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Prepared for:

**Sydney Harbour Foreshore Authority**

**PO Box N408**

**Grosvenor Place NSW 1220**

D7

# Proposal for Limited Scope Contamination Assessment Lower Glover Street Oval, Callan Park, Rozelle NSW

ENSR Australia Pty Ltd (ENSR)

Level 5, 828 Pacific Highway

Gordon NSW 2072

13 August 2008

**Document No.: S4108701\_PRP\_13Aug08.doc**



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## Distribution

### Proposal for Limited Scope Contamination Assessment Lower Glover Street Oval, Callan Park, Rozelle NSW

13 August 2008

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- ENSR Australia Pty Ltd (ENSR) has prepared this document for the purpose of a Limited Scope Contamination Assessment which is described in the Scope of Works section, and was based on information provided by the client, ENSR's understanding of the site conditions, and ENSR's experience, having regard to the assumptions that ENSR can reasonably be expected to make in accordance with sound professional principles.
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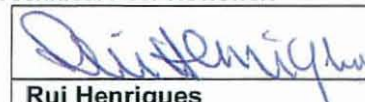
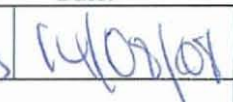


**Alex Syriatowicz**

Senior Environmental Scientist

Technical Peer Reviewer:

Date:

	
<b>Rui Henriques</b> Principal Remediation Specialist	

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## 1.0 Introduction

ENSR Australia Pty Limited (ENSR) is pleased to provide this fee proposal to conduct a Limited Scope Contamination Assessment of the Sydney Harbour Foreshore Authority (SHFA) managed and NSW Department of Health owned land referred to as Lower Glover Street Oval, Callan Park, Rozelle NSW (the Site).

Based on information provided by SHFA, ENSR understands that the Site has been disused for approximately ten years, but is now being considered for re-use as a playing oval by local sports clubs. Due to drainage issues at the Site, maintenance works are required prior to site re-commissioning, in the form of the installation of a stormwater drainage pipe along the western portion of the Site.

This Limited Scope Contamination Assessment is therefore required to obtain a better understanding of the risk that potential contamination at the Site may pose to the health of maintenance workers undertaking the drainage works, and to future users of the sports oval. *In-situ* waste classification of materials in the western portion of the Site is also required, in case excess materials requiring off-site disposal are generated during drainage works.

ENSR notes that the scope of works presented in this proposal is not sufficient, nor is it its' purpose, for assessing the risk the Site may pose to the environment nor for assessing site suitability for re-development or land uses other than those described here.

ENSR is an Australian Contaminated Land Consultants Association (ACLCA) founding Member Company and conforms to the Associations' codes of practice. All work conducted by ENSR will be reviewed by an ENSR Principal Environmental Scientist to ensure compliance with NSW EPA/DEC guidelines and ensure SHFA's commercial and legal objectives are met.

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## 2.0 Background

ENSR's understanding of the Site and the project requirements to date is based on the following:

- Information provided by SHFA's representative, Wayne Sahlman, during a brief site inspection carried out on 8 August 2008 by ENSR Environmental Scientists Rui Henriques and Alex Syriatowicz; and
- Discussion with ENSR Principal Environmental Scientist and EPA Accredited Site Auditor, Bill Ryall, who was commissioned by SHFA in 2007 to review previous contamination assessments undertaken at Callan Park and provide advice relating to the management of soil and groundwater contamination at Callan Park (including the Site).

The Site is approximately 3.2 ha of slightly elevated, grassed, open space located in the north-west corner of Callan Park. It is generally defined by a row of houses and a community garden on its' southern boundary and by a row of established trees on the remaining three boundaries.

The proposed drainage works would require an approximately 100 m long excavation to a maximum depth of 1 metre below ground surface (m bgs) that will run south-east to north-west across the western portion of the site.

ENSR is aware of the following documents that have been prepared for Callan Park (within which the Site is situated) that relate to contamination issues:

- "*Rozelle Hospital, Stage 1 Preliminary Geotechnical and Contamination Study. Issues Paper on Geotechnical & Environmental Constraints*" by Coffey Geosciences Pty Ltd (Coffey) dated 30 August 2000;
- "*Rozelle Hospital, Preliminary Contamination Assessment*" by Coffey dated 14 March 2002;
- "*Review of contamination and Geotechnical Conditions at Rozelle Conditions at Rozelle Hospital Site*" by Environmental & Earth Sciences (EES) dated 29 August 2002; and
- "*Management of contamination in the Proposed Development of Callan Park*" by HLA-Envirosciences Pty Limited (HLA ENSR) dated 25 October 2007.

