

DOCUMENT “A”

MINISTER’S DETERMINATION CONDITIONS OF APPROVAL

Pursuant to Regulation 87-83 under the *Clean Environment Act*

May 4th, 2022

File Number: 4561-3-1556

1. In accordance with section 6(6) of the Regulation, it has been determined that the undertaking may proceed following approval under all other applicable acts and regulations.
2. Commencement of this undertaking must occur within three years of the date of this Determination. Commencement is defined as the start of project-related physical construction activities as identified during the Environmental Impact Assessment (EIA) review. Should commencement not be possible within this time period, the undertaking must be registered under the *Environmental Impact Assessment Regulation (87-83) – Clean Environment Act* again, unless otherwise stated by the New Brunswick Minister of Environment and Climate Change.
3. In the event the project is commenced and becomes inactive for a period of five years or more after commencement, the undertaking must be registered under the *Environmental Impact Assessment Regulation (87-83) – Clean Environment Act* again, unless otherwise stated by the Minister of Environment and Climate Change.
4. The Proponent shall adhere to all obligations, commitments, monitoring, and mitigation measures presented in the EIA Registration Document dated January 5th 2021, as well as all those identified in subsequent correspondence during the registration review. Additionally, the Proponent shall submit a summary table detailing the status of each Condition listed in this Determination to the Director of the EIA Branch, Department of Environment and Local Government (DELG) every six months from the date of this Determination until such a time as all the Conditions have been met or until it is deemed by the Director to be no longer required.
5. An Environmental Management Plan (EMP) must be prepared and submitted to the Director, EIA Branch, DELG for review and approval prior to the commencement of any project related activities. The EMP must include, but is not limited to: project specific mitigation, clean-up and revegetation, contingency plans, wildlife encounters, measures identified in the Cap Bimet Bird Mitigation Measures Report, wetland and watercourse measures, erosion and sediment control measures, check dams, monitoring and testing program for sedimentation or runoff, site complaint process, and spill response plans. The approved EMP must be available, at all times, to all on-site personnel during construction and operation, and personnel must be familiar with the contents.
6. The Brinkley apartment complex shall be developed and located on-site as shown on the revised drawing: “Site Plan – 92 Units No Shared Parking” - dated March 09, 2022.
7. The site of the proposed development (PID 70497763) is located in the Sea Level Rise Zone,

thus, the building needs to meet the requirements of the Southeast Regional Service Commission and ensure the habitable part of the building is built at a minimum elevation of 4.3 metres Canadian Geodetic Vertical Datum of 1928 (CGVD28).

8. Should the Proponent uncover any contamination in the soils or ground water on site, this contamination must be reported to DELG immediately and will need to be addressed as per DELG's *Guideline for the Management of Contaminated Sites*. Any contamination found must be reported to DELG using the Historical Contamination Site Registration Form, which can be found at the following link: <https://atlanticrbca.com/new-brunswick/>.
9. An *Approval to Construct* and an *Approval to Operate* for groundwater extraction must be obtained from DELG's Authorizations Branch prior to connecting the proposed well as it will extract 50 m³/day of water or more. For more information please contact the Authorizations Branch at (506) 453-7945.
10. The Proponent must prepare an Emergency Preparedness Response Plan for the Brinkley apartment complex. At a minimum, the Plan must ensure all tenants are made aware of local flood risk to the development and to the Cap Bimet Road, and potential emergency situations that could occur on-site; the Plan must include, but not be limited to, establishing an early storm warning response system and process, pre-determined muster points, 72-hour emergency preparedness kit information, and flood preparedness information. The Plan must be shared with all future occupants of the Brinkley apartment complex with flood awareness disclaimers part of the occupancy agreement. The Plan must be submitted to the Director of the EIA Branch for review prior to any occupancy of Brinkley Development.
11. The Proponent must ensure that all project activities are conducted in compliance with the *Migratory Birds Convention Act* and associated Regulations.
12. The Proponent must ensure that all project activities are conducted in compliance with the federal and provincial *Species at Risk Act* and associated Regulations.
13. The project is to take place in a coastal zone and therefore shall be in compliance with *A Coastal Areas Protection Policy for New Brunswick*.
14. Construction materials must not enter or pose a risk to the coastal/marine environment or fauna and must be contained/stored in a manner that prevents the materials of being washed into the marine environment during high water levels as indicated in the site specific Environmental Management Plan..
15. Any debris or construction material must be removed from the marine environment and coastal lands and disposed of, or placed, in a manner where it cannot be returned to the marine environment.
16. Heavy machinery, equipment and pollutants shall not track below the ordinary high-water mark and must be located or stored in areas not in danger of floodwaters.
17. The maximum allowable pumping rate for the existing on-site well, referred to as the Shed Well within the Proponent's EIA Registration Document (dated January 5, 2021) is 150 imperial gallons per minute to accommodate peak demand pumping. However, the maximum allowable daily water withdrawal from the well is 200 m³/day. A flowmeter must be installed on the well and the water usage data recorded weekly.

