

Request for Variation to Development Standard (GFA) State Environmental Planning Policy No.1



Australian Technology Park, Eveleigh

Submitted to NSW Department of Planning & Environment
On Behalf of Mirvac Projects Pty Ltd

December 2015 ■ 15756

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1.0 Introduction

This objection under *State Environmental Planning Policy No.1 - Development Standards* (SEPP 1) has been prepared by JBA Urban Planning Consultants Pty Ltd (JBA) on behalf of Mirvac Projects Pty Ltd.

It is submitted to the NSW Department of Planning & Environment in support of a State Significant Development Application (SSD DA) for the redevelopment of three development sites and associated significant public domain works within the Australian Technology Park, Eveleigh.

This SEPP 1 Objection should be read in conjunction with the Environmental Impact Statement dated December 2015. It relates to the maximum Gross Floor Area development standard (Clause 21(2A), Division 3, Part 5, Schedule 3) that applies to the subject land under *State Environmental Planning Policy (Major Development) 2005*.

1.1 SEPP 1 Framework

The objective of SEPP 1 is to allow flexibility in the application of numeric development standards. It enables a consent authority to vary a development standard within an environmental planning instrument (EPI) where strict compliance with that standard is shown to be unreasonable or unnecessary, or would hinder the attainment of the objectives specified in Section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act).

The objectives of Section 5(a) are to encourage:

- (i) *the proper management, development and conservation of natural and man-made resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
- (ii) *the promotion and co-ordination of the orderly and economic use of and development of land;*

Clause 6 of SEPP 1 provides that a person may make a written objection demonstrating that compliance with a development standard is unreasonable or unnecessary in relation to the proposed development.

Clause 8 of the Policy sets out matters to be considered by the Department of Planning or consent authority under delegation in assessing SEPP 1 objections where it states:

the matters that shall be taken into consideration in deciding whether concurrence should be granted are:

- (a) *whether non-compliance with the development standard raises any matter of significance for State or regional environmental planning; and*
- (b) *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

The NSW Land and Environment Court (LEC) established five questions to be addressed in SEPP 1 objections through the judgment of Justice Lloyd, in *Winten Property Group Ltd v North Sydney Council* [2001] 130 LGERA 79 at 89. The test was later rephrased by Chief Justice Preston, in the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827. The test is now as follows:

1. *The applicant must satisfy the consent authority that “the objection is well founded” and compliance with the development standard is unreasonable and unnecessary in the circumstances of the case;*
2. *The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy’s aim of providing*

flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979; and

3. It is also important to consider:

- a) *whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
- b) *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

Accordingly, the following SEPP 1 Objection is set out using the current LEC considerations for SEPP 1.

1.2 Is the Planning Control in Question a Development Standard?

The Environmental Planning Instrument to which this objection relates is State Environmental Planning Policy (Major Development) 2005 (the MD SEPP). The maximum Gross Floor Area (GFA) development standards applicable to the site are found in clause 21(2A) of Division 3 in Schedule 3, and is as follows:

(2A) The gross floor area of a building on any land that is the subject of the Gross Floor Area Map, being land known as the Australian Technology Park, is not to exceed the gross floor area shown for the land on that map.

Under the Standard Instrument LEP, to which Division 1, Part 5 of Schedule 3 of the MD SEPP refers,

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) *the area of a mezzanine, and*
- (b) *habitable rooms in a basement or an attic, and*
- (c) *any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:*
- (d) *any area for common vertical circulation, such as lifts and stairs, and*
- (e) *any basement:*
 - (i) *storage, and*
 - (ii) *vehicular access, loading areas, garbage and services, and*
- (f) *plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) *car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) *any space used for the loading or unloading of goods (including access to it), and*
- (i) *terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) *voids above a floor at the level of a storey or storey above.*

The GFA map establishes a maximum GFA for each of the three key development sites. An extract from the GFA map is included in **Figure 1** below.

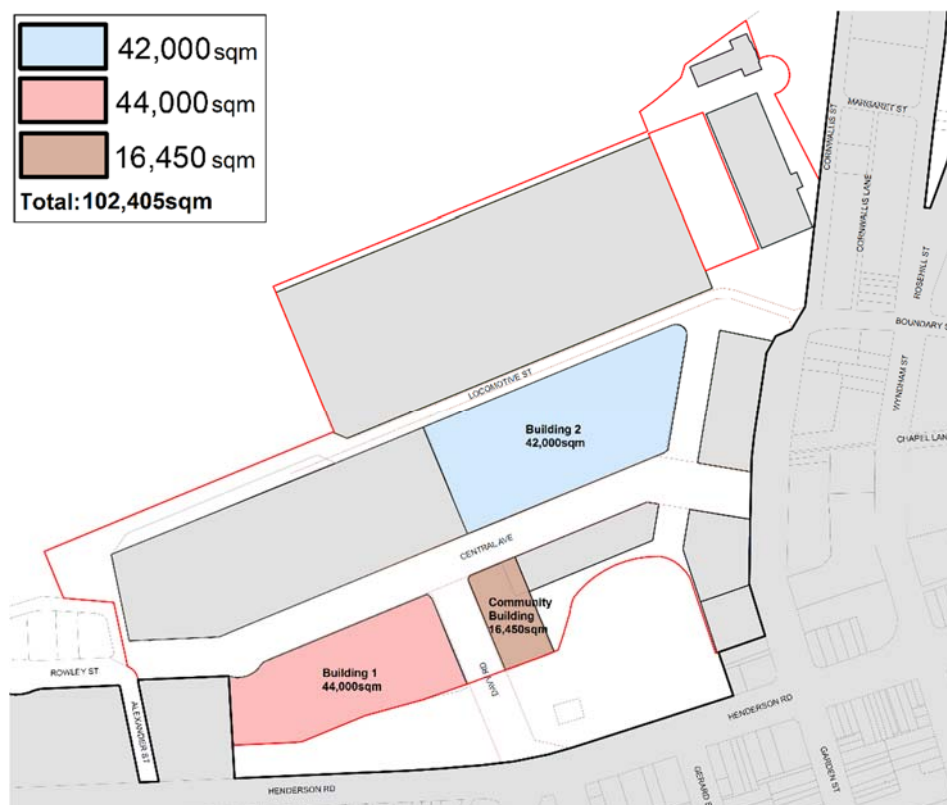


Figure 1 – Extract from MD SEPP maximum GFA map
Source: NSW Legislation website and JBA

The proposed development includes seeking approval for the development of three buildings, two of which (Building 1 and Building 2) will exceed the GFA allocation identified under the MD SEPP and therefore also across the three development sites exceed the GFA maximum cumulatively. Refer to **Table 1** for further details of the proposed and extent of GFA variation.

