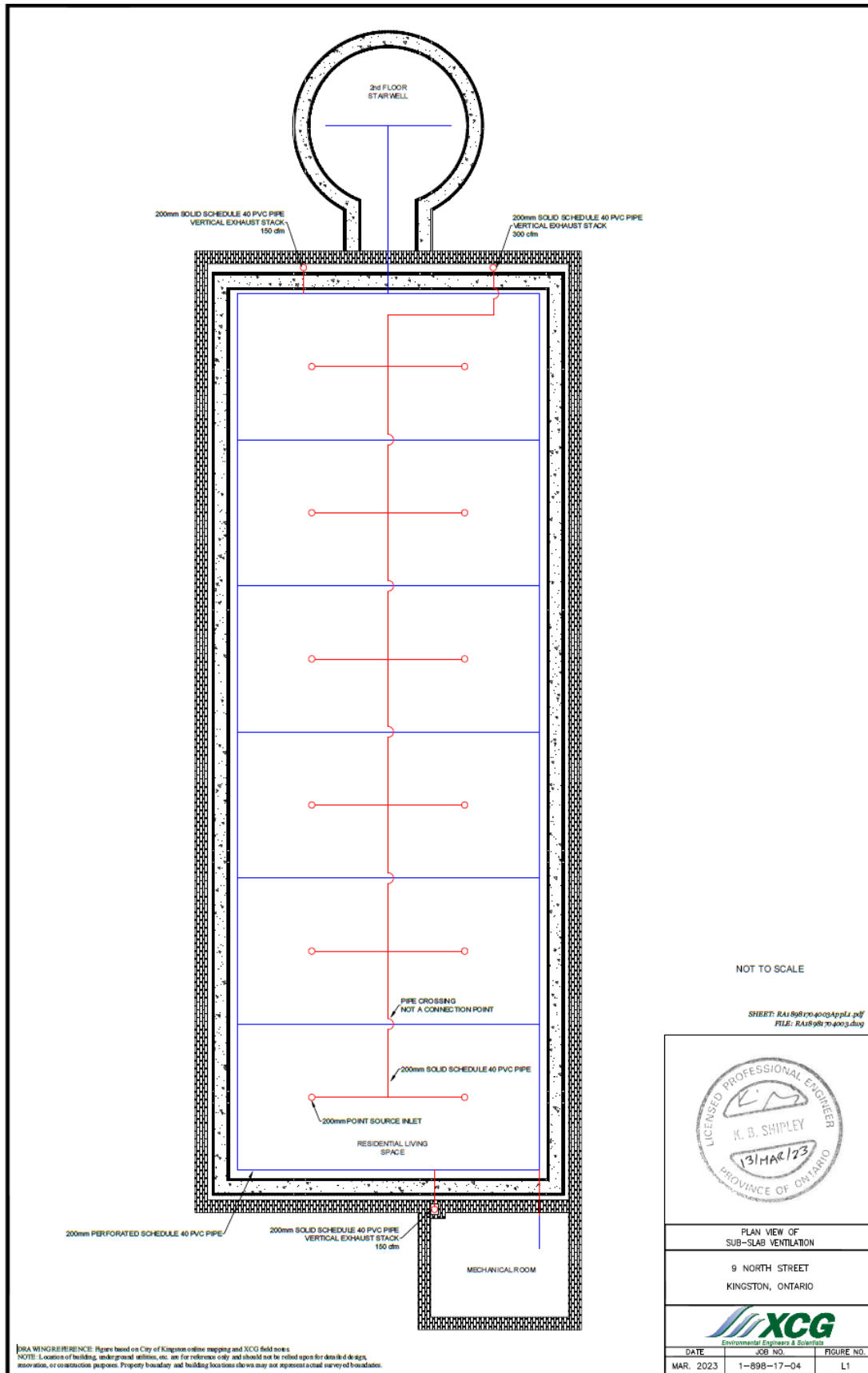
**Schedule 'A': Figure 3 – Impermeable Barrier Location**



