Ontario

Ministry of the Environment, Conservation and Parks

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

Certificate of Property Use

Issued under the authority of the Environmental Protection Act, R.S.O. 1990, c. E.19, sections 168.6 (CPU) and 197 (Order)

Certificate of Property use number 1256-D7PN7V
Risk Assessment number 1815-B7MNC7

Owner: F.P.L Investments Limited (registered Owners)
Unit 1 - 3520 Pharmacy Ave
Toronto, Ontario, M1W 2T8

Batya Inc.
Unit 1 - 3520 Pharmacy Ave c/o M&R Holdings
Toronto, Ontario, M1W 2T8

Yitzchak Inc.
Unit 1 - 3520 Pharmacy Ave
Toronto, Ontario, M1W 2T8

H.N.Z. Investments Inc. (beneficial Owners)
Unit 1 - 3520 Pharmacy Ave c/o M&R Holdings
Toronto, Ontario, M1W 2T8

Hozana Investments Inc.
Unit 1 - 3520 Pharmacy Ave c/o M&R Holdings
Toronto, Ontario, M1W 2T8

Site: **55 and 65 Ellerslie Avenue, Toronto, ON**

with a legal description as indicated below:

PARCEL 1−3, SECTION B2097 PT BLK 1 ON PLAN 2097 & PT LOT 18 CON 1 WYS DESIGNATED AS PARTS 3,7,9,10,17,22,23,24,25, & 26 ON PLAN R2363. S/T EASE IN FAVOUR THE CORPORATION OF THE TOWNSHIP OF NORTH YORK OVER PT 10 ON PLAN R2363 AS IN NY449051 REFERENCE ONLY AS B149567. COVENANTS 439970 NORTH YORK FILED FOR REFERENCE AS

B149569. COVENANTS 31938 NORTH YORK FILED FOR REFERENCE AS B149568. TWP OF YORK/NORTH YORK COVENANTS ADDED 91/3/13 & 91/7/39 BY K. MASSAROTTO. (COV. NO. 319938 CHANGED TO 31938 BY Z.G. ON 01/08/28), CITY OF TORONTO

Being all of PIN 10143-0199 (LT)

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

Summary:

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

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

a. Installing/maintaining any equipment Yes
b. Monitoring any contaminant Yes
c. Refraining from constructing any building specified Yes
d. Refraining from using the Property for any use specified No
e. Other: preparing and implementing a health and safety plan for the Property. Yes

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

a. The health and safety plan shall be required for the Property during any activities potentially in contact with or exposing groundwater for as long as the Contaminants of Concern are present on the Property.

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

Part 1: Interpretation

In 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.

“Building” means an enclosed structure occupying an area greater than ten square metres consisting of a wall or walls, roof and floor.

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

“Building Code” means the Ontario Regulation 332/12: Building Code, 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 causes or may cause an Adverse Effect.

“Contaminants of Concern” has the meaning as set out in section 3.2 of the CPU.

“CPU” means this Certificate of Property Use as may be altered from time to time and bearing the document number 1256-D7PN7V**.**

"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.

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

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

“Licensed Professional Engineer” means a person who holds a licence, limited licence or temporary licence under the Professional Engineers Act, R.S.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.

“O. Reg. 347/90 means R.R.O. 1990, Regulation 347 General - Waste Management”, made under the Act.

“Owner” means the owner(s) of the Property, beginning with the person(s) to whom the CPU is issued, described in the “Owner” section on Page 1 above, and any beneficial or subsequent 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 “Site” section on page 1 above.

“Property Specific Standards” or “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 and are the same standards specified in the Risk Assessment.

"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 subsection 5 (2) of O. Reg. 153/04, namely a person who:

a. Holds a licence, limited licence or temporary licence under the *Professional Engineer Act*, or
b. Holds a certificate of registration under the *Professional Geoscientists Act*, 2000, and is a practising member, temporary member, or limited member of the Association of Professional Geoscientists of Ontario.

"Risk Assessment" means the Risk Assessment number 1815-B7MNC7 accepted by the Director on, July 31, 2024, and set out in the following documents:

- Report entitled “Risk Assessment for 55 & 65 Ellerslie Avenue, Toronto, Ontario, IDS Ref. No. 1815-B7MNC7” prepared by NovaTox Inc., dated April 2021;
- Report entitled “Risk Assessment for 55 & 65 Ellerslie Avenue, Toronto, Ontario, IDS Ref. No. 1815-B7MNC7” prepared by NovaTox Inc., dated December 2022;
- Report entitled “Risk Assessment for 55 & 65 Ellerslie Avenue, Toronto, Ontario, IDS Ref. No. 1815-B7MNC7” prepared by Englobe Corp., dated April 9, 2024;
- Email entitled “FW: 55 & 65 Ellerslie Avenue, Toronto, Ontario - Risk Assessment Submission [RA1731-18a, IDS Ref No. 1815-B7MNC7] – Response to MECP email comments from July 12, 2024” prepared by Englobe Corp., dated July 30, 2024, with following document[s] attached: o 55 &65 Ellerslie RA-RSC Report Signed (No Track Changes) (1).pdf ; o 55&65 Ellerslie RA-RSC Report - July 2024 Comments Tracked Changes (1).pdf.