A brief review of the HLA ENSR (2007) report and the Coffey (2000) report has indicated that the Site is likely to be reclaimed land subject to extensive filling (up to approximately 11 m deep), the nature, origin and contamination status of which is unknown. The review also indicated that very limited sampling has been undertaken at the Site, which identified high levels of petroleum hydrocarbons and heavy metals and elevated levels of PAHs in fill materials at a depths of approximately 9 m bgs. Groundwater was observed at around 7.5 m bgs. ENSR has not been provided with any of the other previous reports for the Site. These reports could be reviewed as part of the Limited Phase 1 scope of works (see **Section 4** below) and could allow for a reduction in the amount of investigation necessary.

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### 3.0 Objectives

The objectives of the Limited Scope Contamination Assessment will be to:

- Assess shallow soil conditions at the Site to evaluate the presence of potential contamination;
- Assess for the presence of risks to future users of the sports oval presented by any contamination identified at the Site;
- Assess for the presence of risks to maintenance workers undertaking the drainage works presented by any contamination identified in the western portion of the Site;
- If risks to site users and/or workers are detected make recommendations regarding remediation and/or site management in order to eliminate or reduce such risks; and
- Undertake *in-situ* waste classification of materials in the western portion of the Site (likely to be disturbed during construction of a stormwater drain) in accordance with NSW DECC (2008) *Waste Classification Guidelines*.

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## 4.0 Scope of Work

The scope of the Limited Contamination Assessment tasks is detailed below.

### 4.1 Limited Phase 1 Background Review

The scope of works for the Limited Phase 1 Background Review will comprise a site history and background review and detailed site inspection, as detailed below.

#### 4.1.1 Site History and Background Review

ENSR proposes to undertake a limited site history and background information review in general accordance with NSW EPA (1997) *Guidelines for Consultants Reporting on Contaminated Sites*. The findings of this review will be used to refine the subsequent site investigation and will include:

- Review of any previous environmental assessment reports, if made available;
- Review of available Department of Lands aerial photographs. Enlargements of representative photographs will be included as figures in the final report; and
- Review of available geology and hydrogeology information for the area.

#### 4.1.2 Detailed Site Inspection

ENSR proposes to conduct a detailed site inspection just prior to fieldworks. The site inspection will be conducted to:

- Evaluate and ground truth information obtained from the site history review;
- Gather pertinent information required to alter the proposed sampling and analysis programme;
- Locate above ground and underground services;
- Inspect the Site's ground surface for the presence of potentially asbestos containing materials (ACM); and
- Assess and document the extent of grass coverage across the site

The site inspection will be conducted by an ENSR Environmental Scientist and all observations will be fully documented on a site plan.

### 4.2 Limited Phase 2 Investigation

Based on the extensive filling that appears to have been undertaken at the Site, the consequent potential for sub-surface contamination to occur at the Site, the contamination already identified in the Coffey (2000) report and the limited extent of sampling previously undertaken at the Site, it is considered that a subsurface investigation is required to achieve the objectives of the project.

For volatile contaminants, inhalational exposure is an important exposure pathway to be considered when assessing the health hazards these contaminants may present, even if present at depth. Given that significant contamination by volatile contaminants such as shorter chain TPH and/or BTEX was not

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identified during the Coffey (2000) investigation, it is also considered that a shallow soil sampling program will be sufficient to achieve these objectives.

The scope of work for the recommended Limited Phase 2 Investigation is described in the following sections.

#### 4.2.1 Health and Safety

ENSR's staff are trained in health and safety procedures for work on contaminated sites. A project Health and Safety Plan (HASP) and specific safe work method statement (SWMS) will be prepared for the investigation of the Site. The HASP and SWMS will include all the specific health and safety procedures and will be developed in accordance with guidelines developed by NSW Construction Policy Steering Committee and internal ENSR policy. In addition:

- All field staff will have completed a Senior First Aid Course, as applicable.
- All field staff will have completed an initial 24 hours training in hazardous waste/materials workers under OSHA 29 CFR 1910.120 or equivalent standard and have had 8 hours refresher course if initial training more than 12 months, as applicable.
- Medical certification of all field employees and subcontractors, as applicable.
- The HASP and SWMS to be prepared for the investigation will be submitted to SHFA for approval prior to any on-site works commencing.

#### 4.2.2 Service Clearance

Prior to the field works commencing ENSR proposes to:

- Mark out soil sampling locations; and
- Locate services.

All proposed push tube locations will be assessed for the presence of underground services, to the best of ENSR's knowledge and capacity, by employing service maps supplied by the various stakeholders and the use of a Telstra accredited service locator (using a radio detection device).

In the event that services are encountered and damaged during field investigations all work will cease and the SHFA will be notified.

#### 4.2.3 Limited Soil Sampling Program

A total of five push tube and 11 hand auger sample locations are proposed for the Site. It is noted that the sampling program does not meet the minimum criteria for characterisation of a Site provided in the NSW EPA (1995) *Sampling Design Guidelines* (43 locations recommended for a 3.2 ha site), however is considered adequate for the purposes of this limited scope investigation.