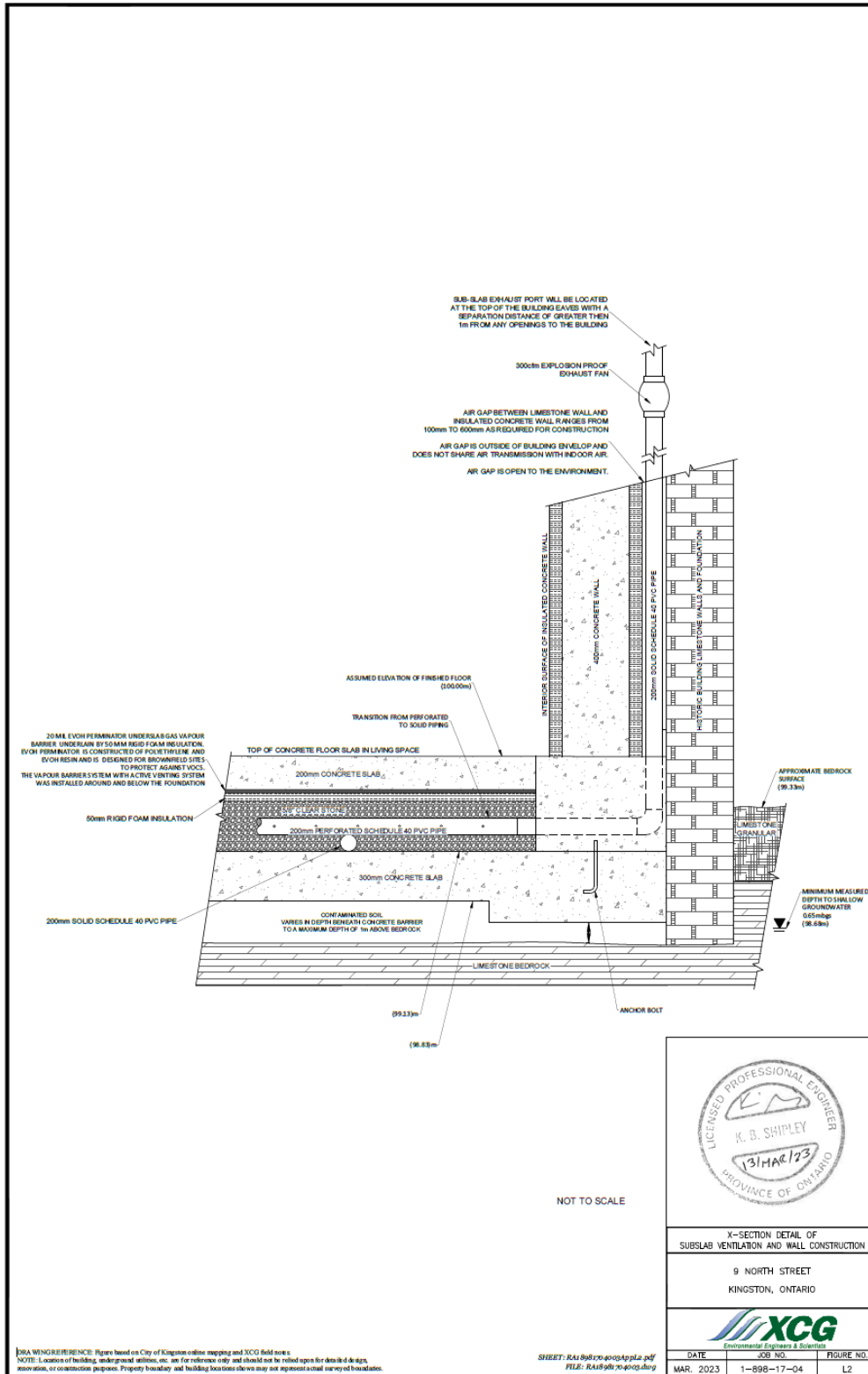
# Schedule 'A': Figure 5 – Impermeable Barrier Design



Schedule 'A': Figure 5 – Sub-Slab Ventilation Layout (Existing Building)