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

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

“Sub Slab Vapour Venting Layer” means an engineered venting layer and associated Venting Components above the sub-slab materials for building construction and below a Vapour Barrier, as designed by a Licenced Professional Engineer which operates in a passive manner but can be converted into an active system if necessary, providing pressure relief, collection and venting of vapours away from a building.

‘Tribunal” has the same meaning as in the Act; namely, the Ontario Land Tribunal.

“Vapour Barrier” means a geo-synthetic barrier (including but not limited to geomembrane or spray applied equivalent) meeting the appropriate gas permeability and chemical resistance specifications to be considered impermeable and resistant to the Contaminants of Concern as per Risk Assessment and is considered appropriate by the Licensed Professional Engineer and Qualified Person for its application.

“Venting Components” means a network of perforated piping/plenums or venting composites embedded in granular materials of sufficient permeability or other venting products with continuous formed void space that convey vapours and direct these vapours into vent risers that terminate above the roof elevation with option of wind-driven turbines to support passive venting, or active venting if required.

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 Section 168.6 (1) of the Act states that if a risk assessment related to the property has been accepted under clause 168.5 (1) (a), the Director may issue a certificate of property use to the owner of the property, requiring the owner to do any of the following things:

1. Take any action that is specified in the certificate and that, in the Director's opinion, is necessary to prevent, eliminate or ameliorate any adverse effect that has been identified in the risk assessment, including installing any equipment, monitoring any contaminant or recording or reporting information for that purpose.
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 property to take any action that would have the effect of reducing the concentration of a contaminant on, in or under the property to a level below the level that is required to meet the standards specified for the contaminant in the risk assessment.

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

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

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

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

2.7 Subsection 197(1) of the Act states that a person who has authority under the Act to make an order or decision affecting real property also has authority to make an order requiring any person with an interest in the property, before dealing with the property in any way, to give a copy of the order or decision affecting the property to every person who will acquire an interest in the property as a result of the dealing.

2.8 Subsection 197(2) of the Act states that a certificate setting out a requirement imposed under subsection 197(1) may be registered in the proper land registry office on the title of the real property to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection 197(1) and is accompanied by a registrable description of the property.

2.9 Subsection 197(3) of the Act states that a requirement, imposed under subsection 197(1) that is set out in a certificate registered under subsection 197(2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property.

2.10 Subsection 197(4) of the Act states that a dealing with real property by a person who is subject to a requirement imposed under subsection 197(1) or 197(3) is voidable at the instance of a person who was not given the copy of the order or decision in accordance with the requirement.

Part 3: Background

3.1 The Risk Assessment was undertaken for the Property on behalf of the Owner to assess the human health risks and ecological risks associated with the presence or discharge of Contaminants on, in or under the Property and to identify appropriate Risk Management Measures to be implemented to ensure that the Property is suitable for the intended use: “residential use” as defined in O. Reg. 153/04*.*

3.2 The Contaminants on, in or under the Property that are present above the residential/parkland/institutional Property Use Standards within **Table 3 (**and **Table 7** for volatiles in groundwater) 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, for coarse textured soils or for which there are no such standards are defined as the Contaminants of Concern. The Property Specific Standards for the Contaminants of Concern are set out in Schedule “A” and soil vapour trigger levels are set out in Schedule ‘B’ forming part of the CPU and the following figures:

- Plan of Survey with Property outlined in red; and
- Figures 7-3, 7-4 and 7-5

3.3 I am of the opinion, for the reasons set out in the Risk Assessment that the Risk Management Measures described therein and outlined in Part 4 of the CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property.

Part 4: Director Requirements

Pursuant to the authority vested in me under section 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 Item 4.1, carry out or cause to be carried out the following key elements of the Risk Management Measures:

a. An inspection and maintenance program shall be prepared and implemented to ensure the continuing integrity of Storage Garages and Building foundations as long as the Contaminants of Concern are present on the Property. The inspection program for new Building(s) with a vapour mitigation system (as described in item 4.2 c. of the CPU) shall include, at a minimum, quarterly (every three months) for vent pipes in Building(s) and annually (once a year) of exposed floor area. The inspection program for Building(s) that includes a Storage Garage (as described in items 4.2 d. and e. of the CPU) shall be monthly; any deficiencies that are identified shall be repaired forthwith. Inspection, deficiencies and repairs shall be recorded in a logbook maintained by the Owner and made available upon request by a Provincial Officer.

b. A site-specific health and safety plan shall be developed for the Property and implemented during all intrusive, below-grade construction activities potentially coming in contact with or exposing groundwater and a copy shall be maintained on the Property for the duration of these intrusive activities. The Owner shall ensure that the health and safety plan takes into account the presence of the Contaminants of Concern and is implemented prior to any intrusive work being done on the Property in order to protect workers from exposure to the Contaminants of Concern in groundwater. The health and safety plan shall be prepared in accordance with applicable Ministry of Labour health and safety regulations, shall address any potential risks identified in the Risk Assessment, and shall include, but not be limited to,

   i. provisions for augmented ventilation for work conducted within trenches as per Risk Assessment;
   ii. occupational hygiene requirements;
   iii. requirements for personal protective equipment for direct contact of groundwater and soil vapours as per Risk Assessment; and
   iv. any contingency plan requirements including site contact information.

