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Level 34, 120 Collins Street  
Melbourne VIC 3000



18 December 2018

**Re: BDAR Waiver for the proposed student accommodation, Doncaster Avenue**

Dear Matthew,

This letter has been prepared with regard to the above proposed development at Doncaster Avenue, Kensington.

As required under the NSW *Biodiversity Conservation Act 2016* (BC Act) a waiver for the biodiversity development assessment report can be issued if the Planning Assessment Head and the Environment Assessment Head determine that the proposal is not likely to have a significant impact on biodiversity values.

Please find attached an assessment of the impact on biodiversity values as defined under the BC Act and NSW *Biodiversity Conservation Regulation 2017*. The result of the assessment is that the proposal is unlikely to have a significant impact on biodiversity values.

If you require any further information, please contact me on the details provided below.

Sincerely,

Lucas McKinnon

Director | Principal Ecologist – Accredited Biobanking Assessor  
**BEnvSc(Hons), GCert. Ornithology, Biobanking Acc. (#76)**  
M: 0421 603 549 | E: [lucas.mckinnon@ecoplanning.com.au](mailto:lucas.mckinnon@ecoplanning.com.au)

## 1 Background

The student accommodation project will be assessed as a State Significant Development (SSD) under the *Environmental Planning and Assessment Act 1979* (EP&A Act). In October 2018, the Secretary's Environmental Assessment Requirements (SEARs) (SSD 9649) (DPE 2018) for the project was received from the NSW Department of Planning and Environment (DPE).

Biodiversity assessment required for an SSD is described in Section 7.9 of the *Biodiversity Conservation Act 2016* (BC Act). Clause 2 of section 7.9 indicates that an application for development consent for an 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.*

This letter has been prepared to provide information for the Planning Agency Head and the Environment Agency Head to assist them in determining whether the current proposed development is likely to have any significant impact on biodiversity values.

Biodiversity values are identified in Section 1.5 of the Biodiversity Conservation Act 2016 (BC Act) and Section 1.4 and 6.1 of the Biodiversity Conservation Regulation 2017.

## 2 Proposed development

The proposed development consists of existing dwellings and one vacant lot on Doncaster Avenue in Kensington. Demolition of existing dwellings and associated structures, tree removal, excavation for single level basement, construction of a three-storey boarding house comprising 276 beds to be used for student accommodation, ancillary services, parking, and communal open space." The location of the proposed development is shown in **Figure 1**.

## 3 Biodiversity assessment

This section determines if there is likely to be a significant impact on the biodiversity values as described in the BC Act and BC Reg. The following biodiversity and biodiversity values are defined under Section 1.5 of the BC Act:

- **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, and
- **Habitat suitability** - being the degree to which the habitat needs of threatened species are present at a particular site.



The BC Act also indicates that additional biodiversity values, or biodiversity-related values are noted in the regulations. Clause 1.4 of the Biodiversity Conservation Regulation 2017 (BC Reg) identifies the following additional biodiversity values:

- **Threatened species abundance** - being the occurrence and abundance of threatened species or threatened ecological communities, or their habitat, at a particular site,
- **Vegetation abundance** - being the occurrence and abundance of vegetation at a particular site,
- **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,
- **Threatened species movement** - being the degree to which a particular site contributes to the movement of threatened species to maintain their lifecycle,
- **Flight path integrity** - being the degree to which the flight paths of protected animals over a particular site are free from interference, and
- **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.

In addition, Section 1.6 of the Biodiversity Conservation Regulation lists the following additional biodiversity impacts:

- the impacts of development on the following habitat of threatened species or ecological communities:
  - karst, caves, crevices, cliffs and other geological features of significance,
  - rocks,
  - human made structures,
  - non-native vegetation,
- the impacts of development on the connectivity of different areas of habitat of threatened species that facilitates the movement of those species across their range,
- the impacts of development on movement of threatened species that maintains their lifecycle,
- (the impacts of development on water quality, water bodies and hydrological processes that sustain threatened species and threatened ecological communities (including from subsidence or subsidence resulting from underground mining or other development),
- the impacts of wind turbine strikes on protected animals,
- the impacts of vehicle strikes on threatened species of animals or on animals that are part of a threatened ecological community.



