



ASSESSMENT REPORT

Section 75W Modification Orica Car Park Remediation Project (MP 06_0197 MOD 6)

1. BACKGROUND

This report is an assessment of a request to modify the Project Approval (MP 06_0197 MOD 6) for the remediation of land formerly within the Botany Industrial Park (BIP) known as the Car Park Waste Encapsulation site at Banksmeadow in the Botany Bay local government area (the Project). The request has been lodged by Orica Australia Pty Ltd pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks to facilitate the reuse of treated and surplus validated soil on land within the BIP and around the BIP.

2. SUBJECT SITE

Orica Australia Pty Ltd (Orica) is an Australian based global company that produces mining and consumer products and historically produced chemical products. Orica manufactured chemicals in Banksmeadow between 1941 and 2014.

The area in Banksmeadow, comprising the Orica facility as well as the adjacent industrial plants operated by Qenos and Huntsman, has been collectively referred to as the Botany Industrial Park (BIP) since 1996. The BIP occupies over 100 hectares and is bound by Denison Street to the east, Beauchamp Road to the south, and the Botany Rail Goods line to the west (see **Figure 1**).

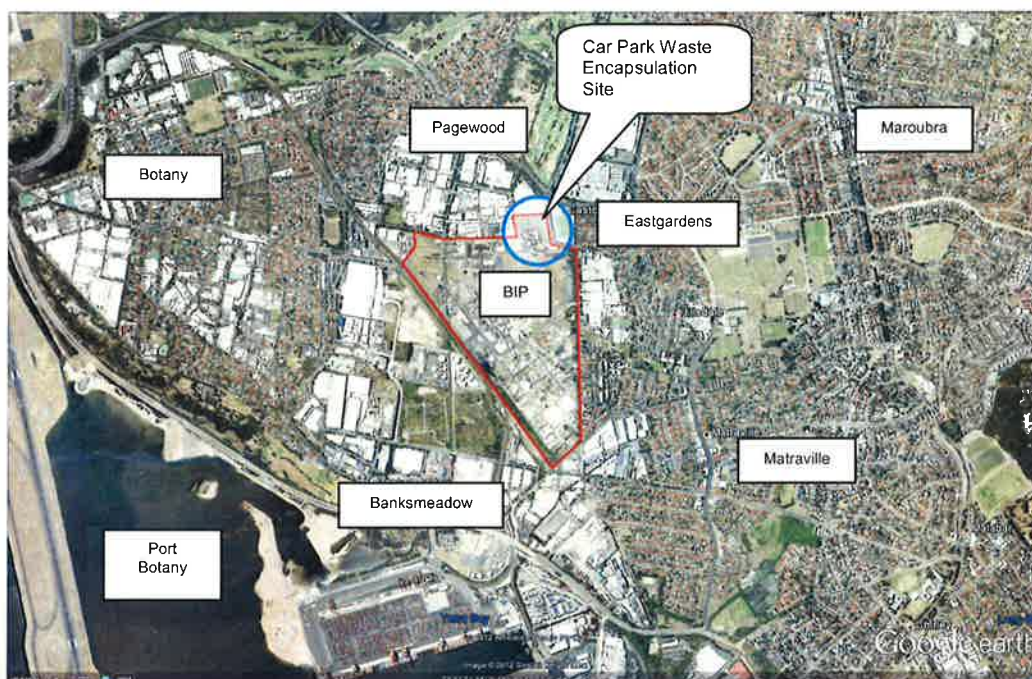


Figure 1: Car Pak Waste Encapsulation site within the BIP (as it existed at the time of approval)

3. SITE HISTORY

From the 1960s, Orica operated a chlorinated solvents plant which produced industrial solvents for use as dry cleaning fluids and refrigerants. The waste products from the solvents plant led to contamination of the underlying ash bed and sandy soil which were then excavated and relocated to the north eastern corner of the BIP in 1980. The contaminated material was then enclosed in a liner and covered with bitumen. This area is referred to as the Car Park Waste Encapsulation (CPWE) site (refer to **Figure 1** and **2**).