   Prior to initiation of any project (as defined in the Occupational Health and Safety Act, as amended) on the Property, the local Ministry of Labour office shall be notified of the proposed activities and that the Property contains contaminated soil and groundwater. Implementation of the health and safety plan shall be overseen by persons appropriately qualified 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, which shall be made available for review by a Provincial Officer upon request.

c. Refrain from constructing any new Building after 2024 on, in or under the Property unless the new Building is a slab on Grade and contains a vapour mitigation system as follows:

   i. All new Building(s) on the Property include the sealing of foundation penetrations and sumps, a Vapour Barrier, Sub Slab Vapour Venting Layer and Venting Components (as illustrated in figures 7-3. 7-4 and 7-5) as described in the Risk Assessment.

ii. The Owner shall retain a copy of all Vapour Barrier, Sub Slab Vapour Venting Layer and Venting Component as-built drawings signed by a Licensed Professional Engineer along with the proposed testing and performance requirements for the Vapour Barrier, Sub Slab Vapour Venting Layer and Venting Component for inspection by a Provincial Officer upon request.

iii. An inspection and maintenance program shall be prepared and implemented to ensure the continuing integrity of the vapour mitigation system. A final inspection for cracks, holes or penetrations in the below grade walls and floors shall be conducted before any finishes are applied to the walls and floors and prior to occupancy and shall be recorded in a logbook. Any holes, cracks or penetrations shall be repaired and sealed immediately and recorded in a logbook.

iv. The inspection results shall be recorded in a logbook maintained by the Owner and available upon request by a Provincial Officer.

d. Refrain from constructing any new Building after 2024 on, in or under the Property unless the Building meets the requirements of Item 4.2 c. of the CPU or the new Building includes a Storage Garage, as defined in Building Code and meets the following requirements:

i. The Storage Garage is constructed at or below the Grade of the new Building; and

ii. The Storage Garage area covers the entire Building Area at Grade; and

iii. All below Grade components of the Storage Garage shall include sealing of all sumps and penetrations into the new Building and any waterproofing if applicable as per Risk Assessment; and

iv. The Storage Garage is in compliance with all applicable requirements of the Building Code, including, without limitation, the provisions governing the following:

1. design of the mechanical ventilation system as set out in Division B, subsection 6.2.2.3, Ventilation of Storage and Repair Garages;
2. interconnection of air duct systems as set out in Division B, subsection 6.2.3.9 (2); and,
3. air leakage as set out in Division B, section 5.4.

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

e. All existing Building(s) shall include a Storage Garage, as defined in Building Code and meets the requirements in Item 4.2 d. of the CPU.

f. A soil vapour monitoring program is to commence prior to occupancy of any new Building constructed after 2024 on the Property. All soil vapour monitoring shall be done in accordance to USEPA Method TO-15 for the Contaminants of Concerns listed in Schedule ‘B’ and shall be carried out as follows:

i. The soil vapour monitoring shall be carried out on a quarterly basis (every three months) for the first year and three times a year (every four months) for second year and thereafter until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU.

ii. All soil vapour monitoring shall be done with a summa canister in accordance to Ministry's "(DRAFT) Technical Guidance for Soil Vapour Intrusion Assessment" dated June 4, 2021, for the Contaminants of Concerns listed in Schedule 'B'.

iii. Soil vapour sampling locations shall be identified by an industrial hygienist or other appropriately qualified person to be protective of human health for any persons using or occupying the new buildings on the Property.

iv. If any soil vapour concentrations for any Contaminants of Concern exceeds Schedule 'B', the Owner shall immediately notify the Director in writing of the exceedance along with a copy of the laboratory's certificate of analysis, chain of custody, field notes indicating the initial and final canister pressures, atmospheric pressure, weather and temperature and borehole logs indicating the construction details of the soil vapour probes.

v. The Owner shall keep a copy of all air sampling data available for inspection by a Provincial Officer upon request.

vi. If the soil vapour concentration for the Contaminants of Concern exceeds Schedule 'B' for soil vapour trigger levels, then soil vapour monitoring shall recommence for all Contaminants of Concern within fifteen (15) days of receipt of the analytical results and be carried out as follows:

1. If none of the soil vapour concentrations of the Contaminants of Concern exceed Schedule 'B' (soil vapour trigger levels) on the recommenced soil vapour monitoring event, then the soil vapour monitoring event shall be carried out on a quarterly basis (every three months) for a twelve (12) month period (4 additional monitoring events).
2. If the soil vapour concentrations of the Contaminants of Concern exceed Schedule 'B' (soil vapour trigger levels), on the recommenced soil vapour monitoring event, then within 30 days of the receipt of the analytical results:
   a. develop and submit a detailed contingency plan to the Director (as outlined in the Risk Assessment);

   The soil vapour monitoring shall continue on a quarterly basis (every 3 month) until such time as the Director, upon application by the Owner, has reviewed the data available and either alters or revokes the CPU.

g. The Owner shall prepare by March 31 each year, an annual report documenting activities relating to the Risk Management Measures undertaken during the previous calendar year. A copy of this report shall be maintained on file by the Owner and shall be made available upon request by a Provincial Officer. The report shall include, but not be limited to, the following minimum information requirements:

i. a copy of all records related to the inspection and maintenance program for Building foundations and Storage Garages along with and all repairs and maintenance efforts carried out to mitigate any concerns identified;

ii. a copy of all records related to the health and safety plan on the Property;

iii. a copy of all signed as-builts for any vapour mitigation system in any new Building constructed on the Property (Item 4.2 c. of the CPU) that includes the Vapour Barrier, Sub Slab Vapour Venting Layer and Venting Component; and

vi. a copy of all records for air monitoring, if applicable, including soil vapour probe construction logs, laboratory's certificate of analyses and chain of custody, and field notes indicating the initial and final canister pressures, atmospheric pressure,

v. a copy of the updated financial assurance every five years from the date of issuance of the CPU.

