



Orica Southlands Warehouse Estate

State Significant Development Assessment SSD-9691

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
ARI	Average Recurrence Interval
Applicant	Orica Australia Pty Ltd
ARTC	Australian Rail Track Corporation
BFP intersection	Botany Road / Foreshore Road / Penrhyn Road intersection
BGCuP	Botany Groundwater Clean-up Project
BIP	Botany Industrial Park
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
CEMP	Construction Environmental Management Plan
CIV	Capital Investment Value
Council	Bayside Council
Crown Lands	Crown Lands, DPIE
Department	Department of Planning, Industry and Environment
DCP	Development Control Plan
Development	Orica Southlands Warehouse Estate
EES	Environment, Energy and Science Group
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
EPL	Environment Protection Licence

Abbreviation	Definition
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning and Public Spaces
MNES	Matters of National Environmental Significance
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
RTS	Response to Submissions
SEARs	Planning Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for NSW
TIA	Traffic Impact Assessment

Executive Summary

This report details the Department of Planning, Industry and Environment's (the Department's) assessment of a State significant development application for the Orica Southlands Warehouse Estate (SSD-9691) located at 28 McPherson Street, Banksmeadow in the Bayside Local Government Area (LGA) (the site).

The site is located 14 kilometres (km) south of the Sydney CBD, 4 km south-east of Sydney Airport and 400 metres (m) north of Port Botany and is legally described as Lot 9 DP 120563.

Development Background

The 4.1-hectare (ha) site is located within a broader 18.3 ha industrial estate known as the Southlands site. Historic industrial activities that occurred on and surrounding the Southlands site has resulted in significant soil and groundwater contamination in the area. Orica Australia Pty Ltd (the Applicant) has owned the Southlands site since the 1980s and in 2012 obtained project approval 06_0191 (2012 approval) to remediate the Southlands site and to construct and operate a warehouse estate comprising six warehouses with ancillary office components, staged subdivision, car parking and flood mitigation works. As part of the 2012 approval 06_0191, a compensatory flood detention basin was constructed on Lot 9 DP 120563 – the subject site of this development application, as the site and the surrounding area is subject to major flooding.

The site is the last parcel of undeveloped land within the broader Southlands site. Due to the limited availability of industrial land close to the Sydney CBD and Port Botany, the Applicant has identified an opportunity to construct a warehouse and distribution facility on the site using the airspace above the existing flood detention basin. A restriction on the use of land and a positive covenant exists on the land title requiring the Applicant to maintain the site for the purposes of a flood detention basin, but it provides some flexibility to enable uses that are approved by a consent authority that do not interfere with the site's function as a flood detention basin. As such, the Applicant has designed the development to sit above the existing flood detention basin by way of an elevated concrete slab to ensure the function and flood storage capacity of the flood detention basin is maintained.

Proposed Development

The proposed development (the development) involves the staged construction of a warehouse and distribution facility comprising two warehouse buildings and ancillary office spaces, landscaping and hardstand areas/carparking on an elevated concrete platform above the flood detention basin. The proposal also includes the subdivision of the site into two new lots to enable the Applicant to have ongoing access to existing groundwater treatment plant infrastructure associated with the Applicant's Botany Groundwater Clean-up Project (BGCuP) infrastructure at the southern end of the site.

The elevated concrete platform is proposed to be constructed on a grid of timber/concrete or steel piers at a height of 6.7 metres (m) Australian Height Datum (AHD). The concrete platform has been designed to be well above the Probable Maximum Flood (PMF) level of 5 m and allows clear access for vehicles and drill rigs to get under the concrete platform for maintenance purposes and monitoring activities associated with ongoing remediation.

The development has a capital investment value of \$56 million and is expected to generate 85 construction jobs and 204 operational jobs (comprising 170 day-time and 34 night-time operational jobs).

Statutory Context

The development is classified as State significant development (SSD) under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it involves construction and operation of a warehousing facility that meets the criteria in Clause 12(1) of Schedule 1 in State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP). Consequently, the Minister for Planning and Public Spaces is the consent authority for the development under section 4.5(1) of the EP&A Act.

Engagement

The Department exhibited the Environmental Impact Statement (EIS) for the development from Wednesday 15 April 2020 until Thursday 14 May 2020. The Department received 5 submissions from the public (3 special interest groups, 2 individuals) and advice from 14 government authorities, including Bayside Council (Council) and Randwick City Council. Three public submissions objected to the proposal. The majority of the public s who made a submission live within 10 km of the proposal.

Key issues raised in public submissions related to flooding, contamination and biodiversity. Concerns raised in the government advice related to flooding, traffic, contamination, biodiversity and landscaping. The Department requested the Applicant address the matters raised in submissions and government authority advice in a Response to Submissions (RTS) report. The Applicant submitted an RTS report in September 2020 to address and clarify matters raised in the submissions. Additional information to supplement the RTS was also provided to the Department between October 2020 and February 2021 to address outstanding issues relating to traffic, flooding and biodiversity.

Assessment

The Department's assessment of the development has fully considered all relevant matters under section 4.15 of the EP&A Act, the objects of that Act and the principles of ecologically sustainable development. The Department has identified the key issues for assessment are traffic and flooding, however, has also assessed all other relevant matters, including contamination.

Traffic

During operation, the development is expected to generate up to 980 vehicle trips per day, of which heavy vehicles would account for 15% of traffic generated. While the Applicant's traffic modelling found the development would not have a significant impact on the surrounding road network, Transport for NSW (TfNSW) raised concerns about the Applicant's traffic model and the development's impact on the performance of key intersections including Botany Road / Exell Street and Botany Road / Foreshore Road / Penrhyn Road. The Department facilitated negotiations between the Applicant and TfNSW, which resulted in the Applicant committing to upgrade the Botany Road / Exell Street intersection as part of the development. This includes the creation of a new eastbound zipper merge lane along Botany Road. In addition, the Applicant also improved access arrangements and the carparking layout within the site to ensure minimal conflict between small and large vehicles and pedestrians. TfNSW was satisfied with this outcome and did not raise any further issues.

The Department's assessment has concluded that traffic from the fully developed site would be adequately accommodated within the local and regional road network, subject to the planned

intersection upgrade works. The Department has recommended conditions to govern the detailed design and delivery of the intersection upgrade, in consultation with TfNSW, and to ensure the site's access and carparking arrangements comply with the requirements of Council and the relevant Australian Standards.

Flooding

Flooding was a key concern raised in public submissions and government authority advice. During major flood events, the site and surrounds including Nant Street and McPherson Street is subject to flooding. The Flood Impact Assessment found the development would be free of inundation during the full range of flooding events up to the PMF. Flood modelling demonstrated the development would have negligible effects on peak water levels and velocities for all flood events. In addition, the development would not result in off-site impacts as the existing flood storage capacity of the basin would be maintained. The FIA was independently reviewed by WMA Water Pty Ltd (WMA Water), who provided several recommendations to ensure the structural integrity of the flood detention basin is maintained throughout the life of the development.

The Department is satisfied the design measures adopted for the development in addition to the conditions recommended by WMA Water, would ensure the site can continue to function as a flood detention basin. The Department's assessment concludes the development would not result in off-site impacts and has recommended several conditions relating to flood management including implementation of a Flood Emergency Response Plan (FERP). The Department has also recommended conditions to ensure the structural integrity of the flood detention basin is maintained throughout the construction and operational phases of the development including pre- and post-construction surveys of the basin and implementation of a Flood Detention Basin Management Plan (FDBMP).

Contamination

To facilitate the development, the Applicant will undertake remediation works on-site, including on-site containment of fill materials impacted by bonded and friable asbestos using marker and barrier layers across the site. The Applicant has committed to managing contamination risks associated with the project by appointing an Environment Protection Authority (EPA) accredited Site Auditor to oversee the construction of the development and by obtaining a final Site Audit Statement and a Site Audit Report to demonstrate the site is suitable for the proposed development.

The Department recognises longstanding concerns in the community around legacy contamination issues within and surrounding the site. The Department considers the development would not compromise the existing remediation activities occurring on and around the site, particularly in relation to the BGCuP. The proposed subdivision would enable the Applicant to continue to access the site for future remedial activities associated with the BGCuP.

The Department has also evaluated other issues related to the development including biodiversity impacts, noise and vibration and landscaping, and concludes it can be adequately managed by the Applicant, subject to conditions.

Summary

The Department's assessment concluded the impacts of the development can be mitigated and/or managed to ensure an acceptable level of environmental performance, subject to the recommended conditions of consent.

The need for the development is in response to the short supply of available industrial land close to the Sydney CBD and Port Botany. The development would facilitate efficient access and distribution of goods and services from the port to the broader metropolitan Sydney region.

The Department concludes traffic from the development would be adequately managed and would not impact upon the performance of the local and regional road network. The development has been designed to maintain the site's function as a flood detention basin and would not impact on ongoing remedial activities on the site associated with the BGCuP.

The Department considers the potential impacts of the development can be managed and/or mitigated to ensure an acceptable level of environmental performance, subject to the recommended conditions of consent, including:

- implementation of management and mitigation measures identified in the EIS and the RTS;
- intersection upgrade works involving the extension of the zipper lane of the Botany Road and Exell Street intersection;
- implementation of flood management measures including a FDBMP, FERP and pre- and post-construction surveys of the flood detention basin;
- the preparation and implementation of a Construction Environmental Management Plan;
- appointment of an EPA accredited Site Auditor to oversee the remediation works during State 1 construction works; and
- a requirement for a final SAS and SAR to demonstrate the site is suitable for the proposed development.

Consequently, the Department considers the development is in the public interest and is recommended for approval, subject to conditions.

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1 Introduction

This report details the Department of Planning, Industry and Environment's (the Department's) assessment of the State significant development (SSD) application for the Orica Southlands Warehouse Estate (SSD-9691). The proposed development (the development) involves the construction and operation of two warehouse buildings, ancillary office space and hardstand/car parking areas on an elevated concrete platform above an existing flood detention basin.

The Department's assessment considers all documentation submitted by Orica Australia Pty Ltd (the Applicant), including the Environmental Impact Statement (EIS), Response to Submissions (RTS) and submissions received from government authorities, stakeholders and the public. The Department's assessment also considers the legislation and planning instruments relevant to the site and the development.

This report describes the development, surrounding environment, relevant strategic and statutory planning provisions and the issues raised in submissions. The report evaluates the key issues associated with the development and provides recommendations for managing any impacts during construction and operation. The Department's assessment of the Orica Southlands Warehouse Estate has concluded the development is in the public interest and should be approved, subject to conditions.

1.1 Development Background

The Applicant is seeking development consent to construct and operate two warehouses, ancillary office space and hardstand/car parking areas at 28 McPherson Street, Banksmeadow (the site) in the Bayside local government area (LGA) (see **Figure 1**). The site is also legally described as Lot 9 DP 120563.

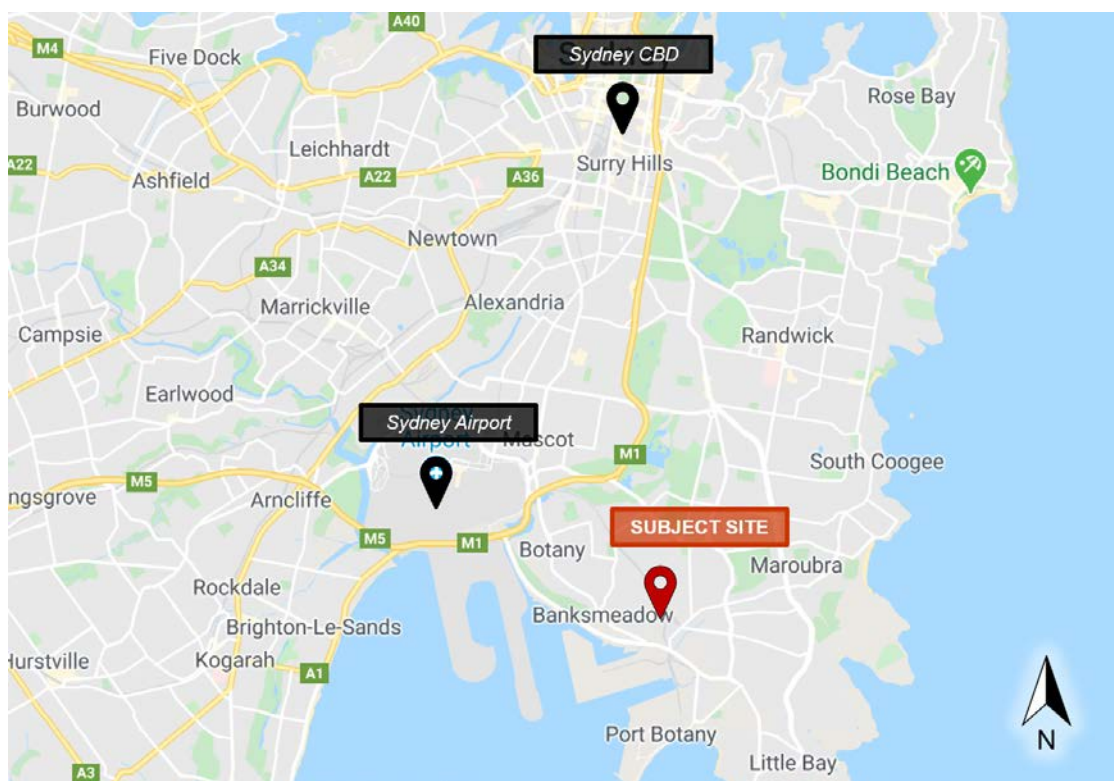


Figure 1 | Regional Context Map

The Applicant is an Australian based global company that produces and supplies mining, chemical and consumer products. The Applicant has operated a chemical manufacturing facility at the Botany Industrial Park (BIP) in Banksmeadow since the early 1940s, and has owned the parcel of land to the south-west of the BIP, known as the Southlands site since the 1980s (see **Figure 2**). The Southlands site is known to be contaminated due to historic industrial activities on and adjacent to the Southlands site.

