
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: 6276-CK53B9
Risk assessment number: 1562-BD9KQE

Owner:

Schneider Electric Systems Canada Inc.

(Registered Owner)

70 Mechanic Street 41-32
Foxboro, Massachusetts, 02035
USA

Property:

345 MacDonald Avenue, Belleville

(Property)

With a Legal Description of:

Part of Block A, Registered Plan 391 Thurlow, City of Belleville, County of Hastings, being Part 2 of Plan 21R-20190

Being All of PIN: 40506-0003 (LT)

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

Summary:

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

Risk Management Measures (RMMs) that are required to be implemented are found in Part 4 of the CPU, Director Requirements. Key RMMs specified in Part 4 include, but are not limited to:

- Installing, inspecting and maintaining soil barriers over the entirety of the Property as specified Section 4.2(a) through 4.2(d) of this CPU;
- Developing and implementing a soil management plan during any intrusive activities undertaken on the Property as specified in Section 4.2(e) of this CPU;

- Prohibiting the construction of any Building (s) on the Property unless the new Building (s) is constructed as specified in Section 4.2(f) through 4.2(j) of this CPU;
- Implementing a groundwater monitoring program as specified in Section 4.2(l) through 4.2(r) of this CPU;
- Developing and implementing a Property specific health and safety plan during any intrusive activities as specified in Section 4.2(s) of this CPU;
- Restricting access to the Property or portions of the Property as specified in Section 4.2 (t) of this CPU;
- Prohibiting the use of groundwater in on or under the Property as specified in Section 4.2(u) of this CPU;
- Prohibiting deep excavations on the Property as specified in Sections 4.2(v) and 4.2(w) of this CPU;
- Refrain from using the Property for any uses as indicated in Section 4.3 of this CPU; and,
- Registering a certificate on the Property title in accordance with Section 197 of the *Environmental Protection Act* and that before dealing with the Property in any way, a copy of the CPU is to be given to any person who will acquire an interest in the Property as per Section 4.9, 4.10 and 4.11 of this CPU.

Part 1: Interpretation

In the CPU the following terms shall have the meanings described 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 in **Table 7: Generic Site Condition Standards for Shallow Soils in a Non-Potable Ground Water Condition (coarse textured soils) (Industrial/Commercial/Community Property Use)** of the Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Act published by the Ministry and dated April 15, 2011;

“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 Area” means the horizontal area of a Building at Grade within the outside surface of the exterior wall or walls.

“Building Code” means Ontario Regulation 332/12 (Building Code) 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. **6726-CK53B9** 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;

“Fill Material” means loose, granular material from an Ontario Ministry of Natural Resources (MNR)-licensed quarry or other non-soil material or commercial products such as wood chips, compost bark chips, concrete, unshrinkable fill, crushed concrete, concrete-based materials or equivalent;

“Grade” has the same meaning as in the Building Code;

“Licensed Professional Engineer” means a person who holds a license, limited license or temporary license under the *Professional Engineers Act*, R.R.O. 1990, c.P.28;

"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” and “Registered Owner” means **Schneider Electric Systems Canada Inc.**, the current registered owner of the Property, and any subsequent Property Owner(s);

"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;

"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. 1562-BD9KQE** accepted by the Director on **SEPTEMBER 8, 2022** and set out in the following final documents:

- **Pre-submission Form report for 345 MacDonald Avenue, Belleville, Ontario, prepared by Geosyntec Consultants International Inc., dated June 2019; and,**
- **“Risk Assessment of 345 MacDonald Avenue, Belleville, Ontario” report prepared by Geosyntec Consultants International Inc., dated February 26, 2021; and,**
- **“Risk Assessment of 345 MacDonald Avenue, Belleville, Ontario” report prepared by Geosyntec Consultants International Inc., dated August 27, 2021; and,**

- **“Risk Assessment of 345 MacDonald Avenue, Belleville, Ontario” report prepared by Geosyntec Consultants International Inc., dated May 5, 2022.**