Table 1 – GFA distribution and analysis

Site	MD SEPP Maximum GFA(m ²)	Proposed GFA (m ²)	Difference	Percentage change
Building 1	44,000	46,832	+ 2,832	+ 6.4%
Building 2	42,000	56,688	+ 14,688	+ 35%
Community Building	16,450	3,911	-12,539	- 76.2%
Total	102,450	107,430	+ 4,980	+ 4.86%

“Development Standards” has the following definition under Section 4(1) of the Environmental Planning and Assessment Act (EP&A Act):

“development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

.....

- c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,**

.....

(our emphasis)

As this SEPP 1 objection relates to a departure from the numerical standard for gross floor area, it is considered that clause 21(2A) of Division 3, Part 5 in Schedule 3 of the MD SEPP is a development standard and not a ‘prohibition’ in respect of development.

1.3 What is the Underlying Object or Purpose of the Standard?

No objectives are given for the maximum gross floor area development standard as detailed in the MD SEPP.

Notwithstanding this, it is possible to understand the implicit objectives of the standard through an understanding of the history of the strategic planning that has informed the State Significant Site listing and built form controls for the Redfern Waterloo Sites.

The statutory controls contained within the MD SEPP for ATP were based on the Redfern-Waterloo Built Environment Plan (Stage 1) 2006. The BEP was informed through an urban design analysis and developed with stakeholder and community input. BEP 1 was released on August 2006 and is a planning framework for a number of larger sites and blocks within the Redfern and Waterloo Areas.

Key rationale for the development of gross floor area controls derived from BEP 1 for the ATP site are as follows:

“The Australian Technology Park and South Eveleigh sites are important employment hubs. Proposed development will reflect the character of the railway yards, lot sizes and configuration. The ATP is physically separated from lower rise residential development by major roads. Where this does not occur, appropriate heights in the ATP and South Eveleigh adjoining the existing residential area have been considered. The proposed increase of floor space ratio and heights offers the opportunity to anchor these sites as major employment generating centres for the local and metropolitan workforce.”

The ATP site (and broader Redfern to Waterloo area) sits within an area that is surrounded by land where *Sydney Local Environment Plan (LEP) 2012* applies and is the principal planning instrument. In the absence of any specific objectives relating to the GFA development standard under the MD SEPP, it is considered reasonable to apply the objectives of the floor space ratio (FSR) development standard under Sydney LEP 2012 – with GFA being a derivative of FSR.

Therefore, the objectives of the floor space ratio clause 4.4 under Sydney LEP 2012 are as follows:

- (a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,
- (b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,
- (c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,
- (d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

2.0 The Objection is "Well Founded"?

An applicant must satisfy the consent authority that “the objection is well founded” as compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston expressed the view that there are five different ways or methods in which an objection to a development standard might be shown as unreasonable or unnecessary and is therefore well founded. The five ways or methods include:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Of particular relevance in this instance is the first method identified by his honour, although the 3rd method is also of relevance. The following section demonstrates that the proposed development will ‘achieve the objectives of the standard notwithstanding the non-compliance with the standard’ and that the underlying objective of the standard will not be achieved if strict compliance with the standard is required.

2.1 The objectives of the standard are achieved notwithstanding noncompliance with the standard.

- (a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future

The existing planning controls applying to ATP in terms GFA were (as detailed within BEP 1) based around delivering approximately 222,000sqm of floor space with the ultimate aim (consistent with the vision for ATP) to encourage and support business and technology focussed employment – with a jobs aim of between 5,000 to 8,000.

The existing planning controls are also nearly 10 years old, and arguably did not anticipate the development needs of CBA to occupy two key development sites within ATP and accommodate some 10,000 technology focussed staff/jobs alone.

Therefore, the proposed minor variation to the GFA development standard (less than 5%) assures that the ATP site provides a sufficient amount of floor space to meet development needs into the future while also supporting and reinforcing the overall vision for ATP as a world class technology and business centre.

Mirvac's proposal is a direct outcome of Urban Growth Development Corporation (UGDC)'s endorsement of Mirvac's bid to secure ATP. This bid involves the creation of a large-scale technology campus to consolidate Commonwealth Bank of Australia's (CBA) innovation and technology based workforce from various sites within Western Sydney to a new and purpose built facility in Eveleigh and to also transform ATP into a community hub which includes the necessary amenity to support both the employees of ATP but also the wider community. CBA's commitment to ATP and the Redfern-Waterloo precinct is unprecedented and is one of the largest ever single pre-commitment to occupy commercial floorspace within Australia's history.

CBA has worked closely with Mirvac and architectural partners FJMT and Sissons to prepare a specific design that meets the environmental needs of the site and surrounds together with balancing the occupancy requirements of CBA. The submitted design is a result of extensive site testing and modelling to arrive at the present design and the subject variation to the density standards.

The submitted design is consistent with the overall design principles of the BEP 1 and on balance generally within the overall maximum height limits set by the SEPP MP. Whilst the proposal exceeds the development standard for GFA within two of the three buildings, the commercial office component of these buildings will be dedicated for the sole use of CBA. It was the premise of CBA to move to a consolidated campus with a limited number of buildings, which the proposal achieves in two buildings. The larger format buildings are considered to be optimal for CBA's desire for a truly collaborative campus which will contribute to the high-technology values of ATP. A typical floorplate of Building 2 is provided at **Figure 2**.

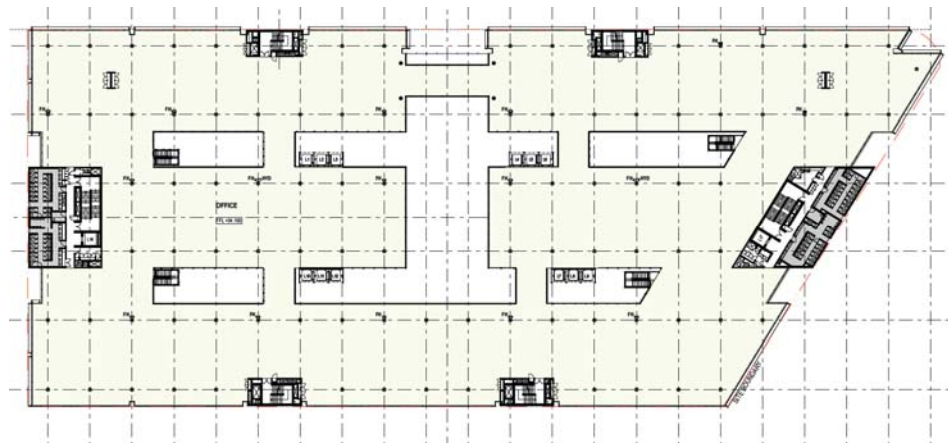


Figure 2 – Typical floorplate of Building 2, design for optimal collaboration of CBA workers
Source: FJMT + Sissons Architects

The redevelopment of ATP also includes a variety of additional floorspace which has been carefully formulated to not only support the new workforce but to also provide for the existing workforce of ATP and surrounding residents and businesses. This includes a variety of publicly accessible retail, childcares, gym and community uses proposed to be located within the three proposed buildings.