On 12 November 2009, the Director-General (as delegate of the then Minister for Planning) approved a project application from Orica under Part 3A of the EP&A Act for the remediation of the CPWE site. This approval allowed for the excavation and treatment of contaminated material, temporary stockpiling of the treated and validated material (refer to **Figure 2**), reinstatement of the remediated site and reuse of surplus validated soil on land owned by Orica within the BIP, consolidation of land holdings by individual owners within the BIP and changes to the BIP lot boundaries.

The approval has been modified on four occasions to:

- allow the treatment of additional material including:
 - 1,000 tonnes of hexachlorobenzene (HCB) contaminated material from Store E on the BIP; and
 - 270 tonnes of contaminated material from the nearby Asciano site near the BIP;
- allow the temporary storage of around 60,000 m³ of surplus validated soil on another Orica owned parcel of land known as Southlands; and
- change the lot boundaries within the BIP to assist in the sale or transfer of the land (see **Figure 3** for the lot boundaries under 06_0197).

A fifth modification, to reduce the height of the emission control system's stacks, was withdrawn.



Figure 2 Location of surplus validated soil stockpiles

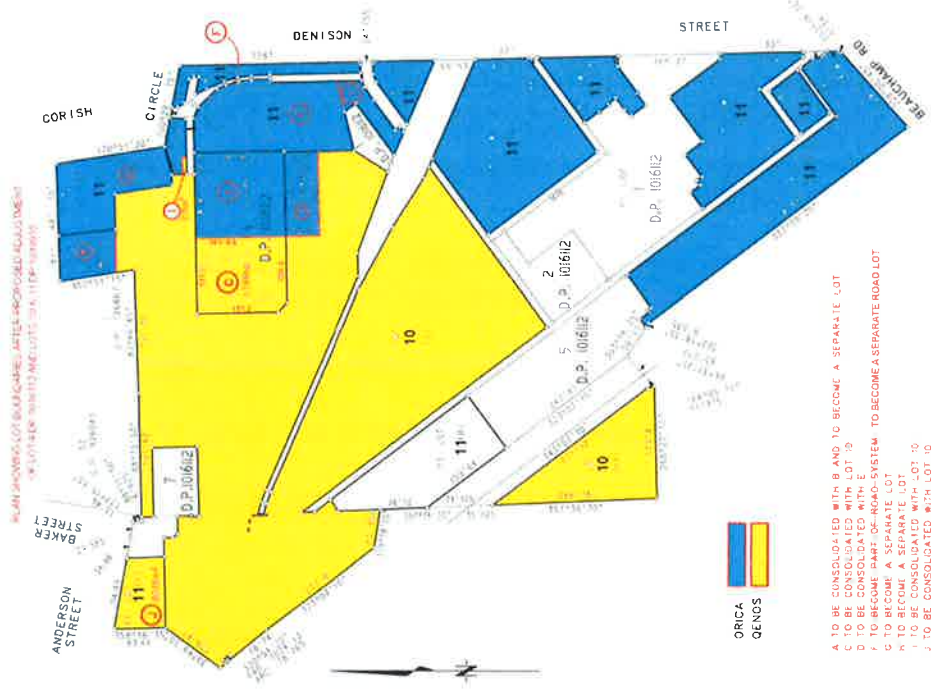


Figure 3 Approved Lot Boundaries under 06_0197

4. PROPOSED MODIFICATION

Orica has reached the final stage of the Car Park Remediation (CPR) Project, remediation is now complete. Some 53,376 m³ of surplus validated soil is currently being stockpiled within the BIP and on Orica's land adjacent to the BIP (Lot 104 DP 1192400) (see **Figure 2**) ready to be distributed on the BIP (as it existed at the time of the original approval as the Car Park site and part Lot 104 DP 1192400 was excised from the BIP in accordance with DA 30/98 MOD 2).