The push tube locations will be positioned in a line (approximately 1 per 17 m) along the proposed route of the new stormwater drain (to be advised by SHFA). The hand auger locations will be based on an approximate grid system (approximately 55 m grid, excluding the push tube locations) across the rest of the Site, where possible, with localised modification to account for existing structures and potential contaminant source zones identified in the background review, site inspection and site accessibility.

A ute mounted drill rig equipped with push tube apparatus will be used to complete each push tube borehole to a maximum depth of 1 m bgs. Hand auger boreholes will extend to a maximum depth of 0.5

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m bgs, with samples to be collected directly from the head of the decontaminated hand auger using disposable nitrile gloves.

The stratigraphy of all boreholes will be appropriately logged and presented in the final report.

Samples will be placed in laboratory supplied glass jars with Teflon lined lids. Additional soil will be placed in a sealed plastic bag for field screening purposes. The bagged samples will be screened by a calibrated (100 ± 3 ppm isobutylene) MicroTip MP1000 PID, or similar, for volatile organic compounds.

Selected samples will be submitted for laboratory analysis for the suite of analytes listed in **Section 4.2.4** below.

ENSR's field methods will be in accordance with relevant guidelines made or approved by NSW EPA/DEC (as per Section 105 of the Contaminated Land Management Act 1997) and ENSR's in-house contaminated site investigation manual.

Note that the results of the background review and detailed site inspection may necessitate an alternative or different scope of work to that described above. If this is the case, SHFA will be contacted and the alternative scope of work discussed.

#### 4.2.4 Analytical Program

A minimum of 1 soil sample from each location will be submitted for analytical testing, with two soil samples to be obtained from each location in line with the objectives of this assessment. The locations of soil samples to be analysed will be determined while undertaking fieldwork based on the conditions. During soil logging and the selection of samples for analysis, particular attention will be paid to assessing whether or not the fill materials expected to be encountered at the Site are 'capped' with 'clean' materials.

The Contaminants of Potential Concern (COPC) that the samples will be variably analysed for, have been chosen based on ENSR's limited understanding of the Site's likely filling, and of the common contaminants found in soils in the inner-Sydney Metropolitan Area.

The anticipated laboratory analysis program of soil samples (including QC samples) is included in Table 1 below, and in Table 1 attached as **Appendix A** (Quotation Breakdown).

**Table 1: Proposed Analysis Regime**

COPC	Primary Samples		Intra-Lab Dups	Inter-Lab Dups	Rinsates	Total
	11 Hand Augers	5 Push Tubes				
8 Metals <sup>1</sup>	16	10	3	2	1	32
TPH <sup>2</sup>	11	5	2	1	1	20
BTEX <sup>3</sup>	11	10	2	1	1	25
PAHs <sup>4</sup>	11	10	2	-	-	23
OCP/OPP <sup>5</sup>	5	3	-	-	-	8

<sup>1</sup> 8 Metals = As, Cd, Cr, Cu, Pb, Ni, Zn, Hg

<sup>2</sup> TPH = Total Petroleum Hydrocarbons

<sup>3</sup> BTEX = Benzene, Toluene, Ethylbenzene & Xylene

<sup>4</sup> PAH = Polycyclic Aromatic Hydrocarbons, including benzo(a)pyrene

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COPC	Primary Samples		Intra-Lab Dups	Inter-Lab Dups	Rinsates	Total
	11 Hand Augers	5 Push Tubes				
PCB <sup>6</sup>	5	3	-	-	-	<b>8</b>
Asbestos	5	10	-	-	-	<b>15</b>
TCLP Metals <sup>7</sup>	-	2	-	-	-	<b>2</b>
TCLP B(a)P <sup>8</sup>	-	2	-	-	-	<b>2</b>

All analyses will be conducted by either Labmark/Amdel Laboratories and/or Australian Laboratories Service (ALS), both are NATA registered for the analyses proposed. Analysis will be conducted in accordance with NEPC<sup>9</sup> (1999).

### 4.3 Data Analysis and Report Preparation

A Limited Scope Contamination Assessment report will be produced in general accordance with NSW EPA (1997<sup>10</sup>), DUAP (1998<sup>11</sup>), EPA (1999<sup>12</sup>) and NSW DEC (2006)<sup>13</sup>. The report will comprise the following sections:

- Executive Summary
- Introduction
- Scope of Work
- Data Quality Objectives
- Site Identification
- Site Information and Data Review;
- Site Condition and Surrounding Environment
- Areas and Contaminants of Potential Concern
- Sampling Methodology
- Quality Assurance and Quality Control (includes a review of field QA/QC, laboratory QA/QC and an evaluation of the data)
- Site Assessment Criteria
- Investigation Results
- Site Characterisation (describing the nature and extent of contamination [if any]); and
- Conclusions and Recommendations.

