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Email: Bruce.Zhang@planning.nsw.gov.au

**By email**  
21 August 2020

Dear Mr Zhang

**Request for advice on the Environmental Impact Statement for the  
ESR Horsley Logistics Park (SSD-10436)**

I refer to your request to the NSW Environment Protection Authority (EPA) on 27 July 2020 for advice in relation to the Environmental Impact Statement for the ESR Horsley Logistics Park (SSD-10436) titled *Environmental Impact Statement Horsley Logistics Park*, prepared by Urbis Pty Ltd and dated July 2020 (EIS) and submitted by ESR Australia (the Applicant).

The EPA notes the EIS relates to the proposed development of the ESR Horsley Logistics Park (HLP), located at 6 Johnston Crescent, Horsley Park (Lot 103 Deposited Plan 1214912). The EPA previously provided advice to the Department of Planning, Industry and Environment (DPIE) regarding a request for input into Secretary's Environmental Assessment Requirements (SEARs) for the proposed HLP (SEARs 10436), dated 15 April 2020 (EPA Ref DOC20/215043-1).

**Inconsistency between the EPA's recommended SEARs and the SEARs required by DPIE**

The SEARs required by DPIE (SEARs 10436) are inconsistent with the recommendations provided by the EPA provided in the letter of 15 April 2020 (DOC20/215043-1). The EPA's recommended SEARs included the following:

1. The Applicant must assess whether the land is contaminated and determine the nature and extent of any soil, groundwater and ground gas contamination.
2. The Applicant must identify if remediation of the land is required, having regard to the ecological and human health risks posed by the contamination in the context of existing and proposed land uses.
3. The Applicant must ensure any site investigations undertaken, and the subsequent report/s, are prepared in accordance with relevant guidelines made or approved by the EPA under section 105 of the *Contaminated Land Management Act 1997*.
4. The Applicant must follow the processes outlined in State Environmental Planning Policy 55 - Remediation of Land (SEPP55), to assess the suitability of the land and any remediation required in relation to the proposed use.
5. 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 and ground gas contamination complies with current regulations and guidelines and meets the appropriate standards.

On the 18 May 2020, DPIE invited the EPA to review the amended SEARs and notify DPIE of any changes to the EPA's advice for the proposed HLP. The EPA's advice did not change.

In the amended SEARs dated June 2020, under the sub-heading "Contamination and Remediation", DPIE required the following from the Applicant:

1. Assessment and quantification of any soil and groundwater contamination and demonstration that the site is suitable for the proposed use(s) in accordance with SEPP 55;
2. Details of the proposed remediation strategy under development application DA 21.1/2020, including timing of carrying out remediation works and when the site will be made suitable for the proposed use(s).

#### **A NSW EPA-accredited site auditor must be engaged throughout the duration of works**

The EIS mentioned that DA 21.1/2020 provides that all contamination within the HLP boundary will be transferred into the containment cell at Lot 306, which is located outside the boundary and to the north of the HLP. The EIS explained that ongoing management of that containment cell will be undertaken in accordance with the Remediation Action Plan (RAP) accompanying that Development Approval (DA) and will remain the responsibility of CSR Building Products Pty Ltd (The applicant for DA 21.1/2020). The RAP referred to in the EIS was not submitted as part of this SSD application.

On 20 July 2020, the EPA provided comments to Fairfield City Council (Council) for DA 21.1/2020 about the containment cell for contaminated material. Specifically, the EPA recommended that an EPA-accredited site auditor must be engaged throughout the duration of works to ensure that any work required in relation to contamination is appropriately managed.

#### **SEARS - Assessment and quantification of any soil and groundwater contamination and demonstration that the site is suitable for the proposed use(s) in accordance with SEPP 55:**

Section 5.4.5 of the EIS mentioned a few development applications submitted to Council and referred to Remediation Action Plans and a few environmental site assessment reports. However, none of these supporting documents (environmental site assessments or remediation action plans) were included in the EIS and submitted as part of the SSD application. Therefore, the EIS has not established suitability of the development in accordance with SEPP55.

The EPA disagrees with the statement in Section 5.4.5 of the EIS that the RAP for DA 437.1/2016 was endorsed by the EPA. The EPA does not endorse management plans or the like for reasons of maintaining regulatory 'arm's length'.

The EPA notes the development is located adjacent to the Old Camide Landfill, situated on the north western section of Lot 103 DP 121912 and is therefore concerned that the Applicant must be able to demonstrate how it proposes to manage any potential soil, groundwater and ground gas contamination.

Since there are no accompanying reports to the EIS, the EPA requires that the Applicant submit supporting reports to ensure the assessment and characterisation of soil, groundwater and ground gases as part of the Response to Submissions (RtS). Specifically, the supporting reports must demonstrate that the assessment and management of contaminated land for the proposed development adhere to the *Contaminated Land Guidelines: Assessment and Management of Hazardous Ground Gases* (EPA, 2019), and any other relevant guidelines made or approved under section 105 of the *Contaminated Land Management Act 1997* (CLM Act), to ensure that works are done appropriately, risks are assessed correctly and the options of managing and mitigating the risks are properly applied.

Furthermore, as part of the RtS, the applicant must submit a Section B Site Audit Statement from a NSW EPA-accredited site auditor certifying that the nature and extent of the contamination has been determined, certifying appropriateness of the reports prepared to date (including environmental site

assessment report and RAP) and certifying the site can be made suitable for the proposed use if the site is remediated in accordance with the RAP. These requirements are to demonstrate the Applicant engaged a site auditor and to demonstrate that the site can be made suitable for the proposed use subject to the RAP to which the Applicant was referring.

**SEARS - Details of the proposed remediation strategy under development application DA 21.1/2020, including timing of carrying out remediation works and when the site will be made suitable for the proposed use(s):**

Neither an environmental site assessment nor RAP was included in the EIS submitted as part of the Application. Based on the EIS, the proposed remediation strategy and the timing of the remediation works to make the site suitable for the proposed use are not clear.

**EPA position and recommendations to DPIE regarding ESR Horsley Logistics Park (SSD - 10436):**

1. The EPA cannot provide DPIE with recommended conditions of consent at this stage since the Applicant did not supply the supporting documents and therefore has not yet met the requirements of the SEARs to enable the EPA to undertake the required review;
2. As part of the RtS, the Applicant must submit supporting documents such as a RAP, environmental site assessments, and interim audit advice from a NSW EPA-accredited site auditor commenting on the nature and extent of the contamination and appropriateness of the reports prepared to date (including environmental site assessment report and RAP), to demonstrate it has engaged a site auditor; and
3. The Applicant must submit supporting documents such as a RAP, environmental site assessments, and interim audit advice are to comply with the EPA's SEARs.

If you wish to discuss this letter, please contact Kyle Browne, Operations Officer, on 9995 6107 or [kyle.browne@epa.nsw.gov.au](mailto:kyle.browne@epa.nsw.gov.au).

Yours sincerely



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