In 2012, the Applicant obtained project approval (06_0191) (see **Section 1.5**) to remediate the Southlands site and to construct and operate a warehousing estate, comprising six industrial warehouses with ancillary office components, staged subdivision, car parking, landscaping works and flood mitigation and drainage works. As part of the 2012 approval, a compensatory flood detention basin was constructed on Lot 9 DP 1205673 - the subject site of this development application (see **Figure 2**).

The subject site is now the last parcel of undeveloped land within the broader Southlands site. Currently, land zoned for industrial uses close to the Sydney CBD and the Port Botany trade corridor is in short supply, particularly for warehousing, storage and distribution uses. As such, the Applicant has identified an opportunity to construct and operate a warehousing and distribution facility on the site by utilising the airspace above the existing flood detention basin.

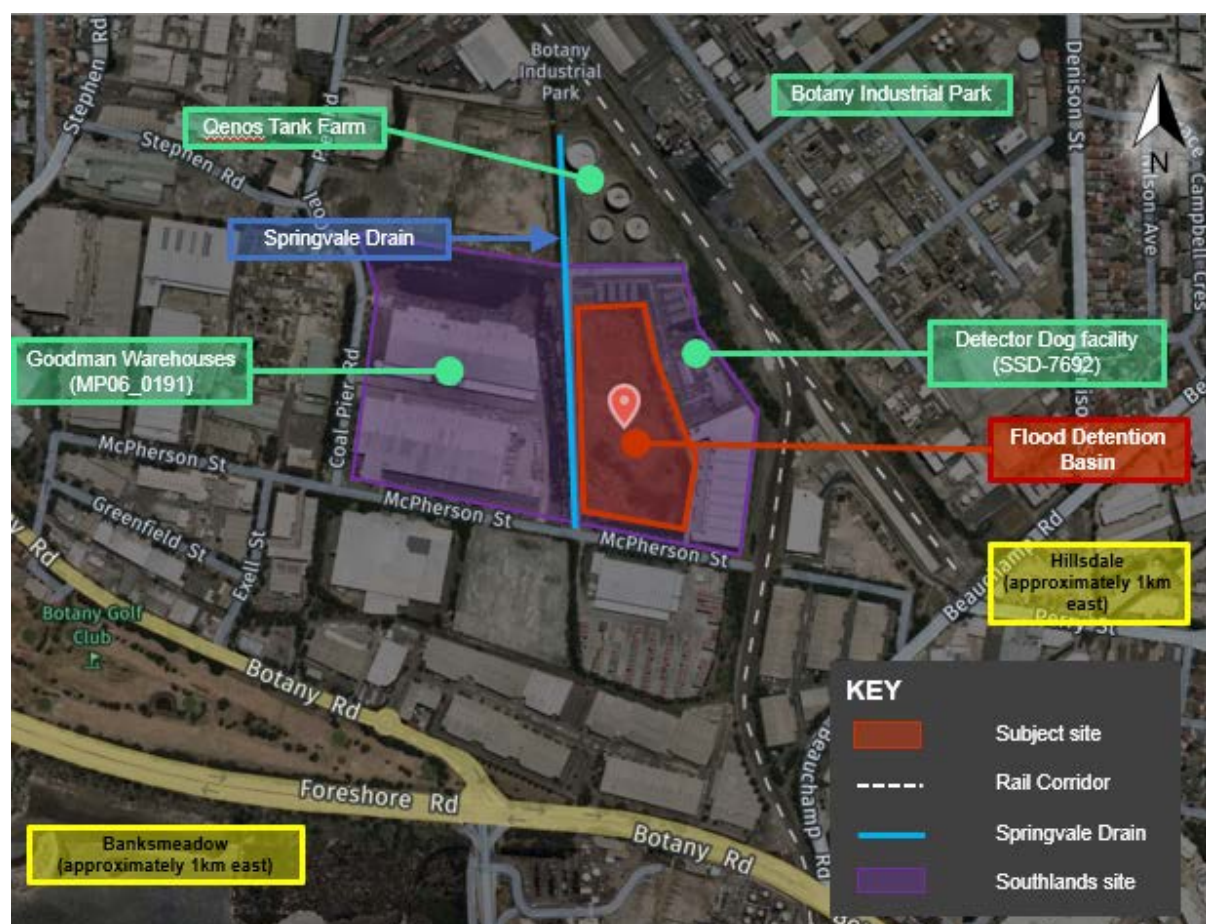


Figure 2 | Local Context Map

1.2 Site Description

The site is located 14 kilometres (km) south of the Sydney CBD, 4 km south-east of Sydney Airport and 400 metres (m) north of Port Botany. The development is proposed to be sited within the broader 18.3 hectare (ha) Southlands site, with the area applying to this application consisting of 4.1 ha of General Industrial (IN1) zoned land (see **Figure 2**).

The irregular shaped site is generally flat with a minor slope from the north and south to the centre of the site. The site has been highly disturbed as a result of major earthworks activities (undertaken as part of previous development approvals) to prepare the site as a flood detention basin for the surrounding industrial lands.

The site also lies within an area that has been declared as significantly contaminated under the *Contaminated Land Management Act 1997*. Groundwater beneath the site is contaminated with chlorinated hydrocarbons as a result of historical BIP manufacturing activities. The Applicant is responsible for managing the groundwater contamination and established the Botany Groundwater Clean-up Project (BGCuP) to hydraulically contain the contaminated groundwater to prevent it from entering Botany Bay, and to treat the groundwater to a usable standard. Groundwater monitoring infrastructure associated with the BGCuP exists along the southern boundary of the site.

1.3 Surrounding Land Uses and Road Network

The development is located in Banksmeadow and is adjacent to the neighbouring suburbs of Botany and Port Botany, which act as a vital industry and trade corridor for Sydney. The site is located within an industrial area that includes a variety of warehousing and distribution developments. The nearest sensitive receivers are located approximately 1 km from the site in the suburb of Hillsdale. The site is immediately bounded by:

- the BIP to the north-east of the site, beyond the Sydenham to Botany Goods railway line;
- the Qenos tank farm directly to the north;
- two warehouses (owned by Goodman) and Springvale Drain (Crown Land) to the west; and
- a detector dog facility to the east (SSD 7692).

Vehicular access to the site is via McPherson Street, which is a two lane cul-de-sac road that intersects with Botany Road via the one-way pairing of Hills Street and Exell Street (see **Figure 2**). Nant Street is an unsealed road adjoining the western site boundary, which provides direct access to the Qenos Tank Farm to the north of the site via McPherson Street.

1.4 Restriction on the Use of Land and Positive Covenant

The site is subject to a Restriction on the Use of Land and Positive Covenant to the benefit of Bayside Council (Council). This is enforced through a Section 88B instrument under the *Conveyancing Act 1919*.

The Restriction on the Use of Land stipulates that the landowner must not:

- use the land at grade within the easement site for any purpose except the maintenance of the flood detention basin; and
- erect or permit to be erected any permanent structure except with the consent of the Prescribed Authority, being Council.

The restriction may not apply in certain circumstances or could be complied with if the Applicant can obtain development consent from a consent authority for a use that does not interfere with or affect the maintenance of the flood detention basin.

The Positive Covenant requires the landowner to maintain Lot 9 DP 1205673 for the purposes of a flood detention basin, but also provides some flexibility (similar to the Restriction on the Use of Land) to enable uses that are approved by a consent authority and that do not interfere with the function of the site as a flood detention basin.

As such, the development has been designed to sit atop the flood detention basin so that the function and flood storage capacity of the basin is maintained.

1.5 Other development consents

On 16 April 2012, the then Deputy Director-General, under the then Minister for Planning and Infrastructure's delegation, approved the Orica Southlands Remediation and Warehouse Development Project (06_0191). The approval allowed for:

- remediation works over the whole site;
- flood mitigation and drainage work, including construction of a flood detention basin;
- staged subdivision into nine lots;
- filling of the land on the site's western side to raise it above the 1 in 100-year flood levels;
- establishment of six industrial use warehouses (with a gross floor area (GFA) of 48,000 m²) each with ancillary office components;
- traffic improvement works at the intersection of Hill Street and Botany Road;
- direct vehicle access for warehouses 1-4 off McPherson Street; and
- car parking and landscaping works.

The project was originally approved under the now repealed Part 3A of the EP&A Act. The project was transitioned to SSD by order, which took effect by publication in the NSW Government Gazette on 17 May 2019.

The project approval has been modified on four previous occasions. A fifth modification (MOD 5) relating to the subdivision of existing Lot 9 DP 1205673 into two lots was lodged on 3 April 2020. This has since been incorporated into the subject development application following a request from the Applicant.

2 Development

The Applicant is seeking development consent for the construction and operation of two warehouse buildings on an elevated concrete platform above an existing flood detention basin at 28 McPherson Street, Banksmeadow. The major components of the proposed development are summarised in **Table 1**, shown in **Figure 3** to **Figure 6**, and described in full in the EIS,RTS report and additional information included in **Appendix B**.

Table 1 | Main Components of the Development

Aspect	Description
Development Summary	The staged construction and operation of a warehouse and distribution facility, encompassing two warehouse buildings, ancillary offices, hardstand/car parking areas on an elevated concrete platform
Site area and development footprint	- The site is approximately 4.1 hectares (ha) in area. - Development footprint of around 3.41 ha. - A maximum building height of 17.2 m above existing ground level (13.7 m above the platform).
Proposed Elevated Concrete Platform	- Construction of an elevated concrete platform at a height of 6.7 m Australian Height Datum (AHD) which would be above the Probable Maximum Flood (PMF) level of 5 m and allows clear access for vehicles and drill rigs to get under the concrete platform for maintenance purposes and works associated with ongoing remediation. The elevated concrete platform would comprise a total area of 34,130 m². - The elevated concrete platform would be placed on a grid of timber, steel or concrete piers, which would be driven to a depth of approximately 8 to 10 m below the ground surface. - Construction of the concrete deck and installation of the piers would generally involve the following activities: - site stripping and grubbing; - proof rolling and levelling; - placement of a marker layer; - staged importation of road base cover; - stage piling of piers at 10 m intervals; and - formation of a deck on a staged basis. - Access under the concrete platform would be required for ongoing maintenance and service works.
Proposed Warehouse Buildings	- The development comprises the following: - Warehouse Building 1 (11,855 m²) comprised of: - Warehouse GFA (10,135 m²); - Office GFA (1,720m²); - Warehouse Building 2 (9,925 m²) comprised of: - Warehouse GFA (9,645 m²); - Office GFA (280 m²); - hardstand/car parking areas; and - landscaping. - The warehouse buildings would be constructed with colorbond steel wall cladding with matching trims.

Aspect	Description
	- A black mesh fence would wrap the underside of the concrete platform around both buildings. - Ancillary office spaces would be constructed with fibre cement, glazed panels, and aluminium glazed frames.
Remediation	- The site is proposed to be remediated via on-site containment of fill materials impacted by bonded and friable asbestos using marker and barrier/capping layers across the site. - The void under the elevated concrete will act as a passive venting system for gas mitigation.
Staged Construction Works	- Construction of the concrete platform and warehouse facility in two stages as described below: Stage 1: construction of the elevated concrete platform, including vegetation clearing and remediation works; and Stage 2: construction of the two warehouse buildings, ancillary office space, hardstand/car parking areas and landscaping.
Subdivision	Subdivision of Lot 9 DP 1205673 to create one additional lot which would contain infrastructure associated with the Applicant's groundwater treatment plant within the BIP (see Figure 6).
Vehicle Movements	980 vehicles per day comprising approximately 833 cars and 147 heavy vehicles. 122 vehicles/hour during the PM peak comprising 104 cars and 18 heavy vehicles.
Access & Parking	- Total of 117 car spaces. - Two-way access point at McPherson Street.
Landscaping	10 m landscaped buffer along the northern and eastern site boundary, including the retention of existing vegetation. 5 m landscaped buffer along the southern site boundary (beyond the 10 m setback for services comprising BGCuP infrastructure). 5 m landscaped setback along western site boundary fronting Nant Street. - Use of native trees, shrubs and grasses consistent with the plant species identified in the approved Landscape Management Plan under 06_0191.
Construction timeframe	- Stage 1 – 12months - Stage 2 – 12months
Hours of operation	24 hours, 7 days
Capital investment value	\$56.2 million
Employment	85 full-time equivalent construction jobs and up to 204 operational jobs, comprising: 170 day-time operational jobs; and 34 night-time operational jobs.

2.1 Physical layout and design

The physical layout and design of the development is shown in **Figure 3** to **Figure 6**.

Car parking spaces will be located along the McPherson Street frontage and along the eastern boundary of the site between the two warehouse buildings. Site access will be via a two-way crossover from McPherson Street. The access point will have a width of 13 m.

Heavy vehicles will use the access point on McPherson Street to enter the site. A swept path analysis has been undertaken to show that 26 m B-Doubles can access and manoeuvre around the site. The existing road network can accommodate B-Doubles and 19 m articulated vehicles.

2.2 Applicant's Need and Justification for the Development

The Applicant has advised the proposed development is required to provide much needed warehouse, storage and distribution space close to the Sydney CBD and Port Botany trade corridor. Further, the Applicant has indicated the development will be strategically located within an established industrial precinct close to Port Botany. The proposed development is in proximity to the broader metropolitan arterial road network for the transport of goods and services, therefore allowing efficient access.

