

**SUBMISSION SSD-9691 Warehouse or Distribution Centres  
Orica Southlands Banksmeadow.  
Consent authority – NSW Minister for Planning**

Lynda Newnam, May 2020

---

To: Minister Rob Stokes, Planning and Public Spaces Portfolio

Dear Minister Stokes,



Nothing new ... picket line outside ICI in  
1987. BRUCE MILLER

I spoke to you about Orica at the NSW Community Cabinet held at the Parramatta RSL 2<sup>nd</sup> June 2014 when you were Minister for Environment. On that occasion I asked you about a recommendation you

had made for appointment to the Steering Panel for the Review of legacy mercury contamination <https://www.epa.nsw.gov.au/working-together/community-engagement/community-news/orica-botany-bay-incident/orica-botany/independent-review-orica-botany> I said I thought your recommendation would have community confidence. I understood the EPA preferred someone else and their recommendation prevailed. You commented that perhaps your candidate was seen as too much of a 'rabble rouser'. I was appointed to that panel as a 'community member' and attended meetings for over 3 years. The review was agreed to as a result of community pressure. The petition, referred to below, was taken to an Orica AGM. Previous to this the community had been exposed to unacceptable mercury emissions associated with Orica's 'soil washing' project. <https://www.smh.com.au/environment/orica-releases-mercury-vapour-20110927-1kvid.html>

## Orica: Come clean on mercury poisoning.



 Chantal Snell started this petition to [Simon Westaway \(General Manager Corporate Communications\)](#) and 1 other

Mercury from a chemical plant in Sydney – which has been referred to as the most contaminated industrial site in the country - appears to have spread into my community. Despite

### Petition Closed

This petition had 10,007 supporters




Orica: Come clean on mercury poisoning.

 Share on Facebook

 Send a Facebook message

 Send an email to friends

 Tweet to your followers

 Copy link

That project failed <https://www.smh.com.au/environment/orica-problems-widen-as-mercury-clean-up-at-botany-site-fails-20110830-1jk8p.html>

and instead the mercury was 'contained' in a cell, becoming another unwanted legacy for the local environment and community. <https://www.smh.com.au/environment/conservation/mercury-often-washed-into-bay-former-ici-boss-says-20130127-2dez2.html>

A previous containment, referred to as the Carpark Waste, was a failure that required remediation.

# Tour of Carpark Waste site December 2010



Community were exposed to stack emissions for years. In that case the EPA allowed Orica to comply to an historic standard for mercury emissions that was lower than the new standard.

Details of the Carpark Waste SSD are on the old Major Projects website, while the current DA is on the new website. There is effectively no planning context available unless one knows where to look. The system is not designed to make it easy for volunteer environmentalists.

A snapshot of Orica projects taken from the old Major Projects website.

Orica Botany

## Modification 7 to HCB Repackaging Facility

Determination

Removal of conditions duplicated in EPL2148.

Other assessments against this site:

- Carpark Remediation Project (Part3A)
- 06\_0191 - Orica Southlands Project (Part3A)
- HCB Repackaging Facility (Part3A)
- HCB Repackaging Project - Modification 1 (Part3AMod)
- Modification Application - Chlor-Alkali Plant - Sodium Hypochlorite (Part4Mod)
- Modification Application - Chlor-Alkali Plant Demolition (Part4Mod)
- HCB Repackaging Plant Modification 2 (Part3AMod)
- Chlor-Alkali Plant - Modification 3 (Part4Mod)
- HCB Repackaging Mod 4 (Part3AMod)
- Car Park Remediation Modification 1 (Stack Heights) (Part3AMod)
- HCB repackaging Mod 5 (Part3AMod)
- Car Park remediation Mod 2 (Part3AMod)
- Car Park Remediation Project Mod 3 (Part3AMod)
- Car Park Remediation Project Mod 4 (Part3AMod)
- Modification to HCB Repackaging Facility (Part3AMod)
- Chlor-Alkali Plant - Modification 4 (Part3AMod)
- 30/98 Mod 1, Botany Industrial Park Subdivision Mod 1 (Part3AMod)
- 06\_0191 MOD1 - Modification to the Orica Southlands Approval (Part3AMod)
- Modification to Carpark Remediation Project (Part3AMod)
- Botany Industrial Park Subdivision (Part3A)
- Orica Southlands Remediation and Warehouse Project 06\_0191 Mod 2 amendment to warehouse layout (Part3AMod)
- Modification to Botany Industrial Park Subdivision (Part3AMod)
- Modification to Carpark Remediation Project (Part3AMod)
- MP 06\_0191 MOD 3 - Modification to Orica Southlands Project (Part3AMod)
- MP06\_0191 MOD 4 - Modification to Orica Southlands to include External Plant (Part3AMod)
- Botany Industrial Park Subdivision DA 30/98 MOD 3 (Part3AMod)
- Carpark Remediation Project MOD 7 (Part3AMod)





Testing for mercury February 2015 WSP (same consulting company that has produced the BDAR for current DA)

*Southern Courier 10/2/15*



### **Orica Mercury Independent Review – Environmental Testing to be conducted this month**

Environmental testing will be carried out in some areas of Matraville, Eastgardens, Banksmeadow, Botany, Hillsdale and Pagewood during February.

The testing and analysis on public land in these residential areas, which is part of Stage Two of the Orica Mercury Independent Review, seeks to identify any significant presence of mercury within the ambient air or in soil outside the boundary of the former chlor-alkali plant at Botany Industrial Park.

The testing will be conducted by independent experts WSP Environmental and include soil and vapour sampling, vapour sampling in stormwater drains and fish and sediment sampling in Penrhyn Estuary.

For more information about the environmental testing, contact WSP Environmental at (02) 8907 0900 or [au.wspenvironmental@wspgroup.com](mailto:au.wspenvironmental@wspgroup.com) or contact the EPA at 131 555 or [info.botany@epa.nsw.gov.au](mailto:info.botany@epa.nsw.gov.au) or visit the EPA website [www.epa.nsw.gov.au/Oricabotanycttee/indrevoricabotany.htm](http://www.epa.nsw.gov.au/Oricabotanycttee/indrevoricabotany.htm)

Z01793

On another occasion, when you were Planning Minister, I attended a meeting at your offices (11<sup>th</sup> May 2015) to discuss the planning processes that led to a large site on Denison Street (Hazardous Goods



Route for Port and Botany Industrial Park -formerly ICI) being removed from the 3 Ports SEPP with approval later granted for a high traffic generating Bunnings outlet. On that occasion you were not available, and the meeting was conducted with Planning staff, one of whom had signed approval for the 2013 Southlands modification.

Earlier that month (1<sup>st</sup> May) you had been quoted in the Sydney Morning regarding Conditions of Consent:

*“..people don’t necessarily have confidence that what was consented to is what’s actually going to happen .....I’m certainly focusing on how we can strengthen the monitoring elements of planning so that when a consent is given, it doesn’t just sit on a bench and gather dust,”*

At another meeting about the same matter held at Bridge Street the senior Planning officer involved was Mr Dan Keary now head of Keylan, the company that has produced the Environmental Impact Statement

<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSD-9691%2120200405T230056.507%20GMT>

for this current DA. Not long after this meeting (in July) Clayton Utz produced a review. I wrote this in response: <https://portbotany.wordpress.com/2015/06/05/will-planning-minister-rob-stokes-ensure-proper-planning-for-port-botany/>

More recently (13<sup>th</sup> March 2020) I spoke to you about community confidence in planning in relation to the progression of a land (and water) use proposal within the 3 Ports SEPP, that was inconsistent with the SEPP, the GSC Eastern District Plan as well as a number of other plans for ports and freight and infrastructure priorities.

You may ask what this context has to do with what is proposed as an isolated DA for two warehouses on stilts in what is presented as a run-down site.

Everything.