The overall excess in floorspace is considered entirely acceptable in the circumstances, given the extensive site selection process which was undertaken by Mirvac and CBA and the limited number of sites capable of accommodating CBA's specific requirements with minimal external impacts, along with providing the necessary amenity which ATP requires to accommodate circa 15,000 staff by 2020 and the local community.

Notwithstanding the non-compliance with the density development standard, the resultant design has resulted in an exemplary built form outcome with strong environmental credentials, which is capable of offering CBA a purpose built innovation campus which is capable of being adapted to the changing needs of their workforce into the future.

(b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic

The detailed design process has resulted in a built form which more closely aligns with the needs of the occupant, whilst balancing the needs of the surrounding locality in terms of environmental impacts. In the main, the proposed development incorporates building heights generally below the maximum permissible development standard under the Major Development SEPP, refer to **Table 2**. Accordingly, whilst the proposal seeks a minor (cumulative) increase in GFA, the resulting built form on balance across each of the three development sites is generally compliant.

Table 2 – Height distribution and analysis

Site	MD SEPP Maximum Height (storeys)	Proposed Height (storeys)
Building 1	10	9
	4	Part 0 / Part 9
Building 2	11	7
	9	7
Community Building	10	4

Appointing an internationally and Australian renowned design team (fjmt + Sissons + Aspect) which is recognised for design innovation and excellence has also assured that despite an increase in density and land use intensity, a high quality built form and public domain outcome is still able to be achieved (refer to **Figures 3** and **4**).



Figure 3 – Photomontage of proposed Building 1 as viewed from Henderson Road and Davy Road
Source: *FJMT + Sissons*



Figure 4 – Photomontage of Building 2 as viewed from Locomotive Street
Source: FJMT + Sissons

In terms of vehicular traffic, detailed analysis of potential impacts of the proposal has been undertaken by GTA Consultants in preparation of this SSDA. It was concluded that under post development traffic conditions, the additional traffic generation associated with the proposed would generally have minimal impact upon the surrounding intersections with negligible changes to delay and level of service. Further, the development would not create any material adverse impacts to the surrounding intersections or any traffic capacity impacts. Importantly, this analysis included the additional 4.8% excess GFA pursuant to this SEPP 1. It can therefore be confirmed that the additional GFA sought does not have any material impact on vehicular traffic and congestion within the surrounding locality.

With regards to pedestrian traffic, the ATP site is considered to already exhibit excellent pedestrian capacity and facilities with on-site dedicated pedestrian and cyclist pathways and facilities. Notwithstanding, the subject SSDA proposes significant upgrades and embellishments to the surrounding public domain zones within ATP to accommodate the general proposal and the associated increase of workers and visitors to be located within ATP in the future. The 4.8% excess of GFA and the commensurate increase of workers and visitors to the precinct would be imperceptible within ATP and surrounding pedestrian networks, especially when considering the enhancements proposed to public facilities.

Furthermore, ARUP have undertaken a precinct wide pedestrian analysis for ATP (refer to **Appendix Z**). In summary, Arup conclude that as a result of the proposed development (including the proposed minor GFA variation):

- The key desire line into the site (from Redfern Station) will operate at a Level of Service (LOS) B during the AM peak;
- The pedestrian links (excluding Locomotive Street) during the AM peak operate at a Level of Service (LOS) of A/B; and
- The footpath along Locomotive Street operates at a Level of Service (LOS) B during the AM peak.

Overall Arup conclude that site circulation and accessibility is satisfactory.

(c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure

As evidenced within the submitted Environmental Impact Statement (EIS) and supporting documentation for the SSDA, surrounding infrastructure such as water, sewer, gas, electricity and telecommunications have been assessed by AT&L Consultants for impacts in relation to the proposal and recommendations provided with respect to their availability and capacity. Importantly, AT&L has taken into consideration the demand generated from the excess GFA proposed within the overall development scheme. It is concluded that subject to specific relocation and augmentation activities within the site, infrastructure is capable of suitably servicing the proposal, notwithstanding the additional minor cumulative increase in floorspace proposed.

In addition, the ATP site is strategically located in close proximity to Redfern railway station. The NSW State Government have confirmed that the proceeds of the sale of the ATP site from UGDC to Mirvac will be reinvested in the local area – with Redfern Station identified as a funding priority.

It is further noted that the proposed CBD and South-West portion of the Metro line which connects Central to Sydenham via Waterloo (recently selected) will free up capacity in the existing rail corridors past Redfern and will cater for future growth within Eveleigh and ATP, ultimately supporting the proposal and its future workforce. ATP's location in the proposed metro corridor is provided below at **Figure 5**. With two train stations to be within easy walking distance of the subject site (refer to **Figure 6**), it is clearly evident that the proposed additional GFA/density on the site is easily able to be accommodated and is expected.