<sup>5</sup> OCP/OPP = Organochlorine Pesticides / Organophosphate Pesticides

<sup>6</sup> PCB = Polychlorinated Biphenyls

<sup>7</sup> TCLP = Toxicity Characteristic Leaching Procedure

<sup>8</sup> B(a)P = Benzo(a)pyrene

<sup>9</sup> NEPC. 1999. National Environmental Protection Measure (Assessment of Site Contamination). December.

<sup>10</sup> EPA. 1997. *Guidelines for Consultants Reporting on Contaminated Sites*. NSW Environment Protection Authority. February.

<sup>11</sup> DUAP. 1998. *Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land*. Department of Urban Affairs and Planning and Environment Protection Authority. Now called Planning NSW.

<sup>12</sup> EPA. 1999. *Guidelines on Significant Risk of Harm from Contaminated Land and the Duty to Report*. April.

<sup>13</sup> DEC. 2006. *Guidelines for NSW Site Auditor Scheme*. 2<sup>nd</sup> Edition.

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The report will also include site photographs, bore logs, calibration records and diagrams (such as locality and site layout plans).

Two hard copies and one electronic copy of the final document will be provided.

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## 5.0 Project Team

The project team will comprise the following personnel:

### **Project Director – Rui Henriques**

Rui Henriques has sixteen years experience, in project management of major remediation works involving earthmoving and treatment, the formulation and implementation of remediation strategies and the formulation and the implementation of soil and groundwater sampling strategies for contaminated sites. Rui has managed consulting groups, liaised with and provided guidance to analytical laboratories for environmental testing. He has been instrumental in providing QA/QC oversight and liaising with EPA and regulators, EPA auditors and local communities on large and politically sensitive projects. Rui has also managed and implemented waste management audits as well as managing wastewater feasibility studies for use within small-scale treatment plants. He has in-depth experience and knowledge in environmental project management, including EIS preparation gained from managing and directing projects undertaken for major facilities in Australia. Of these projects some involved the use of emerging remediation methodologies and treatment for persistent organic pollutants such as dioxins and other chlorinated compounds.

### **Project Manager – Alex Syriatowicz**

Alex Syriatowicz is a Senior Environmental Scientist with over five years experience in environmental consulting in Australia. She has experience in contaminated site assessments, site remediation, environmental monitoring and sampling (including soil and marine, surface water groundwater), exploratory drilling and groundwater well installation, fuel storage/supply investigation and decommissioning, laboratory and field QA/QC evaluation, health and safety, project management and reporting. Alex has consulted to a diverse range of private and public sector clients, including the SHFA. Alex will manage the day to day aspects of the project, liaise with subcontractors and the SHFA representative. She will also be responsible for ensuring that the activities and deliverables for this task conform to the overall project QA/QC objectives.

**Pool of Support/Field Staff:** Kate O'Brien (Environmental Scientist)

Doug Fenton (Environmental Scientist)

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## 6.0 Project Schedule

ENSR will commence the works immediately following receipt of a signed authorisation to proceed.

ENSR anticipate the following program for the works:

### **WEEKS ONE and TWO – Project Initiation and Background Review**

- 1 ENSR engagement.
- 2 Commence Limited Phase 1 Background Review.
- 3 The HASP and SWMS will be produced.
- 4 Detailed site inspection and clearance of service locations.
- 5 All field work (including engagement of subcontractors) will be scheduled.

### **WEEKS THREE – Data Gathering Component**

- 6 The Limited Phase 2 Investigation works will be undertaken.
- 7 All collected soil samples will be submitted to an analytical laboratory for analysis.

### **WEEKS FOUR to SIX –Report Compilation**

- 8 A review of all site data and information.
- 9 Preparation of the Limited Scope Contamination Assessment report in accordance with the objectives outlined in **Section 3.0** of this proposal.

Note that a shorter timeframe can be achieved if required by the project schedule.

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## 7.0 Financial Matters

### 7.1 Validity

Our cost estimate will be valid for a maximum period of 90 days.

### 7.2 Price

ENSR's price to undertake the scope of works (Limited Contamination Assessment) described in this proposal is **\$18,881** (excluding GST) as detailed in Table 1 Quotation Breakdown (**Appendix A**).

The price is quoted exclusive of any Goods and Services Tax ("GST") or value added tax. To the extent that supplies are taxable (i.e. subject to GST or similar tax), the price will be adjusted to fully account for the GST liability arising.

ENSR note that any savings resulting from any changes to the scope of works would be passed onto the SHFA.