It goes to the heart of ‘community confidence’ in the planning and regulatory regime. And particularly when major powerful corporations with legacy impacts are concerned.

While individuals working on this project for the developers and government agencies may look only at selected pieces of the ‘jigsaw’, for community the bigger picture stands out and the relevant questions are:

Does this development improve the local environment? Does it add to heavy vehicle traffic congestion? Does it negatively impact air quality which is already one of the worst?

<https://www.abc.net.au/news/2018-11-16/australian-pollution-mapped-by-postcodes/10478620?nw=0>

Is it consistent with existing Conditions of Consent? Is it consistent with undertakings that Orica has given to be a ‘good corporate citizen’? Has the planning and regulatory regime supported community needs for information and guidance?

# Australia's pollution mapped by postcode reveals nation's 'dirty truth'

Exclusive by national social affairs correspondent [Norman Hermant](#) and the Specialist Reporting Team's [Emily Clark](#)

Updated 19 Nov 2018, 12:13pm



**PHOTO:** The Hensley Athletics Field at Eastgardens in Sydney is surrounded by suburbs with polluting facilities.  
(ABC News: Matthew Abbott)

I am a member of the Orica Botany Community Consultative Committee. My record of engagement with Orica began in 2000 when a geomelt process was proposed for the destruction of the Orica/ICI hexachlorobenzene (HCB) stockpile at Banksmeadow. The meeting was held in Botany Town Hall and an example of a 'geomelt final product' was handed around to those in attendance. The HCB saga that started in the 1980s continues to this day with shipments being exported to Finland and Sweden. In 2002 a Commission of Inquiry (COI), reflecting expert opinion from the EPA and Department of Planning, supported the destruction of the stockpile at Banksmeadow. Although unprecedented in the history of COIs, that recommendation was ignored, and an Independent Panel was appointed instead. It recommended that a site be found in NSW. This did not happen, and the Panel issued a second report recommending export. Germany was the first proposed to receive the waste. That was rejected by German states in 2006. Orica commenced court proceedings and dropped them in 2007. Then Nyborg (home of the Danish Constitution) eventually rejected the waste in 2010 with the Danish Government paying a penalty to Orica. France was next with Orica hosting a French community group, 'Robin Hood', to inspect their Banksmeadow stockpile. The members of the Orica Community Liaison Group were told

of this afterwards. France also pulled out in 2014.



Orica shamed us all.

The Finland export was handled with greater sensitivity, eg. small pilot shipment to begin, and now the stockpile is on track to be completely removed within a few years.

Was export cheaper and therefore desirable and the COI, reviews and road trip around rural NSW a smoke screen to satisfy requirements under Basel and Stockholm agreements? One can only speculate because transparency has not been a hallmark of communication around this area. An example is the 1983 risk study which identified residences that needed to be acquired because risk was unacceptable. It was not released until 2002 - <https://www.parliament.nsw.gov.au/la/papers/Pages/tabled-paper-details.aspx?pk=34448>

The development of the 18ha site called Southlands was first discussed at a Community meeting in 2006. There were regular updates including briefings from the Department of Planning. For the current DA Planning has been conspicuously absent.

The DA was exhibited in 2009 and approval granted in April 2012 allowed for development over about half the site with part of the site reserved and a 5ha vegetated detention basin required. Traffic was a major issue and is a much bigger issue now. The Department of Planning commissioned independent Flood and Traffic studies because of the concerns. There were subsequent modifications and the detention basin (in a different position from the original determination) was graded and planted out in 2015. As part of the approved landscape plan Orica was required to manage vegetation and remove weeds. The following provides a snapshot of contamination of the Botany Aquifer in 2012 taken from the Southlands site.

<https://www.abc.net.au/radionational/programs/offtrack/bacteria-breathe-away-industrial-toxins/4346300>





Full episode • 25min 19sec

**Sunday 04 November 2012**

12mins 31secs

**Bacteria breathe away industrial toxins**

12mins 10secs

Spatial memory in slime mould

In 2012 Orica was also attempting to recover its reputation after the Kooragang spill in Newcastle in August 2011. The carpark waste plant was in operation, the mercury soil washing project had failed and containment – a permanent legacy – was proposed. I was disappointed that Planning had approved any development of Southlands given Orica's legacy. I thought, as many others in the community did, that there needed to be an acceptable environmental offset as compensation and I had written about this in my submission: <https://portbotany.files.wordpress.com/2019/01/southlands-submission-2009.pdf>

However, the Conditions of Consent did require a 5ha landscaped flood detention basin and that was as good as it was going to get. Or so I and others thought.

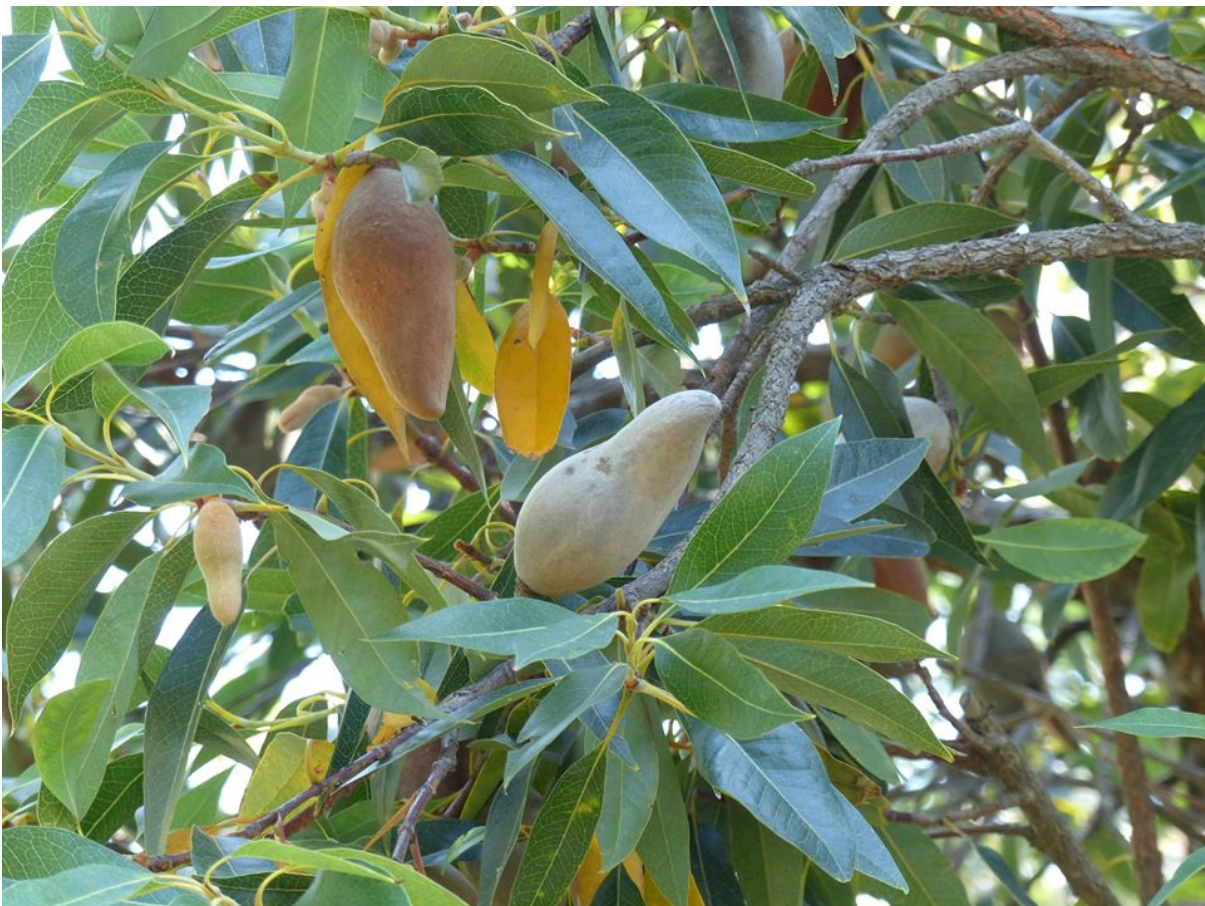
It really should have been part of a Voluntary Planning Agreement whereby Sydney Water or Botany Bay Council became responsible for the site and Orica was provided full access for remediation purposes. It made no sense that a commercial corporation would be responsible for a sub-regional detention basin. This is the rightful responsibility of authorities such as Local Councils, Crown Lands, Sydney Water.