Although the project approval allows the reuse of surplus validated soil, activities which would facilitate the reuse have not been considered.

On 12 August 2015, Orica lodged a request to further modify its approval (06_0197 MOD 6) (see **Figure 4**) for the CPR Project to facilitate the redistribution of the surplus validated soil as follows:

- 35,000 m³ within part Lot 104 DP 1192400 ('Destination A') (with a depth of approximately 1 m);
- 15,000 m³ within landscaped mound B (dimensions being 140 m long by 50 m wide by 5 m high); and
- 10,000 m³ within landscaped mound C (dimensions being 120 m long by 50 m wide by 2.2 m high).

The modification request seeks approval to:

- readjust one of the lot's boundary by eight metres to align with the change in elevation between the lots, shown in **Figure 4**;
- remove some 48 trees and shrubs from 'Destination A';
- relocate a privately owned access road from the eastern boundary of 'Destination A' to the south-western boundary of 'Destination A';
- construct retaining walls and batters to stabilise the soil;
- landscape;
- construct a sediment pond for use during construction and operation (until part Lot 104 1192400 is developed further – this would be under a separate application);
- import and distribute some 6,000 m³ of virgin excavated natural material within 'Destination A';
- resurface existing hardstand;
- undertake services relocation as required; and
- allow the surplus validated soil to be distributed on land within the BIP currently owned by Qenos and to update the timing of the staged boundary readjustment to reflect the timing of the overall Project in accordance with Condition 6 of Schedule 2.

The works associated with the modification would be undertaken over a period of 6 – 12 months.

By facilitating the redistribution of the surplus validated soil within the BIP and adjacent land, the Proponent advises that the modification would essentially use 55,000 m³ of material that would otherwise be disposed of to landfill.