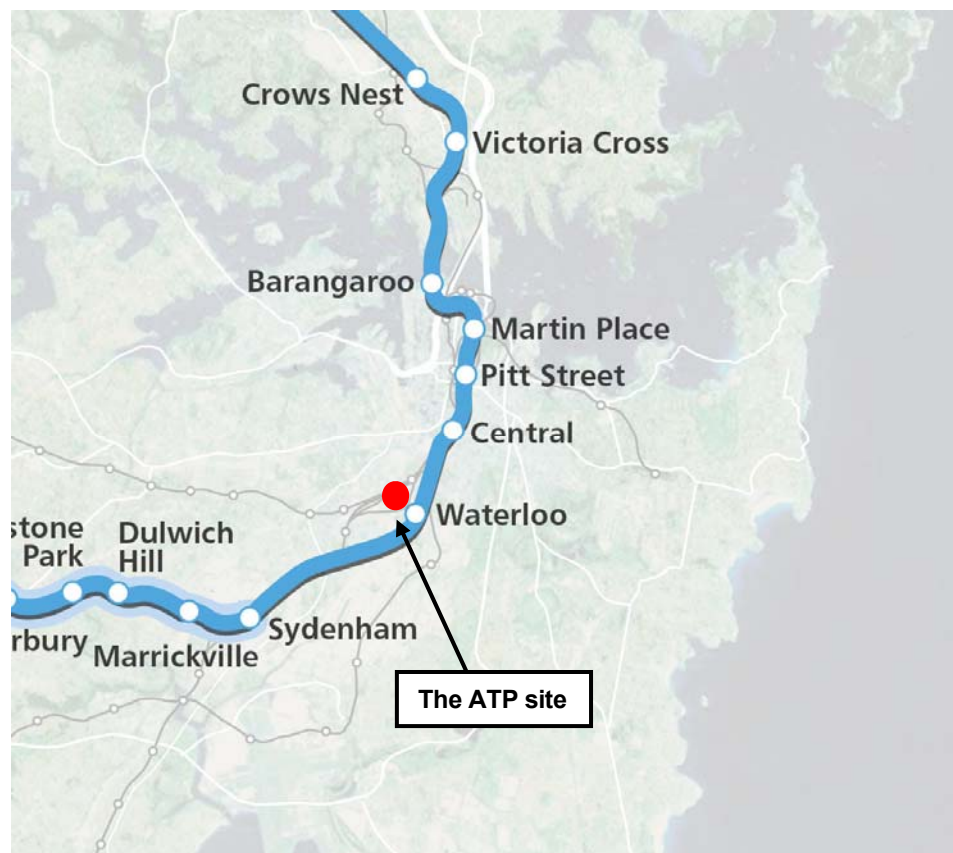


Figure 5 – Proposed Chatswood to Bankstown metro corridor
Source: Sydney Metro, Transport for NSW

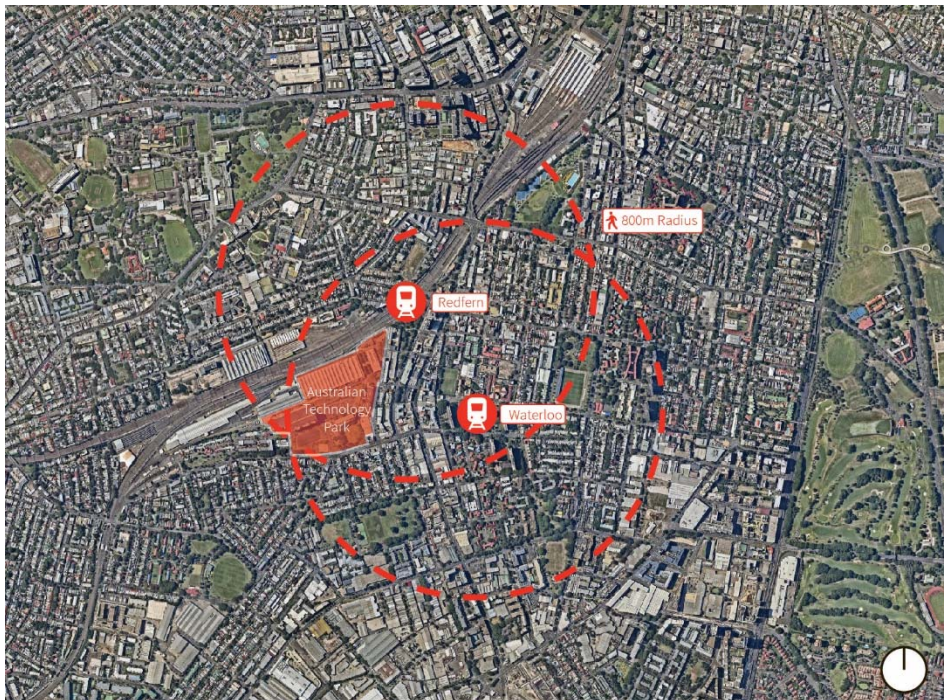


Figure 6 – ATP's highly accessible location
Source: JBA

- (d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality

The proposal has been specifically designed to minimise any adverse impacts on the surrounding locality as far as practical. The primary method used by the design team in achieving this objective has been to incorporate consolidated floorspace for the purposes of CBA's innovation campus.

The vast majority of the GFA increase can be attributed to the proposed Building 2. This additional floorspace has been strategically located within this building, as it is located within the centre of ATP, as shown in **Figure 7**. This will effectively minimise external impacts on surrounding land uses (in particular residential areas), when compared to a fully compliant scheme, which includes greater floorspace within the southern sections of the site, surrounding Davy Road.



Figure 7 – Building 2, located within the centre of ATP
Source: FJMT + Sissons Architects

Importantly, the proposal is on balance generally consistent with the maximum height controls for the site under the MD SEPP, which will ensure acceptable external overshadowing and view impacts, as evidenced within the submitted EIS (refer to **Appendix B** more specifically). **Figure 8** below provides a 3D model comparison of a key public domain vantage point, illustrating that the proposed buildings have been scaled to fit the development sites appropriately with no undue overbearing impacts on the surrounding properties or on the public domain.

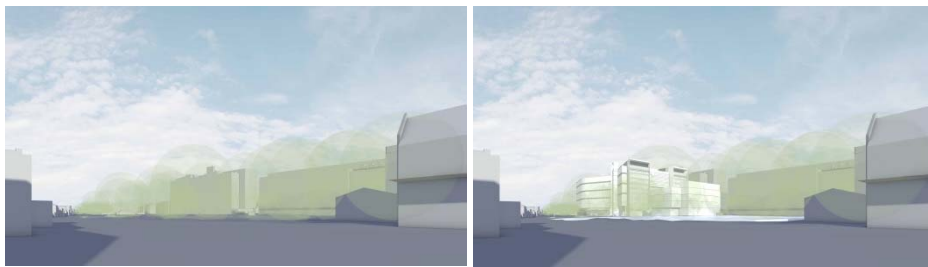


Figure 8 – Existing (left image) and proposed (right image) view looking north-west into ATP from Henderson Road

Source: FJMT + SISSONS Architects

In addition, this central location is also the most proximate location to take full advantage of the site's connectivity to Redfern railway station and is also positioned to benefit from the proposed upgrades to the public domain and surrounding external areas.

Mirvac has committed in excess of \$25 million for upgrades to publicly accessible areas including the Vice Chancellor's Oval, internal streets, public walkways and cycleways and in upgrades to the recreational areas of the Innovation Plaza. This will greatly enhance ATP and will reposition the site as a diverse and high-quality destination for a variety of uses including, work, recreation and lifestyle/shopping.

