



Ms Ashleigh Ryan
Urbis Pty Ltd
Level 8, 123 Pitt Street
SYDNEY NSW 2000

Our ref: SSD 10375

22 May 2020

Dear Ms Ryan,

**Sydney Metro Pitt Street (North) Over Station Development (SSD 10375)
Biodiversity Development Assessment Report Waiver**

I refer to your correspondence received on 24 April 2020 seeking to waive the requirement to submit a Biodiversity Development Assessment Report (BDAR) with the State significant development applications for Pitt Street (North) OSD (SSD 10375).

Under section 7.9(2) of the Biodiversity Conservation Act 2016 (BC Act);

“Any such application is to be accompanied by a biodiversity assessment report unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on the biodiversity values”.

The authority of the “*Planning Agency Head*” to determine whether a proposed development is “*not likely to have any significant impact on biodiversity values*” was delegated to Directors within the Planning Services Division on 2 December 2017.

I have reviewed your request having regard to sections 1.5 and 7.3 of the BC Act and clause 1.4 of the Biodiversity Conservation Regulation 2017, and have determined that the proposed development (SSD 10375), as described in your waiver request, is not likely to have any significant impacts on biodiversity values.

The delegated Environment Agency Head in the Environment, Energy and Science Group has also determined that the proposed development is not likely to have any significant impacts on biodiversity values in a letter dated 21 May 2020 and a copy is attached.

Therefore, a waiver under section 7.9(2) of the BC Act is granted for the proposed development and a BDAR is not required to accompany the SSD application.

If there are any amendments to the proposed development, this BDAR waiver determination will not be valid. You will need to either prepare a BDAR or lodge a new request to have the BDAR requirement waived.

Should you have any further enquiries, please contact James Groundwater, Key Sites Assessments, at the Department on (02) 8289 6778.

Yours sincerely

Anthony Witherdin
Director
Key Sites Assessments

Determination under section 7.9(2) of the Biodiversity Conservation Act 2016

I, Anthony Witherdin, Director Key Sites Assessments, of the Department of Planning, Industry and Environment, under section 7.9(2) of the *Biodiversity Conservation Act 2016*, determine that the proposed development Pitt Street (North) OSD is not likely to have any significant impact on biodiversity values and therefore a Biodiversity Development Assessment Report is not required.

Proposed development means the development as described in the waiver request, dated 24 April 2020, prepared by Urbis on behalf of Pitt Street Developer North Pty Limited (SSD 10375).

If the proposed development changes so that it is no longer consistent with this description, a further waiver request is required.

If you do not lodge the development application related to this determination for the proposed development within 2 years of the issue date of this determination, you must either prepare a BDAR or lodge a new request to have the BDAR requirement waived.



Director
Key Sites Assessments
Planning and Assessment
Department of Planning, Industry and Environment
(as delegate of the Secretary)

Date: 22 May 2020



ANGEL PLACE
LEVEL 8, 123 PITT STREET
SYDNEY NSW 2000

URBIS.COM.AU
Urbis Pty Ltd
ABN 50 105 256 228

24 April 2020

Mr James Groundwater

Department of Planning Industry and Environment
via email

Dear James,

SSD-10375 | PITT STREET NORTH OSD: WAIVER REQUEST FOR BIODIVERSITY ASSESSMENT REPORT

We write on behalf of Pitt Street Developer North Pty Limited (**the Proponent**) to seek a waiver for the requirement for a Biodiversity Development Assessment Report (**BDAR**) for State Significant Development SSD-10375. As generally described in the Scoping Report for Secretary's Environmental Assessment Requirements (**SEARs**) dated 2 October 2019, SSD-10375 will seek approval for:

- Construction of a new commercial tower with a maximum building height of RL 176.8 including ground and plant levels;
- Structural and design integration with the approved CSSI proposal including though not limited to:
 - Structures, mechanical and electronic systems, and services; and
 - Vertical transfers.
- Use of spaces within the CSSI 'Sydney metro box' building envelope for the purposes of:
 - Retail tenancies;
 - Commercial lobby and commercial amenities;
 - 40 car parking spaces within the podium relating to the OSD commercial use; and
 - Loading and services access.
- Pedestrian entrances to the OSD from Pitt Street and Castlereagh Street;
- Utilities and services provision;
- Signage zones; and
- Stratum subdivision (staged).

The Minister for Planning granted development consent to SSD 17_8875 for Concept Approval of a commercial mixed-use Over Station Development (**OSD**) above the new Sydney Metro Pitt Street Station on 25 June 2019.



