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11 February 2020

Mr James Groundwater

Department of Planning Industry and Environment  
*via email*

Dear James,

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

We write on behalf of Pitt Street Developer South Pty Limited (**the Proponent**) to seek a waiver for the requirement for a Biodiversity Development Assessment Report (**BDAR**) for State Significant Development SSD-10376. As generally described in the Scoping Report for Secretary's Environmental Assessment Requirements (**SEARs**) dated 2 October 2019, SSD-10376 will seek approval for:

- Construction of a new residential tower with a maximum building height of RL 171.6m (approximately 39 storeys) including rooftop and terrace landscaping.
- 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 'metro box' building envelope for the purposes of:
  - Retail tenancies;
  - Residential lobby and residential amenities;
  - Bicycle parking within the podium for the purposes of the residential accommodation; and
  - Loading and services access.
- Utilities and services provision.
- Stratum subdivision (staged).

The Minister for Planning granted development consent to SSD 17\_8876 for Concept Approval of a residential or commercial scheme 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.

PSS BDAR Waiver Request



The demolition of existing structures 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 Concept SSD DA envisaged the complete redevelopment of the site for the purposes of a new residential or commercial tower, 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 South OSD.

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 1** below, we respectfully request that the requirement for a BDAR is waived in this instance.

Table 1 – Assessment of proposal against biodiversity values

Biodiversity Value	Assessment
<b><i>Biodiversity Conservation Act 2016</i></b>	
<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>	<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>	<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 values, or biodiversity-related values, prescribed by the regulations.</i>	Refer to assessment provided below.



Biodiversity Value	Assessment
<b><i>Biodiversity Conservation Regulation 2017</i></b>	
<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>	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.
<i>Vegetation abundance—being the occurrence and abundance of vegetation at a particular site</i>	The site is cleared of all vegetation and therefore does not contain abundant vegetation.
<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>	The site is within an established urban area. It does not contain any known habitat, nor does it connect different areas of habitat.  Therefore, the proposal will not have any likely impact on habitat connectivity.
<i>Threatened species movement—being the degree to which a particular site contributes to the movement of threatened species to maintain their lifecycle</i>	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.  Therefore, the proposal will not have any likely impact on threatened species movement.
<i>Flight path integrity—being the degree to which the flight paths of protected animals over a particular site are free from interference</i>	No endangered populations or threatened species or their communities are recorded within the site or in the surrounding locality (NSW ATLAS, 2020).  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.
<i>Water sustainability—being the degree to which water quality, water bodies and hydrological processes sustain threatened species and</i>	The nearest body of water to the site is Sydney Harbour, however stormwater management included within the proposed development will



Biodiversity Value	Assessment
<i>threatened ecological communities at a particular site.</i>	mitigate any stormwater runoff from the site and therefore the proposal is unlikely to impact water sustainability and water quality surrounding the site.

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-10376.

Please do not hesitate to contact the undersigned on 02 8233 9990 or [aryan@urbis.com.au](mailto:aryan@urbis.com.au) should you require any further information.

Yours sincerely,

Ashleigh Ryan  
Associate Director – Planning

Attachment A – BDAR Waiver for Concept SSD DA (SSD 17\_8876)



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

DOC18/404968  
SSD-8876

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

Dear Ms Hastwell

**Sydney Metro – Pitt Street South Over Station Development – 125-129 and 131-135 Bathurst Street, 296-300 and 302 Pitt Street (SSD- 8876) – 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 this 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](mailto:janne.grose@environment.nsw.gov.au)

Yours sincerely

**JANE DEGABRIEL**  
**A/Director – Greater Sydney**  
**Regional Operations Division**