As indicated within **Table 1**, Buildings 1 and 2 are the largest in terms of floor area and have been designed to this purpose to accommodate the needs of CBA. The one remaining building, designated as the Community Building, has been dedicated to supporting uses such as retail, gym, childcare and community/office floorspace. As such this building has been reduced in bulk and scale when compared to the permissible bulk and height (4 storeys proposed versus 10 storeys permissible).

The proposal results in a balanced urban form, which offers a lower scale interface with the Vice Chancellor's Oval and other buildings surrounding this space, including the heritage listed Alexandria Hotel. This will result in a more intimate recreational and relaxation space for the wider community, than which would be achieved if strict compliance with the MD SEPP was taken (in terms of building height).

A model of the built form to surrounding the Vice Chancellor's Oval, both existing and proposed, is provided at **Figure 9**, with the lower scale buildings evident within the right hand side of the photo.



Figure 9 – Building 1 (foreground in white) and Building 2 (background in white)

Source: FJMT + SISSONS Architects

Despite the excess of building GFA on the two CBA buildings, the proposal will result in a positive interface with the public open space and surrounding residential areas and will present as an attractive and inviting gateway to ATP. The proposal is considered overall to contribute to improved levels of amenity and will generally improve the interface of ATP with the surrounding community.

2.2 Underlying purpose would be defeated if compliance is required

The key underlying purpose of the GFA development standard is considered to focus around recognising ATP as an important innovation and technology employment hub and fostering major employment generating development across the site.

Strict compliance with the development control would result in a built form which does not specifically suit the floorspace requirements of anchor tenant CBA, would likely result in a larger built form immediately adjacent to the Vice Chancellor's Oval, and would immensely reduce the level of amenities (retail, gym, childcare, supermarket) and public benefit across the site (which the site is lacking).

The proposal seeks larger built form concentrated towards the centre of the ATP site, which in turn reduces the impacts of the proposal on surrounding properties and the immediate locality. The proposal represents the optimal built form for the site which is a result of an extensive detailed design process.

Overall, given that one of the overarching aims of the Major Development SEPP is to facilitate the redevelopment of sites of economic significance to the state so as to facilitate their orderly use/development for the benefit of the State, the strict enforcement of the GFA development standards would defeat the overarching purpose of this planning control.

3.0 Consistency with the Policy's Aim

SEPP 1 requires that the consent authority must be of the opinion that granting consent to the development application would be consistent with the Policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979*.

Section 2.0 demonstrates that strict compliance with the maximum GFA development standards is both unreasonable and unnecessary in the circumstances of the case.

In addition to this, strict compliance with the maximum building density development standard will hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act, as detailed below.

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

The strict compliance with the building density standard will not offer the optimal built form arrangement within the site, which has been derived from extensive site testing and detailed design.

To this end, the variations proposed will ensure a site redevelopment which ensures the appropriate use of urban land for purposes which provide significant economic and social benefits for the local community and Sydney more broadly. Further, the proposed variations allow for an improved environmental outcome in terms of interface and relationship with the public domain and recreational facilities.

(ii) the promotion and co-ordination of the orderly and economic use and development of land,

The strict enforcement of the GFA standard will hinder the orderly and efficient development of ATP and the achievement of project objectives specifically developed for the proposal. These project objectives include:

- Deliver world-class working, learning, training and collaboration space for the anchor tenant of CBA;
- Support the NSW Government's long term vision and commitment to deliver on the site's technology employment focus;
- Increase the portfolio of businesses and land uses within ATP and reposition the precinct as one of Australia's leading diversified technology and knowledge parks;
- Demonstrate excellence in design and environmental sustainability;
- Enhance connectivity around and through the Precinct and optimise the quality of the public domain;
- Facilitate high levels of public transport usage for workers and visitors of the precinct;
- Maximise the direct and indirect economic benefits to NSW from the project;
- Deliver a rejuvenated ATP precinct that preserves and embraces the site's rich heritage;
- Create a more vibrant and activated precinct that provides a range of day to day services and offerings for employees, visitors and the local community; and
- Explore opportunities to partner with University of Sydney to deliver new creative and digital industries that promote a positive economic impact for the City.

Primarily, the proposal will enhance the mix of uses within the site through the addition of collaborative and technology based workplaces, retail, gym, supermarket and food & drink premises which will be specifically allocated to suit the needs of CBA and the broader ATP site to cater for both workers and surrounding residents alike and dedicated community floorspace to suit a variety of uses.

The enforcement of the current building GFA standard would hinder the achievement of these project objectives and significantly reduce the ability of new development on the site to contribute positively to the social and economic values of ATP and the broader community.

4.0 Other Matters for Consideration

Item 3 of the LEC SEPP 1 Matters for Consideration states that it is also important to consider:

- a) whether non-compliance with the development standard raises any matter of significance for State or regional planning; and
- b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

The matters are addressed in detail below.

4.1 Matters of State or Regional Planning Significance

The urban renewal of this site as part of the ATP precinct has been identified as a matter of state significance under the Major Development SEPP, the State and Regional Development SEPP, and a Plan for Growing Sydney.

A Plan for Growing Sydney is a strategic document that sets out the NSW Government's vision for the development of the Sydney Metropolitan area for the next 20 years. The Plan anticipates that the population of Sydney will increase by 1.6 million people over the next 20 years and sets out housing targets for the Sydney region at 664,000 additional dwellings. The NSW Government has also set a target of delivering 689,000 jobs by 2031.

The proposal directly supports a number of key goals, directions, actions and priorities established under the Plan which collectively aim to achieve the Government's vision for Sydney (as a strong global city and a great place to live). One of the key goals the proposed development supports is Goal 1: A competitive economy with world class services and transport. The proposed development in this regard creates new opportunities to grow Sydney CBD office space by expanding the CBD's footprint along the Central to Eveleigh Corridor (refer to **Figure 10**). Furthermore, the proposal will deliver more than 10,000 technology focussed jobs.

Strict compliance with the development standard would significantly impede the redevelopment of the site for this purpose, thereby hindering the urban renewal of the ATP precinct generally. Strict adherence to the development standard would therefore undermine the attainment of the underlying, state-significant objective of the Redfern-Waterloo urban renewal process and would undermine Sydney's global position and aspirations to be at the forefront of innovation and technology.