“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 May 5, 2022; 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:
 1. 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.
 2. 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 to establish the risks that the Contaminants identified in the RA may pose to future users and to identify appropriate Risk Management Measures (RMMs) to be implemented to ensure that the Property is suitable for the intended use: **Industrial/Commercial/Community** as defined in O. Reg. 153/04.
- 3.2 The Contaminants on, in, or under the Property that are present either above **Table 7: Generic Site Condition Standards for Shallow Soils in a Non-Potable Ground Water Condition (coarse textured soils)** for Use under Part XV.1 of the Act published by the Ministry and dated April 15, 2011 or for which there are no such standards, are set out in the RA (Contaminants of Concern). The Property Specific Standards for these Contaminants of Concern are set out in 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 Part 4 of the CPU.
- 3.5 I believe for the reasons set out in the RA that it is also advisable to require the disclosure of this CPU and the registration of notice of the CPU on title to the Property as set out in section 197 order requirements in Section 4.9, Section 4.10 and Section 4.11 of this CPU.

Part 4: Director Requirements

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 and Fencing

- a) The Property shall be covered in its entirety by 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 ASCS. Soil barriers shall be installed under the direction and supervision of an appropriately qualified Licensed Professional Engineer. The barrier to the site soils shall consist of a hard caps, soil/fill caps, and/or fences as follows:
 - 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 Detail B of Schedule 'A': 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 Detail A-3 of **Figure 2**.
 - iii. Non-soil fill caps on the Property without the inclusion of a geotextile shall have a minimum thickness of 0.5 metres of woodchips as illustrated in Detail A-2 of **Figure 2**. If non-soil fill caps consisting of woodchips are used as a barrier on any portion of the Property, site fencing is required to limit site access.
 - iv. Non-soil fill caps on the Property that include the placement of a geotextile shall have a minimum thickness of 0.3 metres of woodchips as illustrated in Detail A-1 of **Figure 2**. If non-soil fill caps consisting of woodchips are used as a barrier on any portion of the Property, site fencing is required to limit site access.
 - v. Fill cap barriers for existing mature trees shall be as described in the RA and as illustrated in Detail C-1 of **Figure 2**.
 - vi. Fill cap barriers for newly planted trees shall be as described in the RA and as illustrated in Detail C-2 of **Figure 2**.
 - vii. Transitions between hard caps and fill caps are to be as described in the RA and as depicted in Detail D of **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 an appropriately qualified Licensed Professional Engineer that the barriers have been installed in accordance with the RA and Sections 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 a dust control plan is implemented as may be necessary.
- 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 Appendix O of the RA. Any deficiencies in the soil barriers barrier deficiencies shall be repaired within a reasonable period of time in accordance with the contingency plans identified in Appendix O 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.

Soil Management Plan

- e) A project specific soil 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 Appendix O 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 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.

Enclosed Building(s) Restrictions

- f) Refrain from constructing any Building (s) on, in or under the Property unless the Building (s) is constructed as slab on grade and the footings do not extend deeper than 4 metres below the original ground surface, and incorporates a vapour mitigation system (VMS), as detailed in Section 7.2.1 and Appendix L of the RA.
- g) Within 90 calendar days of the completion of the construction of a 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. The submission shall be prepared by the qualified Licensed Professional Engineer along with a statement from the qualified 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 7.2.1 and Appendix L of the RA, and Section 4.2(f) of the CPU.
- h) The VMS shall be operated, monitored and maintained by the Owner as detailed in Section 7.2.2 and Appendix L of the RA for as long as the COCs are present on the Property. The qualified Licensed Professional Engineer that designed the VMS shall prepare an operation, monitoring, and maintenance program, including a contingency plan as described in Appendix O of the RA, and is to be implemented by the Owner prior to first occupancy, and shall be made available by the Owner to the Ministry upon request.
- i) An inspection, monitoring, and maintenance program for the VMS shall be developed by the Professional Engineer as outlined in Appendix L of the RA. The 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 an appropriately qualified contractor, under the supervision of a qualified 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 qualified Licensed Professional Engineer are implemented as necessary. All repairs to the VMS are to be inspected by an appropriately qualified 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 qualified 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 records of the inspections, 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.

- j) 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 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 qualified contractor, under the supervision of a qualified 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 qualified Licensed Professional Engineer are implemented. All repairs to the VMS are to be inspected by a qualified 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 qualified 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.