As part of the assessment of the Concept SSD DA, on 27 June 2018 the NSW Department of Planning and Environment granted a waiver (refer **Attachment A**) under section 7.9(2) of the *Biodiversity Conservation Act 2016*, concluding that:


- The proposed development is not likely to have any significant impact on biodiversity values; and
- There is no need to submit a BDAR as part of the SSD DA.

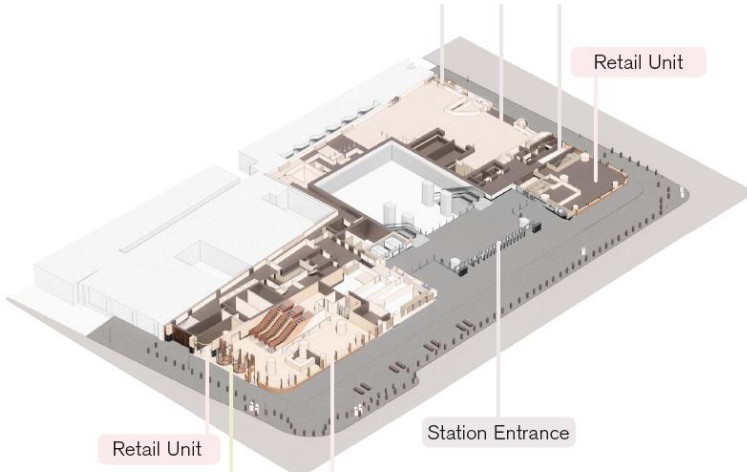
As per the Department of Planning, Industry and Environment Fact Sheet dated October 2019, whether a separate BDAR waiver determination is required for subsequent SSD applications associated with a concept development consent will depend on whether the subsequent application is consistent with the description of 'proposed development' in the initial waiver determination.

The proposed development remains consistent with the 'proposed development' description included in the original SEARs request, with the only point of clarification that a commercial office building is proposed as opposed to a mixed-use building. On this basis it can be reasonably concluded that a new waiver determination is not required for the subsequent detailed SSD application. Notwithstanding, this request has been prepared for abundant caution.

Table 1 – BDAR Waiver Request Information Requirements

Area	Requirement	Detail
Admin	Proponent Name and Contact Details	Pitt Street Developer North Pty Limited (ACN: 635 396 824) Mr Chris Carolan Development Director chriscarolan@grocon.com.au 0427 162 602
	Project ID	SSD-10375
	Name and qualifications	Ashleigh Ryan Associate Director – Urban Planning, Urbis Bachelor of Planning (Hons 1), UNSW
Site Details		The site is generally described as 256-256A Pitt Street, Sydney (the site). The site occupies one allotment and is legally described as Lot 20 DP 1255509. The site is within Sydney LGA.
		The site is currently a construction site. Construction of the Pitt Street Metro Station is currently underway on the site, and the site is presently being excavated. All the buildings/structures previously on the site have now been demolished under the CSSI Approval for the Pitt Street Metro Station.
		The demolition of existing structure and removal of vegetation on the site has previously been approved as part of the Critical State Significant Infrastructure project (reference SSI 15_7400) (CSSI Approval) for the Sydney Metro City & Southwest – Chatswood to Sydenham DA. In addition to the terms of the CSSI Approval, the

Area	Requirement	Detail
<p>Site Aerial</p>		<p>Concept SSD DA envisaged the complete redevelopment of the site for the purposes of a new commercial town, therefore it follows that there should be no need to submit a BDAR as part of the detailed SSD DA for the construction of the Pitt Street North OSD.</p>  <p>Subject Site</p> <p>Pitt Street South</p> <p>Surrounding Development</p> <ol style="list-style-type: none"> 1. 250 Pitt Street 2. 169-173 Castlereagh Street 3. 242 Pitt Street 4. 149 Castlereagh Street 5. 155-159 Castlereagh Street 6. 183-187 Elizabeth Street 7. 187A Elizabeth Street 8. 189-195 Elizabeth Street 9. 50-52 Park Street 10. 258-260 Pitt Street 11. 262-264 Pitt Street 12. 27 Park Street 13. 201-217 Elizabeth Street 14. 266-274 Pitt Street 15. 201 Castlereagh Street 16. 307 Pitt Street 17. 303-305 Pitt Street 18. 5-7 Park Street 19. 532-540 George Street 20. 295-301 Pitt Street 21. 275 Pitt Street 22. 219-227 Elizabeth Street
<p>Proposed Development</p>		<p>The Pitt Street Over Station Development North Detailed SSD DA seeks development consent for the construction and operation of a new commercial tower building above the North entrance of the new Sydney Metro Pitt Street Station box providing approximately;</p> <ul style="list-style-type: none"> • 54,651sqm of gross floor area, excluding floor space approved in the CSSI; • Construction of a new commercial tower with a maximum building height of RL 176.8 including ground and plant levels; • Private landscaped terraces on levels 10 and 11 to support the commercial OSD use; • Integration with the approved CSSI proposal including though not limited to: <ul style="list-style-type: none"> – Structures, mechanical and electronic systems, and services; and

