

Nathan Robinson  
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13/10/2020

Dear Mr Robinson

**Orica Ammonium Nitrate Expansion Project (MP08\_0129)  
Orica Kooragang Island Remediation (SSD-7831)  
Independent Environmental Audit**

Reference is made to the Independent Environmental Audit (IEA) report and Response to Audit Recommendations (RAR) for the Orica Ammonium Nitrate Expansion Project and Orica Kooragang Island Remediation Project (the projects), prepared as required by Schedule 4, Condition 52 of MP08\_0129 (the approval), and Schedule 2, Part C, Conditions C15 and C16 (the consent), and submitted to the Department of Planning, Industry and Environment (the Department) on 12 June 2020.

The Department considers that the IEA report generally satisfies the reporting requirements of the (consent and approval). Please note that acceptance of this report is not an endorsement of the compliance status of the project.

Non-compliance with Schedule 2, Conditions 40 and 41, identified in the IEA, have been assessed in accordance with the Department's Compliance Policy, with the Department on this occasion, determining to record the breach with no further enforcement action. However, please note that recording the breach does not preclude the Department from taking alternative enforcement action, should it become apparent that an alternative response is more appropriate.

The Department notes Orica Australia Pty Ltd's (Orica) request for comment on the two non-compliances noted in the IEA. The Department provides the below responses:

- Non-compliance (Schedule 2, Condition 23, MP08\_0129) – Condition 23 of the approval states '*The Proponent shall undertake an air quality verification study for each relevant stage of the Project to the satisfaction of the Secretary.....*'. The Department notes that Section 5.3 Other Issues, Table 3 Assessment of other issues (MP08\_0129 Mod 2 Assessment Report), recommends an additional condition requiring Orica to '*conduct an air emissions verification study following commissioning of the NA tank and scrubber stack*'. The Department considers Phase 5 to be the 'relevant stage' of the project referred to in Condition 23 of the approval. The Department understands that Phase 5 has not yet commenced and hence Orica is considered compliant with Schedule 2, Condition 23 of the approval at this time; and
- Non-compliance (Schedule 2, Conditions 40/41, MP08\_0129) – The Department considers that a non-compliance with an Environmental Protection License (EPL) requirement, as specified in a condition of approval/consent, is considered a non-compliance with that condition. Non-compliance with such conditions will be assessed in consultation with the Environmental Protection Authority (EPA).

The Department also notes that while Schedule 2, Condition 52 (Independent Environmental Audit) of the approval does not contain a requirement for Orica to provide a response to auditor recommendations, Schedule 2, Condition 53 (Access to Information) requires Orica to make '*a copy*

*of any Independent Environmental Audit, and the Proponent's response to the recommendations in any audit' available on it's website. In this respect, the Department notes and appreciates Orica's provision of an RAR for non-compliances and OFI's against the approval.*

Finally, in accordance with Schedule 2, Condition 4 of the approval, the Department requests for future audits, that a timetable (with clear proposed dates) for completion accompanies all proposed Orica responses to auditor recommendations containing recommended actions.

Please include a status update for all actions provided in the RAR in the next Annual Environmental Management Report, until all actions are completed.

If you wish to discuss the matter further, please contact Joel Curran, Senior Compliance Officer on (02) 4904 2702 or [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au)

Yours sincerely

A handwritten signature in black ink, appearing to read 'H Watters', with a stylized, cursive script.

Heidi Watters  
Team Leader Northern  
Compliance

As nominee of the Planning Secretary