Performance Monitoring - Indoor Air Sampling

- k) If a new building is constructed or altered on the Property, an indoor air monitoring program is to be conducted as outlined in Section 7.4.2 and Appendix M of the RA. Specifically, the performance monitoring program shall include the following key components:
 - i. Be overseen by a qualified 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 qualified Licensed Professional Engineer
 - iii. The monitoring should be completed at the following frequency:
 - a. On at least one occasion prior to first occupancy;
 - b. Quarterly for the first year;
 - c. Semi-Annually (summer and winter) thereafter and until written approval by the Director following a request made a qualified Licensed Professional Engineer on behalf of the owner to discontinue the indoor air monitoring program.
 - iv. The indoor air samples shall be sent to an accredited laboratory and analyzed for the Target Analytes listed in Schedule 'A': Table D: Target Indoor Air Concentrations (**Table D**), which is attached to and forms part of this CPU.
 - v. An annual report documenting the results of the indoor air sampling program prepared by a qualified Licensed Professional Engineer and submitted to the Director on or before **March 31st** following each year monitoring, 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 results in comparison to the respective Target Indoor Air Concentrations as listed in **Table D**; and,

- d. Conclusions and recommendations with respect to the need for additional and or continued monitoring as may be warranted.
- vi. In the event that the indoor air sampling program detailed in Section 4.2 (l) of this CPU identifies one or more of the Target Analytes at concentrations above the Target Indoor Air Concentrations specified in **Table D** the Owner shall implement the contingency measures detailed in Section 7.4.3 of the RA, and as follows:
 - a. Confirmatory sampling shall occur within 21 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 indoor air sampling program verifies the exceedances of one or more of the Target Analytes at concentrations above the Target Indoor Air Concentrations specified in **Table D** or the original exceedance(s) are assumed to be valid without, the Owner shall submit to the Director written notice of the exceedance(s) within 14 calendar days of the Owners receipt of the laboratory results. This notice shall be prepared by a qualified Licensed Professional Engineer and include the indoor air results, the laboratory certificates of analysis, 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 qualified Licensed Professional Engineer that demonstrates that the identified Target Indoor Air Concentration exceedances are due to background sources, or a report prepared by a qualified 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.

Groundwater Monitoring Program

- l) The Owner shall implement a groundwater monitoring program in accordance with Section 7.4.1 and Appendix P of the RA, and shall be undertaken as follows:
 - i. Be overseen by a Qualified Person;
 - ii. At a minimum, those monitoring wells to be sampled are those identified as BH/MW14-02, BH/MW15-11, BH/Mw15-12, BH/MW15-18, and BH/MW17-22 as identified in Schedule 'A': Figure 3 – Groundwater Monitoring network (**Figure 3**), which is attached to and forms part of this CPU.
 - a. At a minimum, those monitoring wells to be monitored for the presence and thickness of free-phase liquid non-aqueous phase liquid (LNAPL) or sheen are those identified as BH/MW14-01, BH/MW15-12, BH/MW15-13, BH/MW15-14, and BH/MW17-22 as identified in **Figure 3**.
 - b. The frequency of groundwater sampling and LNAPL monitoring required by Conditions 4.2(p)(i) and 4.2(p)(ii) is to be twice per year (preferably spring and fall), as a minimum. The groundwater sampling and free LNAPL monitoring programs are to continue for a minimum of two years, and until such time as the Director, upon application by the owner, has reviewed the available data and either alters or revokes the CPU.
 - c. Groundwater samples are to be analyzed by a certified laboratory, at a minimum, for the following parameters: benzene, trichloroethylene, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene, 1-1-dichloroethylene, and vinyl chloride.
 - d. An annual report detailing the sample results, sample locations along with an evaluation of the statistical trends in groundwater concentration using an appropriate statistical method and an assessment of the potential for off-property migration of impacted groundwater shall be submitted to the Director on or before **March 31st** following each year of monitoring until written approval to discontinue the program from the Director is received by the Owner; and,
 - m) Trigger values have been developed and are as provided in Appendix P of the RA. The trigger values for groundwater samples are set at the PSS as listed in Table B. LNAPL triggers have been developed and are as listed in Schedule 'A': Table C – LNAPL Monitoring Triggers (**Table C**).
 - n) In the event that any triggers are exceeded at any location(s), the Owner shall notify the Director in writing

within 10 calendar days of the Owner receiving the laboratory analysis, and the associated sampling location(s) where trigger exceedances were identified should be re-sampled or re-monitored for LNAPL thickness, based on the type of trigger exceedance identified within 20 days of the receipt of the Owner receiving the laboratory results that identified the trigger exceedance.