### 3.1 Section 1.5 of the BC Act

#### Vegetation Integrity

No native vegetation has been mapped on the site (OEH 2016). In addition, as shown on the 1943 aerial photo for the site in Six Maps (LPI, 2018), the majority of the site has been previously cleared and developed.

While a single tree is shown on the boundary with the road in 4-8 Doncaster Avenue in 1943, it is unclear whether it was remnant or whether it has survived to the present time. It is likely that it has been previously cleared and that a non-endemic gum tree (probably *Corymbia citriodora*) has been planted in the same or similar location.

Based on aerial photos, native and exotic species have been planted around the dwellings that occur on the site, including *Corymbia* sp., and *Grevillea robusta* (Silky Oak).

As no native vegetation has been mapped or occurs on the site (**Figure 2**) and the flora on the site does not have the natural structural or floristic characteristics of a natural vegetation community, the vegetation integrity of the site is zero.

The vegetation in the surrounding landscape has been historically cleared for urban development and parklands (Centennial Park). The nearest patch of mapped native vegetation is a small patch of PCT 1061 150 m to the north within Centennial Park (OEH 2016).

Therefore, the proposal would not have a significant impact on vegetation integrity as there is no vegetation on the subject site or its immediate surroundings and the extent of native vegetation in the surrounding landscape is very low.

#### Habitat Suitability

The habitat on the site is likely to be unsuitable for the threatened species that have been recorded within a 5 km radius of the site as it does not consist of a natural native vegetation community or PCT (**Figure 3**).

Non-endemic trees and shrubs on the site may provide some foraging or shelter for the Grey-headed Flying-fox (*Pteropus poliocephalus*). However, this is not a camp for this species nor is it considered to be important foraging habitat, given the extensive habitat in the surrounding area, including Centennial Park, and the fact that this species is highly mobile.

The impact of development of the site, which has a very low level of habitat suitability for threatened species is not likely to be significant.

### 3.2 Section 1.4 of the BC Regulation 2017

#### Threatened Species Abundance

No threatened species, populations or communities are likely to occur on the subject site apart from the potential presence of the Grey-headed Flying-fox. The site is not likely to provide important habitat for any threatened species that have been recorded in the locality.



Therefore, the proposal would be unlikely to affect the abundance of any threatened species, populations or communities on the subject site.

#### Vegetation Abundance

There is no vegetation on the site which is in a natural or near-natural state as it has been previously cleared and existing vegetation is likely to have been planted. No PCT occurs on the subject site. The impact of the proposal on vegetation abundance is negligible as no PCTs would be affected.

#### Habitat connectivity

The site consists of a developed land within a developed landscape. The site is not likely to be important for any threatened species recorded in the locality and the proposal is not likely to restrict the movement of any threatened species recorded in the locality.

#### Threatened Species Movement

The site is unlikely to provide habitat for threatened species recorded in the locality as it has already been cleared and developed and contains likely planted native and exotic trees and shrubs. Therefore, the proposal is not likely to impact on the ability of threatened species to move throughout the locality.

#### Flight Path Integrity

The site is not considered to be significant for the flight paths of species that have been recorded in the locality as most flying species are also likely to utilise other similar vegetation in the landscape.

Therefore, the proposal would not be likely to significantly impact on the ability of the flying species move throughout their range within the locality.

#### Water Sustainability

There is not likely to be any water bodies or hydrological processes on the site that are important for threatened species on the site.

### 3.3 Section 6.1 of the BC Regulation 2017

#### Specific habitats for threatened species or ecological communities

The site has been developed and none of the following habitats for threatened species or ecological communities currently occur on the site:.

- karst, caves, crevices, cliffs and other geological features of significance,
- rocks,

While human made structures (dwellings) are present on the site, they are not likely to consist of habitat for threatened species recorded in the locality.