18. The water level in the Shed Well must be monitored regularly (minimum of hourly readings).
19. At a minimum, the raw water of the Shed Well must be sampled monthly for microbiology, conductivity, and annually for general chemistry and trace metals (or equivalent potable well water laboratory sampling package).
20. The flowmeter, water level, and water quality data must be submitted to DELG annually in the manner prescribed in the *Approval to Operate* for this system.
21. The water from the Shed Well must meet the *New Brunswick Drinking Water Guidelines* before reaching the first user in the distribution system.
22. If at any time the Proponent wants to increase the approved maximum allowable pumping rate of the Shed Well and/or increase the maximum daily water withdrawal and/or requires a new water supply well, then the Director of the EIA Branch of DELG must be contacted as further hydrogeological testing and other information may be required.
23. The wellhead protection measures that have been identified in the EIA Registration document and subsequent correspondence must be instituted on the production well.
24. Prior to using water from proposed well, but after proper disinfection of the well per the American Water Works Association (AWWA) standard, the Proponent must collect a water quality sample for general chemistry, trace metals, and microbiology (or equivalent potable water laboratory analysis). The water quality data must be submitted for review and must be approved by the Approvals Engineer from DELG's Authorizations Branch before the well may be used as a water supply.
25. In the event of a complaint by a neighbouring water user that the construction or operation of this water supply well has negatively impacted the quality or quantity of their private water supply, the Proponent must investigate the complaint and notify DELG (according to the manner stipulated in the *Approval to Operate*). If it is determined that the Proponent is responsible for any negative impacts, the Proponent will be required to provide a temporary water supply for short-term impacts, or to repair, remediate, or replace any permanently impacted well(s), which might include, but is not limited to, deepening a well or drilling a new well.
26. The Shed Well is located within the building footprint. The Shed Well must always remain accessible for any necessary cleaning, treatment, repair, testing, and inspection of the well. The wellhead of the Shed Well must be maintained above the flood-risk elevation of 4.3 metres CGVD28.
27. The Proponent must ensure that all electrical infrastructure of the proposed development is located above the flood-risk elevation of 4.3 metres CGVD28.
28. The Proponent must obtain and fulfill the terms and conditions of a *License of Occupation* from the Department of Natural Resources and Energy Development for the existing armour stone located below the Ordinary High-Water Mark (OHWM). This authorization is required for any necessary repairs to be performed on the existing structures. If possible, any additional armor stone or repairs made to the structures shall be placed on the Proponent's property (PID 70497763) and not below the OHWM.
29. The Proponent must incorporate net-zero storm water management design into their project

(i.e., site, parking lot, and building design) to mitigate the risks of localized flooding and ensure the project does not negatively impact adjacent properties.

30. Backup power generation shall be maintained and kept onsite to ensure pumps in the parking garage can drain the excess water from the stormwater pit in potential future flood emergencies.
31. As per *Section 9* of the *Heritage Conservation Act*, if an archaeological object, burial object, or human remains are discovered at any time, the discovery must be reported to the Minister of Tourism, Heritage and Culture as soon as practicable at (506) 453-2738.
32. The Proponent is responsible and accountable for any reparations, restorations, and clean-up, resulting from impacts to PID 70497763, as a result of coastal flooding.
33. In the event of the sale, lease, or any other conveyance or change of control of the property, or any portion thereof, the Proponent must provide written acknowledgement from the lessee, controller, or purchaser confirming that they will comply with the Conditions of this Determination to the Director, of the EIA Branch, DELG.
34. The Proponent must ensure that all developers, contractors, and operators associated with the project comply with the above requirements.