- o) If no trigger exceedances are identified during the verification sampling and/or monitoring event, the results are to be provided to the Director within 10 days of the Owner receiving the laboratory results, and no additional actions required.
- p) If the trigger exceedance(s) is confirmed during the re-sampling/re-monitoring event, within 20 days of the Owner receiving the laboratory results confirming the trigger exceedance(s), the owner shall provide the Director with a contingency action plan, for review and approval.
- q) The remedial action plan shall be prepared by a Qualified Person and include, but not be limited to, a detailed interpretation of the available data collected to date along with recommendations for any additional investigation/ monitoring as may be required and or recommendations for the implementation of additional remedial/contingency measures and or mitigation measures as may be deemed necessary.
- r) Upon the Owner receiving written approval from the Director, the Owner shall implement the approved Action Plan. Within 30 days of completion of the Action Plan, the Owner shall submit written confirmation, along with supporting documentation, prepared by a Qualified Person that the Remedial Action Plan has been implemented.

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 7.2.3 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.

Restricted Access

- t) Prior to the Property being redeveloped, the Owner shall install, inspect and maintain adequate fencing around the entirety of the Property in order to prevent access by unauthorized personnel (i.e. trespassers) or large terrestrial receptors (i.e. mammals). The Owner shall inspect the fencing 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 to the original design specifications. The Owner shall keep records of the inspections and maintenance and make them available for review by the Ministry upon request.

Prohibition of potable groundwater wells:

- u) The Owner shall,
 - i. refrain from using groundwater in or under the Property as a source of water;
 - ii. except as may be required for continued use as a groundwater monitoring well, properly abandon any wells on the Property, as defined in section 35. (1) of O. Reg. 153/04, according to R.R.O. 1990, Regulation 903 (Wells), made under the OWRA; and,
 - iii. except as maybe required for use as a groundwater monitoring well, refrain from constructing any new wells on the Property as defined in section 35. (1) of O. Reg. 153/04.

Prohibition of deep excavations:

- v) The Owner shall:
 - i. Refrain from advancing any excavation to a depth greater than 4 metres below ground surface unless prior written approval has been obtained from the Director.
 - ii. Refrain from advancing excavations below the groundwater table unless prior written approval has been obtained in writing from the Director. If an excavation is inadvertently advanced below the groundwater table, the excavation should immediately cease and the excavation should be backfilled to a depth that is at least 0.5 metres above the groundwater table
- w) Those restrictions outlined in Section 4.2(u) do not apply to short-term intrusive activities required for the purposes of emergency repairs (i.e. for emergency repair to underground utilities); however, the Owner shall notify the Director of any such activities within 7 calendar days.

Property Use Restrictions and Notices:

- 4.3 Refrain from using the Property for any of the following use(s): any type of property use specified in O. Reg. 153/04, other than “commercial or industrial or community” use.
- 4.4 Refrain from constructing the following building(s): No building construction unless construction is in accordance with Item 4.2(g) of the CPU.
- 4.5 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 4.3 and 4.4, 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.

Site Changes

- 4.6 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.

Reports

- 4.7 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.

Property Requirement

- 4.8 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.

Certificate of Requirement

- 4.9 Within fifteen (15) calendar days from the date of receipt of a certificate of requirement, issued under

subsection 197(2) of the Act, completed as outlined in Schedule 'B', register the certificate of requirement on title to the Property in the appropriate land registry office.

4.10 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.

Owner Change

4.11 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.

Financial Assurance

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

Part 5: General

5.1 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.

5.2 An application under sub section 168.6(3) of the Act to,
a) alter any terms and conditions in the CPU or impose new terms and conditions; or
b) revoke the CPU;
shall be made in writing to the Director, with reasons for the request.

5.3 The Director may amend the CPU under subsections 132(2) or (3) of the Act to change a requirement as to financial assurance, including that the financial assurance may be 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.

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

5.5 The requirements of the CPU are minimum requirements only and do not relieve you from,
a) complying with any other applicable order, statute, regulation, municipal, provincial or federal law;
or
b) obtaining any approvals or consents not specified in the CPU.

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

5.7 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.

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

5.9 In the event that the Owner complies with provisions of Sections 4.8 and 4.9 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.