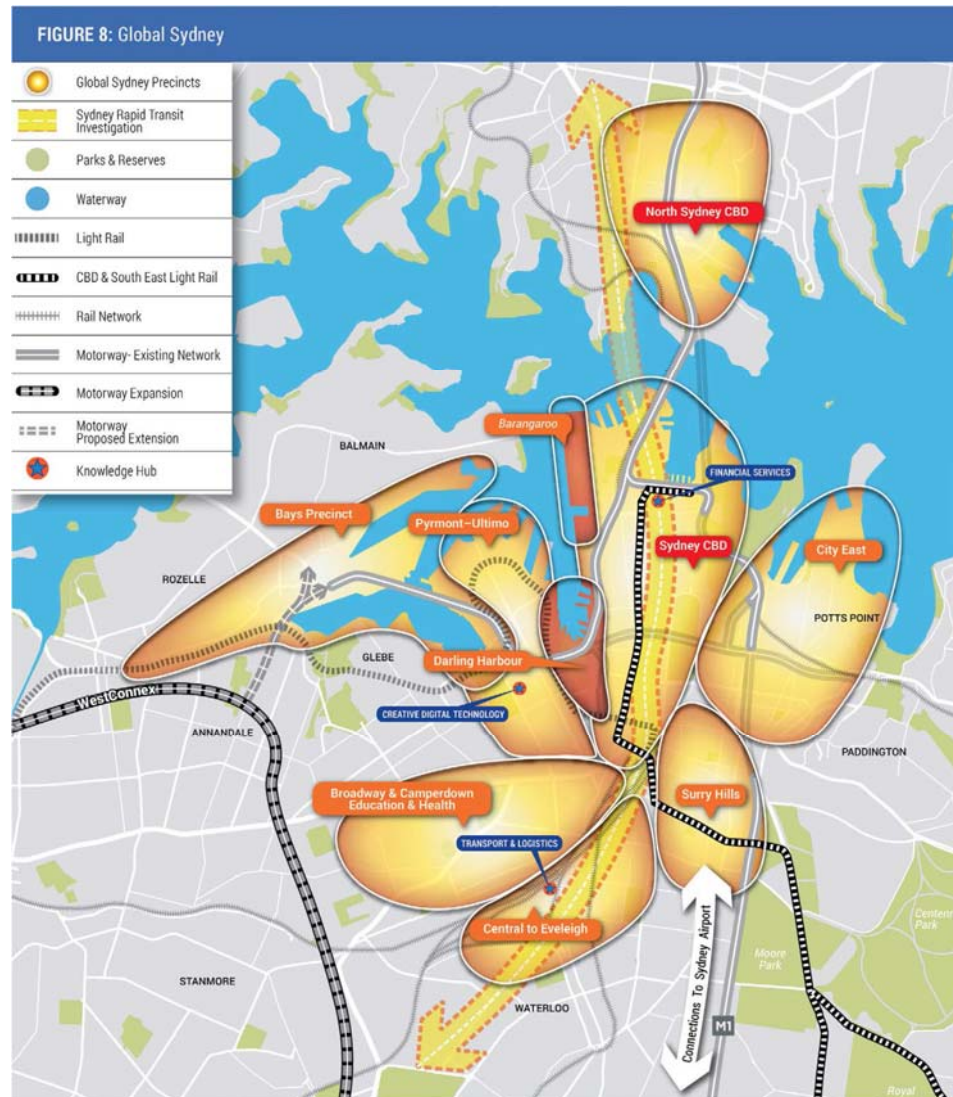


Figure 10 – Global Sydney and ATP's contribution
Source: Department of Planning

4.2 Public Benefit

As discussed in Section 2.0 above, the proposed development will achieve the objectives of the gross floor area standard notwithstanding the non-compliance, and as such there is no benefit to the public achieved by strict adherence to this control.

Further, strict adherence maximum GFA figures for each lot would significantly impede the redevelopment of the site, for its optimal use and configuration. As identified above, the NSW State Government has sold the ATP site (via UGDC) on the premise that it will be redeveloped as CBA's premier innovation campus. This is considered essential for CBA's growth planning and will in turn have significant flow-on effects for Sydney's economy.

Notwithstanding the proposed excess GFA, the proposal will improve the general built form of the ATP precinct, will embellish and upgrade the majority of public domain areas within ATP and will improve access and utilisation of public transport within the locality.

The proposed development will result in substantial material public benefits that cannot be delivered if strict adherence to the development standard is required, including:

- A low scale building with a community focus and purpose including retail uses, a gym, a child care centre, small office uses and community office floorspace;
- A small scale supermarket and other assorted retail tenancies;
- An enhanced publicly accessible street and open space network within the ATP site; and
- A significant increase in local job opportunities that is highly accessible and in close proximity to existing and proposed housing.

Given that the proposed development is consistent with the objectives of the development standard and would not result in any unacceptable environmental impacts, there would be no public benefit of maintaining the relevant development standard in this instance.

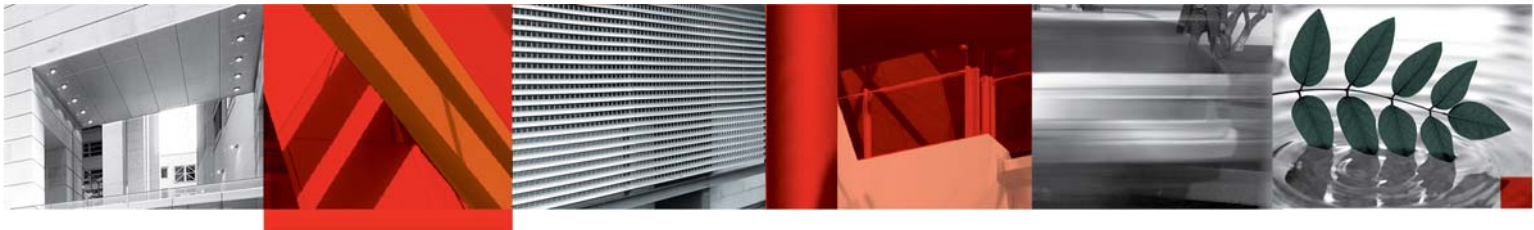
5.0 Conclusion

This SEPP 1 Objection demonstrates the Minister for Planning (or his delegate) can be satisfied that the proposed variation to the development standard is justified and satisfies the tests established by the LEC for SEPP 1 Objections, in that:

- The SEPP 1 objection is 'well founded' because the adopted objectives of the development standard will be achieved notwithstanding the non-compliance;
- The strict application of the standard would be both unreasonable and unnecessary in the circumstances of the case;
- The strict application of the standard would hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act;
- The non-compliance with the development standard does not raise any matters of State and regional planning significance and will assist with the attainment of policies; and
- There is no public benefit in fully maintaining the maximum gross floor area standard adopted by the environmental planning instrument for particular allotments within the site.