4.3 Refrain from using the Property for any of the following use(s): N/A

4.4 Refrain from constructing the following building(s): No new Building(s) construction after 2024 unless building construction is in accordance with Item 4.2 c. or 4.2 d. of the CPU.

4.5 The Owner shall ensure that every occupant of a new Building on 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 any new Building(s), constructed after the issuance of the CPU, on the Property in accordance with Item 4.2, above, as applicable.

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 Risk Management Measures and/or any underlying basis for the Risk Management Measures, forthwith notify the Director of such changes and the steps taken, to implement, maintain and operate any further Risk Management Measures as are necessary to prevent, eliminate or ameliorate any Adverse Effect that will result from the presence 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 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) days from the date of receipt of a certificate of requirement issued under subsection 197(2) of the Act and as set out in Schedule ‘C’, register the certificate of requirement on title to the Property, in the appropriate land registry office.

4.10 Immediately after registration of the certificate of requirement, provide to the Director written verification that the certificate of requirement has been registered on title to the Property.

Owner Change

4.11 While the CPU is in effect, the Owner shall 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, as amended, no notice shall be given of changes in the ownership of individual condominium units or any appurtenant common elements on the Property.

Financial Assurance

4.12 Within fifteen days of the CPU, the Owner shall provide financial assurance to the Crown in right of Ontario in the amount of eight thousand and nine hundred and eight dollars ($8,908.00) in a form satisfactory to the Director and in accordance with Part XII of the Act to address reporting requirements related to existing buildings on the Site.

4.13 In addition, at least fifteen (15) days before applying for any permit to construct a new Building on the Property in accordance with Items 4.2 c. or 4.2 d. of the CPU, the Owner shall provide financial assurance to the Crown in right of Ontario in the amount of twenty-five thousand and six hundred dollars ($25,600.00) in a form satisfactory to the Director and in accordance with Part XII of the Act .

4.14 A written report reviewing the financial assurance required by the CPU shall be included in the annual report referred to as Item 4.2 g. with an updated cost estimate with respect to the matters dealt with in Items 4.12 and 4.13 above every five years from the date of issuance of the CPU.

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 alter 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 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 the requirements of the CPU constitutes an offence.

5.5 The requirements of the CPU are minimum requirements only and do not relieve the Owner 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. The Director shall also alter the CPU where the approval or acceptance of the Director is required in respect of a matter under the CPU and the Director either does not grant the approval or acceptance or does not grant it in a manner agreed to by the Owner.

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 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 the provisions of Items 4.9 and 4.10 of the CPU regarding the registration of the certificate of requirement on title to the Property, and then creates a condominium corporation by the registration of a declaration and description with respect to the Property pursuant to the *Condominium Act, 1998*, S.O.

1998, c.19, and then transfers ownership of the Property to various condominium unit owners, the ongoing obligations of the Owner under this CPU can be carried out by the condominium corporation on behalf of the new Owners of the Property.

5.10 Where there is more than one owner, each owner is jointly and severally liable to comply with the requirements under this CPU, unless otherwise indicated.

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

Jimena Caicedo
Ministry of the Environment, Conservation and Parks
5775 Yonge Street, 8th Floor
Toronto, Ontario
M2M 4J1
Fax: 416-326-5536
Email: Environment.Toronto@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 Floor, 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 Toronto this 12th day of December 2024.

"Originally signed by"

Jimena Caicedo
Director, section 168.6 of the Act

Schedule 'A'

Property Specific Standards (Groundwater) for each Contaminant of Concern

Contaminants of Concern (COC)	Property Specific Standards (PSS) for Groundwater (µg/L)
Dichloroethylene, 1,1-	36
Dichloroethylene, 1,2-cis-	6000
Dichloroethylene, 1,2-trans-	48
Ethylene dibromide	12
Tetrachloroethylene	9360
Trichloroethylene	1560
Vinyl Chloride	1547

Schedule ‘B’

Soil Vapour Trigger Levels

Contaminants of Concern (COC)	Sub Slab Soil Vapour Trigger Levels for Underground Storage Garage ($\mu g/m^3$)	Sub Slab Soil Vapour Trigger Levels for slab on grade Building ($\mu g/m^3$)
Ethlyene Dibromide	0.462	0.0925
Tetrachloroethylene	1070	214
Trichloroethylene	67.75	13.55
Vinyl Chloride	31.5	6.3

Schedule 'C'

<u>CERTIFICATE OF REQUIREMENT</u>

s.197(2)
Environmental Protection Act

This is to certify that pursuant to Item 4.8 of Certificate of Property Use number 1256-D7PN7V issued by Jimena Caicedo, Director of the Ministry of the Environment, Conservation and Parks, under sections 168.6 and 197 of the *Environmental Protection Act*, on December 12, 2024 being a Certificate of Property Use and order under subsection 197(1) of the *Environmental Protection Act* relating to the property municipally known as 55 & 65 Ellerslie Avenue, Toronto being all of Property Identifier Number 10143-0199 (LT) (the "Property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property

F.P.L Investments Limited

Batya Inc.

