21 December, 2015

The Directors
Hynlong Pty Ltd
PO Box 175
BOTANY NSW 1455

Dear Sirs,

Re: E.A. 06_191 & Modifications (the Consent")
Orica Southlands/Goodman Botany Industrial Park Development
McPherson St, Banksmeadow

I refer to the above matter in our conference of 21 December 2015. I have had the opportunity to consider the letter from Gibson Howlin Lawyers dated 3 December 2015 and to the Secretary of the Department of Planning & Environment and others concerning the 88B Instrument accompanying DP 1189375. That instrument was prepared and registered pursuant to conditions 8A and 15 of Modification 1 dated 14 August 2013.

It is abundantly clear that conditions 8A and 15 require that prior to issue of a subdivision certificate that the 88B Instrument over Lots 1, 2 and 6 nominate Council, the EPA or other relevant authority to release vary or modify the instrument.

The registered 88B Instrument however is not only not in conformity with the said Modification 1 conditions but also the original consent and other subsequent modifications.

Undoubtedly the instrument needs to be varied to conform with the consent to avoid release, variation or modification by other than the Council, the EPA or other relevant responsible authority.

I note that the Department, the City of Botany Bay and the Principal Certifying Authority have been given notice of the breach. Action by them to correct the obvious inconsistency can be taken pursuant to the Conveyancing Act 1919.

There has been no response in writing to the said lawyer's letter of 3 December 2015 and I recommend that the Department be contacted to determine what action is to be taken for appropriate variation of the instrument. I am advised that an Occupation Certificate has not yet been issued in relation to the development as approved in the said consent. The Principal Certifying Authority should be requested to undertake not to issue an Occupation Certificate until such an important issue is resolved.

Yours faithfully,

Noel Hemmings QC