Instead of a VPA, Botany Bay Council received over \$3 million in developer contributions and when asked at Community meetings representatives from Council would not provide details on how the money was spent. There is no evidence that it provided any benefit to the environment and people living near the site. There was no consultation with community regarding the Conditions of Consent. There was no guidance provided to the effect that we might know who to talk to about an alternative. We had no information on how the assessment of the DA was progressing. I would ring Planning and be told it was still being assessed. We started consultation in 2006 and made submissions in 2009. The approval was granted in 2012. That's a long time to be engaged and be kept in the dark for most of it. It was obvious that the community was looking for environmental compensation, but this was never addressed. It appears we were expected to volunteer our time turning up at meetings, reading reports and so on so Orica, Planning and the EPA could tick boxes for 'community consultation'.

It is not unusual for local industry to compensate the local community with land. This is a park on land owned by Orora/Opal (the century old paper mill) that is 'leased' to Randwick for around \$1 a year.



The park contains remnant *Xylomelum pyriforme* (Woody Pears) that are listed by the National Heritage Trust.





In 2007 a member of the community consultative committee, Gary Blaschke, gave a presentation to the committee suggesting an environmental offset similar to the Chullora wetlands.

<https://citizensciencepartnerships.com/community-agency/chullora-wetlands/>

He had been one of the volunteers instrumental in achieving this after the approval of the Chullora Intermodal in 1998 and had then been part of a team that co-managed the site with Sydney Water until 2012. The Orica representatives pointed out that Southlands could not contain a wetland, because of the level of contamination. Gary and the rest of the volunteers at that meeting understood this. There were restrictions but it didn't mean the site could not deliver ecological services in addition to flood detention.

After the approval in 2012 I approached Orica staff about improving the ecological outcomes for the detention basin and they agreed to an on-site meeting. Doug Benson attended and provided advice on site and following. He did this pro bono as a volunteer trying to improve environmental outcomes. Doug is a well-known ecologist, formerly head of ecology at the Botanic Gardens, who has written books about the original vegetation in this area and elsewhere in Sydney.



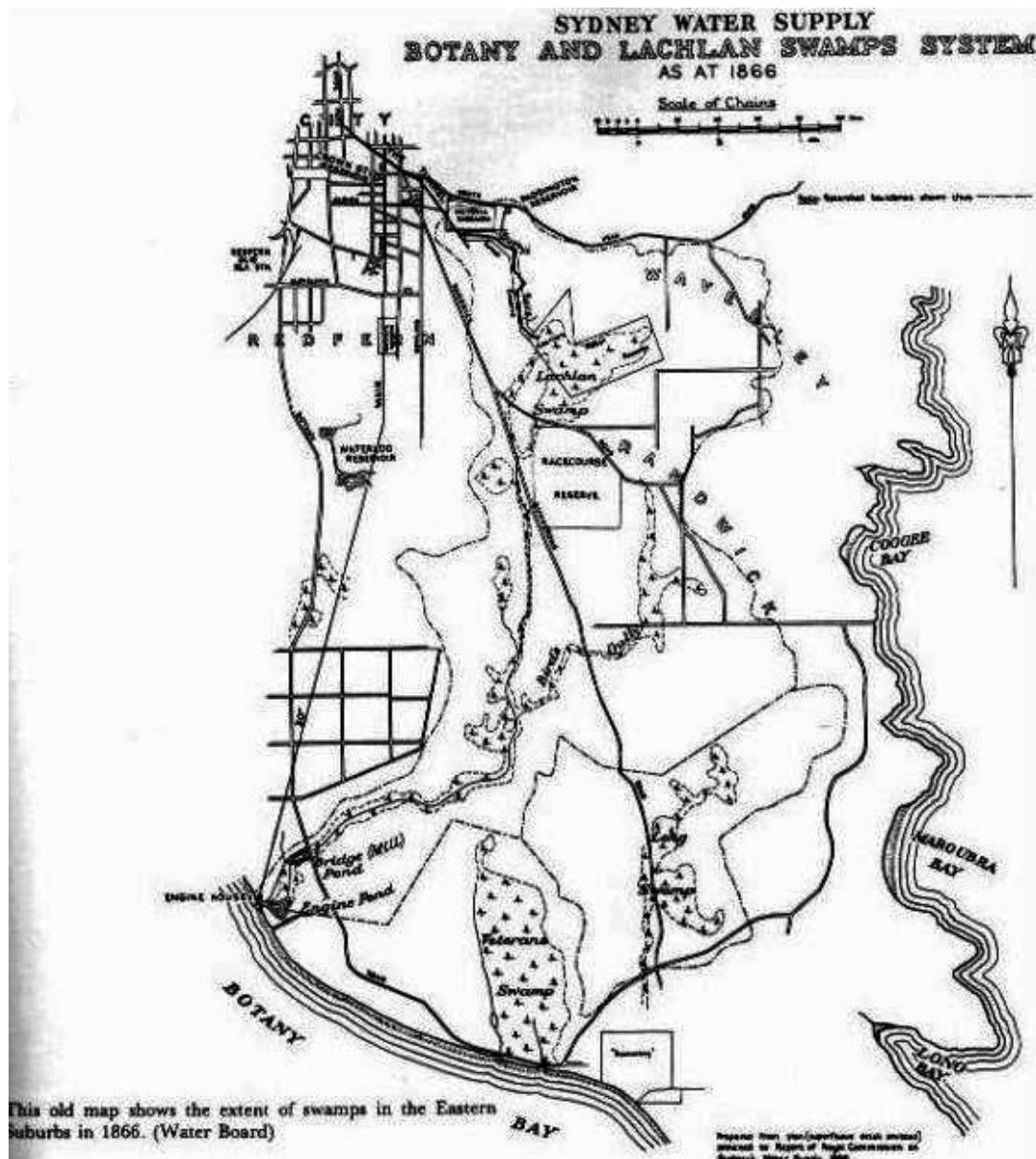
At a site meeting on 14th August, 2012: L-R Doug Benson; Steve Corish(Orica); Jeff Lord (DBL Property), Lucy Archer (Orica); Graeme Richardson(Orica); Lynda Newnam, Jocelyn Ramsay (JRLA)

In *Taken for Granted* (Kangaroo Press, Sydney 1990). Benson and Howell describe the area surrounding Southlands as containing some of the best examples of Eastern Suburbs Banksia Scrub, a Rare and Threatened Community, and wetlands of *Cuarina glauca* and *Eucalyptus robusta*.

Note Southlands in the map below is Veteran Swamps.



In 1850 Frederick Mackie walked the area and recorded his observations: —The road lies over sand hills covered with small scrub and various flowers. The sand in many places has almost the whiteness of snow and so little mixture of earth is there in it that it would doubtless be entirely destitute of vegetation but for the moisture of it; water is found about 2 ft. below the flat surface. In the —Illustrated Guide to Sydney (1882), the writer lamented the changes: —Those who remember the road to Botany in years gone by are not surprised at the name given by the first discoverer (James Cook)... We know most of the wild flower regions of the colony, but none to compare in variety and richness with Botany, as it was.. —In contrast to the sandy or peaty nature of the other swamp systems, Long Swamp near Malabar and Veterans Swamp at Banksmeadow appear to have been more fertile and were developed for market gardens in the nineteenth century; some of these market gardens still exist. The vegetation here was probably low forest of the paperbarks *Melaleuca ericifolia* and *Melaleuca linariifolia* and Swamp Mahogany, *Eucalyptus robusta*, with a grassy and herbaceous understorey.