Yitzchak 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.

Plan of Survey with Property outlined in Red

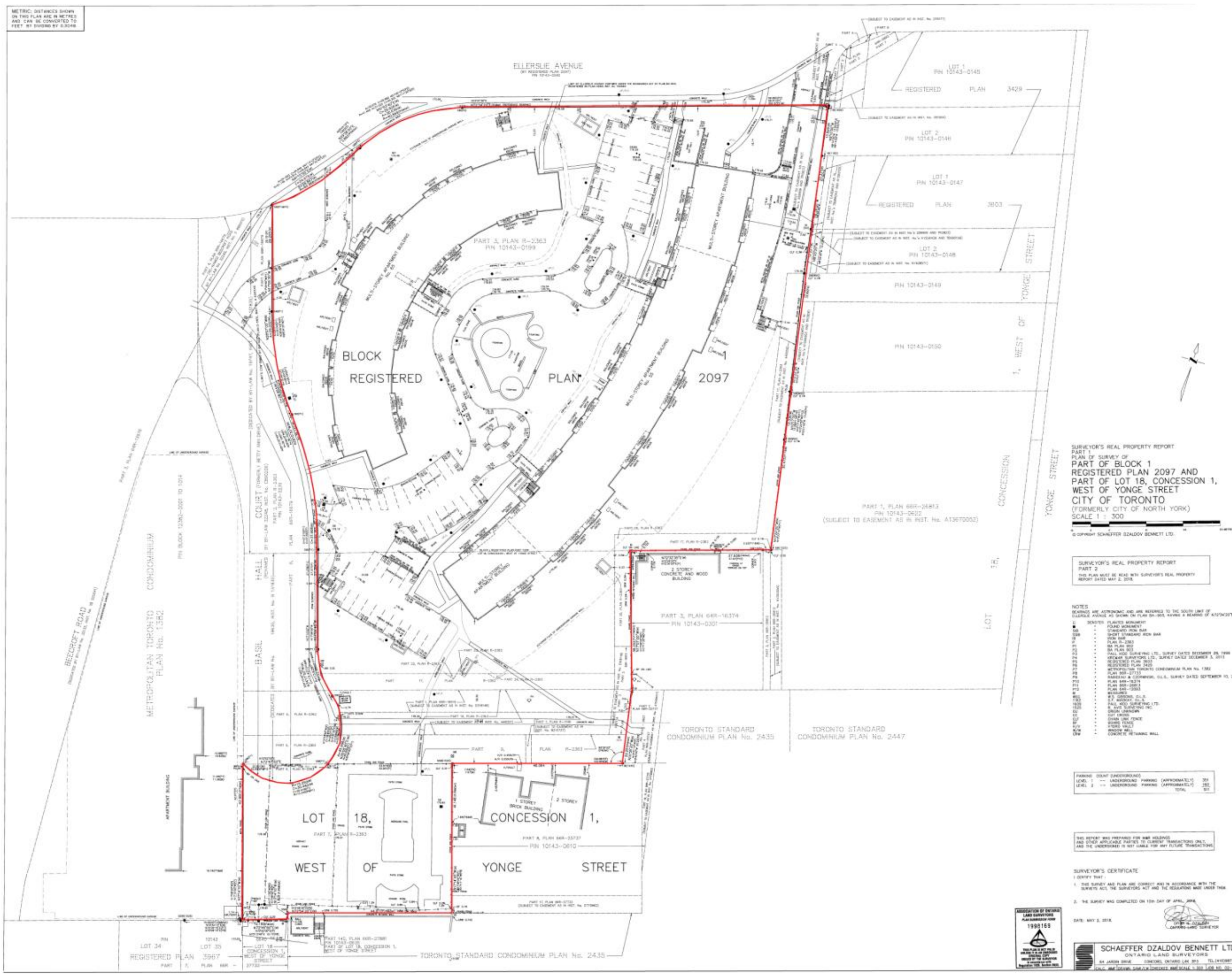