Non-native vegetation occurs on the site which may provide foraging habitat for the Grey-headed Flying-fox. However, the vegetation on the site is not a roosting camp and is considered significant or important for the life cycle processes of this species.

#### Connectivity

As noted above, the site is already developed and is not important for threatened species that have been recorded in the locality.

#### Movement of threatened species

The site is not important for the movement of threatened species that have been recorded in the locality as it contains no native vegetation communities and is located in a developed area. Similar habitat (planted native and non-native trees) are present in the surrounding landscaping on nearby streets. Therefore, the proposal is not likely to impact on the life-cycle processes of threatened species that already occur in the locality.

#### Water quality

The proposal would not have any impact on water quality, water bodies or hydrological processes that sustain threatened species and threatened ecological communities as it would be an above-ground construction in an area that is already cleared.

#### Wind turbine strikes

The proposal does not involve wind turbines and therefore there will be no impact from wind turbine strikes

#### Vehicle strikes

The proposal is located in an area that is already cleared. It is unlikely that vehicle movements on the site associated with the warehouse would impact on threatened species or any animals that are part of threatened communities as the site does not provide habitat for such species.

## 4 References

NSW Office of Environment and Heritage (OEH) (2016). *The Native Vegetation of the Sydney Metropolitan Area - Version 3.1*.

NSW Land and Property Information (LPI) (2018). SIX Maps. Accessed at:  
<https://maps.six.nsw.gov.au/>







Figure 1: Study area.





Figure 2: Native vegetation mapping within the study area (OEH 2016).





