



DOC20/950019-3

Mr Bruce Zhang
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Dear Mr Zhang

Request for advice on the Response to Submission for the ESR Horsley Logistics Park (SSD-10436)

I refer to your request for advice to the NSW Environment Protection Authority (EPA) on 27 July 2020 for advice in relation to the Response to Submission (RtS) for the ESR Horsley Logistics Park (SSD-10436), prepared by ESR Australia (Applicant) and dated November 2020.

The EPA advises the following:

The applicant has not yet addressed all EPA's comments on contaminated land

The EPA has reviewed the RtS report for ESR Horsley Logistics Park (SSD-10436). As part of the RtS, the Applicant submitted a copy of a Remediation Action Plan (RAP) prepared in 2014 and the updated RAP prepared in 2019. However, the Applicant did not submit any supporting detailed site investigations, or a Section B Site Audit Statement prepared by an accredited Site Auditor certifying that the nature and extent of the contamination has been determined and that the site can be made suitable for the proposed use if the site is remediated in accordance with the updated RAP.

In the RtS, the Applicant stated that they expect that Site Audit Statements will be issued on 30 November 2020 for Lots 201 and 204; 11 January 2021 for Lot 203; and 22 November 2021 for Lot 202. It appears the Applicant has already engaged a Site Auditor even though they didn't submit a Site Audit Statement during the RtS stage. The Applicant's response stated that these Site Audit Statements will "provide certainty to DPIE that the land will be made suitable in its remediated state for the purposes of the development proposed by this SSD SA as required by Clause 7 of SEPP 55."

It is highly recommended that the Applicant continues to engage a NSW EPA-accredited Site Auditor throughout the duration of works to ensure that any work required in relation to soil, groundwater, or ground gas contamination is appropriately managed.

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Even though the Applicant has not yet addressed all EPA's comments on contaminated land, it is considered that EPA's concerns on contamination can be addressed with appropriate conditions of consent to address contamination issues and to ensure that the conditions are consistent with the NSW EPA's Site Auditor Scheme. Therefore, the EPA would like to recommend the draft conditions of SSD approval below.

Recommended conditions of consent:

1. The Applicant must engage a NSW EPA-accredited Site Auditor throughout the duration of works to ensure that any work required in relation to soil, groundwater, or ground gas contamination is appropriately managed.
2. The Applicant must obtain a Section B Site Audit Statement from a NSW EPA accredited Site Auditor commenting that the updated RAP is appropriate and that the site can be made suitable for the proposed development provided that the updated RAP is implemented.
3. The conditions in the Section B Site Audit Statement must be met and any variations to the approved Remedial Action Plan must be approved in writing by the Site Auditor.
4. If work is to be completed in stages, the Site Auditor must confirm satisfactory completion of each stage by the issuance of Interim Audit Advice/s.
5. The Applicant must obtain a Section A1 Site Audit Statement - or a Section A2 Site Audit Statement accompanied by an Environmental Management Plan - from a NSW EPA accredited Site Auditor and submit it to the consent authority and the EPA prior to commencement of use. The Site Audit Statement must certify the site is suitable for the proposed use.

The Applicant may obtain individual Section A1 Site Audit Statement - or a Section A2 Site Audit Statement on individual parcels of land.

6. Prior to use, the Applicant must obtain confirmation from the Certifying Authority in writing that the requirement of condition 5 has been met.

Notes

The EPA reminds the Applicant of the following:

- The processes outlined in State Environmental Planning Policy 55 - Remediation of Land (SEPP55) be followed in order to assess the suitability of the land and any remediation required in relation to the proposed use.
- The proponent must ensure the proposed development does not result in a change of risk in relation to any pre-existing contamination on the site so as to result in significant contamination [note that this would render the proponent the 'person responsible' for the contamination under section 6(2) of *Contaminated Land Management Act 1997* (CLM Act)].
- The EPA should be notified under section 60 of the CLM Act for any contamination identified which meets the triggers in the Guidelines for the Duty to Report Contamination www.epa.nsw.gov.au/resources/clm/150164-report-land-contamination-guidelines.pdf
- The EPA recommends use of "certified consultants". Please note that the EPA's Contaminated Land Consultant Certification Policy supports the development and implementation of nationally

consistent certification schemes in Australia and encourages the use of certified consultants by the community and industry. Note that the EPA requires all reports submitted to the EPA to comply with the requirements of the CLM Act to be prepared, or reviewed and approved, by a certified consultant.

If you wish to discuss this advice, please contact Kyle Browne, Operations Officer on 9995 6107 or via email at kyle.browne@epa.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Lara Barrington', with a stylized, looping flourish at the end.

LARA BARRINGTON
Unit Head - Regulatory Operations Metropolitan West