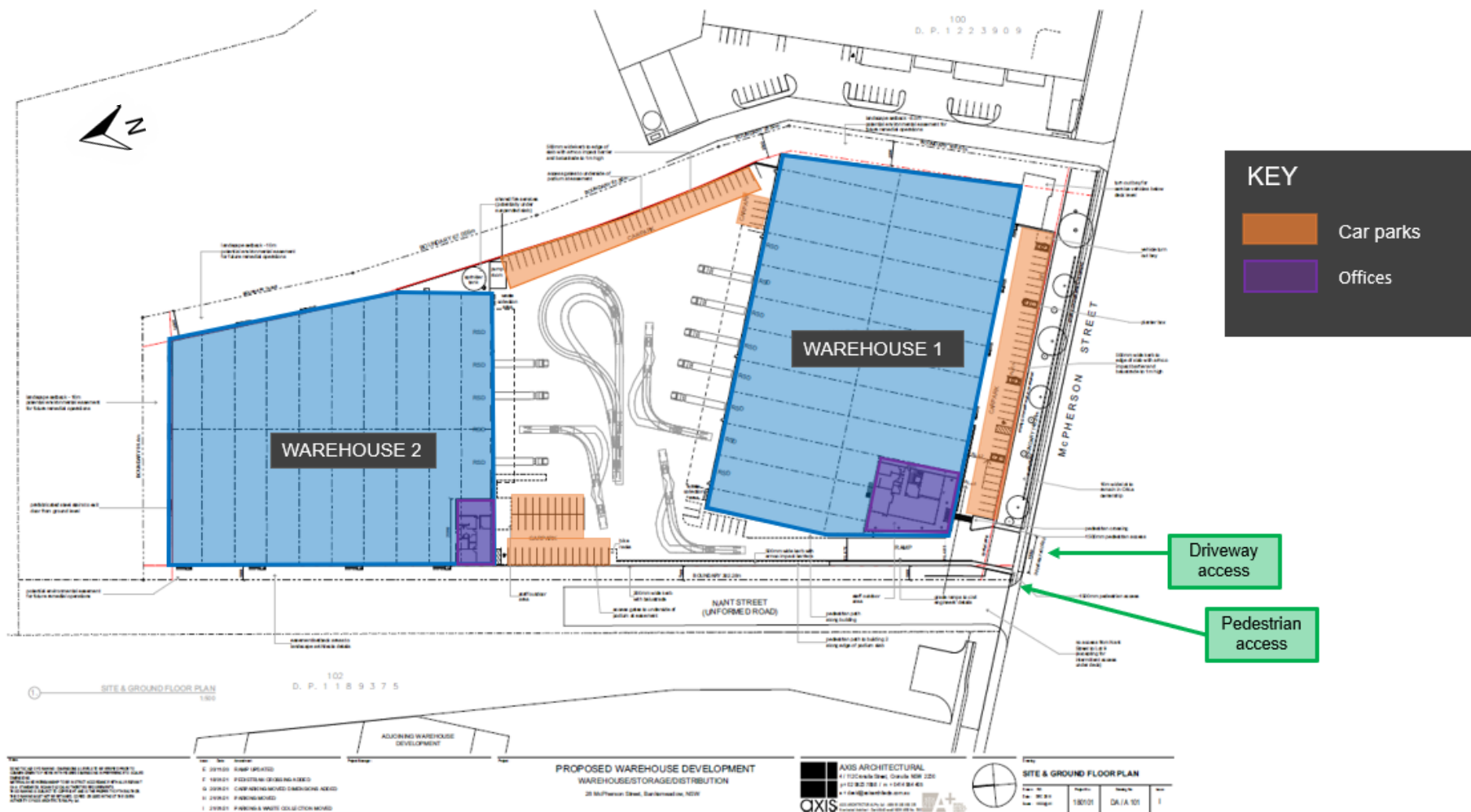


Figure 3 | Site Layout



Figure 4 | Indicative view of development looking north

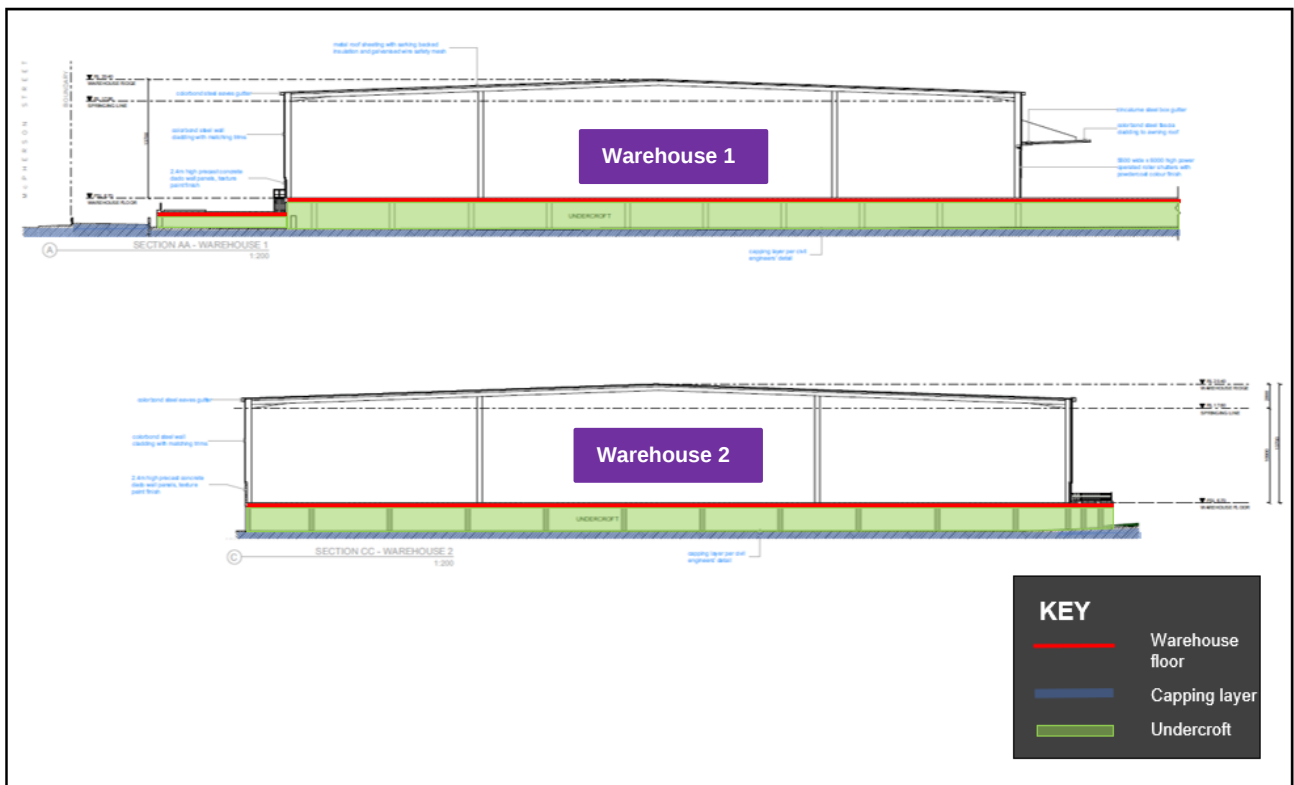


Figure 5 | Cross section of Warehouse Buildings 1 and 2 showing the elevated concrete platform



Figure 6 | Proposed subdivision of Lot 9 DP 1205673

3 Strategic context

3.1 Greater Sydney Region Plan

The vision of the *Greater Sydney Region Plan 2018, A Metropolis of Three cities* falls within the integrated planning framework for Greater Sydney (see **Figure 7**) and seeks to meet the needs of a growing and changing population by transforming Greater Sydney into three cities – the Western Parklands City, the Central River City and the Eastern Harbour City. It brings new thinking to land use and transport patterns to boost Greater Sydney's liveability, productivity and sustainability by spreading the benefits of growth. The proposed development is located with the Eastern Harbour City.

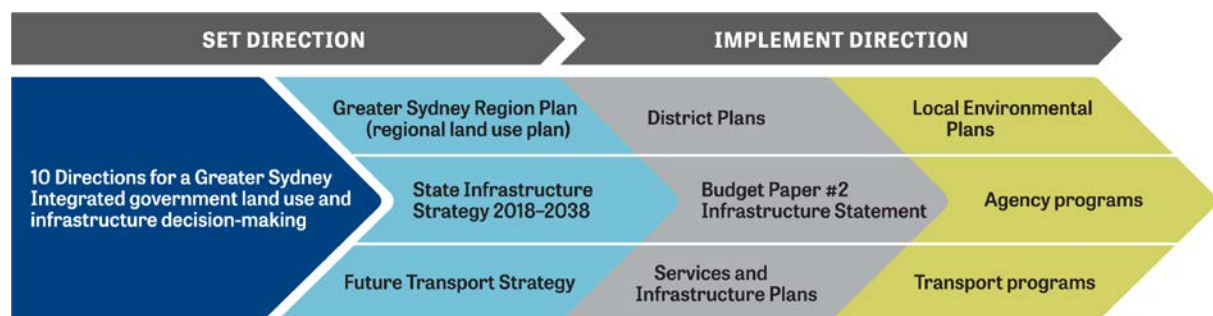


Figure 7 | Integrated State Planning for Greater Sydney

The development aligns with the objectives and strategies of the Greater Sydney Region Plan in particular, the following objectives:

- **Objective 15** aims to strengthen opportunities in the Eastern Economic Corridor which includes the Port Botany trade corridor. The proposed development includes the provision of warehousing and jobs within the Port Botany trade corridor which would therefore strengthen opportunities in the Eastern Economic Corridor.
- **Objective 16** aims to ensure Greater Sydney's freight and logistics network is competitive and efficient. The proposed development will provide warehouse facilities in an established freight and logistics hub that is strategically located in proximity to Port Botany.
- **Objective 23** aims to ensure industrial and urban services land is planned, retained and managed. The proposed development is located close to critical infrastructure including Port Botany. It is also separated from residential uses.

3.2 Eastern City District Plan, 2018

The Eastern City District Plan (ECDP) is a 20-year plan to manage growth in Eastern Sydney in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney established by the Greater Sydney Region Plan. It is a guide for implementing the Greater Sydney Region Plan at a district level.

The development is aligned with Planning Priority E9 of the ECDP as it would provide supporting infrastructure critical to the operations of the Port Botany trade gateway. It is also aligned with action 31 (b) as it will protect Port Botany's function as an international gateway for freight and logistics by providing port-related land uses in the area around the Port. Additionally, the proposed development is

consistent with the ECDP as it protects employment land and employment opportunities associated with industrial facilities and strengthens the function of Port Botany as the State's major freight hub.

3.3 Bayside Local Strategic Planning Statement

The Bayside Local Strategic Planning Statement (LSPS) outlines a 20-year vision for land use planning in the Bayside LGA and sets the direction for Council's economic, social and environmental planning priorities. The LSPS was adopted by Council on 11 March 2020.

The LSPS is structured around the four key themes of infrastructure and collaboration, liveability, productivity and sustainability, which is consistent with the objectives of the District Plan. The LSPS acknowledges Port Botany as a regionally and nationally significant trade gateway, which is anticipated to handle significantly more freight by 2036.

Accordingly, the LSPS requires industrial and urban services lands to be retained for industrial and urban services. The proposed development is consistent with the LSPS as it will provide for the efficient and effective use of industrial land in proximity to Port Botany for the storage and distribution of goods.

3.4 Botany Bay Planning Strategy 2031

The Botany Bay Planning Strategy 2031 provides a 25-year framework for growth in the Bayside LGA and includes recommendations to address housing and employment directions, revitalisation of centres, revival of the local economy and protection of the environment.

The Strategy identifies the Banksmeadow industrial area as an area that should be protected for economic activity at Port Botany and to provide sites for larger warehousing, distribution and freight handling activities.

The development is consistent with the Strategy as it provides warehousing and distribution uses that are located within an established industrial area in Banksmeadow.

4 Statutory Context

4.1 State significance

The proposal is State significant development pursuant to section 4.36 of *Environmental Planning and Assessment Act 1979* (EP&A Act) because it has a capital investment value (CIV) of more than \$50 million for the purpose of warehouses or distribution centres at one location and related to the same operation, which meets the criteria in Clause 12 (1) of Schedule 1 in State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP).

4.2 Permissibility

The land is zoned IN1 (General Industrial) under the State Environmental Planning Policy (Three Ports) 2013 (Three Ports SEPP).

'Warehouse or distribution centres' and 'office premises' are permissible with consent in the IN1 General Industrial zone. Therefore, the Minister or a delegate may determine the carrying out of the development.

4.3 Consent Authority

The Minister is the consent authority for the development under section 4.5 of the EP&A Act. On 9 March 2020, the Minister delegated the functions to determine SSD applications to the Executive Director, Energy, Industry and Compliance where:

- the relevant local council has not made an objection;
- there are less than 50 unique public submissions, in the nature of objections; and
- a political disclosure statement has not been made by the Applicant.

In total, the Department received two public submissions, three submissions from interest groups and advice from 14 government authorities. Three objections were received. Council did not object to the development. No reportable political donations were made by the Applicant in the last two years. One reportable political donation was made by NSW Ports, an interest group who lodged a submission commenting on the potential traffic impacts of the development.

Accordingly, the application can be determined by the Executive Director, Energy, Industry and Compliance under delegation.

4.4 Other approvals

Under section 4.42 of the EP&A Act, other approvals may be required and must be approved in a manner that is consistent with any Part 4 consent for the SSD under the EP&A Act.

The EPA advised the development does not constitute a scheduled activity under the *Protection of the Environment Operations Act 1997* (POEO Act), therefore an Environment Protection Licence (EPL) is not required. The EPA also advised that if any future tenancies include scheduled activities, an EPL would be required prior to undertaking the activity.

Transport for NSW (TfNSW) advised the proposed works to Botany Road and Exell Street intersection require approval from TfNSW under the *Roads Act 1993*. The Department has incorporated this requirement into the recommended conditions.

Sydney Airport advised that approval to operate construction equipment (i.e. cranes) must be obtained prior to any commitment to construct, under section 182, 183 of the *Airports Act 1996 (Cth)* and Regulation 7 of the *Airports (Protection of Airspace) Regulations 1996 (Cth)*.

The Department has considered the advice of the relevant government authorities responsible for these approvals in its assessment of the development and included suitable conditions in the recommended conditions of consent, where necessary.

4.5 Mandatory Matters for Consideration

Section 4.15 of the EP&A Act sets out matters to be considered by a consent authority when determining a development application. The Department's consideration of these matters is set out in **Section 5** and **Appendix G**. In summary, the Department is satisfied the proposed development is consistent with the requirements of section 4.15 of the EP&A Act.

Under section 4.15 of the EP&A Act, the consent authority, when determining a development application, must take into consideration the provisions of any environmental planning instrument (EPI) and draft EPI (that has been subject to public consultation and notified under the EP&A Act) that apply to the proposed development.