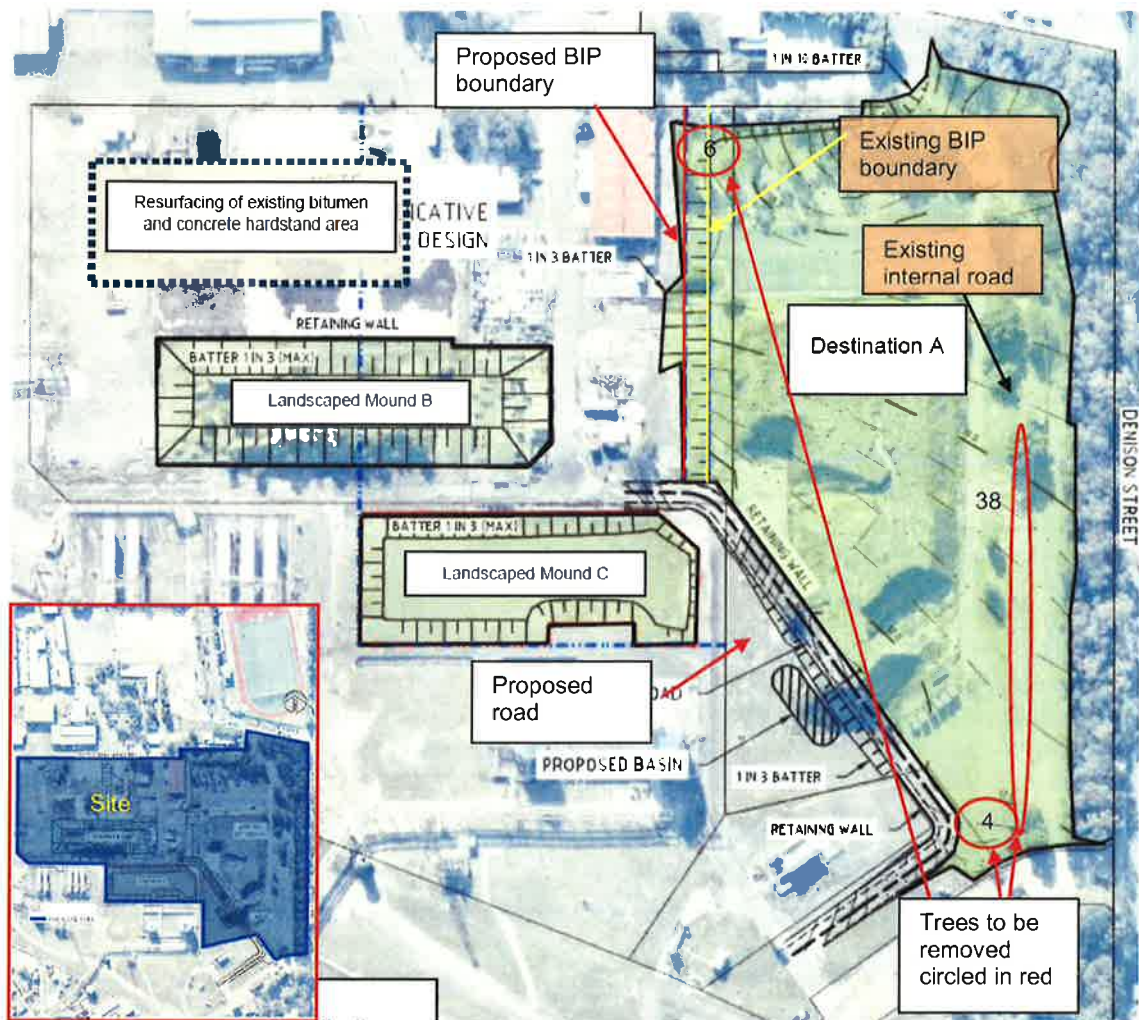


Figure 4: Proposed Modification (inset, site location)

5. STATUTORY CONTEXT

5.1 Modification Request

The approval for the Orica Car Park Remediation Project was granted under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act. Consequently, the proposed modification must be determined under Section 75W of the Act.

Pursuant to section 75W(2) of the EP&A Act, the proponent may request the Minister to modify the project approval. Any request is to be lodged with the Secretary. A copy of the modification request may be found at Appendix A.

Section 75W(3) of the EP&A Act also provides that the Secretary may notify the proponent of environmental assessment requirements (SEARs) with respect to the proposed modification. Following an assessment of the modification request, it was considered that SEARs were not required.

Under Section 75W(4) of the EP&A Act, the Minister may modify the approval (with or without conditions) or disapprove the modification. The following report outlines the Department's assessment of the modification request.

5.2 Approval Authority

On 16 February 2015, the Minister for Planning delegated responsibility for the determination of section 75W modification requests to the Directors who report to the Executive Director, Infrastructure and Industry Assessments where:

- the relevant local Council has not made an objection;
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

The modification complies with the terms of the delegation as Botany Bay City Council (Council) did not object to the proposal (see **Section 6**); a political disclosure has not been made and no public submissions were received in the nature of objections. Accordingly, the Director, Industry Assessments may determine the request in accordance with the Minister's delegation.

6. CONSULTATION

Under section 75X(2)(f) of the EP&A Act, the Secretary is to make publicly available requests for modifications of approvals given by the Minister. In accordance with clause 8G of the *Environmental Planning and Assessment Regulation* (EP&A Reg), the modification request was made publicly available on the Department's website and referred to Council and the Environment Protection Authority (EPA) for comment.

Given the minor nature of the modification request, it was not publicly exhibited or notified to other agencies. **No public submissions** were received in relation to the modification request.

Both Council and the EPA provided submissions on the proposal, a summary of the issues raised in the submissions is provided below. A copy of each submission is included in **Appendix B**.