### 7.3 Circumstances Where Additional Costs May Be Incurred

The following circumstances may result in additional costs associated with the investigation that have not been considered within this fee proposal:

- Site access is not gained on the agreed day/s of fieldwork;
- Dangerous weather conditions (e.g.: lightning storms) result in fieldwork down-time;
- Attendance at meetings is required;
- A detailed Sampling, Analysis and Quality Plan (SAQP) is required;
- A separate Waste Classification Letter for materials requiring off-site disposal is required. This can be provided for an additional \$600 (excluding GST);
- Liaison with Council, regulators, Auditor(s) or other parties other than SHFA is required;
- Off-site disposal of push tube or auger soil cuttings is required;
- The results of the background review and/or site inspection necessitate an alternative or different scope of work for ENSR's subsequent intrusive investigation;
- Significant contamination is identified which requires additional investigation and/or sample analyses;
- Additional samples to those numbers listed for each analyte require analysis; and
- Remediation costings are required.

Should circumstances arise that alter the ENSR scope of works, SHFA shall be notified and costs shall be adjusted accordingly after obtaining approval from SHFA.

### 7.4 Assumptions

In preparing our price estimate, the following assumptions have been made:

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- Two establishment events (one for site inspection and service clearance and one for the soil sampling program) have been allowed for the project, any additional re-establishments will incur additional costs;
- Drilling costs assume that difficult ground conditions will not be encountered that require alternative drilling technology such as air hammer, which if required will incur additional costs. The cost of drilling equipment damage as a result of difficult ground conditions (such as presence of poor fill including metal, concrete/sandstone boulders, etc) will be passed on to SHFA;
- Following completion of boreholes, the holes will be reinstated with the excavated spoil;
- No concrete coring is required;
- If the Site is on the State Heritage Register, all intrusive works may require prior approval from the Heritage Office. All Heritage approvals associated with the works are to be obtained by SHFA;
- Heritage issues do not place access constraints on rig access;
- Persistent rainfall does not result in non-trafficable ground conditions;
- ENSR is not required to provide a survey plan defining Site boundaries and/or sample locations;
- Groundwater assessment is not required for the limited scope of this assessment;
- Standard laboratory turn-around times (5 to 7 working days) apply;
- Professional indemnity insurance will be limited to \$1 M.

## 7.5 Invoicing

ENSR will present progress claims at the completion of each of the following project milestones or on a monthly basis:

- Project Initiation and Background Review;
- Completion of the sampling and analysis programs; and
- Submission of the Limited Scope Contamination Assessment Report.

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## 8.0 Terms of Proposal

### 8.1 Terms of Engagement

ENSR propose to undertake this project under the ENSR standard terms of engagement which are attached as **Appendix B**. ENSR can consider other terms of engagement, subject to agreeing those terms are acceptable.

ENSR maintains a wide range of insurance cover, including professional indemnity, public liability (including a Trade Practices extension), workers compensation and motor vehicle insurances. Copies of any of our insurance Certificates of Currency are available upon request.

Please find attached our Proposal Acceptance Record (**Appendix C**) to be completed, signed and returned to ENSR should our proposal be successful. Awarding the contract to ENSR via the proposal acceptance record, or by letter or email of engagement, or by purchase order, or verbal authorisation assumes and signifies acceptance of ENSR's standard terms of engagement unless specifically stated otherwise.

### 8.2 GST

The price is quoted exclusive of any Goods and Services Tax ("GST") or value added tax. To the extent that supplies are taxable (ie subject to GST or similar tax), the price will be adjusted to fully account for the GST liability arising.

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## Appendix A

### Quotation Breakdown

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**Table 1 - Quotation Breakdown**

<u>Item</u>	<u>Description</u>	<u>Cost</u>
	Site History Review	\$1,460
	Preparation of Site Specific Safety Plan	\$400
	ENSR Establishment / Site Inspection	\$440
	Service Locating	\$580
	Drilling (includes establishment)	\$2,140
	ENSR On-Site Sampling, Labour and Equipment	\$2,770
	Data Interpretation, Management, Reporting	\$3,500
	Project Management	\$730
	Laboratory Analysis - Soil	\$6,861
	25 samples for TPH C6-C9, BTEX @ \$37 per sample	
	20 samples for TPH C10-C36 @ \$37 per sample	
	23 samples for PAH @ \$64 per sample	
	32 samples for 8 Metals @ \$44 per sample	
	15 samples for Asbestos @ \$58 per sample	
	2 samples for TCLP Metals @ \$95 per sample	
	2 samples for TCLP B(a)P @ \$127 per sample	
	8 samples for OCP, OPP, PCB @ \$110 per sample	
	32 samples for Sample Disposal Fee @ \$2 per sample	
	2 samples for Batch Fee @ \$29 per sample	
Total Estimated Costs (excluding GST)		\$18,881
Total Estimated Costs (including GST)		\$20,769

## **Appendix B**

### **Terms of Engagement**

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# Standard Terms of Engagement for ENSR Australia Pty Ltd (ENSR)

## RECITALS

- A. ENSR Australia Pty Ltd (ENSR) ACN 060 204 702 has been requested to provide the Services party described as the Client in the Proposal Acceptance Record ("the Client")
- B. ENSR has agreed to provide the Services to the Client on the terms and conditions set out in this Agreement.