The Department has considered the development against the relevant provisions of several key EPIs including:

- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP);
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP);
- State Environmental Planning Policy (Three Ports) 2013 (Three Ports SEPP);
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33);
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55);
- State Environmental Planning Policy No. 64 – Advertising Structures and Signage (SEPP 64); and
- draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP).

Detailed consideration of the provisions of all EPIs that apply to the development is provided in **Appendix C**. The Department is satisfied the proposed development generally complies with the relevant provisions of these EPIs.

4.6 Public Exhibition and Notification

In accordance with section 2.22 and Schedule 1 to the EP&A Act, the development application and any accompanying information of an SSD application are required to be publicly exhibited for at least 28 days. The application and accompanying EIS was placed on public exhibition from 15 April 2020 until 14 May 2020. Details of the exhibition process and notifications are provided in **Section 5.1**.

4.7 Objects of the EP&A Act

In determining the application, the consent authority must consider whether the development is consistent with the relevant objects of the EP&A Act. These objects are detailed in section 1.3 of the EP&A Act. The objects of relevance to the merit assessment of this application include:

- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) *to promote the orderly and economic use and development of land,*
- (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) *to promote good design and amenity of the built environment,*
- (h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

The Department has fully considered the objects of the EP&A Act, including the encouragement of Ecologically Sustainable Development (ESD), in its assessment of the application (see **Table 2**).

Table 2 | Considerations Against the Objects of the EP&A Act

Object	Consideration
1.3 (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The development would contribute to the social and economic welfare of the State by generating jobs during both construction and operation.
1.3 (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The site is located within an existing industrial area that is close to the Port Botany trade corridor to facilitate efficient freight movements. The proposal includes measures to deliver ecologically sustainable development through the planting of native landscaping, and the installation of a stormwater management system. The site currently functions as a flood detention basin. The development has been designed to sit above the existing detention basin to avoid any impact to the function of the basin.

Object	Consideration
1.3 (c) to promote the orderly and economic use and development of land,	The development promotes the orderly and economic use of land as it is providing much needed warehousing close to Port Botany in an IN1 General Industrial zone.
1.3 (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The Biodiversity Development Assessment Report concludes that no native vegetation was recorded in the development footprint and no threatened species including the Green and Golden Bell Frog (GGBF), ecological communities or their habitat will be impacted by the development. To minimise the potential of the GGBF occurring on-site, the Applicant has committed to installing frog exclusion fencing and undertaking pre-clearance surveys prior to commencement of construction.
1.3 (g) to promote good design and amenity of the built environment,	The Department considers the visual impacts of the development to be acceptable given the site's location in an industrial area.
1.3 (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The Department has recommended a number of conditions of consent to ensure the construction and maintenance of the Development is undertaken in accordance with the relevant legislation, guidelines, policies and procedures.
1.3 (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The Department referred the Development to the relevant State agencies and Council during the exhibition period and invited them to comment. The Department has given due consideration to their advice.
1.3 (j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the DA and accompanying EIS as outlined in Section 4.6 from 15 April 2020 until 14 May 2020. Property owners within the vicinity of the Development were also directly notified in writing. The documentation has also been displayed on the Department's website since 15 April 2020.

4.8 Biodiversity Development Assessment Report

Section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires all applications for SSD to be accompanied by a Biodiversity Development Assessment Report (BDAR), unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values. A BDAR was submitted as part of the application.

The BDAR assessed each of the relevant matters in accordance with the BC Act. As discussed in **section 6** of this report, the Department's assessment concluded the development would not result in any impacts on threatened flora and fauna including the Green and Golden Bell Frog (GGBF) or native vegetation due to the site's extensive history of modification and disturbance, where no remnant native vegetation remains on-site. The Environment, Energy and Science Group (EES) of the Department did not provide any comments. Conditions of consent have been recommended which reflect the commitments made by the Applicant and include implementing frog exclusion fencing and undertaking pre-clearance surveys to minimise the potential of the GGBF occurring on-site and relocating the species if found on-site.

4.9 Commonwealth matters

Under the EPBC Act, assessment and approval is required from the Commonwealth Government if a development is likely to impact a matter of national environmental significance (MNES), as it is a 'controlled action.' The EIS for the development included a preliminary assessment of the MNES in relation to the development and concluded the development would not impact on any of these matters and is therefore not a 'controlled action'. As such, the Applicant determined a referral to the Commonwealth Government was not required.

5 Engagement

5.1 Consultation

The Applicant, as required by the Planning Secretary's Environmental Assessment Requirements (SEARs), undertook consultation with relevant local and State authorities as well as the community and affected landowners. The Department undertook further consultation with these stakeholders during the exhibition of the EIS and throughout the assessment of the application. These consultation activities are described in detail in the following sections.

5.1.1 Consultation by the Applicant

The Applicant undertook a range of consultation activities throughout preparation of the EIS including:

- targeted presentation to the Orica Botany Liaison Committee;
- distribution of a newsletter providing details of the proposal to the wider community on 17 December 2018;
- 1800 telephone number;
- updates to the Orica Botany Remediation Project's website;
- direct contact with adjoining neighbours;
- letter notification by email and letterbox drop to landowners in the immediate area on 9 and 10 January 2018; and
- consultation with relevant agencies and stakeholders.

5.1.2 Consultation by the Department

The Department consulted with relevant government authorities during the preparation of the SEARs.

After accepting the DA and EIS for the development, the Department:

- made them publicly available from **Wednesday 15 April 2020** until **Thursday 14 May 2020** on the Department's website;
- notified landowners in the vicinity of the site about the exhibition period by letter;
- notified and invited comment from relevant State government authorities and both Council and Randwick City Council (RCC) by email; and
- advertised the exhibition in the Daily Telegraph and Sydney Morning Herald newspapers.

5.2 Summary of submissions

During the exhibition period, the Department received five submissions from the public (three special interest groups, two individuals) and advice from 14 government authorities, including Council and RCC. Three public submissions objected to the proposal. The two community members who made a submission live within 10 km of the site. A summary of the submissions and government advice is provided below and a link to the full copy of the submissions is provided in **Appendix A**.

5.2.1 Key Issues – Government Authorities

Council did not object however raised several matters to be resolved prior to determination of the application. These included more details on stormwater management specifications, modifications to

landscaping, a revised Traffic Impact Assessment (TIA), and additional information on biodiversity and potential loss of habitat. Council also raised concerns about the Section 88B instrument and how the Applicant intends to satisfy the legal requirements of the instrument and the conditions of consent for 06_0191.

RCC did not object but raised several issues and concerns. These included whether the proposed development would reduce the volume of the flood detention basin, as well as loss of open space, biodiversity and traffic impacts. Additional design considerations regarding the warehouse structures were commented on.

The **Environment Protection Authority (EPA)** noted the proposal will not require an EPL. However, the EPA requested the Applicant provide further detail on the proposed easements and recommended that the Site Auditor-approved remedial action plan (RAP) be implemented. The EPA also recommended a two-stage development be undertaken, with the first stage involving remedial measures including the placement of the slab.

Transport for NSW (TfNSW) noted the development should include storage space for on-site containers and requested the Applicant undertake a Road Safety Audit to address potential safety risks at the entrance adjoining the Nant Street frontage. TfNSW did not agree with the Applicant's traffic model regarding the level of service for key intersections and recommended intersection upgrades in the area would be necessary to address traffic congestion. This is discussed further in **Section 6**.

Fire and Rescue NSW (FRNSW) requested it be consulted as part of the Fire Engineering Brief Questionnaire process prior to the issue of the relevant construction certificate and noted a fire safety study may need to be undertaken at a later stage.

Australian Rail Track Corporation (ARTC) requested access to the ARTC rail corridor at McPherson Street remain unencumbered.

AirServices Australia advised the development should be evaluated by a Sydney Airport operator to determine if it needs to be referred to AirServices for assessment.

Sydney Airport Corporation (SAC) did not object to the erection of the development to a maximum height of 20.4 m AHD, however advised that approval to operate construction equipment should be obtained prior to any commitment to construct.

Sydney Water did not object but provided comments surrounding water and wastewater servicing.

NSW Health, Environment, Energy and Science Directorate (EES), Crown Lands, DPIE – Water and Port Authority NSW had no comment.

5.2.2 Special Interest Groups/Private Businesses

Ausgrid noted there are underground cables buried along McPherson Street and therefore suitable precautions should be adopted during construction and operation of the facility in the vicinity of these cables, particularly at the entry driveway from McPherson Street.

NSW Ports raised concerns about traffic, particularly regarding heavy vehicle movements and the level of service at key intersections surrounding the development.

The Australian Environmental Network and School objected to the development due to concerns surrounding the existing contamination and proposed the land be utilised for environmental protection instead.

5.2.3 Public Submissions

The key issues raised in public submissions included traffic, biodiversity, flooding and contamination.

Issues were raised regarding the existing traffic congestion in the locality and the cumulative impact that the proposed development will have on major transport routes and intersections in the vicinity of the development. Concerns were also raised about the limited vegetation coverage that exists within the LGA currently and the loss of additional green space and fauna habitat. Further, issues were raised regarding the site's existing contamination, and whether the contaminated soil would be disturbed by the construction of the piers. Questions arose regarding whether the construction of the elevated concrete platform would impact upon the overall capacity of the flood detention basin.

5.3 Independent Expert Review

The Department sought independent advice from WMA Water Pty Ltd (WMA Water) to support its assessment of the potential flooding impacts of the development. This advice was sought due to the technical nature of the issue and it being a key issue with the assessment of the original Orica Southlands Project. WMA Water undertook an independent assessment of the Applicant's Flood Impact Assessment (FIA) (Appendix F of the EIS) and concluded the development would not result in additional flooding impacts. WMA Water recommended several conditions to ensure the flood detention basin is adequately managed in accordance with best practice floodplain management (see **Section 6.2** of this report).

5.4 Response to submissions

On 10 September 2020, the Applicant provided a Response to Submissions (RTS) on the issues raised during the exhibition of the development (see **Appendix B**). The RTS included several refinements to the design of the development, including the reconfiguration of the office space in both warehouses and minor changes to stormwater drainage and landscaping. The Applicant also requested to include the subdivision of Lot 9 to create one additional lot which will contain infrastructure associated with Orica's groundwater treatment plant. This element was originally proposed as a modification to the existing project approval (06_0191 MOD 5).

The RTS was made publicly available on the Department's website and was provided to key government authorities to consider whether it adequately addressed the issues raised. A summary of the government authority responses is provided below:

- **Council** reiterated its concerns regarding stormwater and flooding recommending that flood warning signage be installed at the site. Council also requested that compensatory and mitigation options be provided to reflect the proposed loss of vegetation and local biodiversity.
- **RCC** recommended the existing 88B instrument for the site be retained and updated to ensure site works do not interfere with or affect the use of the land for the purposes of a compensatory flood storage area. RCC also made several recommendations around stormwater management and landscaping.

- The **EPA** recommended the implementation of the conditions outlined in Site Audit Statement SA263/6 dated 16 May 2019.
- **TfNSW** continued to raise concerns around the assumptions used to develop the traffic model and noted that intersection upgrade works may still be required to improve traffic flows at the Botany Road / Foreshore Road / Penrhyn Road intersection. TfNSW also reiterated its concerns in relation to the driveway adjoining the Nant Street frontage and requested the Applicant address this matter prior to determination of the SSD application.
- The **EES** sought clarification on the flood model and made several recommendations around the flood emergency response plan.

5.5 Additional information

Following receipt of TfNSW's response, the Department requested the Applicant provide a further response to the government authority's outstanding concerns.

On 20 November 2020, the Applicant provided a Road Safety Audit for the development. The audit recommended landscaping along the McPherson Street frontage be limited to low-height species to maintain sight lines, and noted if Nant Street remains a restricted access road, then its impacts on the proposed driveway would be relatively benign. The Applicant also clarified the development would only account for approximately 3.6% of the overall traffic volume utilising the Botany Road / Foreshore Road / Penrhyn Road intersection during the morning and afternoon peak.

The Applicant's response, including the Road Safety Audit, was made publicly available on the Department's website and provided to TfNSW for comment.

TfNSW noted the proposed driveway is located well within the local road network and subsequently falls within the purview of Council as the relevant roads authority. TfNSW also acknowledged operational traffic generated by the development would likely represent a minor proportion of the overall traffic volume at the Botany Road / Foreshore Road / Penrhyn Road intersection but raised concerns that the Applicant's predictions for the Botany Road / Exell Street intersection are incongruent with current congestion levels.

The Department has considered the issues raised in submissions, the RTS and the supplementary concerns raised, in its assessment of the development in **Section 6**.

6 Assessment

The Department has considered the EIS, the issues raised in the submissions and advice received from government authorities, the Applicant's RTS and supplementary information in its assessment of the development. The Department considers the key assessment issues are traffic and flooding.

A number of other issues have also been considered. These issues are considered to be relatively minor and are assessed in **Table 3** under **Section 6.3** below.

6.1 Traffic and access

The construction and operation of the development would generate additional traffic movements, which has the potential to impact on the safety and operational performance of the surrounding road network. Access to the site would be via a new driveway ramp off McPherson Street, which is a local road managed by Council. McPherson Street is connected to the broader road network by Hills Street and Exell Street, which provide direct access to Botany Road and the broader Port Botany area (see **Figure 2**).

The EIS included a Traffic Impact Assessment (TIA) which assessed the development's potential traffic, access and parking requirements. The TIA was prepared with reference to TfNSW's *Guide to Traffic Generating Developments* and the *Botany Bay Development Control Plan 2013*.

6.1.1 Operational traffic

The development's TIA noted that operation of the site is expected to generate up to 980 vehicle trips per day (tpd), including a maximum of 113 vehicle movements per hour during the morning peak (79 in, 34 out) and 122 vehicle movements per hour during the afternoon peak (37 in, 85 out). The TIA estimated heavy vehicles would constitute 15% of traffic generated by the site.

The TIA indicated key intersections would continue to operate satisfactorily once the development is complete, without any need for road or intersection upgrades. This included the Botany Road / Exell Street intersection and the Botany Road / Foreshore Road / Penrhyn Road (BFP) intersection.