The **EPA** raised no objections to the proposal, however, it recommended that Orica obtain confirmation from the site auditor that the reuse of treated and validated soil at the locations identified in MOD 6 is suitable. It also advised that the activities proposed under MOD 6 could be appropriately managed through the current conditions of Orica's Environment Protection Licence (EPL).

Council did not object to the proposal, however, it raised a number of concerns related to the removal of trees and shrubs and transport management. Council also sought clarification over the location of the proposed landscaped mounds and requested that it be provided a copy of any Environment Management Plan prepared for the modification for comment.

On consideration, the Department believes that given redistribution of soil has already been approved and the majority of the management measures have also been approved as part of the existing management plans, consulting with Council on the EMP is not warranted. Notwithstanding, the Department has recommended that Council be provided a copy of any approved plans.

The Department has considered the outstanding issues in its assessment of the project.

6.1 Response to Submissions

Orica lodged a response to submissions report (RTS) on 6 October 2015 (**Appendix A**). The RTS included clarification and additional information in response to the submissions.

Orica also proposed a change to the wording of Condition 7 of Schedule 2. This condition currently permits the 'disposal' of surplus validated soil on land described in Schedule 1, Orica owned land in the BIP and to a licensed facility. It also permits the storage of this soil at Southlands. As Orica is no longer seeking to store the surplus validated soil at Southlands it is seeking to remove this reference. The Department considers the removal of the reference to Southlands in Condition 7 of Schedule 2 is acceptable.

All outstanding issues are discussed in **Section 7** below.

7. CONSIDERATION

The Department has assessed the merits of the proposed modification. During this assessment, the Department has considered the:

- environmental assessment and Director-General's assessment report of the original project approval;
- previous modifications;
- existing conditions of approval;
- documentation supporting the proposed modification;
- submissions received;
- relevant environmental planning instruments, policies and guidelines; and
- requirements of the EP&A Act, including the objects of the Act.

The details of this assessment are summarised in **Table 1** below.

The consent already allows for the treated surplus validated soil to be distributed on the BIP, however, it does not specify what form that soil placement will take. As such, the Department assessed the proposed placement of soil within the two landscaped mounds and 'Destination A' and has concluded the location and form of the soil placement is appropriate. The Department considers that issues for the proposed modification primarily relate to the soil placement and VENM importation. Potential environmental issues include contamination, traffic, visual, soil and water, noise and vibration, operational stormwater and air quality and are discussed further in **Table 1**.

Table 1 – Assessment of Issues

Issue	Consideration	Recommendation
Contamination	<ul style="list-style-type: none"> • The proposed modification would facilitate the reuse of previously contaminated soil which has been stockpiled on the BIP and adjacent to the BIP. • The soil has been treated in accordance with the approved Remedial Action Plan and has been validated as suitable for reuse within the BIP. • The EPA requested that the Proponent confirm that the relevant EPA accredited Site Auditors have confirmed the suitability of re-using the surplus validated soil at the locations proposed by 	The Department has recommended a condition requiring the Proponent to dispose of the small stockpiles referred to by the letter from Ramboll Environ dated 15 July 2015 to a licensed landfilling facility that can lawfully receive the waste, prior to the redistribution of the material