## OPERATIVE CLAUSES

### 1. Definitions

#### 1.1. Definitions

"**Agreement**" means these Terms of Engagement, the Proposal Acceptance Record and the Special Conditions, if any.

"**Business Day**" means a day on which trading banks are open for business in Sydney excluding a Saturday, Sunday or public holiday.

"**Claims**" means claims, demands, debts, accounts, actions, expenses, costs, liens, legal fees and costs, liabilities and proceedings of any nature whatsoever (whether known or unknown).

"**Commencement Date**" means the date set out in the Proposal Acceptance Record.

"**Confidential Information**" means all information relating to a party, its business, employees or suppliers which is or might reasonably be considered by the other party to be confidential and which is not in the public domain, including all financial data, business plans, unpublished financial accounts, data and reports, supply lists and information relating to the businesses of a party's suppliers, but does not include information which is or becomes public knowledge other than by a breach of this Agreement.

"**Dispute**" means a dispute arising out of or relating to this Agreement including a dispute as to breach or termination of this Agreement or as to any claim in tort, in equity or pursuant to any statute.

"**Fees**" means the fees set out in the Proposal Acceptance Record.

"**GST**" means a tax imposed under GST Law.

"**GST Law**" means "GST Law" as defined in section 195-1 of A New Tax System (Goods and Services Tax) Act 1999.

"**Insolvency Event**" means a party becomes subject to external administration within the meaning of Chapter 5 of the Corporations Act 2001.

"**Intellectual Property Rights**" include all rights in the nature of ownership created, or able to be created, under or by copyright, design registration, patent registration, trade mark registration, obligations of confidentiality and all other rights in intangible property, including rights of present and future intangible property and rights in information granted by law or equity from time to time under the law of any jurisdiction throughout the world.

"**Law**" includes any requirement of any statute, regulation, proclamation, ordinance, by-law or common law, present or future and whether State, Federal or otherwise.

"**Proposal Acceptance Record**" means the Proposal Acceptance Record provided by ENSR to you;

"**Services**" means the services set out in the Proposal Acceptance Record.

"**Special Conditions**" means the special conditions set out in the Proposal Acceptance Record.

"**Term**" means the period set out in the Proposal Acceptance Record and any extension of the Term in accordance with clause 2.2.

### 2. Engagement and Extension

- 2.1. The Client engages ENSR on and from the Commencement Date to provide the Services to the Client for the Term in accordance with this Agreement and subject to any Special Conditions.

- 2.2. The parties may by written agreement extend the Term. The extended Term is governed by this Agreement unless otherwise agreed between the parties.

### 3. ENSR's Obligations

#### 3.1. Professional standard of care

ENSR must perform the Services in a diligent manner, to the standard of skill and care expected of a consultant experienced in the provision of the Services and in accordance with this Agreement.

#### 3.2. Knowledge of requirements of the Client

ENSR will use reasonable efforts to inform itself of the requirements of the Client and must regularly consult with the Client during the performance of the Services.

#### 3.3. Timely provision of Services

ENSR will perform the Services expeditiously and in accordance with any program agreed from time to time between the Client and ENSR.

#### 3.4. Client's materials

ENSR will protect and keep safe and secure all documentation and other materials provided by the Client to ENSR. On discharge of this Agreement by performance or termination, and if requested by the Client, ENSR will return to the Client such documentation and materials. ENSR may keep a bona-fide copy of such documents and materials (including any Confidential Information disclosed to it by the Client) for its records to the extent necessary to comply with any statutory requirements or to maintain its compliance with its quality assurance system, subject always to the requirements of Clause 3.5.

#### 3.5. Confidentiality

Each party will keep confidential all Confidential Information disclosed to it by the other party. Each party must only use any Confidential Information disclosed to it for the purposes of this Agreement.

#### 3.6. Personnel

ENSR must ensure all personnel engaged by it in connection with the Services are appropriately qualified, competent and experienced in the provision of the Services.

#### 3.7. Relationship with the Client

The relationship between ENSR and the Client is that of independent contractor and principal. Neither ENSR nor the Client has (and must not represent that it has) any right to bind the other, or to assume or create any obligation or responsibility on behalf of the other or in the other's name. Nothing in this Agreement is to be construed as constituting ENSR and the Client as partners, or as creating the relationship of employer and employee between ENSR and the Client or between any employee of ENSR and the Client.