During the exhibition period, TfNSW raised concerns regarding the accuracy of the SIDRA modelling undertaken in support of the TIA and the level of traffic congestion currently occurring within the surrounding road network. The TIA reported a Level of Service (LoS) B for the morning peak period and a LoS C for the afternoon peak period at the BFP intersection, whereas TfNSW's considers this intersection is currently running at LoS D during the morning and freight peaks (1:45 pm to 2:45 pm) and LoS C in the afternoon peak.

NSW Ports, Council and several members of the public raised similar concerns regarding the TIA's assessment of the BFP intersection and highlighted the current level of traffic congestion within the broader Port Botany area.

As part of its RTS, the Applicant updated its SIDRA modelling to consider both the information provided by TfNSW and NSW Ports and updated traffic counts for the BFP intersection. The updated modelling was based on updated traffic surveys provided by an adjoining landowner and found that the BFP intersection is currently running at LoS C and B during the morning and afternoon peaks, respectively. During the future scenario modelled by the Applicant, the BFP intersection would experience a minor

increase in average intersection delay as a result of the development (up to four seconds during the morning and afternoon peak), with no change to the intersection's average LoS during these periods.

Following their review of the RTS, Council and NSW Ports did not raise any further concerns in relation to operational traffic. TfNSW requested the updated SIDRA model be forwarded to it for review, and noted that intersection treatments may still be required to accommodate the development.

Since submission of its RTS, the Applicant has provided several responses justifying the assumptions made in the SIDRA modelling and the impact of the development upon the surrounding road network. Throughout this process, the Applicant has maintained the development would only account for approximately 3.6% of the overall traffic volume utilising the BFP intersection during the morning and afternoon peak. In a similar manner, the development would represent a minor proportion of the overall traffic volume utilising the Botany Road / Exell Street intersection, comprising 4.3% and 16.5% of heavy vehicle movements during the morning and afternoon peak, respectively.

At the same time, TfNSW has reiterated its concerns regarding the assumptions made in the SIDRA modelling, particularly given that a number of key intersections surrounding the development site (including the Botany Road / Exell Street intersection and the BFP intersection) currently experience large delays and long queue lengths during the peak morning and afternoon periods.

While TfNSW has acknowledged operational traffic generated by the development would likely represent a minor proportion of the overall traffic volume at the BFP intersection, the authority has highlighted the Applicant's queue length and delay predictions for the Botany Road / Exell Street intersection are incongruent with current congestion levels. TfNSW consider the Botany Road / Exell Street intersection is currently running at LoS F during the morning and afternoon peak periods and, consequently, have maintained the operation of the development would have a noticeably negative impact on the future function of this intersection.

In order to resolve the outstanding issues raised by TfNSW, the Applicant requested a meeting with TfNSW and the Department to discuss traffic congestion within the Port Botany area and the need for intersection upgrades. As a result of this meeting (and in consultation with TfNSW), the Applicant has committed to upgrading the Botany Road / Exell Street intersection as part of the subject development application.

The upgrade works will involve the creation of an eastbound zipper merge lane along Botany Road, which would end approximately 120 m to the east of Exell Street (see **Figure 8**). TfNSW has provided its support for the upgrade works (subject to conditions) and noted the zipper merge lane would assist in ameliorating the development's impact upon the surrounding road network. In order to complete the intersection upgrade, the Applicant would be required to:

- obtain the approval of TfNSW under section 138 of the *Roads Act 1993*; and
- enter into a Works Authorisation Deed (WAD) with TfNSW.

The Applicant agreed to complete the construction of the Botany Road / Exell Street upgrade works before the commencement of operation of the development, with the civil design plans to be submitted to TfNSW for approval prior to the issuing of a Construction Certificate for the Stage 2 works (warehouse building construction). The Department has formalised these requirements in the recommended consent.



Figure 8 | Concept design for the Botany Road / Exell Street intersection upgrade

In addition, the Applicant has committed to the preparation and implementation of a Green Travel Plan for the development, outlining the sustainable measures which would be employed to reduce reliance on private vehicles. The development has been designed to include a minimum of 12 bicycle hoops with shower facilities located in the main office building. The Department has incorporated these commitments into the recommended conditions.

The Department considers traffic associated with the operation of the development would be adequately accommodated on the local and regional road network, subject to the implementation of the road infrastructure management measures outlined above. While the Applicant has demonstrated the development would not significantly impact upon traffic flows within the surrounding area, the Department notes the Botany Road / Exell Street intersection upgrade will deliver broader benefits to the regional road network. In addition, the Department recognises that TfNSW is separately investigating improvement works at the BFP intersection to accommodate future traffic demand within the Port Botany area.

The Department's assessment concludes traffic from the development would be adequately accommodated on the local and regional road network, while the planned intersection upgrade works would help to manage overall traffic congestion in the surrounding area. The Department has recommended conditions to ensure the intersection upgrade is delivered in accordance with the Applicant's commitments and the requirements of TfNSW.

6.1.2 Construction traffic

The site would be developed in stages, with the first stage involving remediation works and construction of the elevated concrete platform, and the second stage involving construction of the two warehouse

buildings, ancillary office space and associated infrastructure. Each stage would take approximately 12 months to complete.

While the Applicant did not estimate the number of construction vehicles required for each stage, the Department notes from similar developments in the Sydney region that construction traffic volumes are typically lower than operational traffic for warehouse and logistics developments. As the Department's assessment has concluded operational traffic generated by the development would be adequately accommodated by the surrounding road network (see above), the Department is satisfied construction traffic would also be adequately accommodated, particularly as construction would be undertaken gradually over the two stages.

During the exhibition period, Council and TfNSW did not comment on construction traffic. RCC recommended that a detailed Construction Traffic Management Plan (CTMP) be prepared for the development, and the Applicant has committed to the delivery and implementation of this plan prior to the commencement of construction. The Department has subsequently recommended conditions requiring the Applicant prepare and implement a CTMP for the development, in consultation with Council and TfNSW as the relevant road authorities.

6.1.3 Car parking

The Applicant proposes to provide a total of 116 car parking spaces for the development, two of which would be designated as accessible parking spaces. The parking provision is consistent with the minimum parking rates outlined in TfNSW's *Guide to Traffic Generating Developments* and the *Botany Bay Development Control Plan 2013*, being one space per 300 m² of GFA for warehouses and one space per 40 m² of GFA for offices.

Under the original design of the development, the carparking spaces was to be located across two distinct areas, comprising:

- parking along the southern boundary of the site, servicing Warehouse 1; and
- parking within the centre of the site, servicing both warehouses (see **Figure 9**).

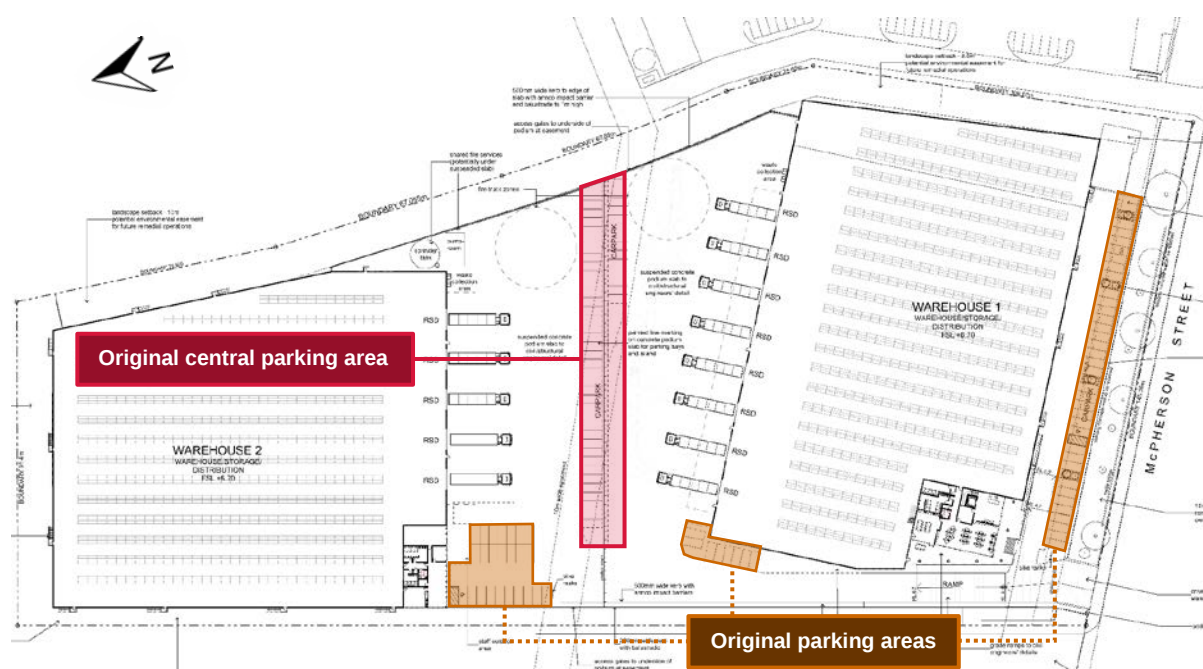


Figure 9 | Overview of original parking arrangements

During the exhibition period, Council noted the car parking area within the centre of the site was located in close proximity to the swept paths of B-double trucks accessing the Warehouse 1 loading docks and that issues may arise if truck movements were to intersect with the parking area.

The Department concurred with Council's concerns, and suggested the Applicant relocate the central parking area to improve the development's layout and to minimise potential conflicts between cars, heavy vehicles and pedestrians. The Applicant subsequently provided amended architectural plans for the development, which relocated parking spaces in the centre of the site to the northern and southern boundaries (see **Figure 10**). The Department considers the relocated carpark would still be accessible to the warehouse buildings and would minimise any potential conflicts between light and heavy vehicles and pedestrians on-site. The Department is satisfied the amended parking layout is suitable for the development and has incorporated the amended plans into the recommended conditions.

6.1.4 Shipping container storage

During the exhibition period, TfNSW requested the Applicant clarify where shipping containers would be stored on-site and provide further information regarding how container lifting/storage operations would be managed to minimise impacts to other on-site traffic.

The Applicant subsequently advised that while the warehouse docks have been designed to receive and process shipping containers brought to the site by heavy vehicles, the containers would not be removed and stored at the site. Accordingly, the Department has recommended a condition to ensure shipping containers associated with the development are not stored on hardstand areas or nearby streets.

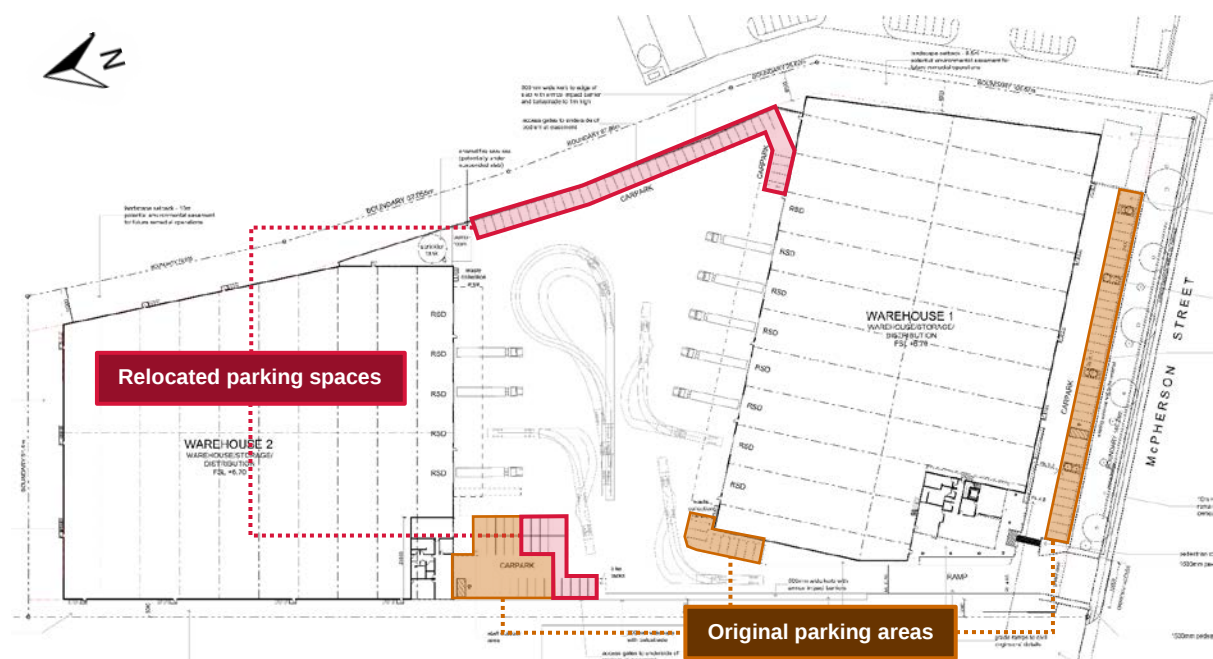


Figure 10 | Overview of amended parking arrangements

6.1.5 Conclusion and recommendations

The Department has considered the information provided by the Applicant, along with the advice received from the local councils, TfNSW and NSW Ports. The Department also met with TfNSW and the Applicant to discuss the need for intersection upgrades to facilitate the development. The Department notes the development's access driveway, hardstand and parking areas would be designed

and constructed in accordance with the requirements of Council and the relevant Australian Standards. The Applicant has also worked closely with TfNSW to develop a conceptual design for the Botany Road / Exell Street intersection upgrade and would continue to liaise with TfNSW during the detailed design and delivery of these works.

The Department's assessment has concluded traffic from the fully developed site would be adequately accommodated on the local and regional road network, subject to the planned intersection upgrade works. The Department has recommended conditions to govern the detailed design and delivery of the intersection upgrade, in consultation with TfNSW, and to ensure the site's access arrangements complies with the requirements of Council and the relevant Australian Standards. With these conditions in place, the Department concludes traffic from the development would be adequately managed and would not impact upon the performance of the local and regional road network.

6.2 Flooding

The site is located within the Springvale and Floodvale Drain catchment, which is approximately 380 ha in size and comprises mainly of industrial and commercial land uses. During major flood events, the site and surrounds including Nant Street and McPherson Street is subject to flooding.

