

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State Significant Development
Application number and project name	SSD-9691 Orica Southlands Warehouse Estate
Applicant	Orica Australia Pty Ltd
Consent Authority	Minister for Planning and Public Spaces

Decision

The Acting Executive Director, Energy, Industry and Compliance under delegation from the Minister for Planning and Public Spaces has, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**the Act**) granted consent to the development application subject to the recommended conditions.

A copy of the development consent and conditions is available [here](#).

A copy of the Department of Planning and Environment's Assessment Report is available [here](#).

Date of decision

8 April 2021

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- the considerations under s 7.14(2) and 7.16(3) of the Biodiversity Conservation Act 2016 (NSW);
- all information submitted to the Department during the assessment of the development application;
- the findings and recommendations in the Department's Assessment Report;
- advice from relevant NSW Government authorities and Bayside Council; and
- the views of the community about the project (see **Attachment 1**).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- the project would provide a range of benefits for the region and the State as a whole, including a capital investment of approximately \$58 million and the generation of 85 construction jobs and 204 new operational jobs in the Bayside local government area;
- the project is permissible with development consent, and is consistent with NSW Government policies including the *Greater Sydney Region Plan – A metropolis of Three Cities* and the *Eastern City District Plan*;
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent; and
- weighing all relevant considerations, the project is in the public interest, subject to strict conditions of consent.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement (EIS) for the project from Wednesday 15 April 2020 until Thursday 14 May 2020 (30 days) and received 3 public submissions, which all objected to the development.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker include flooding, contamination and biodiversity are summarised in **Table 1**. Other issues are addressed in detail in the Department's Assessment Report.

Table 1 | Department's consideration of key issues raised in submissions

Issue	Consideration
Traffic Impact of traffic generation on surrounding network	<u>Assessment</u> - As discussed in Section 6.1 of the Department's assessment report (report), 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 - Impact of the loss of vegetation and the impact of this on local biodiversity and habitat for animals including the flying fox, green and gold bell frog and migratory bird species - Concern that the development will contribute to the already low canopy cover of the LGA, and that the cumulative impacts of vegetation removal will be greater	<u>Assessment</u> - As discussed in Section 6.3 of the 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 Green and Golden Bell Frog (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.
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 the 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 Flood Emergency Response Plan (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 the report, the site would need to be remediated to make suitable for commercial and industrial uses. The Applicant is committed to undertaking the remediation approach outlined in the Remedial Action Plan (RAP) as well as the Site Auditor's requirements in the Section B Site Audit Report (SAR) and Site Audit Statement (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 Botany Groundwater Clean-up Project (BGCuP). <u>Conditions</u> - Implement the approved RAP - Undertake a validation report and prepare a Long-term Environmental

Issue	Consideration
	Management Plan. Obtain a section A SAS and SAR prior to commencement of construction of the warehouse buildings
Stormwater - 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 the 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 an erosion and sediment control plan.