### 4. Client's Obligations

#### 4.1. Provide information

The Client will as soon as practicable or as required by this Agreement:

- a) Make available to ENSR all relevant instructions, information, documents and any other material and particulars; and
- b) answer queries made by ENSR, relating to the Client's requirements in connection with this Agreement.

#### 4.2. Appoint a representative

The representative of the Client named in the Proposal Acceptance Record, or any other person the Client expressly authorises, will act as the Client's representative and will have authority to act on behalf of the Client for all purposes in connection with this Agreement and to bind the Client in respect of any matters arising in connection with the Services.

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## 4.3. Acknowledgement

The Client acknowledges:

- a) ENSR is to provide the Services solely for the benefit of the Client; and
- b) Only the Client is entitled to rely on the Services or any documentation produced in the course of providing the Services and any third party who does rely on the Services or that documentation does so at its own risk.

## 5. Intellectual Property Rights

Except as expressly provided in this Agreement, ENSR owns all Intellectual Property Rights in all material created by ENSR in performing the Services.

## 6. Fees and Payment

### 6.1. Fees

ENSR will charge the Client the Fees for the Services or such other amount as may be agreed between the parties from time to time. The Fees are exclusive of GST.

### 6.2. Payment

- a) ENSR will deliver its invoices for the Services provided by it to the Client during each month of the Term ("the Invoiced Services")
- b) The Client will pay ENSR for the Invoiced Services within the time specified in the Proposal Acceptance Record, and if no such time is specified, within 30 days of receipt of the invoices.

### 6.3. Effect of payment

Payment, in part or in total, of the Fees constitutes acceptance by the Client of the Services.

## 7. Insurance

### 7.1. Insurance

ENSR must take out and maintain during the Term:

- a) public liability insurance of the amount set out in the Proposal Acceptance Record;
- b) professional indemnity insurance of the amount set out in the Proposal Acceptance Record and for a period of 3 years following the Term subject to its continuing availability at reasonable cost; and
- c) workers' compensation insurance as required by any relevant Law,

and, on request, provide certificates of currency for those insurances to the Client.

### 7.2. Indemnity

The Client indemnifies the Consultant against any Claim arising out of or in connection with this Agreement, the Services and/or the project made or incurred by:

- a) the Client that are in excess of the Consultant's limit of liability detailed in clause 7.4; and
- b) by any third party.

7.3. The Client's liability to indemnify ENSR is reduced proportionally to the extent an act or omission of ENSR, its employees, agents or other contractors may have contributed to the injury, death, damage or loss.

### 7.4. Limit of liability

Notwithstanding anything to the contrary elsewhere in the Agreement (but only to the extent permitted by law), the Consultant's liability to the Client arising out of or in connection with the Agreement, the project or the performance or non-performance of the Services, whether under the law of contract, tort, breach of statutory duty or otherwise:

- a) shall be limited to monetary limit of liability as stated in the Proposal Acceptance Record, and if no limit is stated therein, to the amount of the Fees; and
- b) shall expire one year from cessation of the Term or termination of the Agreement, whichever occurs first in time, and the Consultant shall be released for all time from such liability.

### 7.5. Indirect liability

Notwithstanding any provision to the contrary (but only the extent permitted by law) neither party nor their parent, affiliated or subsidiary companies, nor the officers, directors, employees or other contractors of any of the foregoing will be liable to the other for or in relation to:

- a) any indirect or consequential loss, liability or damage;
- b) loss of use of property;
- c) loss of actual or anticipated revenue, income or profits or any other form of economic loss;
- d) loss of opportunity or productivity;
- e) loss by reason of interruption, shut down or non-operation;
- f) loss by reason of increased capital or financing costs;
- g) loss by reason of increased operational costs;
- h) loss by reason of increased costs of borrowing;
- i) special damages, howsoever arising and notwithstanding any knowledge, awareness, expectation, representation, reliance or dependency on the part of either party at the time of entry into this Agreement, under or in connection with it; or
- j) exemplary or punitive damages.

## 8. Records

### 8.1. Maintain Records

ENSR must keep proper accounts, records (including information stored by computer and other devices) and time sheets in accordance with accounting principles generally applied in commercial practice in respect of the Services and its Fees.

### 8.2. Access to Records

ENSR must, within a reasonable time of any request, give the Client access to, or verified copies of, any information which may be reasonably required to enable any claim for payment by ENSR for the Invoiced Services to be substantiated.