Figure 7-3

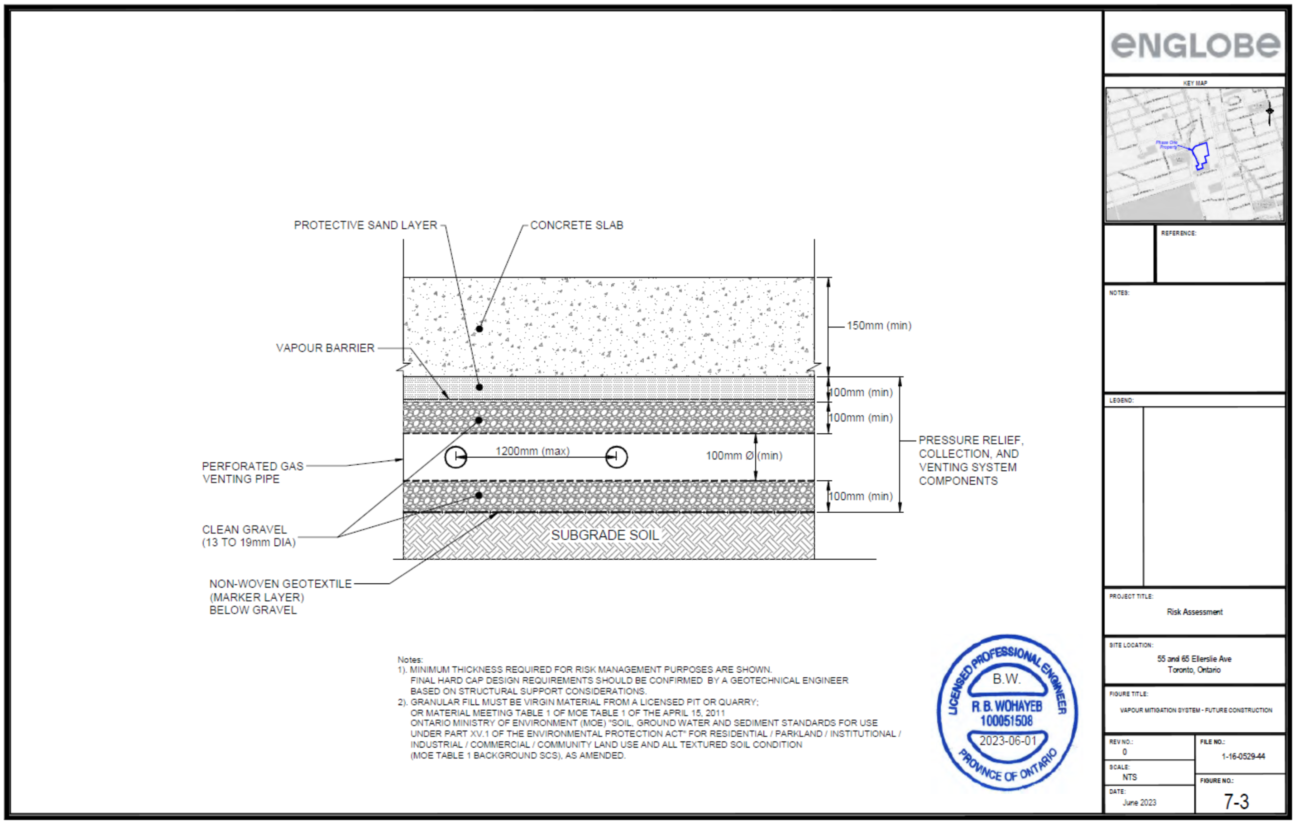
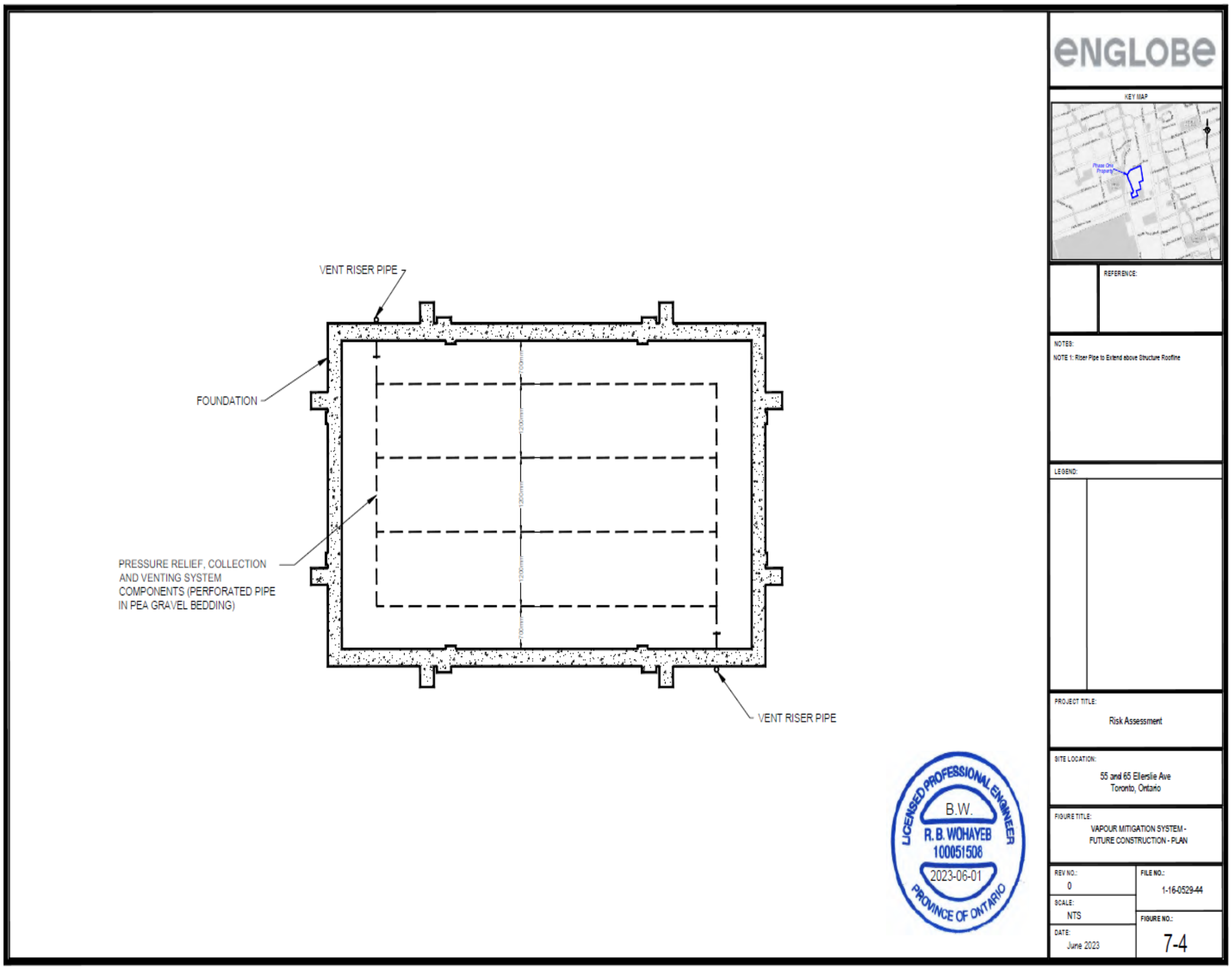
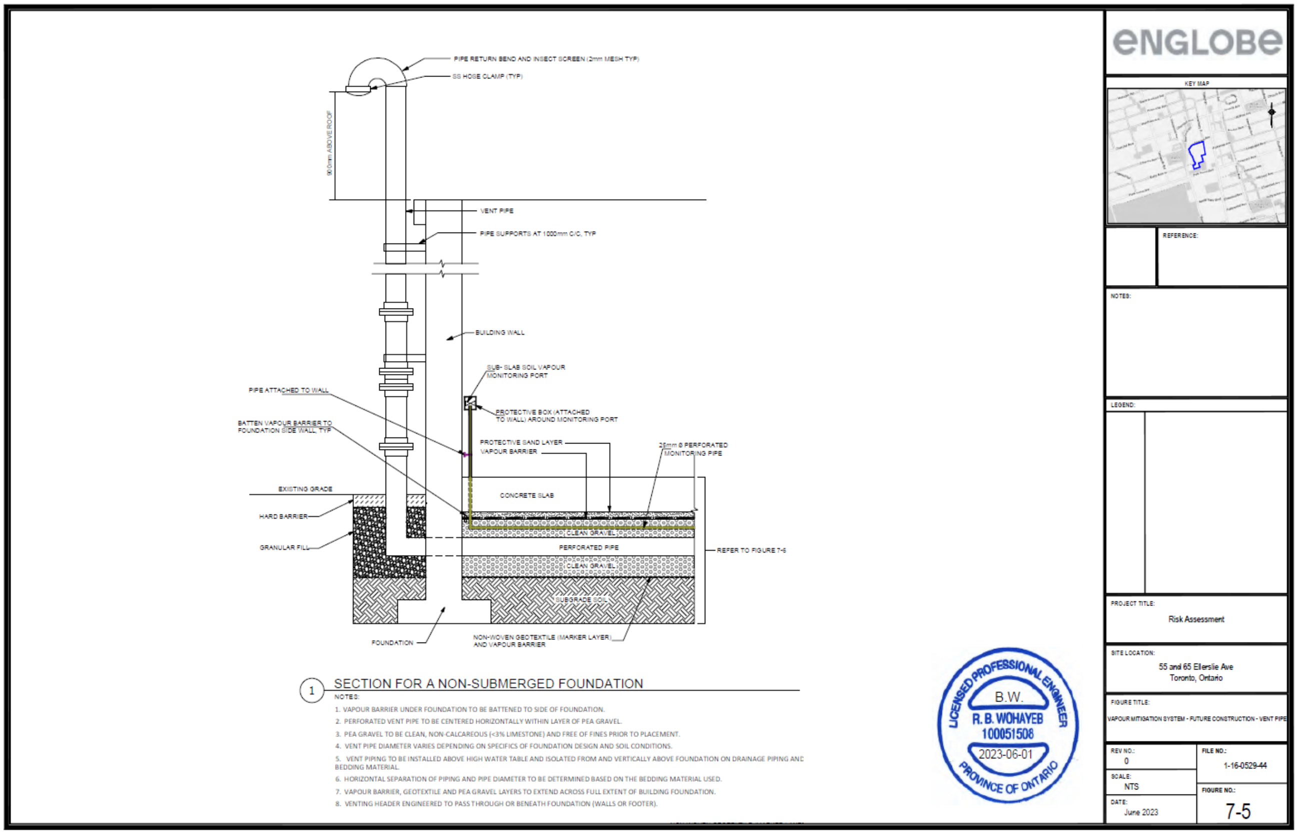