Under project approval 06_0191, the site was identified as a compensatory flood detention basin for the broader area including the surrounding industrial buildings within the Southlands site. To retain the site's function as a flood detention basin, the development would be constructed on an elevated concrete platform above the flood detention basin.

A FIA was prepared by BMT Eastern Australia, which assessed the potential impacts of flooding on the development for a range of flood events as well as the potential impacts of the development on flood behaviour and on adjacent, downstream and upstream users.

6.2.1 Modelled Impacts and Flood Emergency Response

The FIA modelled three scenarios including: 5% Annual Exceedance Probability (AEP) event, 1% AEP event and PMF event. The modelling considered the current scenario (existing site conditions) and the proposed development scenario, including any on-site or off-site impacts that may be experienced during the construction of the elevated concrete platform.

Design flood simulations for the current scenario showed the peak flood levels at the site would be:

- 3.9 m AHD for the 5% AEP event;
- 4.1 m AHD for the 1% AEP event; and
- 5.0 m AHD for the PMF event.

The development has been designed to be well above the PMF flood levels of 5.0 m AHD. The proposed elevated concrete platform would be constructed at 6.7 m AHD, while the concrete platform for the southern carpark would be constructed at 5.2 m AHD (see **Figure 5**).

Modelling for the proposed development scenario showed the development would have negligible impacts on peak water levels and velocities for the 5% AEP, 1% AEP and PMF events. The FIA concluded the development would not result in off-site impacts for all flood events as the elevated concrete platform would sit well above the PMF flood levels enabling the site to maintain its existing flood storage capacity.

The EIS also included a Flood Emergency Response Plan (FERP) for the site. Given the local flood behaviour within and surrounding the site during major flood events, the FERP noted there would be insufficient warning time to enable a safe evacuation of the entire site during flood events that exceed the 1% AEP. As such, the FERP included several recommendations for managing flood risks, including:

- requiring all occupants/habitants to remain on-site during a significant flood event (1% AEP or greater); and
- installing a flood level alert device and a flood awareness and preparedness program.

Council and RCC both commented on whether the development, particularly the barrier layer and piers, would compromise the functionality and storage capacity of the existing flood detention basin. One public submission also raised a similar concern. In its RTS, the Applicant noted the flood modelling included the reduced volume of the flood detention basin due to the construction of the piers and confirmed the proposed development would not interfere with the function of the basin.

Council also noted the Applicant would need to install flood water depth signs on-site as well as appropriate fencing around the site to ensure floodwaters can pass unimpeded into the undercroft area. The Applicant has committed to installing appropriate signage and fencing around the flood storage area, which have been formalised in the recommended conditions. Council and RCC did not raise any further concerns.

EES initially did not comment on the proposal but subsequently provided comments on the RTS. The agency noted the development would not increase flood risk, particularly to downstream properties as the development has been designed to maintain the function of the flood detention basin. EES recommended the State Emergency Service (SES) be consulted particularly during the preparation of the FERP and noted the development's Work Health and Safety plans or equivalent should include a program for ongoing education about on-site flooding risks for staff and visitors. The Applicant stated that it has notified the SES to assist with its flood emergency response planning and has committed to implementing a flood education, awareness and preparedness program for the site, which has been included in the recommended conditions.

6.2.2 Independent Review

Given the technical nature of the proposal, the Department commissioned WMA water to undertake an independent review of the FIA including the RTS. WMA water did not raise any major concerns around the flood model but sought clarification on whether the proposed access ramps were accounted for in the modelling. In a subsequent response, the Applicant confirmed the access ramps were included in the flood model and that the structures associated with the ramps would not influence flooding characteristics within the basin.

WMA water also stressed the importance of maintaining the structural integrity of the flood detention basin, noting that the current design standard of the basin must be maintained to achieve a flood mitigation benefit. WMA water made several recommendations requiring the Applicant, in line with best practice flood management, to:

- undertake a pre and post construction detailed ground survey of the site to ensure the existing floodplain storage capacity is maintained;
- undertake a pre and post construction verification study of the site to confirm any landscaping on the site will not impacted on the flood storage capacity;
- undertake a topographic and photographic pre and post construction survey of the flood detention outlet structure to ensure it has not been affected by construction works;

- prepare a flood detention basin management plan to ensure that regular inspection and maintenance of the basin is carried out. The plan would include details regarding access under the platform, regular maintenance procedures and cleaning particularly following a major flood event; and
- update the FERP to include the flood emergency responses for the construction phase of the development.

The Applicant accepted these recommendations with the exception of undertaking a pre and post construction survey of the outlet structure, as this structure is located within the Springvale Drain and would not be impacted by any works associated with the development. WMA water confirmed that it was satisfied the outlet structure would not be impacted by the development, but recommended a pre and post construction photographic survey of the flood storage retaining wall be undertaken instead to verify the structure of the basin is not impacted by the works associated with the development. The Applicant agreed to this recommendation.

6.2.3 Department's Consideration

The Department has considered the findings of the FIA, RTS and WMA water's advice and concludes the proposed development would not result in additional flooding impacts beyond the existing flood conditions. The proposed elevated platform at 6.7 m AHD would sit above the PMF level of 5.0 m AHD and is unlikely to compromise the function or flood storage capacity of the existing flood detention basin, nor would it affect flood behaviour. WMA water provided recommendations to ensure the design standard of the flood detention basin continues to be consistent with current best practice for flood management. The Department also considers the outlet structure would not be impacted by the development and agrees a pre- and post-construction photographic survey of the retaining wall structure would be sufficient to confirm that it would remain intact following the works. As such, the Department has adopted WMA water's recommendations as described in the previous section and has included these in the recommended conditions of consent.

A FERP has been provided for the site, which includes consideration of site accessibility, flood-free access to and from the site and evacuation procedures. The Department agrees with the approach adopted within the FERP and has recommended a condition that this plan be updated by a qualified and experienced expert to include emergency procedures during the construction phase as well as the operational phases of the development.

The site is subject to a positive covenant and restriction on the use of land, which means any development on the site cannot interfere with the function of the flood detention basin. Given the findings of the FIA and advice from WMA Water, the Department considers the development design is consistent with the requirements of the positive covenant and restriction on the use of land as it would enable the site to continue to function as a flood storage area.

The Department's assessment concludes the proposed development would have negligible flood level impacts, provided the design measures for the development are implemented ensuring the flood storage capacity of the flood detention basin is maintained. The Department has recommended conditions around the ongoing monitoring, management and maintenance of the flood detention basin, updating the FERP and installing flood level signage and fencing for the site.

6.3 Other issues

The Department's assessment of other issues is provided in **Table 3** below.

Table 3 | Assessment of other issues

Findings	Recommendations
Hazards and Risk	
- The development does not involve the storage or handling of dangerous goods and would not exceed the relevant risk screening thresholds under SEPP 33. - However, the development is located immediately south-west of the BIP operations, a large integrated chemical manufacturing complex. The development would introduce additional people on-site thereby increasing the population surrounding the BIP. - The BIP operators are required to periodically undertake a cumulative Quantitative Risk Assessment (QRA) to assess the risks of their operations. - The 2018 QRA found that while the risks associated with the BIP has not changed (individual risk), the societal risk (risk to the surrounding community) has increased since the previous QRA, due to significant population growth in the surrounding area. - The Department undertook further analysis of the 2018 QRA and concluded the population density in the surrounding industrial area should be limited to 41.2 people/ha to ensure the overall societal risk does not increase. - Prior to exhibition, the Applicant revised the scope of the proposal to ensure the population of the development aligns with the employment population limit, being 41.2 people/ha, in response to the findings of the 2018 BIP QRA. - As stated in Section 1.2, the site is around 4.1 ha in size. The EIS confirmed the development would have an average daytime permanent employee population of 170 people and an average night-time permanent employee population of 34 people, which meets the limit of 41.2 people/ha. - The Department considers the development would have negligible impacts on the overall societal risk of the area and notes it complies with the risk criteria in the Department's <i>Hazardous Industry Planning Advisory Paper No. 10 – Land Use Safety Planning</i> for development in the vicinity of potentially hazardous facilities. - FRNSW did not raise any major concerns but noted the Applicant should undertake further consultation with FRNSW around the proposed fire and life safety systems for the site. This has been included as a recommended condition of consent. - To ensure compliance with the societal risk criterion, the Department has recommended a condition to limit the daytime population to an average of 170 people. The Applicant will be required to monitor this population to ensure it complies with this limit. The Department has also included a requirement for the Applicant to prepare an Emergency Response Plan for the site, which would also include procedures for managing the population on-site. The Applicant accepted these recommendations noting the procedures for monitoring the day-time population would be included in the OEMP and Emergency Plan. - The Department's assessment concludes the development would not increase the overall societal risk of the area.	Require the Applicant to: - prepare and implement an emergency response plan - limit the population at the site to an average of 170 people - consult with FRNSW regarding the fire and life safety systems.
Contamination and Remediation	
- Historical industrial uses on the site have resulted in significant soil and groundwater contamination across the site. - Groundwater beneath the Southlands Industrial Estate is contaminated with chlorinated hydrocarbons, while asbestos-impacted soils exist across the site. - The Applicant is responsible for remediating the contaminated groundwater via the BGCuP, by hydraulically containing the groundwater to prevent it from	Require the Applicant to: - implement the approved RAP - prepare a CEMP for the works

Findings	Recommendations
entering Botany Bay and treating the groundwater at an on-site groundwater treatment plant. - The EIS included a Remedial Action Plan (RAP), approved by an EPA accredited Site Auditor. The proposed remediation approach comprises on-site containment of fill materials impacted by bonded and friable asbestos using marker and barrier layers across the site. - The large void underneath the elevated concrete platform would manage potential soil vapour intrusion by providing a passive venting system for gas mitigation. - The EIS also included a Section B Site Audit Statement (SAS) and Site Audit Report (SAR) confirming the site can be made suitable for commercial/industrial use if the site is remediated in accordance with the RAP and subject to: - preparation of a Construction Environmental Management Plan (CEMP), validation report and Long-Term Environmental Management Plan (LTEMP); and - a Section A SAS issued by a Site Auditor confirming the site is suitable for commercial and industrial prior to any construction of buildings on-site. - The EPA and Council did not raise any major concerns regarding the proposed remediation approach and recommended the requirements outlined in the Section B SAS be formally included in the recommended instrument. The Department has included the Site Auditor's requirements in the recommended consent. - One public submission raised concerns around historical contamination at the site and the contamination risks associated with the development. The Applicant's RTS confirmed the development would maintain access to and would not impact on the existing groundwater treatment infrastructure associated with the BGCuP. Any contamination risks associated with the development would be addressed through the RAP. - The Department considers the contamination risks associated with the construction activities can be appropriately managed through the RAP and the remediation approach outlined in the approved RAP would enable the site to be used for industrial/commercial uses, provided the conditions outlined by the Site Auditor in the Section B SAS (submitted with the EIS) are completed. - The Department is also satisfied the development would not impact on ongoing remediation activities within and surrounding the site, particularly in relation to the BGCuP. The proposed subdivision (see Subdivision and Easements section below) would allow the Applicant to continue to access the site for future remedial activities. - The Department's assessment concludes the potential soil and groundwater contamination impacts associated with the development would be minimal and can managed by the Applicant and the recommended conditions of consent.	- undertake a validation report - prepare a LTEMP - obtain a section A SAS.

Biodiversity

- | | |
|---|--|
| <ul style="list-style-type: none"> A Biodiversity Development Assessment Report (BDAR) was prepared in accordance with the NSW Biodiversity Assessment Method, which noted the site has an extensive history of modification and disturbance, where no remnant native vegetation remaining on-site. The development would result in the removal of existing vegetation within the flood detention basin, which consists of landscape plantings which were planted in 2015 and exotic weeds. The Green and Golden Bell Frog (GGBF) has previously been recorded in the broader Southlands site. Under approval 06_0191, two frog ponds were constructed adjacent to Nant Street and the Springvale Drain to provide habitat for the GGBF. Targeted surveys for the GGBF within the site and adjoining areas and did not identify any evidence of the GGBF. | <p>Require the Applicant to:</p> <ul style="list-style-type: none"> install frog exclusion fencing undertake pre-clearance surveys of the GGBF |
|---|--|

Findings

Recommendations

- The BDAR noted there would be a low likelihood of the GGBF occurring on the development site and concluded that the GGBF would not be affected by the development.
- EES did not provide comments on this aspect of the proposal.
- Council noted that the removal of vegetation could result in the loss of local biodiversity habitat, particularly for the Grey-headed Flying Fox and the GGBF. Both Council and RCC requested the Applicant provide mitigation options to reflect the proposed loss of biodiversity habitat.
- Two public submissions also raised similar concerns around vegetation removal and habitat loss.
- The RTS reiterated the existing vegetation on-site is the result of replanting following bulk earthworks that occurred in 2015 to establish the site as a compensatory flood detention basin. As such, no compensatory habitat would be required as there has been no net loss of native vegetation.
- Notwithstanding, the Applicant has committed to maintaining existing plantings (where possible) in the setback zones, which would also be supplemented by new plantings as per the proposed landscape plan for the development (see **Landscaping** below).
- The Applicant has also committed to undertaking a pre-clearance survey and installing frog exclusion fencing around the site to ensure the GGBF do not enter the site during construction works. The Department has included these commitments in the recommended instrument.
- While biodiversity was raised as a concern in public submissions and Council comments, the Department considers the site was not intended to provide habitat function and was dedicated for use as a compensatory flood detention basin under 06_0191. The two frog ponds adjacent to the Springvale Drain were provided as compensatory habitat for the GGBF and would not be impacted by the development. The Department also considers the recommended conditions, particularly for the GGBF would minimise the potential of the GGBF occurring within or entering the site.
- The Department's assessment concludes the potential biodiversity impacts would be minimal and can be managed by the Applicant.