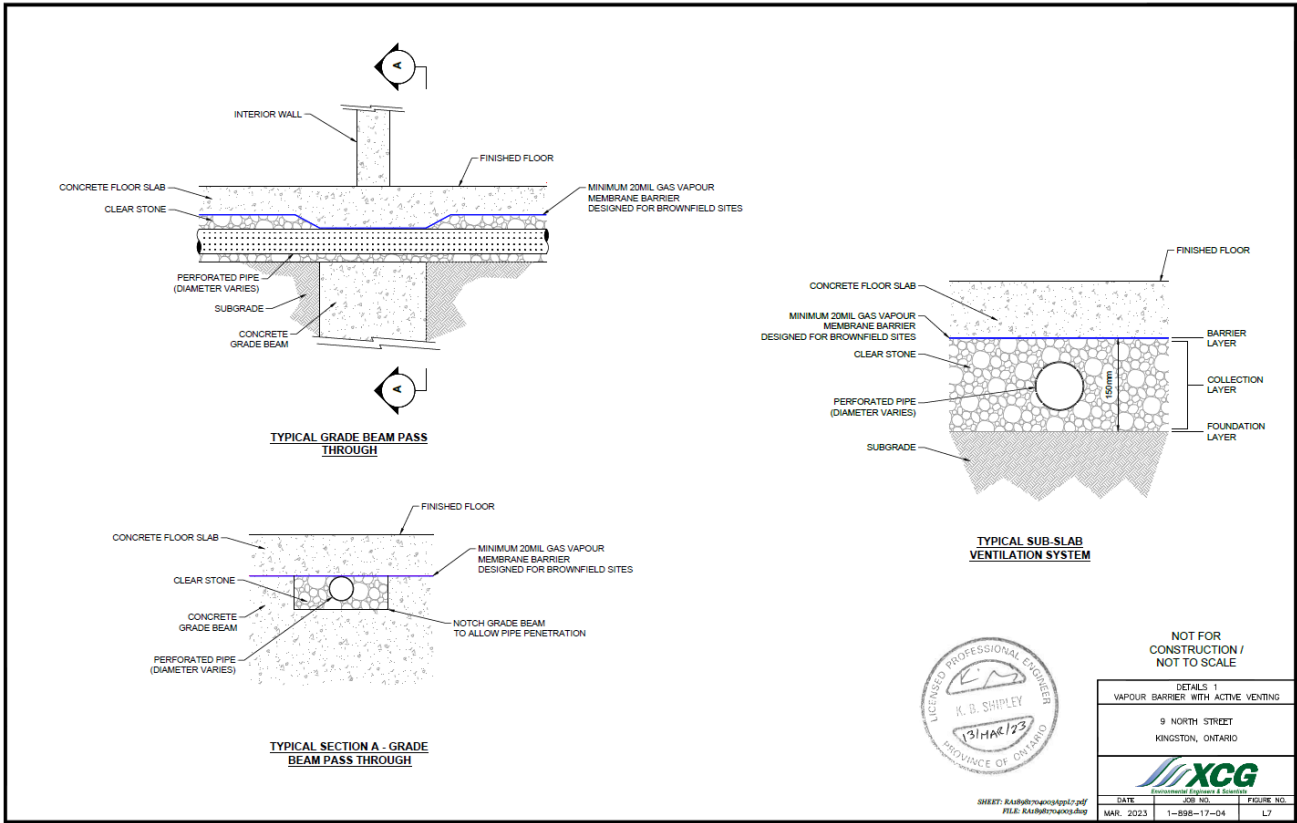


## Schedule 'A': Figure 6 – Sub-Slab Ventilation and Wall Construction (Existing Building)

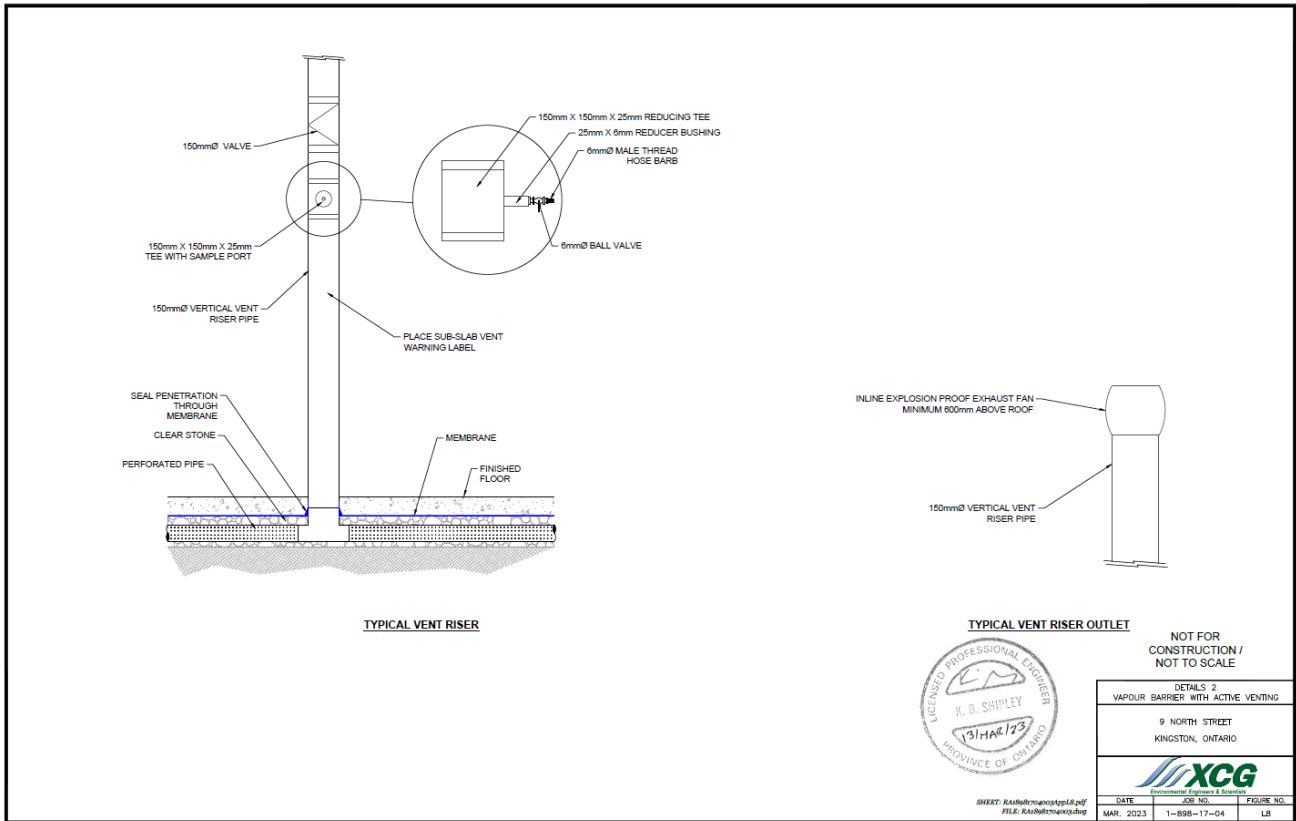




# Schedule 'A': Figure 7 – Vapour Barrier with Active Venting



# Schedule 'A': Figure 8 – Typical Vent Riser



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

<i>Soil Contaminant of Concern (COC)</i>	<i>PSS (µg/g)</i>
Petroleum Hydrocarbons F1	1632
Petroleum Hydrocarbons F2	9216
Petroleum Hydrocarbons F3	17520
Petroleum Hydrocarbons F4	930
Benzene	8.7
Ethylbenzene	95
Toluene	2.4
Xylenes (total)	117
Hexane (n)	45
Mercury	1.2
Antimony	2.4
Arsenic	36
Barium	575
Cadmium	5.2
Lead	541
Molybdenum	7.2
Selenium	3.6
Zinc	1105
Acenaphthene	416
Acenaphthylene	89
Anthracene	217
Benzo(a)anthracene	142
Benzo(a)pyrene	134
Benzo(b)fluoranthene	107
Benzo(ghi)perylene	69
Benzo(k)fluoranthene	34
Chrysene	140
Dibenz(a h)anthracene	11.2
Fluoranthene	378
Fluorene	191
Indeno(1,2,3-cd)pyrene	59
Methylnaphthalene, 2-(1-)	592
Naphthalene	1027
Phenanthrene	812
Pyrene	532