ENGLOBE
KEY MAP
REFERENCE:
NOTES:
LEGEND:
PROTECTIVE SAND LAYER
CONCRETE SLAB
VAPOUR BARRIER
150mm (min)
100mm (min)
100mm (min)
PERFORATED GAS VENTING PIPE
1200mm (max)
100mm Ø (min)
PRESSURE RELIEF, COLLECTION, AND VENTING SYSTEM COMPONENTS
100mm (min)
CLEAN GRAVEL (13 TO 19mm DIA)
SUBGRADE SOIL
NON-WOVEN GEOTEXTILE (MARKER LAYER) BELOW GRAVEL
Notes:
1). MINIMUM THICKNESS REQUIRED FOR RISK MANAGEMENT PURPOSES ARE SHOWN.
FINAL HARD CAP DESIGN REQUIREMENTS SHOULD BE CONFIRMED BY A GEOTECHNICAL ENGINEER
BASED ON STRUCTURAL SUPPORT CONSIDERATIONS.
2). GRANULAR FILL MUST BE VIRGIN MATERIAL FROM A LICENSED PIT OR QUARRY;
OR MATERIAL MEETING TABLE 1 OF MOE TABLE 1 OF THE APRIL 15, 2011
ONTARIO MINISTRY OF ENVIRONMENT (MOE) "SOIL, GROUND WATER AND SEDIMENT STANDARDS FOR USE
UNDER PART XV.1 OF THE ENVIRONMENTAL PROTECTION ACT" FOR RESIDENTIAL / PARKLAND / INSTITUTIONAL /
INDUSTRIAL / COMMERCIAL / COMMUNITY LAND USE AND ALL TEXTURED SOIL CONDITION
(MOE TABLE 1 BACKGROUND SCS), AS AMENDED.
LICENSED PROFESSIONAL ENGINEER
B.W.
R. B. WOHAYEB
100051508
2023-06-01
PROVINCE OF ONTARIO
PROJECT TITLE:
Risk Assessment
SITE LOCATION:
55 and 65 Ellerslie Ave
Toronto, Ontario
FIGURE TITLE:
VAPOUR MITIGATION SYSTEM - FUTURE CONSTRUCTION
REV NO.:
0
FILE NO.:
1-16-0529-44
SCALE:
NTS
DATE:
June 2023
FIGURE NO.:
7-3