Issue	Consideration	Recommendation
	<p>MOD 6.</p> <ul style="list-style-type: none"> • The Proponent provided: <ul style="list-style-type: none"> • a letter from an accredited Site Auditor that concluded that the stockpiled soil, with the exception of two small stockpiles at the southern end of Stockpile A, is considered suitable for reuse within 'Destination A'; and • a site audit statement and report which included a review of the validation of the site, including the stockpiled material. • The EPA is satisfied that the reuse of the stockpiled material is appropriate subject to the removal of the two small stockpiles mentioned above. • The Department concurs with the EPA and has recommended a condition requiring the removal of the small stockpiles to a licensed facility that can lawfully receive the waste. 	<p>within Stockpile A.</p>
<p>Traffic</p>	<p><u>Traffic movements</u></p> <ul style="list-style-type: none"> • The majority of the truck movements would be related to the importation of some 6,000 m³ of VENM which would be undertaken over a one month period. This would equate to approximately 500 vehicle movements in total or 25 movements a day. • Traffic would primarily access the site via the Denison Street gates (Gate 3), although the Corish Circle gates (Gate 4) may also be used. • Additional traffic volumes as a result of the modification would represent less than 0.1 % of existing volumes along Denison Street and less than 20 % of existing traffic accessing the BIP via the Gate 3 and would therefore have a negligible impact on traffic flows and road capacity. • Council raised concerns over transport management, particularly in relation to a previous modification which allowed the transport of HCB contaminated soil from an adjacent site to the BIP. • The Department notes that: <ul style="list-style-type: none"> ○ the request does not seek to transport contaminated material; and ○ traffic volumes, the majority of which would occur over a one month period, would equate to less than 0.1% of daily volumes along Denison Street. • The Department concludes that traffic impacts from the modification would be negligible. <p><u>Internal access arrangements</u></p> <ul style="list-style-type: none"> • The spread and compaction of the soil within part Lot 104 DP 1192400 requires the closure of the access road which provides access to the Corish Circle entrance. • The modification proposes the relocation of the 	<p>No additional conditions relating to traffic have been recommended.</p>

Issue	Consideration	Recommendation
	<p>road to the revised eastern boundary.</p> <ul style="list-style-type: none"> • The existing consent for the subdivision of the BIP (DA 30/98) requires that a Special Purpose Committee (of which the Proponent is a member), ensure vehicular access to all lots is maintained. • The Proponent has advised that to provide continuity of access, the new road would be constructed prior to the old road being removed. • In addition, the Proponent would consult with its BIP neighbours should traffic arrangements change. • Given the above, the Department concludes that internal traffic arrangements would be managed appropriately. 	
Visual	<p><u>Visual impact</u></p> <ul style="list-style-type: none"> • The modification seeks to construct two landscaped mounds. One with a height of 2.2 m, the other with a height of 5 m (see Figure 4). • Within the BIP, the mounds would be surrounded by existing industrial development. External to the BIP the closest vantage points would be Denison Street, some 170 m to the East and a residence on the corner of Denison Street and Corish Circle, some 300 m to the north-east. • The Proponent advised that the landscaped mounds would be below the level of the landscaped setback area along Denison Street and would therefore not be visible from these locations. • Although the modification also seeks to remove some 48 trees, primarily planted <i>Casuarina glauca</i>, from this setback to enable the distribution of 35,000 m³ of soil in this location, over 1,000 trees would be protected. <p><u>Landscaping</u></p> <ul style="list-style-type: none"> • Removal of vegetation was not supported by Council. • An arborist report included in the EA identified that only two of the trees to be removed have high landscape potential and five have a moderate to high landscape significance. • The Department considers that given the number of trees to be retained outnumber the trees to be removed by 25 to one, removal of the 48 mature trees would not impact on visual amenity, particularly given the industrial nature of the site. • In addition, the Proponent has proposed to landscape the two mounds as well as implement a range of measures to protect those trees that are to remain. • The Department does not consider that additional landscaping within 'Destination A' is warranted given that it would be a temporary measure as this lot is 	<p>The Department has recommended conditions requiring the Proponent to:</p> <ul style="list-style-type: none"> • prepare and implement a Tree Protection Plan; and • landscape the batters and landscaped mounds using locally native species, where possible.

