



Office of Environment & Heritage

DOC19/357716
SSD 6626 MOD 2 & SSD 6633 MOD 2

Mr Brendon Roberts
Team Leader, Key Sites Assessments
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Mr Roberts

OEH comments on modification applications to the North East Plot (SSD 6626 MOD 2) and South East Plot (SSD 6633 MOD 2), Darling Square

I refer to your email of 16 April 2019 received by the Office of Environment and Heritage (OEH) requesting comments on modification applications for the North East Plot (SSD 6626 MOD 2) and South East Plot (SSD 6633 MOD 2) at Darling Square, Darling Harbour. OEH understands that the modification applications seek approval to install and operate public art.

OEH has reviewed the modification applications and provides the following comments regarding biodiversity.

Biodiversity

Section 7.17 of the *Biodiversity Conservation Act, 2016* (BC Act) stipulates:

2 (b) a biodiversity development assessment report is required to be submitted and taken into consideration if this Division applies to the original development as proposed to be modified even if a biodiversity development assessment report was submitted in connection with the application for the original development or even if this Division did not apply to the original development (for example, because the modification results in the development exceeding the biodiversity offsets scheme threshold),

(c) however a further biodiversity development assessment report is not required to be submitted if the authority or person determining the application for modification (or determining the environmental assessment requirements for the application) is satisfied that the modification will not increase the impact on biodiversity values,

(3) The regulations may make further provision with respect to any such applications for modification (including exemptions to the application of this section).

OEH notes that the applicant has not addressed the BC Act in its application for the proposed modifications. If the application is not subject to section 7.17(3), OEH recommends that the applicant be requested to provide an assessment of biodiversity values (sections 1.4 and 6.1 of the *Biodiversity Conservation Regulation 2017* and 1.5 and 6.3 of the BC Act) and the impact of the proposal on the biodiversity values. The provision of this additional information will assist DPE in determining the appropriate planning pathway for biodiversity assessment required for the modification applications.

If you have any queries regarding this matter, please contact Marnie Stewart on 9995 6868 or marnie.stewart@environment.nsw.gov.au

Yours sincerely

S. Harrison 30/04/19

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