Figure 7-4



VENT RISER PIPE
FOUNDATION
PRESSURE RELIEF, COLLECTION AND VENTING SYSTEM COMPONENTS (PERFORATED PIPE IN PEA GRAVEL BEDDING)
VENT RISER PIPE
LICENSED PROFESSIONAL ENGINEER
B.W.
R. B. WOHAYEB
100051508
2023-06-01
PROVINCE OF ONTARIO
ENGLOBE
KEY MAP
Phase One Property
REFERENCE:
NOTES:
NOTE 1: Riser Pipe to Extend above Structure Roofline
LEGEND:
PROJECT TITLE:
Risk Assessment
SITE LOCATION:
55 and 65 Ellerslie Ave
Toronto, Ontario
FIGURE TITLE:
VAPOUR MITIGATION SYSTEM - FUTURE CONSTRUCTION - PLAN
REV NO.:
0
SCALE:
NTS
DATE:
June 2023
FILE NO.:
1-16-0529-44
FIGURE NO.:
7-4

Figure 7-5


PIPE RETURN BEND AND INSECT SCREEN (2mm MESH TYP)
SS HOSE CLAMP (TYP)
900mm ABOVE ROOF
VENT PIPE
PIPE SUPPORTS AT 1000mm C/C, TYP
BUILDING WALL
SUB- SLAB SOIL VAPOUR MONITORING PORT
PIPE ATTACHED TO WALL
PROTECTIVE BOX (ATTACHED TO WALL) AROUND MONITORING PORT
BATTEN VAPOUR BARRIER TO FOUNDATION SIDE WALL, TYP
PROTECTIVE SAND LAYER
VAPOUR BARRIER
25mm Ø PERFORATED MONITORING PIPE
EXISTING GRADE
CONCRETE SLAB
HARD BARRIER
CLEAN GRAVEL
GRANULAR FILL
PERFORATED PIPE
REFER TO FIGURE 7-6
CLEAN GRAVEL
SUBGRADE SOIL
FOUNDATION
NON-WOVEN GEOTEXTILE (MARKER LAYER) AND VAPOUR BARRIER
1
SECTION FOR A NON-SUBMERGED FOUNDATION
NOTES:
1. VAPOUR BARRIER UNDER FOUNDATION TO BE BATTENED TO SIDE OF FOUNDATION.
2. PERFORATED VENT PIPE TO BE CENTERED HORIZONTALLY WITHIN LAYER OF PEA GRAVEL.
3. PEA GRAVEL TO BE CLEAN, NON-CALCAREOUS (<3% LIMESTONE) AND FREE OF FINES PRIOR TO PLACEMENT.
4. VENT PIPE DIAMETER VARIES DEPENDING ON SPECIFICS OF FOUNDATION DESIGN AND SOIL CONDITIONS.
5. VENT PIPING TO BE INSTALLED ABOVE HIGH WATER TABLE AND ISOLATED FROM AND VERTICALLY ABOVE FOUNDATION ON DRAINAGE PIPING AND BEDDING MATERIAL.
6. HORIZONTAL SEPARATION OF PIPING AND PIPE DIAMETER TO BE DETERMINED BASED ON THE BEDDING MATERIAL USED.
7. VAPOUR BARRIER, GEOTEXTILE AND PEA GRAVEL LAYERS TO EXTEND ACROSS FULL EXTENT OF BUILDING FOUNDATION.
8. VENTING HEADER ENGINEERED TO PASS THROUGH OR BENEATH FOUNDATION (WALLS OR FOOTER).
LICENSED PROFESSIONAL ENGINEER
B.W.
R. B. WOHAYEB
100051508
2023-06-01
PROVINCE OF ONTARIO
ENGLOBE
KEY MAP
REFERENCE:
NOTES:
LEGEND:
PROJECT TITLE:
Risk Assessment
SITE LOCATION:
55 and 65 Ellerslie Ave
Toronto, Ontario
FIGURE TITLE:
VAPOUR MITIGATION SYSTEM - FUTURE CONSTRUCTION - VENT PIPE
REV NO.:
0
FILE NO.:
1-16-0529-44
SCALE:
NTS
FIGURE NO.:
7-5
DATE:
June 2023