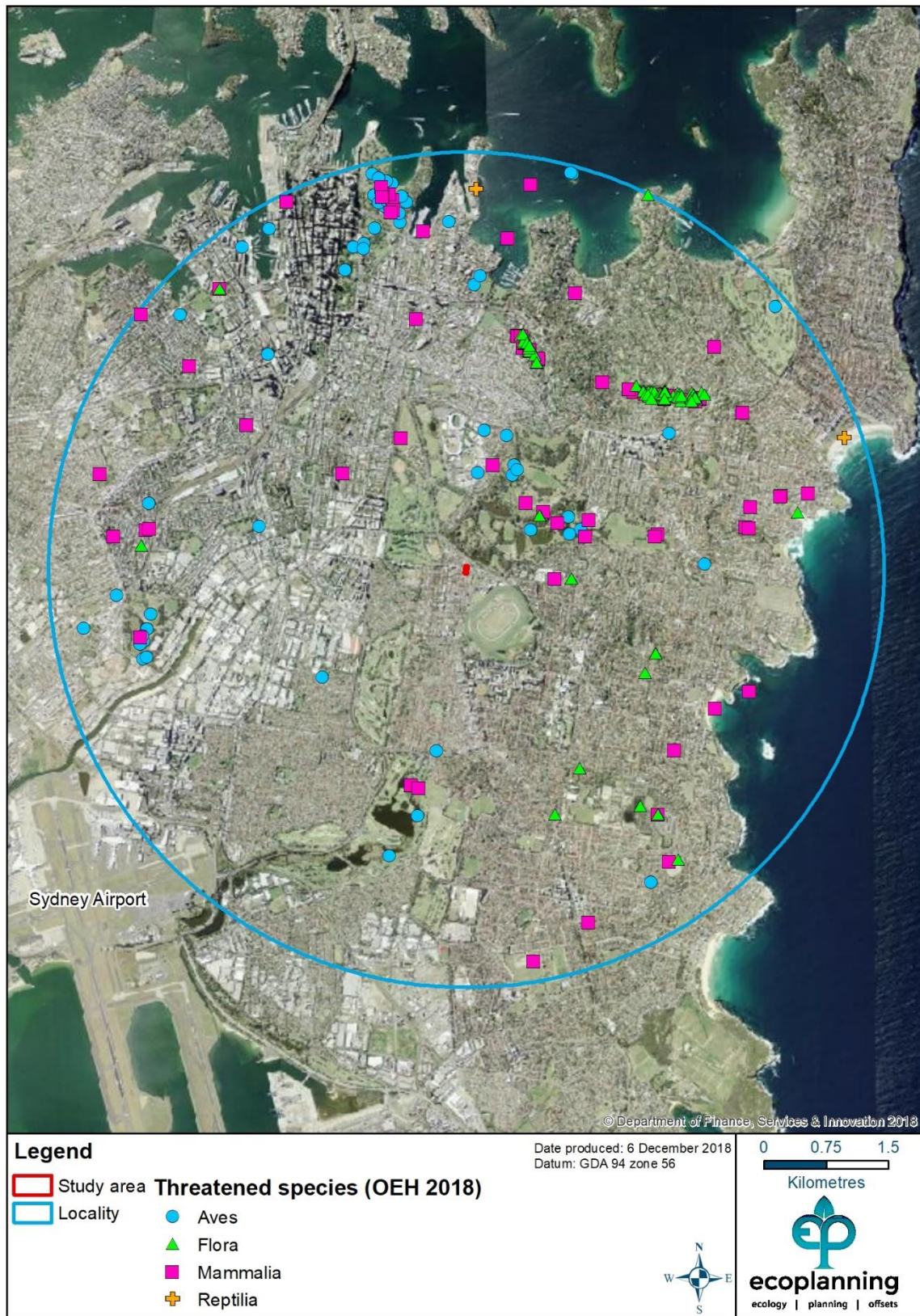


Figure 3: Threatened species records within the locality (5km).



Ashleigh Ryan  
Urbis  
Level 23, Darling Park Tower  
201 Sussex Street  
SYDNEY NSW 2000

Our ref: SSD 9649

Dear Ms Ryan,

**Subject: Request to waive requirement to prepare a Biodiversity Development Assessment Report**

I refer to your correspondence received on 11 December 2018 seeking to waive the requirement to submit a Biodiversity Development Assessment Report (BDAR) with the State significant development application for 4-18 Doncaster Avenue, Kensington – Student Accommodation (SSD 9649).

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 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 have determined that the proposed development (SSD 9649), as described in your waiver request, is not likely to have any significant impacts on biodiversity values.

The delegated Environment Agency Head in the Office of Environment and Heritage has also determined that the proposed development is not likely to have any significant impacts on biodiversity values in a letter dated 11 January 2019 and a copy of that letter is attached.

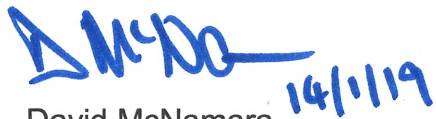
Therefore, a waiver under section 7.9(2) of the BC Act is granted for the proposed development and a BDAR is not required to accompany the SSD application.

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, Planning Services, at the Department on (02) 8289 6778.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'DMcN', followed by the date '14/1/19' written in a similar style.

David McNamara  
**Director**  
**Key Sites Assessments**  
(as nominee of the Secretary)

Encl: Letter OEH



DOC19/17908  
SSD 9649

James Groundwater  
Senior Planning Officer – Key Sites Assessments  
NSW Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

**Request for Biodiversity Development Assessment Report waiver - 4-18 Doncaster Avenue, Kensington, Student Accommodation (SSD 9649)**

Dear Mr Groundwater,

The Office of Environment and Heritage (OEH) has reviewed the request submitted on 11 December 2018 to waive the requirement for a Biodiversity Development Assessment Report (BDAR) to be submitted with the State significant development 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*” has been delegated to the OEH Senior Executive on 4 December 2017.

I have reviewed the assessment of the biodiversity values of the site as described in the documentation from Ecoplanning Pty Ltd dated 11 December 2018 and have determined 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.

Please contact Richard Bonner, Senior Conservation Planning Officer, on 9995 6917 or at richard.bonner@environment.nsw.gov.au should you have any further queries regarding this matter.

Yours sincerely

11/01/2019

**ALEX GRAHAM**  
**Director - Greater Sydney**  
**Communities and Greater Sydney Division**