It is open to the Minister for Planning (or his delegate) as the consent authority to conclude that granting consent to the development application is appropriate and in doing so will allow flexibility in the application of the GFA development standard adopted by the Major Development SEPP for the site.

Request for Variation to Development Standard (Height) State Environmental Planning Policy No.1



Australian Technology Park, Eveleigh

Submitted to NSW Department of Planning & Environment
On Behalf of Mirvac Projects Pty Ltd

December 2015 ■ 15756

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JBA operates under a Quality Management System that has been certified as complying with ISO 9001:2008. This report has been prepared and reviewed in accordance with that system. If the report is not signed below, it is a preliminary draft.

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18/12/2015

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1.0 Introduction

This objection under *State Environmental Planning Policy No.1 - Development Standards* (SEPP 1) has been prepared by JBA on behalf of Mirvac Projects Pty Ltd.

It is submitted to the NSW Department of Planning & Environment in support of a State Significant Development Application (SSD DA) for the redevelopment of three development sites and associated significant public domain works within the Australian Technology Park, Eveleigh.

This SEPP 1 Objection should be read in conjunction with the Environmental Impact Statement dated December 2015. It relates to the maximum Building Height development standard (Clause 21(1), Division 3, Part 5, Schedule 3) that applies to the subject land under *State Environmental Planning Policy (Major Development) 2005*.

1.1 SEPP 1 Framework

The objective of SEPP 1 is to allow flexibility in the application of numeric development standards. It enables a consent authority to vary a development standard within an environmental planning instrument (EPI) where strict compliance with that standard is shown to be unreasonable or unnecessary, or would hinder the attainment of the objectives specified in Section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act).

The objectives of Section 5(a) are to encourage:

- (i) *the proper management, development and conservation of natural and man-made resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
- (ii) *the promotion and co-ordination of the orderly and economic use of and development of land;*

Clause 6 of SEPP 1 provides that a person may make a written objection demonstrating that compliance with a development standard is unreasonable or unnecessary in relation to the proposed development.

Clause 8 of the Policy sets out matters to be considered by the Department of Planning or consent authority under delegation in assessing SEPP 1 objections where it states:

the matters that shall be taken into consideration in deciding whether concurrence should be granted are:

- (a) *whether non-compliance with the development standard raises any matter of significance for State or regional environmental planning; and*
- (b) *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

The NSW Land and Environment Court (LEC) established five questions to be addressed in SEPP 1 objections through the judgment of Justice Lloyd, in *Winten Property Group Ltd v North Sydney Council* [2001] 130 LGERA 79 at 89. The test was later rephrased by Chief Justice Preston, in the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827. The test is now as follows:

1. *The applicant must satisfy the consent authority that “the objection is well founded” and compliance with the development standard is unreasonable and unnecessary in the circumstances of the case;*
2. *The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy’s aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979; and*
3. It is also important to consider:
 - a) *whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
 - b) *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

Accordingly, the following SEPP 1 Objection is set out using the current LEC considerations for SEPP 1.

1.2 Is the Planning Control in Question a Development Standard?

The Environmental Planning Instrument to which this objection relates is State Environmental Planning Policy (Major Development) 2005 (the MD SEPP). The maximum height of buildings development standards applicable to the site are found in clause 21(1) of Division 3 in Schedule 3, and is as follows:

- (1) *The height of a building on any land that is the subject of the Height of Buildings Map is not to exceed the maximum height shown for the land on that map.*

On the Height of Buildings Map, it identifies that the maximum building height is in ‘storeys’. A ‘storey’ is defined under the Major Development SEPP as follows:

storey means a space within a building that is situated between one floor level and the floor level next above or, if there is no floor level above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic, or
- (d) a basement, or
- (e) any space within a building with a floor level that is predominantly below a basement.

The height of buildings map establishes a maximum number of storeys across each of the three key development sites. An extract from the height of buildings map is included in **Figure 1** below.

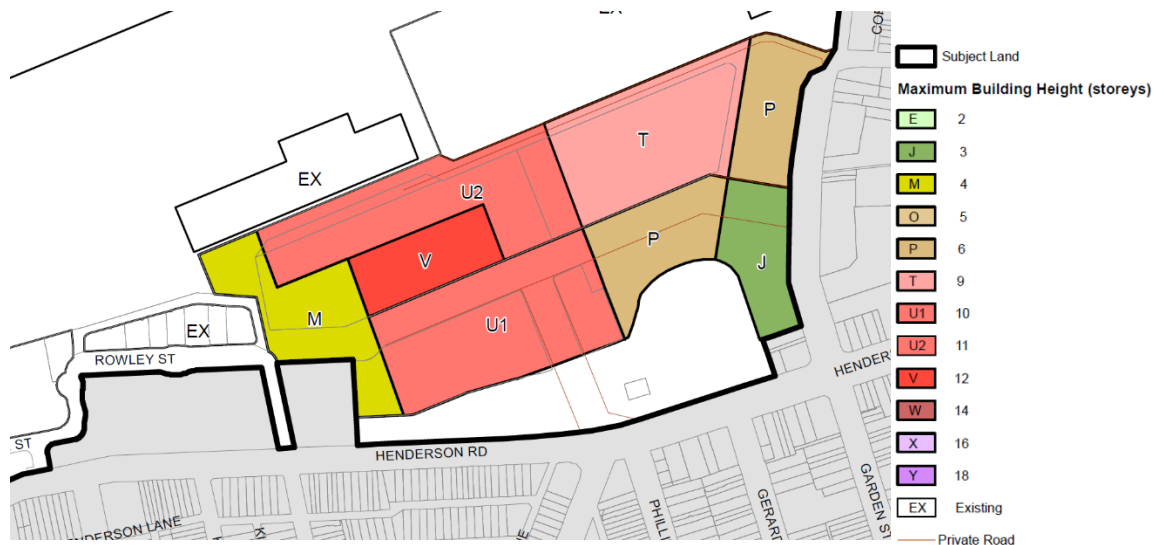


Figure 1 – Extract from MD SEPP Height of Buildings Map
Source: NSW Legislation website

The proposed development includes seeking approval for the development of three buildings, one of which (Building 1) will (in part) exceed the maximum building height under the MD SEPP. Refer to **Figure 2** and **Table 1** for further details of the proposed height distribution across the site and the extent of building height variation proposed.