Area	Requirement	Detail
	<ul style="list-style-type: none"> - Vertical transfers. 	<ul style="list-style-type: none"> • Use of spaces within the CSSI 'metro box' building envelope for the purposes of: <ul style="list-style-type: none"> Retail tenancies; <ul style="list-style-type: none"> - Commercial lobby and commercial amenities; - 40 car parking spaces within the podium relating to the OSD commercial use; and - Loading and services access. • Pedestrian entrances to the OSD from Pitt Street and Castlereagh Street; • Utilities and services provision; • Signage zones; and • Stratum subdivision.
Proposed site plan		 <p>Ground floor plan (Source: Foster + Partners)</p>

For abundant caution we have undertaken an assessment of the proposal against the relevant provisions of *the Biodiversity Conservation Act 2016* and *Biodiversity Conservation Regulation 2017*. We are of the opinion that the proposal as described in SSD-10375 is unlikely to have a significant impact on the eight biodiversity values as defined in Section 1.5 of the *Biodiversity Conservation Act 2016* and clause 1.4 and clause 6.1 of *the Biodiversity Conservation Regulation 2017*.

Having regard to the above, and the assessment provided at **Table 2** below, we respectfully request that the requirement for a BDAR is waived in this instance.

Table 2 – Assessment of proposal against biodiversity values

Biodiversity Value	Relevance	Assessment
<i>Biodiversity Conservation Act 2016</i>		
<u><i>Section 1.5 Biodiversity and biodiversity values for purposes of Act</i></u>		
<i>Vegetation integrity—being the degree to which the composition, structure and function of vegetation at a particular site and the surrounding landscape has been altered from a near natural state,</i>	N/A	<p>The site is within an established urban area within the Sydney Central Business District and has been cleared of all vegetation, buildings and structures.</p> <p>No endangered populations or threatened species or their communities are recorded within the site or in the surrounding locality (NSW ATLAS, 2020).</p> <p>Therefore, the proposal will not adversely impact vegetation integrity on the site or surrounding landscape.</p>
<i>Habitat suitability—being the degree to which the habitat needs of threatened species are present at a particular site,</i>	N/A	<p>The site does not contain any known habitat for threatened species. The site is currently cleared of all vegetation, buildings and structures and therefore does not present a habitat that would likely suit the needs of a threatened species.</p>
<i>Biodiversity Conservation Regulation 2017</i>		
<u><i>Section 1.4 Additional biodiversity values</i></u>		
<i>Threatened species abundance—being the occurrence and abundance of threatened species or threatened ecological communities, or their habitat, at a particular site</i>	N/A	<p>The site is cleared of all vegetation and therefore does not contain any threatened species or threatened ecological communities or their habitats. Therefore, the proposal will not have any likely impact on the surrounding natural environment and abundance of species.</p>
<i>Vegetation abundance—being the occurrence and abundance of vegetation at a particular site</i>	N/A	<p>The site is cleared of all vegetation and therefore does not contain abundant vegetation.</p>



Biodiversity Value	Relevance	Assessment
<i>Habitat connectivity—being the degree to which a particular site connects different areas of habitat of threatened species to facilitate the movement of those species across their range</i>	N/A	<p>The site is within an established urban area. It does not contain any known habitat, nor does it connect different areas of habitat.</p> <p>Therefore, the proposal will not have any likely impact on habitat connectivity.</p>
<i>Threatened species movement—being the degree to which a particular site contributes to the movement of threatened species to maintain their lifecycle</i>	N/A	<p>The site and surrounds do not contain any threatened species or threatened ecological communities or their habitats. The site and surrounds are not known to connect different areas of habitat for threatened species.</p> <p>Therefore, the proposal will not have any likely impact on threatened species movement.</p>
<i>Flight path integrity—being the degree to which the flight paths of protected animals over a particular site are free from interference</i>	N/A	<p>No endangered populations or threatened species or their communities are recorded within the site or in the surrounding locality (NSW ATLAS, 2020).</p> <p>As the site does not contain any vegetation and is within an established urban area surrounded with tall building forms, the proposal is unlikely to impact flight paths of protected animals.</p>
<i>Water sustainability—being the degree to which water quality, water bodies and hydrological processes sustain threatened species and threatened ecological communities at a particular site.</i>	N/A	<p>The nearest body of water to the site is Sydney Harbour, however stormwater management included within the proposed development will mitigate any stormwater runoff from the site and therefore the proposal is unlikely to impact water sustainability and water quality surrounding the site.</p>