Orica acknowledged Doug's contribution in Community newsletters, on their webpage and in a subsequent report. They effectively told the community that this land would not be built on/over. Why else would Doug Benson and community members contribute their time if it was intended for warehouses. Was it a hoax all along? Was Planning and the EPA aware that the community were being mis-lead? Were they complicit?

---

Orica Newsletter October 2012

## **Work Underway for the Southlands Remediation and Development Project**

Southlands is an approximately 20 hectare site owned by Orica. It is situated directly south-west of the Botany Industrial Park and fronts McPherson Street, Banksmeadow.

Following an extensive planning and assessment phase, Orica received Project Approval for Stage 1 of the Southlands Remediation and Development Project in April 2012 and preliminary work on the project is now underway.

The western side of the Southlands site (known as Stage 1) will be developed for high quality industrial and warehouse purposes. A large portion of the eastern side of the site will be grassed open space serving as a shallow stormwater detention basin.

On the recommendation of a community CLC member, Mr Doug Benson, Senior Plant Ecologist from the Royal Botanic Gardens & Domain Trust, has been invited to provide comment on the draft landscaping approach for the project.

Groundwater extraction wells, pipelines and monitoring wells are located at Southlands. Orica will maintain easements for this infrastructure and ensure that implementation of the Southlands Remediation and Development Project is conducted without interfering with the ongoing Botany Groundwater Cleanup Project.

## Project Environmental Initiatives

### Site Landscaping

On the recommendation of a community member, Mr Doug Benson, Senior Plant Ecologist from the Royal Botanic Gardens & Domain Trust, was invited to provide comment on the draft landscaping approach for the project. The landscaping plan incorporates feedback from Mr Benson and was approved by DPI and the then City of Botany Bay Council.

### Green and Golden Bell Frog Habitat

Orica adopted a recommendation to provide habitat ponds for the Green and Golden Bell Frog, which was once observed at the site but has not been found in more recent surveys.

- [Download Flora and Fauna Studies / Frog Habitat Offset Fact Sheet \(PDF 111.5KB\)](#)

### Consultation

Orica began holding community workshops on the Southlands Development Project in mid 2006, with the project being introduced as one of the topics during two community briefings that provided an overview and update on the [Botany Transformation Projects](#).

Orica held subsequent community consultation workshops in 2007 and 2009 during development of the project to provide an opportunity for the community to participate in detailed discussions that focused on a particular issue or topic. Workshop information is available on request.

Between 2010 and 2016 project updates were provided at [Community Liaison Committee \(CLC\)](#) and [Orica Botany Liaison Committee](#) meetings.

SCREENSHOT OF [https://www.orica.com/Locations/Australia--Pacific-and-Indonesia/Australia/Botany-Remediation-Projects/Projects/Completed-Projects/Southlands/master-plan-and-development#.XsD\\_F5MzaqA](https://www.orica.com/Locations/Australia--Pacific-and-Indonesia/Australia/Botany-Remediation-Projects/Projects/Completed-Projects/Southlands/master-plan-and-development#.XsD_F5MzaqA)