Part 6: 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:

- 6.1 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.
- 6.2 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.
- 6.3 Service of a notice requiring a hearing must be carried out in a manner set out in section 182 of the Act and Ontario Regulation 227/07: Service of Documents, made under the Act. The contact information for the Director and the Tribunal is the following:

Registrar
Ontario Land Tribunal
655 Bay Street, Suite 1500
Toronto, ON, M5G 1E5
Email: OLT.Registrar@ontario.ca and

Trevor Dagilis
Ministry of the Environment, Conservation and Parks
Kingston District Office
1259 Gardiners Road, Unit 3
Kingston, ON K7P 3J6
Fax: 613-548-6920
Email: trevor.dagilis@ontario.ca

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

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

- 6.4 Unless stayed by the Tribunal under section 143 of the Act, the CPU is effective from the date of issue.

- 6.5 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.
- 6.6 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.
- 6.7 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.
- 6.8 The procedures and other information provided in this Part 6 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

Issued at Kingston this **24** day of **February, 2023**.

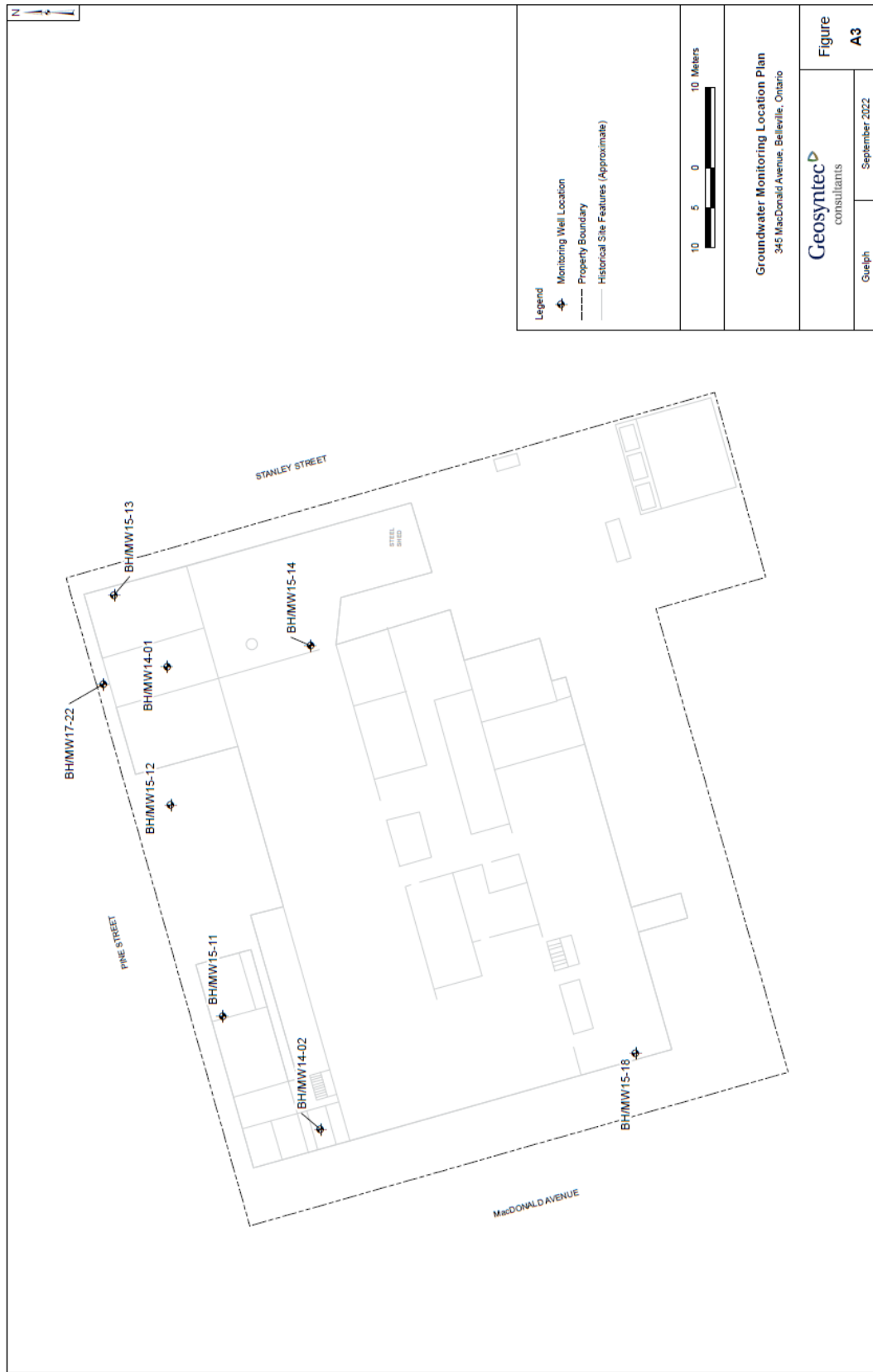


Trevor Dagilis
Director, section 168.6 of the Act

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



Schedule 'A': Figure 3 - Groundwater Monitoring Network (not to scale)



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

<i>Soil Contaminant of Concern (COC)</i>	<i>PSS (µg/g)</i>
1,1,2-Trichloroethane	0.20
1,1-Dichloroethylene	0.10
Benzene	1.8
Trichloroethylene	140
Petroleum Hydrocarbons F1	180
Petroleum Hydrocarbons F2	3,100
Petroleum Hydrocarbons F3	48,000
Petroleum Hydrocarbons F4	10,000
Acenaphthylene	14
Anthracene	36
Benzo(a)anthracene	86
Benzo(a)pyrene	79
Benzo(b/j)fluoranthene	120
Benzo(g,h,i)perylene	43
Benzo(k)fluoranthene	42
Chrysene	100
Dibenz(a,h)anthracene	13
Fluoranthene	290
Indeno(1,2,3-cd)pyrene	55