We trust this assessment and the previous BDAR waiver issued for the site (**Attachment A**) provides sufficient evidence to determine that the proposal will not have a significant impact on the biodiversity values defined under the *Biodiversity Conservation Act 2016* and *Biodiversity Conservation Regulation 2017* and therefore that a BDAR is not necessary to accompany the future application for SSD-10375. Please do not hesitate to contact the undersigned on 02 8233 9990 or aryan@urbis.com.au should you require any further information.

Yours sincerely,

A handwritten signature in black ink, appearing to read "A. Ryan".

Ashleigh Ryan
Associate Director – Planning

Attachment A – BDAR Waiver for Concept SSD DA (SSD 17_8875)

**BDAR
ASSESSMENT
WAIVER**

APPENDIX CC





DOC18/425471

Fil Cerone
Transport for NSW
Level 39, 680 George Street
Sydney NSW 2000

Dear Fil,

I refer to your correspondence dated 6 June 2018, seeking to waive the need for Biodiversity Development Assessment Reports (BDAR) for State Significant Development (SSD) applications for Pitt Street North and Pitt Street South over station developments (SSD 8875 and SSD 8876).

Under section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act):

“Any such application is to be accompanied by a biodiversity development assessment report 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.”

The authority of the “*Planning Agency Head*” to determine whether a proposed development is “*not likely to have any significant impact on biodiversity values*” has been delegated to Directors within the Planning Services Division on 21 December 2017.

I have reviewed your request having regard to sections 1.5 and 7.3 of the BC Act and clause 1.4 of the *Biodiversity Conservation Regulation 2017*, and agree that there is no need to submit BDARs as part of the SSD applications. Therefore, waivers under section 7.9(2) of the BC Act are granted for the proposals SSD 8875 and SSD 8876.

The delegated *Environment Agency Head* in the Office of Environment and Heritage has also granted waivers in letters dated 20 June 2018 and a copy of the letters is attached.

The waivers are issued in respect of the proposed development detailed in requests for Secretary’s environmental assessment requirements dated 1 November 2017. Amendments to the development may require a further waiver to be sought and issued.

Should you have any further enquiries, please contact Genevieve Hastwell, Planning Services, at the Department on (02) 9274 6457.

Yours sincerely,

Ben Lusher
Director
Key Sites Assessments



Office of
Environment
& Heritage

DOC18/404496
SSD 8875

Ms Genevieve Hastwell
Key Sites Assessments
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Hastwell

Sydney Metro – Pitt Street North Over Station Development – 175-183 Castlereagh Street, 40, 42-46 and 48 Park Street and 252-254 and 256 Pitt Street (SSD 8875) – request for determination under Section 7.9(2) of the Biodiversity Conservation Act 2016

Thank you for email of 7 June 2018. The Office of Environment and Heritage (OEH) has reviewed the Biodiversity Conservation (BC) waiver request report received from NSW Government (dated 6 June 2018) on behalf of the proponent to not require a Biodiversity Development Assessment Report (BDAR) to be submitted with the above State Significant Development (SSD) application.

Under section 7.9(2) of the *Biodiversity Conservation (BC) Act 2016*:

“Any such application [SSD] is to be accompanied by a biodiversity development assessment report 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.”

The power to determine whether an SSD is “*not likely to have any significant impact on biodiversity values*” was delegated to the OEH Senior Executive on 4 December 2017.

It is noted from the waiver request report that the biodiversity impacts have previously been assessed under CSSI 15 7400 and that the existing buildings on the site are currently being demolished under the terms of that CSSI approval. I have determined that the proposed development is not likely to have any significant impact on biodiversity values and that there is no need for the SSD application to include a BDAR.

Should you have any queries in relation to this matter, please contact Janne Grose on t :8837 6017 or by email at janne.grose@environment.nsw.gov.au

Your sincerely

JANE DEGABRIEL
A/Director – Greater Sydney
Regional Operations Division