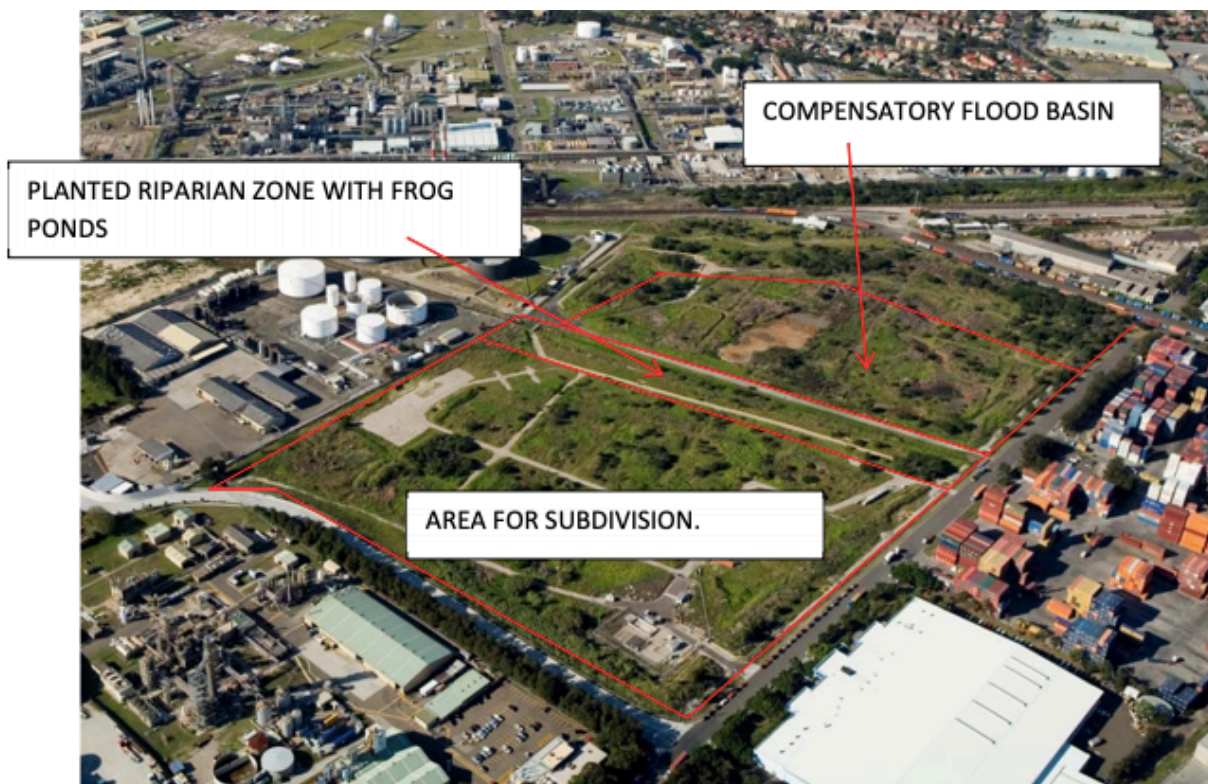


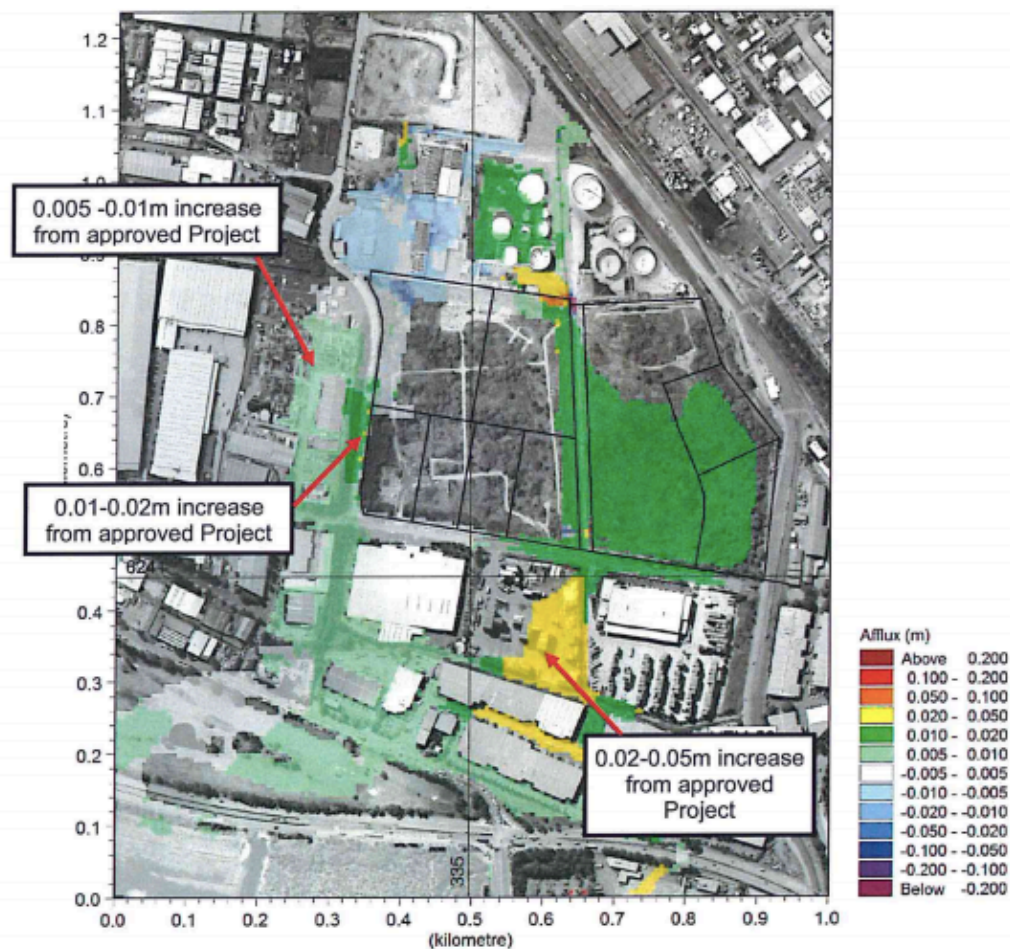
FIG 1- AERIAL PHOTOGRAPH OF SITE SHOWING KEY LANDSCAPE ZONES.



The photograph, above, is taken from the final Landscape Plan October 2013 to which Doug Benson contributed with expert advice on species selection.

On page 19 of the Plan: “Following completion of the Landscape Establishment Period, Orica Australia Pty. Ltd will be responsible for on-going maintenance and monitoring of the site in accordance with this management plan. For this ‘maintenance’ period, annual monitoring and reporting has been specified. The management, monitoring and reporting required during the maintenance period are listed below in Table 3. These measures will be implemented by Orica should monitoring reveal that any weeds or pests have become or are becoming established in the Compensatory Flood Storage area.”

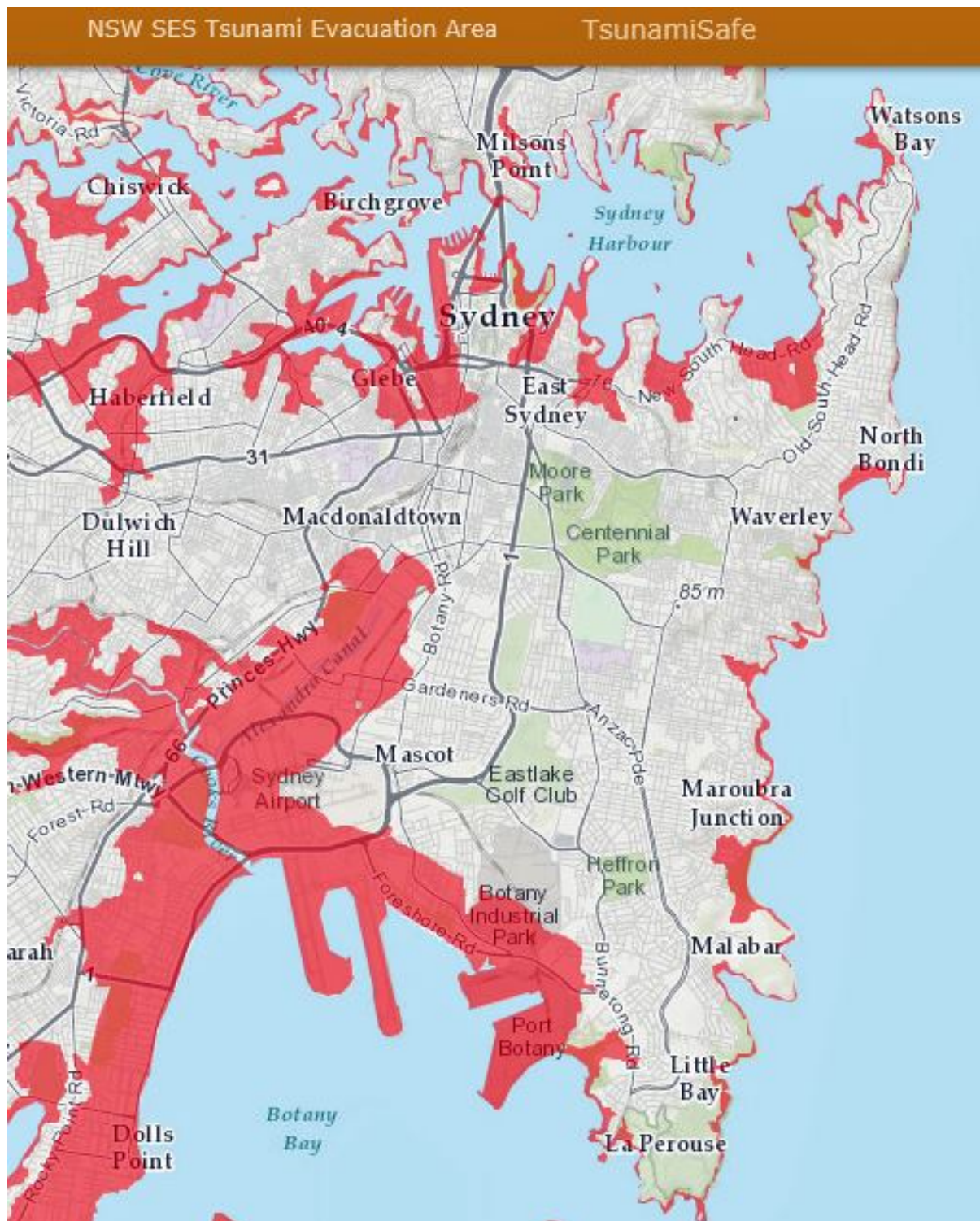
It should be noted that the modification approved by Planning in 2013 resulted in higher flood risk, which was deemed acceptable. Notwithstanding, concerns were raised:



**Figure 7: Modified Development 1% AEP flood level change from approved.**

Concerns were raised by a public submission over the modelled increase in flood impacts over the original Aurecon modelling (done as part of the Project Application). However according to the Department's expert, the change in flood levels is still satisfactory as the modification would still achieve a reduction in existing flood levels (as shown in **Figure 6**).

Not only is there flood risk to consider but also Tsunami risk. This 2016 map from NSW Emergency Management



Regarding potential vapours this will be an issue if the warehouses are approved. In the EIS reference is made to a suggestion by a neighbour to fully enclose the area below warehouses. However, this would not fulfil detention basin requirements. In the 2013 approval vapours were considered to be adequately managed with the open detention basin. See extract:



### Vapours

- The original approval included a 20m setback from the flood detention basin as a measure to manage vapour risks.
- The proposed modification does not include this setback on the western portion of the basin, due site constraints.
- Initial concerns were raised by the EPA, however, Orica explained that historical data and recent monitoring in this area does not indicate significant contaminate concentrations and shows a decreasing trend. In addition, the basin in this area has been designed to minimise interception of shallow groundwater. The EPA was satisfied that its concerns have been addressed.
- In addition, the site auditor is not concerned with vapour risks from the detention basins, as the water is not likely to pond for longer than a few days.
- The Department is satisfied that the proposed modification would not increase vapour risks from the Project, particularly as original conditions require ongoing monitoring of vapours from Springvale Creek and the proposed compensatory flood storage area. In addition, the site auditor-approved Long Term Site Environmental Management Plan would ensure any residual contamination on site is managed appropriately.