Naphthalene	160
Phenanthrene	350
Pyrene	220
Antimony	160
Arsenic	53
Barium	1,000
Boron (Hot Water Soluble)	4.3
Cadmium	1,300
Chromium	350
Copper	10,000
Lead	2,300
Nickel	760
Vanadium	160
Zinc	6,600

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

Groundwater Contaminant of Concern (COC)	PSS (µg/L)
1,1-Dichloroethylene	1.0
Benzene	34
cis-1,2-Dichloroethylene	360
trans-1,2-Dichloroethylene	2.5
Trichloroethylene	84
Vinyl Chloride	360
Petroleum Hydrocarbons F1	920
Petroleum Hydrocarbons F2	2,000
Petroleum Hydrocarbons F3	1,200
Perfluorobutane sulfonic acid (PFBS)	0.0034
Perfluorohexane sulfonic acid (PFHxS)	0.0032
Perfluorooctane sulfonic acid (PFOS)	0.0035
Perfluoropentanoic acid (PFPeA)	0.056
Perfluorohexanoic acid (PFHxA)	0.026
Perfluoroheptanoic acid (PFHpA)	0.0026
Perfluorooctanoic acid (PFOA)	0.0054

Schedule 'A': Table C: Light Non-Aqueous Phase Liquid (LNAPL) Monitoring Triggers

Monitoring Well	Trigger (LNAPL Thickness (metres))
BH/MW15-13	0.10
BH/MW15-14	0.10
BH/MW15-12	>0.001
BH/MW17-22	>0.001
BH/MW14-01	>0.001

Schedule 'A': Table D: Target Indoor Air Concentrations

Target Analyte	Target Indoor Air Concentration (µg/m ³)
1,1,2-Trichloroethane	0.22
Benzene	1.6
Napthalene	2.7
PHC F1 (C6-C10)	8,540
PHC F2 (C10-C16)	1,610
Trichloroethylene	0.40
Vinyl Chloride	0.41

SCHEDULE 'B'

CERTIFICATE OF REQUIREMENT

s.197(2)

Environmental Protection Act

This is to certify that pursuant to Section 4.5 of Certificate of Property Use number **6276-CK53B9** issued by **Trevor Dagilis P.Eng.** , Director of the Ministry of Environment, Conservation and Parks under subsections 168.6(1) and 197(1) of the Environmental Protection Act, dated **February 24, 2023** being a Certificate of Property Use and order under section 197(1) of the Environmental Protection Act relating to the property municipally known as **345 MacDonald Avenue, Kingston being all of PIN 40506-0003 (LT) (the "Property")** with respect to a Risk Assessment and Risk Management Measures and other preventive measure requirements,

Schneider Electric Systems Canada Inc.

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.