Issue	Consideration	Recommendation
	<p>likely to be developed further under a separate application.</p> <ul style="list-style-type: none"> • However, to ensure landscaping is undertaken in a timely manner, the Department has recommended a condition requiring the Proponent to landscape the batters and landscaped mounds, using locally native species where possible, within 3 months from the finalisation of the earthworks. • In addition, to ensure the protection of trees during earthworks, the Department has also recommended a condition requiring the Proponent to prepare and implement a Surplus Validated Soil Management Plan (SVSMP), including a Tree Protection Plan. The plan is to contain management measures identified in the EA. • The Department has concluded that with the implementation of the above measures, impacts on visual amenity would be negligible. 	
Soil and Water	<p><u>Construction</u></p> <ul style="list-style-type: none"> • Given the scale of the proposed earthworks, the modification has the potential for impacts to soil and water during construction. However, the redistribution of validated surplus soil on the BIP was approved as part of the original project approval. • Condition 41 of Schedule 3 of the project approval requires the implementation of a Stormwater Management Plan for the site during both construction and operation. The approved plan documents measures to be applied to control run-off and sediments. • In addition, the Proponent has proposed a range of standard management measures consistent with the measures contained in <i>Managing Urban Stormwater: Soils and Construction</i>, (Landcom) including installation of sediment fences, dedicated transport routes and stabilisation of stockpiles and batter slopes if required. In addition, stormwater would be diverted around the site to the existing stormwater system via a constructed sedimentation pond. • As previously noted, the majority of the works anticipated by the original approval have been completed. Notwithstanding, the Department recommends that the Proponent prepare a separate SVSMP for the modification which incorporates the relevant management measures from the Stormwater Management Plan and other management measures contained in the EA. The Department has also recommended a condition requiring the Proponent to ensure that earthworks associated with the modification are stabilised and do not act as a source of sediment. 	<p>The Department has recommended conditions requiring the Proponent to:</p> <ul style="list-style-type: none"> • prepare and implement a Surplus Validated Soil Management Plan incorporating relevant management measures from the Stormwater Management Plan, and any other management measures contained in the EA. • stabilise earthworks associated with Mod 6 and complete the landscaping of the batters and landscaped mounds within 3 months from the finalisation of the earthworks.

Issue	Consideration	Recommendation
	<p><u>Operation</u></p> <ul style="list-style-type: none"> The batters and the validated material on 'Destination A' have the potential to erode if not managed appropriately. The Proponent advised that the batters would be landscaped and subject to the Proponent's landscape services plan. 'Destination A' would be overlaid with compacted VENM and the sediment basin would remain in place until future development plans are finalised for 'Destination A'. Given landscaping is the key measure to control erosion on completion of the earthworks, the Department recommends a condition requiring the completion of the landscaping three months from the finalisation of the earthworks. The Department concludes that the implementation of the SVSMP and the early establishment of landscaping would ensure that soil and water impacts are managed appropriately. <p><u>Operational Stormwater</u></p> <ul style="list-style-type: none"> Stormwater on common BIP property is managed through DA 30/98, as modified. Stormwater management within land owned by Orica would not change as a result of this modification. Existing infrastructure would be retained and all stormwater would be diverted to the existing infrastructure, although the sediment basin would be retained until part Lot 104 1192400 is developed further. As there would be no change to the amount of impervious areas within the proposal area, the volume of stormwater should remain the same. The Department concludes that impacts on operational stormwater would be negligible. 	
<p>Noise and Vibration and air quality</p>	<ul style="list-style-type: none"> The existing approval contains noise limits and construction hours required to be met by the Proponent. The Proponent advised that due to the proposed use of similar equipment to the approved project, the noise limits would not be exceeded and impacts would not change beyond those originally approved. The redistribution of soil has the potential to impact air quality through fugitive dust emissions from the movement of soil and vehicle exhaust emissions. These impacts were assessed as part of the original approval. The existing approval requires the preparation and implementation of both a Noise Management Plan 	<p>The Department has recommended a condition requiring the Proponent to prepare and implement a SVSMP incorporating relevant management measures from the Noise Management Plan and Air Quality Management Plan, and any other management measures contained in the EA.</p>