Landscaping

- Landscaping for the development is proposed along each boundary of the site and would incorporate a variety of native trees, shrubs and grasses to soften the appearance of the facility.
 - Council requested additional landscaping for the development to meet the controls within the Botany DCP, including a 3 m landscape setback with canopy trees and landscaping in the carpark.
 - However, the development is not required to comply with all DCP requirements as the site is in an area covered by the Three Ports SEPP and the development is SSD.
 - Notwithstanding, the Department worked with the Applicant to incorporate additional landscaping and screening along the front elevation of the site in the form of large planter boxes containing canopy trees to be located on the podium level fronting McPherson Street.
 - The Department considers the use of planter boxes would be a suitable option as the development would be located aboveground meaning trees and shrubs cannot be planted in natural ground.
 - The Applicant also confirmed the proposed landscaping would be consistent with the plant species described in the Landscape Management Plan (LMP) approved under 06_0191.
 - The Department considers the Applicant has provided adequate landscaping within and along the perimeter of the site to soften the appearance of the development. The Department has recommended the Applicant prepare a LMP to manage the revegetation and landscaping works on-site and this has been included in the recommended instrument.
- Require the Applicant to:
- prepare a LMP for the development.

Findings	Recommendations
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Noise and vibration

- The development has the potential to emit noise and vibration during both its construction and operational phases, which could impact on the amenity of the surrounding area.
- The Applicant has submitted a Noise and Vibration Impact Assessment (NVIA) to assess the potential noise and vibration impacts associated with the construction and operation of the elevated concrete platform and the two warehouses.
- The nearest residential receivers are 1 km to the north-east in Hillsdale. The nearby Detector Dog facility was also considered a noise sensitive receiver in the NVIA.

Construction:

- Construction is proposed to be carried out during standard daytime working hours of 7:00 AM to 6:00 PM Monday to Friday and 8:00 AM to 1:00 PM on Saturdays.
- The NVIA concluded the noise management levels outlined in the *Interim Construction Noise Guideline* (ICNG) could be met at all residential receivers during standard construction hours.
- There is the potential for noise levels to be exceeded by up to 18 dB(A) at the adjacent detector dog facility during piling works. However, the NVIA notes that construction noise would decrease to an acceptable level as piling works progress around the site.
- Vibration impacts would be intermittent and limited to the piling works. The NVIA found the development would comply with the vibration criteria particularly for cosmetic damage where the criteria is 7.5 mm/second for the adjacent detector dog facility. The Applicant has committed to undertaking vibration monitoring to verify these predictions.
- The NVIA nominated a variety of management and mitigation measures to minimise construction noise and vibration impacts, including limiting construction activities to the standard hours, avoiding the simultaneous use of noisy plant and equipment and maintaining safe working distances to surrounding structures.
- In its advice, the EPA did not raise any concerns in relation to construction noise impacts. Council emphasised that every effort should be made to ensure construction works are undertaken within standard daytime working hours.
- The Department concurs with the overall findings of the NVIA, but notes there is the potential for noise-intensive construction works to impact upon surrounding sensitive receivers, including the adjacent detector dog facility. While it is noted that no submission was received from the adjacent detector dog facility, the Department has recommended conditions to address these issues, including requiring the Applicant to:
 - o consult with nearby sensitive receivers regarding the scheduling of high noise and vibration-intensive activities; and
 - o undertake vibration monitoring during the Stage 1 piling works to minimise any potential cosmetic damage to surrounding structures.

Operation:

- Key future noise sources would be associated with the eventual occupation and use of the site and will include mechanical plant, internal warehouse operations, operation of the loading docks and vehicle movements.
- As the final uses are not known, operational noise impacts were based on a conservative assessment of noise contribution from these sources.
- The NVIA found that the development's predicted operational noise levels would comply at all surrounding sensitive receivers during all periods with the project noise trigger levels developed in accordance with the EPA's *Noise Policy for Industry*. Similarly, sleep disturbance levels are predicted to be below the relevant criteria. As such, no specific noise mitigation measures are proposed.
- The Department is satisfied with the conclusions of the NVIA in relation to the operational noise assessment. The Department has subsequently incorporated

Require the Applicant to:

- adhere to standard construction hours
- adhere to the requirements of the ICNG
- consult with nearby sensitive receivers (including the adjacent detector dog facility) regarding the scheduling of high noise and vibration-intensive activities
- undertake vibration monitoring during the Stage 1 piling works to minimise any potential cosmetic damage to surrounding structures
- ensure operational noise associated with the development does not exceed noise limits for surrounding sensitive receivers.

Findings

Recommendations

the NVIA's project noise trigger levels into the recommended conditions of consent.

- The Department's assessment concludes that, with management measures in place, construction and operation of the development would not result in significant noise or vibration impacts to surrounding sensitive receivers.

Stormwater

- The site is currently used as a flood detention basin.
- The surrounding industrial lands currently discharge directly to the Springvale Drain or via the subject site during flood events.
- The development requires a stormwater management system to be installed and includes a piped drainage system designed to accommodate 1 in 20 year average recurrence interval (ARI) storm events and overland flow paths to convey all stormwater runoff up to and including the 1 in 100-year ARI storm event.
- Stormwater from the development would be directly discharged into the flood detention basin and is proposed to be treated using pit inserts, rainwater reuse and infiltration within the flood detention basin.
- The EIS also included an Erosion and Sediment Control Plan detailing the measures to be implemented during construction such as installing clear visible barrier fencing and implementing dust suppression techniques for unprotected areas.
- Council raised no major concerns but commented on stormwater quality and the potential for stormwater to be discharged off-site and into the Springvale Drain.
- The Applicant, in its RTS, clarified that stormwater would be captured within the detention basin before infiltrating to groundwater. As the groundwater beneath the site is contaminated, a series of extraction wells along McPherson Street would prevent it from migrating off-site, minimising stormwater pollution impacts.
- The Department considers the proposed stormwater management system is appropriate for managing the stormwater quality and volumes generated by the development. The Department is satisfied the risk of stormwater pollution is minimised given that no stormwater would not be discharged off-site (even during a 1 in 100 year ARI event), but instead would infiltrate to groundwater where it would be treated via the Applicant's groundwater treatment plant.
- The Department has included a condition requiring the Applicant to install and operate the proposed stormwater management system for the development.
- The Department is also satisfied the potential stormwater impacts during construction can be managed through the implementation of sediment and erosion control measures and has recommended these requirements be included in the recommended consent.
- The Department's assessment concludes the potential stormwater impacts are able to be minimised and managed by the Applicant via the implementation of proposed stormwater management measures as well as consent conditions recommended by the Department.

Require the Applicant to:

- install and operate the proposed stormwater management system
- prepare an erosion and sediment control plan.

Subdivision and easements

- The development involves the subdivision of the site into two lots, comprising:
 - the elevated concrete platform and two warehouse buildings (proposed Lot 1); and
 - the BGCuP pipeline and associated groundwater monitoring infrastructure (proposed Lot 2).
- This element was originally proposed as a modification to the existing approval that applies to the site (06_0191 MOD 5) but was incorporated into the subject SSD application as part of the Applicant's RTS.
- Several easements would also be established across Lot 1 to provide the Applicant with ongoing access for future remedial activities associated with the BGCuP.

Require the Applicant to:

- subdivide the site, prior to the issue of an Occupation Certificate
- register easements over the flood detention basin to facilitate ongoing

Findings	Recommendations
- The proposed subdivision and accompanying easements would allow for the elevated concrete platform and two warehouse buildings to be owned and delivered by a separate entity, while still ensuring the Applicant is able to fulfil its ongoing maintenance and remediation obligations under the BGCuP. - The EPA requested further information from the Applicant regarding the proposed easements to be established across Lot 1. - The RTS subsequently included a draft Section 88B (of the <i>Conveyancing Act 1919</i>) instrument setting out the four easements which would be established across Lot 1. - The Department has reviewed the draft Section 88B instrument and is satisfied it would allow for the continued operation and maintenance of infrastructure required for the BGCuP, regardless of whether Lot 1 is sold to a separate entity. - The Department has recommended conditions to ensure the site is subdivided and the proposed access easements are established prior to the operation of the two warehouse buildings.	access for future remedial activities.
Concrete Platform	
- The proposed elevated concrete platform is proposed to be placed on a grid of piers that would be made of either timber, concrete or steel. - The Applicant's structural engineer confirmed the concrete platform design would be structurally sound advising the proposed piers would have a design life in excess of 100 years. - The proposed piling solution has previously been undertaken for existing buildings located near the site. - The Applicant confirmed access under the platform would be required for cleaning, maintenance and service works, particularly in relation to ongoing maintenance of the piers and capping layer. - To ensure ongoing maintenance of the concrete platform and piers, the Department recommends a condition requiring the Applicant to prepare and implement ongoing maintenance and management procedures for the area underneath the concrete platform. This should also include details of access under the platform and maintenance of the piers.	Require the Applicant to: Prepare and implement procedures for ongoing maintenance and access under the concrete platform and piers
Visual	
- The site is located within an established industrial area and is surrounded by various bulky goods and warehouse facilities. - The development would have a maximum height of 17.2 m above the existing ground level. - The EIS stated the development would be of a similar scale and design to existing warehouse developments nearby, therefore enabling it to integrate with the surrounding industrial context. - The nearest residential development is located 1 km away in the suburbs of Hillsdale and Matraville, however the distance from the nearest residential receivers would not obstruct any important views. - Landscaping is proposed along the boundary of the development to soften the appearance of the facility when viewed from McPherson Street (see Landscaping section above). - Council requested the Applicant prepare a Visual Impact Assessment (VIA) for the development, which was included in the Applicant's RTS. - The VIA noted the adjacent Archie Rose Distillery building to the east and the Quenos storage tanks to the north have a maximum height of 16 m and 26 m, respectively. The VIA subsequently concluded the visual impacts associated with the development would be negligible from all residential viewpoints. - Council did not provide any further comments in relation to visual impacts. - The Department considers the development would not be visually intrusive and would complement the surrounding industrial land uses. The Department's	No conditions required

Findings

Recommendations

assessment concludes the potential visual impacts of the development would be negligible and as such no additional conditions are required.

Contributions

- Under section 7.12 of the EP&A Act and Council's *City of Botany Bay Section 94A Development Contributions Plan 2016*, the Applicant is required to pay a levy equivalent to 1% of the proposed cost of carrying out the development. The levy will support the provision, extension and/or augmentation of public facilities and services within the Bayside LGA.
- The Department has subsequently recommended a condition requiring the Applicant pay a section 7.12 (previously known as Section 94A) development contribution to Council. The final contribution will be calculated in accordance with clause 25J of the EP&A Regulation by a registered quantity surveyor.

Require the Applicant to:

- pay the Section 7.12 development contribution to Council.

7 Evaluation

The Department's assessment of the application has fully considered all relevant matters under section 4.15 of the EP&A Act, the objects of the EP&A Act and the principles of ecologically sustainable development.

The Department has considered the development on its merits, taking into consideration strategic plans that guide development in the area, the EPIs that apply to the development, advice received from the relevant government authorities, including Council, and submissions from the public.

None of the State government agencies or Council objected to the proposal. The Department acknowledges the concerns raised in three objections received from the public regarding existing traffic congestion in the locality and existing contamination and flooding issues on the site. The Department has sought to address any issues raised, including those raised in public submissions through consultation with both the government authorities and the Applicant.

The key issues for the development relate to traffic, flooding and contamination.

The Department considers the operational traffic impacts from the fully developed site would be adequately accommodated on the local and regional road network, subject to the planned intersection upgrade works on Exell Street and Botany Road. The Applicant has committed to undertaking the intersection upgrade prior to the operation of the development, which would assist in delivering broader benefits to the regional road network.

As the site is subject to major flood events, the development would be constructed on an elevated concrete platform well above the PMF level of 5.0 m to minimise flooding impacts. Flood modelling showed that the development would have negligible impacts on peak water levels and velocities for all flood events, which would not result in off-site impacts. Importantly, the development would enable the site to maintain its existing flood storage capacity. The Department appointed WMA Water to independently review the FIA. WMA Water did not raise any concerns about the flood model and provided several recommendations relating to the management and maintenance of the flood detention basin, which have been included in the recommended conditions.

While legacy contamination issues exist on the site, the Department considers the site can be made suitable for commercial industrial uses subject to requirements outlined in the Section B SAS for the approved RAP. In addition, the development would not compromise the existing remediation activities occurring on and around the site. The proposed subdivision would enable the Applicant to continue to access the site for future remedial activities associated with the BGCuP.

The Department considers the potential impacts of the development can be managed and/or mitigated to ensure an acceptable level of environmental performance, subject to the recommended conditions of consent, including:

- implementation of management and mitigation measures identified in the EIS and the RTS;
- intersection upgrade works involving the extension of the zipper lane of the Botany Road and Exell Street intersection;
- implementation of flood management measures including pre- and post-construction surveys of the flood detention basin, preparation of a Flood Detention Basin Management Plan and FERP;
- the preparation and implementation of a Construction Environmental Management Plan;

- appointment of an EPA accredited Site Auditor to oversee the construction works of the development;
- a requirement for a final SAS and SAR to demonstrate the site is suitable for the proposed development; and
- the installation of appropriate landscaping.

Overall, the Department's assessment has concluded the development would:

- provide a range of benefits for the region and the State as a whole, including a capital investment of approximately \$56 million in the Bayside LGA;
- provide for approximately 85 construction jobs and 204 new operational jobs;
- be consistent with NSW Government policies including the Greater Sydney Region Plan and the Eastern City District Plan; and
- not have a significant impact on the local or regional road network during construction or operation.

The Department considers these benefits can be realised without any significant amenity or environmental impacts and therefore, concludes the development is in the public interest and should be approved, subject to conditions.

8 Recommendation

For the purpose of section 4.38 of the *Environmental Planning and Assessment Act 1979*, it is recommended that the Executive Director, Energy, Industry and Compliance, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report;
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application;
- **agrees** with the key reasons for approval listed in the notice of decision;
- **grants consent** for the application in respect of SSD-9691, subject to the conditions in the attached development consent; and
- **signs** the attached recommended conditions of consent (see **Appendix E**).

Prepared by:

Laurise Yousif, Pamela Morales and Patrick Copas
Industry Assessments

Recommended by:

 7 April 2021

Joanna Bakopanos
Acting Director
Industry Assessments

9 Determination

The recommendation is **Adopted** by:

A handwritten signature in black ink, appearing to read 'C. Ritchie', with a small dot above the 'i'.