The removal of vegetation would impact the Frog Ponds. These were also considered in the 2013 approval. Frogs need vegetated spaces for foraging.



|                                  |   |   |
|----------------------------------|---|---|
| Green and Golden Bell Frog Ponds | <ul style="list-style-type: none"> <li>▪ The approved Project includes the construction of two small ephemeral ponds and associated foraging areas as a compensatory habitat for the Green and Golden Bell Frog (GGBF).</li> <li>▪ As part of the modification, the proposed site for the GGBF ponds has been relocated to the southern part of the Springvale Drain in Lot 6, not far from the intersection with McPherson Street.</li> <li>▪ Both Council and the EPA raised concerns over the revised location. Council's concerns were related to the closeness of McPherson Street, the EPA were concerned that the ponds were located in the footprint of the flood detention basin and would be subject to periodic inundation.</li> <li>▪ The Proponent's ecologist endorsed the location of the ponds and advised that the location was specifically chosen to take advantage of the flooding nature of the drain.</li> <li>▪ Further the Ecologist recommended that the ponds be cleared of floating debris periodically to ensure that the frog's habitat is satisfactorily maintained.</li> <li>▪ Both Council and the EPA were satisfied with the Proponent's response. Council requested that the ecologist's recommendations be included as a condition.</li> <li>▪ The Department agrees and has included the ecologist's recommendation as a recommended condition of approval.</li> </ul> | <p>Recommended conditions require the Proponent to:</p> <ul style="list-style-type: none"> <li>• submit a revised Green and Golden Bell Frog Management Plan to the satisfaction of the Director-General; and</li> <li>• clean the GGBF ponds on a monthly basis and immediately after each storm event.</li> </ul> |
|----------------------------------|---|---|

Under the Landscape Plan Orica was required to keep the site weed and pest free and yet in the Biodiversity Development Assessment Report (BDAR) there is reference to extensive weed coverage.

The authors of the BDAR also say that native species have failed.

The site was supposed to be monitored to ensure that weeds were removed and target species supported. Why didn't Council and Planning monitor this? The Landscape Plan was part of Conditions of Consent. Why are Orica's consultants allowed to comment that the site is degraded and hence of little ecological value when all parties have been negligent.

And what of the ecological services and values. This is how key species are treated:

"Patches of *Typha orientalis* (Broad-leaved Cumbungi) and *Phragmites australis* (Common Reed) are considered excluded from the Freshwater Wetland listing as the final determination specifically excludes artificial wetlands created for stormwater management (NSW Scientific Committee 2011)"

Discounted in the box-ticking. I wonder if this Reed Warbler, observed on site, cares about the boxes and the definitions. The species is in decline in NSW.



In relation to migratory species this comment is made:

“Based on field investigations and habitat assessments none of these have a moderate – high likelihood to utilise the development site, due to the site’s isolated and disturbed nature.’

However, it should be noted that the site is not ‘isolated’. Springvale drain provides a corridor and so too does the goods line. Furthermore, with extensive development on North Botany Bay, and noting the low canopy cover of Bayside and Randwick LGAs where exactly are birds likely to go. Southlands has the advantage of not being accessible to the public. It has potential, as I pointed out in my 2009 submission. In that submission I wrote of the need for the habitat for Grey Headed Flying Fox, as outlined in the Recovery Plan. Obviously larger paperbark specimens are required for support but given the growth rate of vegetation over the past 4.5 years there is no reason why an acceptable canopy could not be available within a relatively short period.

“Limited biodiversity values”.

Of course, hired consultants are going to give that opinion and they have the benefit of box-ticking cookie-cutter guidelines. They are not going to look for potential they are not going out of their way to comment on more than they need to, do the minimum. It’s a paid job and they are not paid to say that there are good values and the site should not be developed. If they did that other consultants would be engaged in their place. An EIS paid for by the proponent is going to present the best picture possible in support of the proponent’s development.



Regarding GGBF statement, there is ponding on site – see photograph that I took through the fence on adjacent eastern site:

| SCIENTIFIC NAME      | COMMON NAME                | BC ACT STATUS <sup>1</sup> | EPBC ACT STATUS <sup>2</sup> | HABITAT <sup>3</sup>  | DATA SOURCE  | LIKELIHOOD OF OCCURRENCE   |
|----------------------|----------------------------|----------------------------|------------------------------|---|--------------|--|
| <i>Litoria aurea</i> | Green and Golden Bell Frog | E1                         | V                            | Since 1990 there have been approximately 50 recorded locations in NSW, most of which are small, coastal, or near coastal populations. These locations occur over the species' former range, however they are widely separated and isolated. Large populations in NSW are located around the metropolitan areas of Sydney, Shoalhaven and mid north coast (one an island population). There is only one known population on the NSW Southern Tablelands. Inhabits marshes, dams and stream-sides, particularly those containing bullrushes ( <i>Typha</i> spp.) or spikerushes ( <i>Eleocharis</i> spp.). Optimum habitat includes water-bodies that are unshaded, free of predatory fish such as Plague Minnow ( <i>Gambusia holbrooki</i> ), have a grassy area nearby and diurnal sheltering sites available. | Bionet, EPBC | Low – the development site does not contain ponds of open water or basking habitat in the form of rocks or logs. Sub-optimal habitat occurs in the form of planted ephemeral water depressions that contain <i>Typha orientalis</i> and <i>Phragmites australis</i> . There is a lack of any recent records in the locality with the Botany Wetland population being generally accepted to be extinct locally. |



Conceivably some of the birds listed in the appendix might walk along Springvale Drain from Penrhyn Estuary, given a changing coastline in the future. Pied Oystercatchers breed at Penrhyn, albeit unsuccessfully last season due to possible fox incursion (again not controlled by those responsible). Bar-tailed godwits hang around the highly polluted Mill Stream outlet near the third runway they might be tempted to move to Southlands as more habitat disappears.





Godwit at Mill Stream



Osprey at Penrhyn. They are fish eaters but also known to eat small mammals. Springvale drains into Penrhyn.



Eastern Bent-Wing are in the area roosting at Cape Banks and Henry Head. Plenty of insects at Southlands now, with the inclusion of roost sites they could be encouraged. This is a versatile animal.

|                               |                        |   |   |   |              |   |
|-------------------------------|------------------------|---|---|---|--------------|---|
| <i>Pteropus poliocephalus</i> | Grey-headed Flying-fox | V | V | Grey-headed Flying-foxes are generally found within 200km of the eastern coast of Australia, from Rockhampton in Queensland to Adelaide in South Australia. Occur in subtropical and temperate rainforests, tall sclerophyll forests and woodlands, heaths and swamps as well as urban gardens and cultivated fruit crops. Roosting camps are generally located within 20km of a regular food source and are commonly found in gullies, close to water, in vegetation with a dense canopy. Can travel up to 50km from the camp to forage; commuting distances are more often <20km. Feed on the nectar and pollen of native trees, in particular Eucalyptus, Melaleuca and Banksia, and fruits of rainforest trees and vines. | Bionet, EPBC | Low – marginal habitat within the development site. May occur as a fly-over or irregularly visit whilst foraging in greater locality. |
|-------------------------------|------------------------|---|---|---|--------------|---|

GHFF flies regularly not irregularly. Note the dead hanging off power lines and tap into local knowledge.

Biodiversity Report consistent with requirements set down under BCA 2016 but what of the actual biodiversity. Where’s the record of reptiles on site, butterflies, bees – voted the most important animal on the planet. Do the services these provide not count?



This is the photograph on the cover of the BDAR.



The authors have used old photos throughout the report to make the site look barely vegetated. The following are photographs that I have taken.















Note the drain is not maintained. Extensive weed has been allowed to seed and 'infect' other parts of the site.





Turning to the biodiversity surveys. These are limited – 3 person hours looking for frogs on 3 occasions.