Issue	Consideration	Recommendation
	<p>and an Air Quality Management Plan. Although the approved Air Quality Management Plan does not consider distribution of the surplus soil on the BIP, it does cover the stockpiling of soil and reinstatement of the car park, which is a similar activity.</p> <ul style="list-style-type: none"> Given the majority of the works anticipated by the original approval have been completed, the Department recommends that the Proponent prepare a SVSMP for the modification which includes relevant management measures from the Noise and Air Quality Management Plans, and any other management measures contained in the EA. The EPA raised no concerns in relation to noise or air impacts. The Department concludes that the existing and recommended conditions are sufficient to manage noise and air impacts arising from the modification works. 	
Boundary readjustment	<ul style="list-style-type: none"> The original Project included the realignment of some of the boundaries within the BIP in order to consolidate lots and to provide less fragmented parcels of land for both Orica and Qenos. Condition 14 of Schedule 2 requires that the boundary readjustment be undertaken within one year from the completion of the remediation works, that is, by June 2015. The Proponent has not complied with the timing in the original consent due to the complexity surrounding the subdivision and is now seeking an extension of time to align with the Project's completion date which is now 16 December 2016 (in accordance with Condition 6 of Schedule 2). The Department agrees to the change in timing and has recommended a condition requiring the boundary readjustment to be undertaken by December 2016. The Proponent is also seeking to adjust the north-western border of Lot 104 DP 1192400 by moving it 8 m westward (see Figure 4). The adjustment would align the boundary with the change of elevation between the two lots. The Department concludes that the realignment of the BIP boundary by 8 m is acceptable. 	<p>The Department has recommended conditions requiring the</p> <ul style="list-style-type: none"> adjustment of boundaries within the BIP to be completed by December 2016, unless otherwise agreed by the Secretary. replacement that the of the Figure in Appendix D with a new figure which illustrates the revised boundary between part Lot 104 DP 1192400 and Lot 4 DP 1016112.
Use of land not currently owned by Orica for the placement of validated soil	<ul style="list-style-type: none"> The original project approval allowed for the 'disposal' of surplus validated soil on land owned by Orica within the BIP. The Proponent is now seeking to allow the distribution of soil on land owned by Qenos within the BIP. Qenos has provided land owner's consent. The Department's assessment concludes that the 	<p>The Department recommends that Condition 7 of Schedule 2 of the project approval be amended to allow the placement of validated surplus soil on Qenos' land (part Lot 103 DP 1192400).</p>

Issue	Consideration	Recommendation
	proposed modification to Condition 7 of Schedule 2 is appropriate, impacts related to the placement of validated surplus soil on Qenos' lot has been assessed above and has been found to be negligible.	

8. CONCLUSION

The Department has assessed the modification request and supporting information in accordance with the relevant requirements of the EP&A Act.

The assessment has found that the modification represents the final stage of the remediation project and would not increase the majority of the environmental impacts of the project beyond those originally assessed and approved.

The Department is satisfied that with the implementation of both the existing and the proposed conditions, any residual impacts would be appropriately managed. The EPA and EPA accredited site auditor have indicated that the reuse of the validated and treated soil is appropriate and the EPA is satisfied with the proposal.

Consequently, the Department considers the proposal is in the public interest and should be approved, subject to conditions.


9. RECOMMENDATION

It is RECOMMENDED that the Director, Industry Assessments:

- **consider** the findings and recommendations of this report;
- **approve** of the proposed modification to 06_0197 MOD 6 under Section 75W of the Act; and
- **sign** the attached notice of modification (**Appendix C**).

Emma Barnet
Industry Assessments

Endorsed by:


Joanna Bakopanos 12/11/15
Team Leader
Industry Assessments

Approved by:


Chris Ritchie 12/11/15
Director
Industry Assessments

APPENDIX A – ORICA’S REQUEST AND RESPONSE TO SUBMISSIONS REPORT

APPENDIX B – SUBMISSIONS

APPENDIX C – NOTICE OF MODIFICATION