8 April 2021

Chris Ritchie

Acting Executive Director

Energy, Industry and Compliance

Appendices

Appendix A – List of documents

Appendix B – Considerations under section 4.15 of the EP&A Act

Appendix C – Consideration of environmental planning instruments

Appendix D – Key issues – Council and community views

Appendix E – Recommended conditions of consent

Appendix A List of documents

The Department has relied upon the following key documents during its assessment of the development:

Environmental impact statement

- Environmental Impact Statement – Warehouse and Distribution Development 28 McPherson St, Banksmeadow and all attachments, prepared by Keylan Consulting Pty Ltd, dated 23 March 2020.

Response to submissions

- Response to Submissions – State Significant Development Application (SSD 9691) Warehouse and Distribution Facility and all attachments, prepared by Keylan Consulting Pty Ltd, dated 2 September 2020; and
- Letter titled: Owners Consent – Orica Limited – State Significant Development Application (SSD 9691), Lot 9 DP 1205673, 28 McPherson Street, Banksmeadow, dated 18 August 2020.

Additional information

- Document titled 'Orica Southlands Warehouse Estate (SSD-9691) - Request for Additional Information – Response, prepared by Orica Australia Pty Ltd, dated 7 October 2020;
- letter titled 'Orica Southlands Warehouse and Distribution Facility (SSD 9691);
- Response to Request for Information' and all attachments, prepared by Keylan Consulting Pty Ltd, dated 30 October 2020;
- letter titled 'Orica Southlands Lot 9 (SSD-9691) – Proposed Warehouse Development 28 McPherson Street, Banksmeadow Response to Road Safety Audit' and all attachments, prepared by TRAFFIX, dated 20 November 2020; and
- letter titled 'Orica Southlands Lot 9 (SSD-9691) – Proposed Warehouse Development 28 McPherson Street, Banksmeadow Response to Transport for NSW', prepared by TRAFFIX, dated 18 January 2021.

Submissions and advice

- all submissions received from special interest groups and the public; and
- all advice received from Council and the relevant government authorities.

Statutory documents

- relevant considerations under section 4.15 of the EP&A Act (see **Appendix B**); and
- relevant environmental planning instruments, policies and guidelines (see **Appendix C**).

All documents relied upon by the Department during its assessment of the development may be viewed at: <https://www.planningportal.nsw.gov.au/major-projects/project/10186>.

Appendix B Considerations under section 4.15 of the EP&A Act

Section 4.15 of the EP&A Act requires that the consent authority, when determining a development application, must take into consideration the matters contained in **Table 4** below.

Table 4 | Matters for consideration under section 4.15

Matter	Consideration
a) the provisions of: i) any environmental planning instrument, and ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and iii) any development control plan, and - iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,	A detailed consideration of the provisions of all environmental planning instruments (including draft instruments subject to public consultation under the EP&A Act) that apply to the development is provided below. The Applicant has not entered into any planning agreement under section 7.4. The Department has undertaken its assessment of the development in accordance with all relevant matters as prescribed by the EP&A Regulation, the findings of which are contained within this report.
b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department has considered the likely impacts of the development in detail in Section 6 of this report. The Department concludes that all environmental impacts and social and economic impacts can be appropriately managed and mitigated through the recommended conditions of consent.
c) the suitability of the site for the development,	The site is located on land zoned for industrial uses and the development is permissible with consent. The site is in close proximity to the Port Botany trade corridor and the broader metropolitan arterial road network. Therefore, the

Matter	Consideration
	development would facilitate efficient access of goods and services to and from the Port and throughout metropolitan Sydney.
d) any submissions made in accordance with this Act or the regulations,	All matters raised in submissions have been summarised in Section 5 of this report and considered as part of the assessment of the development in Section 6 .
e) the public interest.	The development would generate approximately 85 jobs during construction and up to 204 jobs during operation. The development is a considerable capital investment in the Port Botany area that would contribute to the provision of local jobs. The environmental impacts of the development would be appropriately managed via the recommended conditions. On balance, the Department considers the development is in the public interest.

Appendix C Consideration of environmental planning instruments

To satisfy the requirements of section 4.15(1) of the EP&A Act, the following EPIs were considered as part of the Department's assessment:

- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP);
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP);
- State Environmental Planning Policy (Three Ports) 2013 (Three Ports SEPP);
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33);
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55);
- State Environmental Planning Policy No. 64 – Advertising Structures and Signage (SEPP 64); and
- draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP).

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

The SRD SEPP identifies certain classes of development as SSD. The development is for the construction and operation of two warehouses and ancillary offices with a CIV in excess of \$50 million, which meets the criteria of clause 12(1) of Schedule 1 of the SRD SEPP and is consequently classified as SSD. The development satisfies the criteria in clause 12 of Schedule 1, as it would involve the construction of two warehouses at one location and related to the same operation with a total capital investment value of \$56.2 million.

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

The Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across the State and lists the type of development defined as Traffic Generating Development.

The development constitutes traffic generating development in accordance with the Infrastructure SEPP as it includes a warehouse or distribution centre on a site with an area of more than 8,000 m². Consequently, the development was referred to TfNSW for comment and consideration of accessibility and traffic impacts.

Following extensive negotiations with the Applicant, TfNSW advised it did not object to the development, subject to the implementation of a new zipper merge lane at the Botany Road / Exell Street intersection. TfNSW noted the zipper merge lane would assist in ameliorating the development's impact upon the surrounding road network (see **Section 6.1.1**). The Department has incorporated the TfNSW's requirements relating to the upgrade works into the recommended conditions.

The development is therefore considered consistent with the ISEPP.

State Environmental Planning Policy (Three Ports) 2013 (Three Ports SEPP)

The Three Ports SEPP ensures consistent planning controls across the Ports (Port Botany, Port Kembla and the Port of Newcastle), protects the ports from incompatible land-use and stipulates zones for the land and surrounding waterways to accommodate port activities.

The subject site is zoned IN1 General Industrial pursuant to the provisions of the Three Ports SEPP Land Zoning Map, where development for the purposes of 'Warehouse and distribution centres' and

'office premises' are permissible uses with consent. Clause 21 of the Three Ports SEPP relates specifically to the location of business premises and office premises in the IN1 zone, and states:

"Development consent must not be granted for the development for the purposes of business or office premises on land within Zone IN1 General Industrial unless the consent authority is satisfied that the development is associated with, and ancillary to, port facilities or industrial uses of land."

The office spaces will be ancillary to the warehouse buildings, which will be receiving freight from the port, demonstrating that the office premises are associated with port facilities.

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33)

SEPP 33 aims to identify developments with the potential for significant off-site impacts, in terms of risk and/or offence. A development is defined as potentially hazardous and/or potentially offensive if, without mitigating measures in place, the development would have significant risk and/or adverse impact on off-site receptors.

The Applicant seeks approval to construct and operate two warehouse buildings. The EIS included a Hazards and Risk Assessment (HRA) at Appendix H. The HRA undertook a preliminary risk screening in accordance with the requirements of SEPP 33. The development does not involve the storage or handling of hazardous materials or dangerous goods, and as detailed in **Section 6.3** of this report, does not exceed the relevant risk screening thresholds under SEPP 33.

Given the site's proximity to the BIP, the on-site population density of the development must be limited to 41.2 people/ha to ensure the societal risk of the area does not increase. The Department has recommended conditions to ensure the development maintains an average on-site day-time population of 170 people (overall population would be 204 people), as described in the EIS, which meets this ratio. The Department has also recommended the Applicant prepare an Emergency Plan for the development.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

SEPP 55 aims to provide a State-wide approach to the remediation of contaminated land. In particular, SEPP 55 aims to promote the remediation of contaminated land to reduce the risk of harm to human health and the environment by specifying:

- under what circumstances consent is required;
- the relevant considerations for consent to carry out remediation work; and
- the remediation works undertaken meet certain standards and notification requirements.

Contamination was a key consideration in the Department's assessment of the application given the site had historically been used for manufacturing activities where potential sources of contamination include asbestos, ground gases and volatile hydrocarbons.

A Remedial Action Plan (54709/119224 Rev 0) (RAP) was prepared by JBS&G on 15 May 2019, and concluded that:

"Subject to the successful implementation of the measures detailed in this RAP and subject to the limitations in Section 11, it is considered that the site can be made suitable for the proposed commercial/industrial land - use."

Subsequent to the RAP, a Site Audit "Suitability of Remediation Action Plan, Lot 9 in DP1205673, 28 McPherson Street, Banksmeadow for Orica Australia Limited, May 2019" was prepared by C.M.

Jewell and Associates Pty Ltd (an EPA accredited Site Auditor). The Auditor confirmed the site can be made suitable for commercial/industrial purposes if all measures in the remedial action plan are implemented.

Notwithstanding the above, the Department has included specific conditions to be included in the development consent to address the above issues. The Department will require a Site Audit Statement to be completed prior to the commencement of the stage 2 works, and remediation will involve onsite containment using marker and barrier layers across the site and construction of an elevated concrete platform with an under-croft area to provide a passive venting system. The Department has considered the relevant provisions of SEPP 55 in its assessment of the SSD application.

State Environmental Planning Policy No. 64 – Advertising Structures and Signage (SEPP 64)

SEPP 64 aims to ensure that outdoor signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of a high-quality design and finish.

The development would involve the installation of wayfinding and safety related signage only. An indicative signage zone for a building identification sign has been provided on the southern elevation of Warehouse Building 1, facing McPherson Street. Any future signage in this location would be subject to further approval.

The Department is satisfied the proposed signage will be appropriately incorporated into the architectural design of the development, would not detract from the surrounding locality and would provide suitable wayfinding and direction within the site. The Department is satisfied that the development will be consistent with the aims and objectives of SEPP 64.

Draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP)

The draft Remediation SEPP seeks to retain the key operational framework of the current SEPP 55, while also adding new provisions relating to changes in categorisation and introducing modern approaches to the management of contaminated land.

The development has been assessed against SEPP 55 (see above) and the new provisions outlined in *Remediation of Land SEPP – Explanation of Intended Effect* (DPE, 2018), and the Department is subsequently satisfied that the development would be consistent with the draft Remediation SEPP.

Appendix D Key issues – Council and community views

The Department exhibited the Environmental Impact Statement for the development from 15 April 2020 until 14 May 2020 (30 days). During the exhibition period, the Department received 5 submissions from the public (3 special interest groups, 2 individuals) and advice from 12 government authorities, including Council and RCC. Three public submissions objected to the proposal. The majority of community members who made a submission live within 10 km of the proposal.

The issues raised by Council, the special interest groups and the general public and a summary of how each issue has been addressed is provided in **Table 5** below.

Table 5 | Department's consideration of key issues raised in submissions

Issue Raised	Consideration
Traffic	<u>Assessment</u> - As discussed in Section 6.1, the Department considers traffic associated with the operation of the development would be adequately accommodated within the local and regional road network, subject to the upgrade of the Botany Road and Exell Street intersection. - Carparking layout within the site has been improved to minimise potential conflicts between cars, heavy vehicles and pedestrians. <u>Conditions</u> - Upgrade the Exell Street and Botany Road intersection in consultation with TfNSW - Prepare a construction traffic management plan.
Biodiversity	<u>Assessment</u> - As discussed in Section 6.3 of this report, the development would not result in the net loss of remnant native vegetation given the existing vegetation on-site is the result of replanting following bulk earthworks that occurred in 2015 to establish the site as a compensatory flood detention basin. As such, no compensatory habitat would be required as there has been no net loss of native vegetation. - There is a low likelihood of the GGBF occurring on the development site and is not likely to be affected by the development. <u>Conditions</u> - Install frog exclusion fencing and undertake pre-clearance surveys of the GGBF - Prepare a landscape management plan for the development.

Issue Raised	Consideration
Flooding Concerns regarding flood safety and impact of the development on the functioning of the flood detention basin	<u>Assessment</u> - As discussed in Section 6.2 of this report, the development would be constructed on an elevated concrete platform above the PMF level of 5 m, which would result in negligible flood level impacts. The FIA concluded the development would not impact on the function or flood storage capacity of the basin. - The EIS included a FERP for the site, which includes consideration of site accessibility, flood-free access to and from the site and evacuation procedures. The Department agrees with the approach adopted within the FERP. <u>Conditions</u> - The Department has recommended conditions around the management and maintenance of the flood detention basin, updating the FERP and installing flood level signage and fencing for the site.
Contamination - Concerns relating to the historic contamination on the site, and the need for a long-term clean-up plan for the aquifer and groundwater - Concerns relating to the lack of information provided about the existing contamination and future plans	<u>Assessment</u> - As discussed in Section 6.3 of this report, the site would need to be remediated to made suitable for commercial and industrial uses. The Applicant is committed to undertaking the remediation approach outlined in the RAP as well as the Site Auditor's requirements in the Section B SAR and SAS, submitted with the EIS. - The development would not compromise the existing remedial activities that are occurring on the site. The proposed subdivision would enable the Applicant to continue to access the site for future remedial activities associated with the BGCuP. <u>Conditions</u> - Implement the implement the approved RAP - Undertake a validation report and prepare a LTEMP - Obtain a section A SAS and SAR prior to commencement of construction of the warehouse buildings.
Stormwater management and water quality - Concerns relating to the proposed stormwater treatment system - More details required regarding the ground floor slab drainage and connection for discharge from the site	<u>Assessment</u> - As discussed in Section 6.3 of this report, stormwater from the development would be directly discharged into the flood detention basin and is proposed to be treated using pit inserts, rainwater reuse and infiltration within the flood detention basin. - The Department is satisfied the risk of stormwater pollution is minimised given that no stormwater would not be discharged off-site, but instead would infiltrate to groundwater where it would be treated via the Applicant's groundwater treatment plant. <u>Conditions</u> - Install and operate the proposed stormwater management system - Prepare erosion and sediment control plan.

Appendix E Recommended conditions of consent

The recommended conditions of consent for SSD-9691 can be found on the Department's website at:
<https://www.planningportal.nsw.gov.au/major-projects/project/10186>.