**Schedule 'A': Table B - Property Specific Standards (PSS) – Groundwater**

<i>Groundwater Contaminant of Concern (COC)</i>	<i>PSS (µg/L)</i>
Petroleum Hydrocarbons F1	1596
Petroleum Hydrocarbons F2	4032
Petroleum Hydrocarbons F3	5760
Benzene	163
Ethylbenzene	361
Toluene	71
Xylenes (total)	377
Hexane (n)	24
Antimony	15.6
Cobalt	9.6
Copper	20.4
Lead	2.4
Molybdenum	48.96
Nickel	49.2
Silver	1.2
Uranium	15.36
Acenaphthene	4404
Acenaphthylene	1172
Anthracene	9804
Benzo(a)anthracene	2268
Benzo(a)pyrene	1052
Benzo(b)fluoranthene	739
Benzo(ghi)perylene	626
Benzo(k)fluoranthene	348
Chrysene	972
Dibenz(a h)anthracene	30
Fluoranthene	3072
Fluorene	1596
Indeno(1 2 3-cd)pyrene	372
Methylnaphthalene, 2-(1-)	7020
Naphthalene	15360
Phenanthrene	9624
Pyrene	4368
Biphenyl 1,1'-	732

**Schedule 'A': Table C: Target Indoor Air Concentrations**

Contaminant	Target Sub-slab Vent Concentration ( $\mu\text{g}/\text{m}^3$ )
Petroleum Hydrocarbons F1	12,450
Petroleum Hydrocarbons F2	23,550
Benzene	25.3
Ethylbenzene	10,450
Toluene	52,000
Xylenes Mixture	7,300
Hexane (n)	26,050
Mercury	0.94
Acenaphthene	50.5
Acenaphthylene	5.05
Benzo(a)anthracene	0.505
Benzo(a)pyrene	0.0505
Benzo(b)fluoranthene	0.505
Benzo(k)fluoranthene	0.505
Chrysene	5.05
Fluoranthene	5.05
Indeno(1 2 3-cd)pyrene	0.505
Naphthalene	38.6
Pyrene	50.5

**Schedule 'A': Table D: Target Sub-Slab Vent Concentrations**

Contaminant	Target Sub-slab Vent Concentration ( $\mu\text{g}/\text{m}^3$ )
Petroleum Hydrocarbons F1	2,490
Petroleum Hydrocarbons F2	471
Benzene	0.506
Ethylbenzene	209
Toluene	1040
Xylenes Mixture	146
Hexane (n)	521
Mercury	0.0188
Acenaphthene	1.01
Acenaphthylene	0.101
Benzo(a)anthracene	0.0101
Benzo(a)pyrene	0.00101
Benzo(b)fluoranthene	0.0101
Benzo(k)fluoranthene	0.0101
Chrysene	0.101
Fluoranthene	0.101
Indeno(1 2 3-cd)pyrene	0.0101
Naphthalene	0.772
Pyrene	1.01



**SCHEDULE 'B'**

**CERTIFICATE OF REQUIREMENT**

**s.197(2)**

***Environmental Protection Act***

This is to certify that pursuant to Section 7.1 of Certificate of Property Use number **8575-CVDNVA** issued by **Catherine Chisholm**, Director of the Ministry of Environment, Conservation and Parks under subsections 168.6(1) and 197(1) of the *Environmental Protection Act*, dated **Month DD, YYYY** being a Certificate of Property Use and order under section 197(1) of the *Environmental Protection Act* relating to the property municipally known as **9 North Street, Kingston being all of PIN 36001-0186 (LT) (the "Property")** with respect to a Risk Assessment and Risk Management Measures and other preventive measure requirements,

**ABNA Investments Ltd.**

and any other persons having an interest in the Property, are required before dealing with the Property in any way, to give a copy of the Certificate of Property Use, including any amendments thereto, to every person who will acquire an interest in the Property.

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