Table 3.5 Targeted Green and Golden Bell Frog surveys

| DATE        | MIN. TEMP ° | MAX. TEMP ° | RAINFALL (MM) | RAINFALL 7 DAY TOTAL (MM) | SURVEY EFFORT EXPENDED                       | FROG SPECIES RECORDED            |
|-------------|-------------|-------------|---------------|---------------------------|--|----------------------------------|
| 7 Nov 2018  | 20.2        | 22.1        | 1.0           | 4.6                       | 3 person hours (spotlighting, call playback) | Common Eastern Froglet (calling) |
| 8 Nov 2018  | 11.5        | 19.3        | 17.2          | 21.8                      | 3 person hours (spotlighting, call playback) | No frogs detected                |
| 29 Nov 2018 | 15.5        | 21.2        | 23.0          | 62.2                      | 3 person hours (spotlighting, call playback) | Striped Marsh Frog (calling)     |

Weather data collected from Sydney Airport AMO (station 066037).

In addition to realising gains for the Southlands site (bought cheap from the paper mill and then used to dump chemicals), Orica have also sold the remediated carpark site as well as subdivided lots on Denison and Corish. Note in the aerial photograph below the loss of vegetation. The commercial planner for the sub-division was Scott Jeffries who from 2005-2010 was in the Department of Planning overseeing Orica developments at Botany.





This subdivision has added to the risk and encroachment on the heavy industrial activities of neighbours at the Botany Industrial Park. Closing down heavy industry may have seemed like a good idea at one point but after the COVID-19 experience the nation described as 'chewing gum stuck on the sole of China's shoes' might consider it needs to scale up rather than scale back local manufacturing.

In this context the NSW State Government might consider taking the intent of the 3 Ports SEPP seriously and not approve every development regardless. I am still waiting for a response to proposed amendments to the SEPP and would welcome a robust debate on how the SEPP could secure better land use outcomes aimed at delivering environmental gains, eg. detention basin managed by appropriate authority.

This was the last notice I received on the SEPP. The Planning officer who appeared at a Ports CCC to discuss the proposed Wentworth Avenue changes no longer works in Planning.

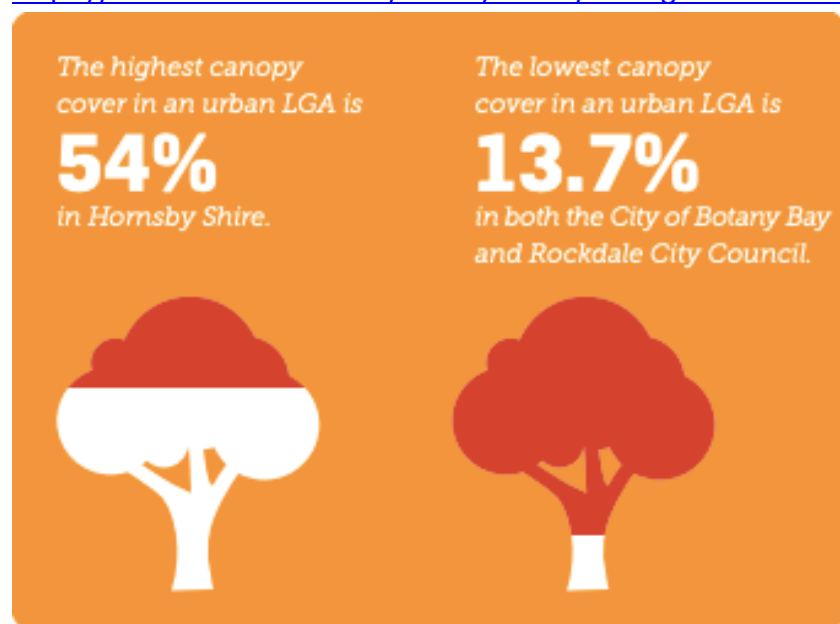
In late 2018, the Department of Planning, Industry and Environment placed on public exhibition proposed amendments to *State Environmental Planning Policy (SEPP) Three Ports 2013*. Thank you for making a submission to this exhibition process. We value your input into the planning process.

This correspondence is to advise you of the status of the proposed amendments. The proposed changes to the Three Port SEPP are still under consideration. However, a preliminary decision regarding the proposed SEPP amendments has been made, in response to feedback we received from the community.

We heard that the community does not support the proposed rezoning of land at Wentworth Avenue, Botany from IN2 Light Industrial under the *Botany Bay Local Environmental Plan (LEP) 2013* to IN1 General Industrial under the Three Ports SEPP.

Consequently, this rezoning is no longer part of the proposed amendments to the Three Ports SEPP.

Since Southlands we've had the SSD Veolia waste terminal along with Bunnings, and a number of concrete batching plants. There's been a net loss of vegetation in an LGA that will struggle to meet the Premier's target on canopy. Bayside has the lowest canopy cover in an urban LGA – extracted from [https://2020vision.com.au/media/72930/wsattg\\_nsw\\_fa3\\_lr.pdf](https://2020vision.com.au/media/72930/wsattg_nsw_fa3_lr.pdf)



Asbestos is also noted in the EIS, however, that was supposed to be removed during the remediation of the site in 2015. Who neglected to check?

**Orica's contamination in the Botany Aquifer. High concentrations are located below Southlands Detention Basin**



**3. Public image**

The groundwater contamination incident has been widely published by the media. It has been referred to as *“one of the state’s worst chemical spills”*, *“the biggest [groundwater toxic plume] in the southern hemisphere”*, *“southern hemisphere’s worst groundwater contamination”*, *“southern hemisphere’s worst groundwater spill”* (Skeley, 2004a, b, c & e), *“worst toxic threat that Sydney has ever faced”* (Peatling, 2004) and *“the most serious ground contamination issue in Australia”* (Huxley, 2005b), etc.

In response to the negative media exposure, Orica adopts an open and sincere attitude on the issue. It does not deny responsibility. It regrets the groundwater contamination caused in the past and commits to clean it up to prevent long-term environmental damage. It has entered into a Voluntary Investigation and Remediation Agreement with the NSW EPA and responded quickly to the cleanup notice by promptly submitting a draft cleanup plan to the NSW EPA.

Orica keeps the remediation process open. It actively maintains community consultation and keeps residents informed on the progress via a regular column in the local Southern Courier newspaper and through a web page ‘Orica Botany Groundwater’ (<http://www.oricabotanygroundwater.com/index.htm>). It also invites from time to time news reporters to report on the remediation plan, facilities and progress of the remediation project (Huxley, 2005a, Peatling, 2004, Skelsey, 2004d)

From a 2006 Case Study

[http://www.prres.net/papers/Chan\\_Groundwater\\_Contamination\\_Case\\_Study.pdf](http://www.prres.net/papers/Chan_Groundwater_Contamination_Case_Study.pdf)





Mark Skelsey, Daily Telegraph, 2<sup>nd</sup> September 2004

So now we come to the Botany Aquifer and the Clean Up that originally was going to take until 2036 and then the timeline was revised "It's probably more than a century," an Orica environmental engineer, James Stening, said. "I suppose what we've done is redefine what long-term is."

<https://www.smh.com.au/environment/botany-clean-up-may-take-a-century-20081127-gdt4fp.html>



"The Orica Community Liaison Committee celebrates the clean up of the Botany Aquifer"

**"and I do agree with hundreds of years" to treat the contamination... "there is no magic we can do to make it better" .....**

Every three years the EPA requires Orica to review the clean-up strategy and experts are brought in to discuss progress, available remediation technologies and possibilities for the future. The fifth review (see report

[https://www.orica.com/ArticleDocuments/993/EN1591.61.PR085\\_2020\\_Strategy\\_Workshop\\_Report \(Rev0\).pdf.aspx](https://www.orica.com/ArticleDocuments/993/EN1591.61.PR085_2020_Strategy_Workshop_Report_(Rev0).pdf.aspx)) was held in March this year with a Community forum at the conclusion on 4<sup>th</sup> March.