## 9. Termination

### 9.1. Termination by the Client

If ENSR:

- a) suffers an Insolvency Event;
- b) fails to carry out the Services with due diligence and competence;
- c) without reasonable cause suspends the carrying out of the Services, or
- d) commits a substantial breach of this Agreement, the Client may:
- e) in the case of the default specified in clause 9.1(a), immediately terminate this Agreement by written notice addressed to ENSR; and
- f) in the case of any other specified default, terminate this Agreement by written notice addressed to ENSR if ENSR fails to remedy the default within 14 days from the date of service of a notice by the Client on ENSR specifying the relevant default.

### 9.2. Termination by ENSR

If the Client:

- a) suffers an Insolvency Event;
- b) fails to pay ENSR in accordance with this Agreement; or
- c) commits a substantial breach of this Agreement, ENSR may:
- d) in the case of the default specified in clause 9.2(a), immediately terminate this Agreement by written notice addressed to the Client; and
- e) in the case of any other specified default, terminate this Agreement by written notice addressed to the Client if the Client fails to remedy the default within 14 days from the date

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of service of a notice by ENSR on the Client specifying the relevant default.

### 9.3. Effect of Termination

Termination of this Agreement by either party is without prejudice to any accrued rights or remedies of each party and does not release the other from liability in respect of any breach of, or non-performance of, any obligation under this Agreement.

### 9.4. Adjustment of Fees on Termination

On termination of this Agreement under clauses 9.1 or 9.2 the Client will pay ENSR for the Services performed by ENSR up to the date of termination.

## 10. Notices

### 10.1. Address for Notices

A notice, request, consent or other communication ("communication") to be given by a party under this Agreement must be in writing addressed in accordance with the particulars for that party given in this Agreement or to another address for a party as may be notified in writing by that party.

### 10.2. Receipt of Notices

A communication must be delivered by hand or pre-paid post, or sent by facsimile. A communication will be deemed to be received:

- a) if hand delivered, on the next following Business Day;
- b) if posted, on the second Business Day after posting; or
- c) if sent by facsimile, on the next following Business Day unless the receiving party has requested re-transmission before the end of that Business Day.

## 11. General

### 11.1. Assignment

A party must not assign, or permit a third party to obtain the benefit of, its rights and interests under this Agreement except with the prior written consent of the other party.

### 11.2. Further Acts

A party must do everything necessary or desirable to enable the other party to observe and perform its covenants and obligations under this Agreement.

### 11.3. Governing Law

This Agreement will be governed by the law in force in New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of that State.

## **Appendix C**

### **Proposal Acceptance Record**

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August 2008

Proposal for Limited Scope Contamination  
Assessment

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**PROPOSAL ACCEPTANCE RECORD**

Client: **Sydney Harbour Foreshore Authority**

Address: **PO Box N408  
Grosvenor Place NSW 1220**

Client Representative: **Wayne Sahlman**

Phone No.: **02 9240 8671** Fax No: **02 9271 5383**

E-mail: **wayne.sahlman@shfa.nsw.gov.au**

Project No: **S4108701**

Proposal Date: **13 August 2008** Fees: **\$18,881** (Plus GST where applicable)

Services - Proposal Description: **Limited Scope Contamination Assessment**

Commencement Date:

Term of project:

Special Conditions:

Public Liability Insurance Cover **\$1 million**

Professional Indemnity Insurance Cover **\$1 million**

Payment Terms: 14 Days from invoice billed monthly and on completion

ENSR Australia Pty Ltd (ENSR) Project Manager: **Alex Syriatowicz**

ENSR Australia Pty Ltd (ENSR) authorised representative: **Rui Henriques**

Signature of authorised representative: 

Client's Authorised Representative: Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Order No.: \_\_\_\_\_

Other Reference: \_\_\_\_\_

The signature of the client representative signifies acceptance of ENSR's Standard Terms of Engagement and approval to conduct work as described.

Please return the signed form to your ENSR's contact prior to work commencing.

If you instruct or permit ENSR's to commence work or the provision of the services prior to signing and returning this Proposal Acceptance Record, you are deemed to have accepted ENSR's Proposal on the terms set out in this Proposal Acceptance Record and ENSR's Standard Terms of Engagement

**Please return to: Alex Syriatowicz on Facsimile: 02 8484 8989**

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## Worldwide Locations

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Azerbaijan	+994 12 4975881
Belgium	+32-3-540-95-86
Bolivia	+591-3-354-8564
Brazil	+55-21-3526-8160
China	+86-20-8130-3737
England	+44 1928-726006
France	+33(0)1 48 42 59 53
Germany	+49-631-341-13-62
Ireland	+353 1631 9356
Italy	+39-02-3180 77 1
Japan	+813-3541 5926
Malaysia	+603-7725-0380
Netherlands	+31 10 2120 744
Philippines	+632 910 6226
Scotland	+44 (0) 1224-624624
Singapore	+65 6295 5752
Thailand	+662 642 6161
Turkey	+90-312-428-3667
United States	+1 978-589-3200
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## Australian Locations

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