## **BOTANY GROUNDWATER STRATEGY REVIEW COMMUNITY FORUM INVITE**

An open invitation is extended to interested members of the public and academia to attend a Community Forum being held as part of the 2020 Strategy Review for Orica's Botany Groundwater Cleanup Project.

The forum will follow the fifth three-yearly review involving Australian and international experts in the fields of hydrogeology and contaminated site remediation. Presenters:

- > Dr Michael Kavanaugh, Senior Principal, Geosyntec Consultants, California, USA
- > Dr Tamzen Macbeth, Vice President, CDM Smith, Salt Lake City, Utah, USA
- > Dr Kurt D. Pennell – 250th Anniversary Professor of Engineering in the School of Engineering at Brown University, Rhode Island, USA
- > Dr Denis O'Carroll, Associate Professor, School of Civil and Environmental Engineering, UNSW, and Hydrogeologist on the Independent Monitoring Committee for the Botany Groundwater Cleanup

Please express your interest to attend this forum by contacting us on 1800 025 138 by Wednesday 26 February.

## **UPCOMING COMMUNITY MEETINGS**

**Date:** Wednesday 4 March | Refreshments from 5:15pm

**Time:** 5.30 – 7.30pm Presentation Q&A

**Event:** Community Forum as part of the 2020 Strategy Review for Orica's Botany Groundwater Cleanup Project

**Location:** UNSW Kensington Campus, Civil Engineering Building  
UNSW Kensington Campus, Level 5, Room 501 "Design Studio"  
Closest Parking: Botany Street Parking Station – Enter via Gate 11 in Botany Street

Dr Kavanaugh and Dr Mcbeth had attended the previous review in 2017. Dr Kavanaugh had also been at the 2014 review. Professor O'Carroll attended as the Community's expert adviser. He had also attended the 2017 review. Orica provides a limited amount of funding for the community to commission expert advice.

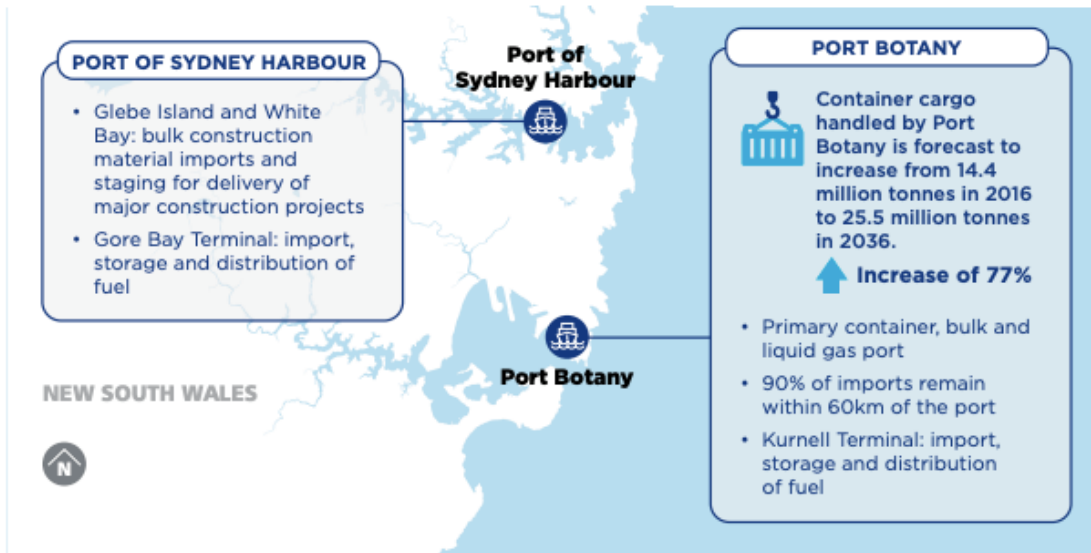


At each of the reviews, including 2007 and 2011, experts have said that access to the aquifer is problem. This is because hot spots of contamination (DNAPL) lie below buildings and large areas which have been concreted. Towards the end of the question session on 4<sup>th</sup> March I asked about the importance of maintaining access to Southlands. The Orica representative cut me off. When the meeting finished one of the experts came over to me and said that he was not aware of the proposal to develop over Southlands. It had not been raised at their meetings. He reiterated that access to the aquifer was a problem. The EPA representative that night did not make him/herself known. There was no-one from Planning. The following Orica community consultative committee meeting took place on the 10<sup>th</sup> March at Orica's premises on the corner of Denison and Beauchamp. There were 5 community members, 3 staff from Orica, 2 from the EPA plus the Chair and minute taker. The representation was the lowest I have ever seen. The representatives from DPIE Water and Bayside Council sent apologies. There was no-one from Planning. A report on the Southlands frog ponds due from the Bayside Council representative was not delivered. It had been a request at the previous meeting on 19<sup>th</sup> November. Southlands was not discussed. It had not been discussed since the November 2018 meeting. At meetings in 2019 we were told that it was on hold awaiting the BIP risk analysis.

Orica sent out an email on 15<sup>th</sup> April to say the DA for Southlands Detention Basin had been put on exhibition. The BDAR report was completed in December 2018 but the first community could know of it was April 15, 2020. The same for reports on traffic, flooding and contamination. There were no briefings as there had been for the original Southlands DA. A request was put to the Chair of the Orica CCC for an online meeting to discuss commissioning Professor O'Carroll to provide expert advice on issues affecting groundwater. It was too difficult to arrange a meeting, obtain approval from Orica for expenditure, and for Professor O'Carroll to then provide advice within such a limited timeframe. So here I am trying to address an EIS which deals with groundwater contamination, traffic and flooding and no opportunity to reference expert advice. That's the system. Volunteers don't get to see what the agencies submit until after the exhibition has closed. We have only had the SEARs which were uploaded in late 2018. We know from the SEARs that the 'OEH' recommends 'green roofs' for the warehouses. But no 'green roofs' are planned. The company that aspires to best practice has no aspirations here. The OEH staff member I spoke to in 2018 did sympathise with the loss of ecological services provided by existing (and potential) vegetation however it was not something she was able to comment upon. There was no remnant vegetation, only potential that vegetation, if nurtured, could support a threatened species. There was no requirement to consider wildlife corridors such as the goods line and drains. Besides, she had a filing tray full of DAs awaiting comments. The Bayside planner suggested that the stilts/pylons might contravene the conditions of consent. I wrote a piece in January 2019 to try to capture some of the main issues as I saw them at that time.

<https://portbotany.wordpress.com/2019/01/28/save-banksmeadow-hollow-oricas-5ha-detention-basin-at-southlands/>

As I said previously the EIS and appended reports present the project in the best possible light. The allotment has gone from being vegetated open space providing ecological and flood detention services to a 'spare' block that needs to be built upon. Apparently, we need more warehouses to generate more HV traffic (as well as sedans). No-one who knows this area thinks that the roads can handle more traffic. Check the original 2009 DA for objections eg. Solvay,



**Figure 8. Metropolitan ports**

Source: Transport Performance and Analytics, TfNSW

This was submitted well before the 2005 container cap at Port Botany was lifted (without complying with conditions of consent that required an EIS). The queues are legendary. The port is operating at below 1/3 its projected capacity. Yet it is unlikely that anyone in the Department of Transport, which includes Ports and Freight, will question the rationale offered in the EIS. It is unlikely that they will point out that warehousing belongs around intermodal terminals to reduce congestion around the Port itself. That this is in fact how the 'inland port' model works. Whatever the various agencies say community can't challenge or learn from it. Over the years I've seen 'underdone' reports from agencies. Some reflect a 'who cares' attitude because no-one monitors. Is the truth, the whole truth, ever delivered or ever aspired to.

That's about all I can provide for now. If you are interested in anything I have written here, or provided at the weblinks, my mobile is 0409698321, email [laperouse@bigpond.com](mailto:laperouse@bigpond.com)