Figure 2 – Illustration of height distribution across ATP (with proposed variation circled in red)
Source: fjmt

Table 1 – Height distribution and analysis

Site	MD SEPP Maximum Height (storeys)	Proposed Height (storeys)	Difference
Building 1	10	9	-1 storey
	4	Part 0 / Part 9	Part - 4 storeys / + 5 storeys
Building 2	11	7	- 4 storeys
	9	7	- 2 storeys
Community Building	10	4	- 6 storeys
Total	44	36	-12 storeys

“Development Standards” has the following definition under Section 4(1) of the Environmental Planning and Assessment Act (EP&A Act):

“development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

.....

- c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,**

.....

(our emphasis)

As this SEPP 1 objection relates to a departure from the numerical standard for building height, it is considered that clause 21(1) of Division 3, Part 5 in Schedule 3 of the MD SEPP is a development standard and not a ‘prohibition’ in respect of development.

1.3 What is the Underlying Object or Purpose of the Standard?

No objectives are given for the maximum building height development standard as detailed in the MD SEPP.

Notwithstanding this, it is possible to understand the implicit objectives of the standard through an understanding of the history of the strategic planning that has informed the State Significant Site listing and built form controls for the Redfern Waterloo Sites.

The statutory controls contained within the MD SEPP for ATP were based on the Redfern-Waterloo Built Environment Plan (Stage 1) 2006. The BEP was informed through an urban design analysis and developed with stakeholder and community input. BEP 1 was released on August 2006 and is a planning framework for a number of larger sites and blocks within the Redfern and Waterloo Areas.

Key rationale for the development of building height controls derived from BEP 1 for the ATP site are as follows:

“The Australian Technology Park and South Eveleigh sites are important employment hubs. Proposed development will reflect the character of the railway yards, lot sizes and configuration. The ATP is physically separated from lower rise residential development by major roads. Where this does not occur, appropriate heights in the ATP and South Eveleigh adjoining the existing residential area have been considered. The proposed increase of floor space ratio and heights offers the opportunity to anchor these sites as major employment generating centres for the local and metropolitan workforce.”

The ATP site (and broader Redfern to Waterloo area) sits within an area that is surrounded by land where *Sydney Local Environment Plan (LEP) 2012* applies and is the principal planning instrument. In the absence of any specific objectives relating to the building height development standard under the MD SEPP, it is considered reasonable to apply the objectives of the height of buildings development standard under Sydney LEP 2012.

Therefore, the objectives of the height of buildings clause 4.3 under Sydney LEP 2012 are as follows:

The objectives of this clause are as follows:

- (a) to ensure the height of development is appropriate to the condition of the site and its context,*
- (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,*
- (c) to promote the sharing of views,*
- (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,*
- (e) in respect of Green Square:*
 - (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and*
 - (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.*

Of the above objectives, only (a), (b), and (c) are relevant.

2.0 The Objection is "Well Founded"?

An applicant must satisfy the consent authority that “the objection is well founded” as compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston expressed the view that there are five different ways or methods in which an objection to a development standard might be shown as unreasonable or unnecessary and is therefore well founded. The five ways or methods include:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Of particular relevance in this instance is the first method identified by his honour, although the 3rd method is also of relevance. The following section demonstrates that the proposed development will ‘achieve the objectives of the standard notwithstanding the non-compliance with the standard’ and that the underlying objective of the standard will not be achieved if strict compliance with the standard is required.

2.1 The objectives of the standard are achieved notwithstanding noncompliance with the standard.

- (a) to ensure the height of development is appropriate to the condition of the site and its context.

As illustrated within **Figure 2** and **Table 1**, Building 1, whilst resulting in a variation to the building height control, is not proposed to be developed across the entire site. In this regard, the building is well setback (over 13m) from the side western boundary. What this means is that where there could be potentially a 4 storey building located directly adjoining the existing childcare centre and nearer to residential dwellings along Henderson Road, there is no built form at all. **Figure 3** below illustrates the improved outcome able to be delivered by the proposed development in comparison to a ‘compliant’ development proposal.

Further, whether Building 1 is fully compliant or not with the building height control along its western end, the building will present as a large form in comparison with the single storey childcare centre.

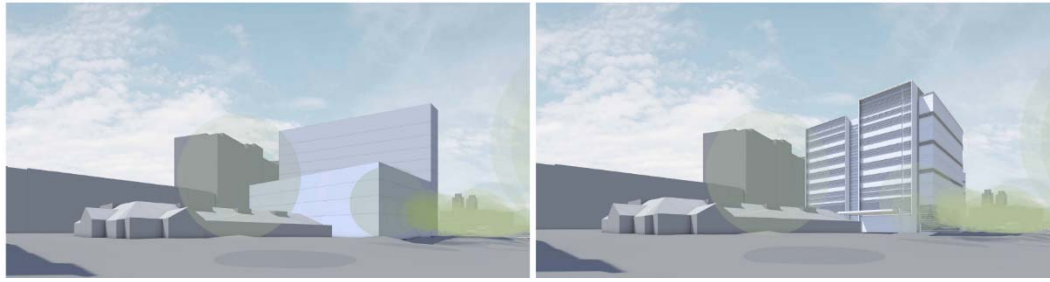


Figure 3 – View comparison from Henderson Road of compliant (left image) versus proposed development (right image)

Source: fjmt

The 4 storey height control is intended to enable a transition in building heights where the ATP site adjoins more sensitive and lower scale forms of development.

Whilst a transitioned building height is a positive design response, it is not optimal in terms of meeting the CBA brief requirements and supporting a modern and collaborative working environment. Further, there is considered to be an improved outcome in terms of visual and privacy and overshadowing impacts with the design of Building 1 finishing in a height of 9 storeys (5 storeys above the building height control) at its western end – well setback from the side boundary. This is in comparison to a building design that was fully developed to and complied with the maximum building heights.

The building 1 site like the other development sites across ATP present as ideal redevelopment sites, being flat, cleared/vacant, and without any significant constraints. The site's condition therefore strongly supports the proposed building design response.

Further, the site's context is characterised by its highly accessible location adjacent to Redfern Station and within easy walking distance of the new Waterloo Metro Station (refer to **Figure 4** and **Figure 5**), its location within the transformative Central to Eveleigh project (refer to **Figure 6**), its heritage attributes, its significant employment generating potential, and its relative isolation/separation from lower scale/sensitive land uses.

Understanding these conditions and context, it is clear that the proposed variation to the building height control in this isolated area of the site is appropriate, especially when considering that the other two buildings are substantially lower than the maximum heights applicable (refer to **Figure 7**).

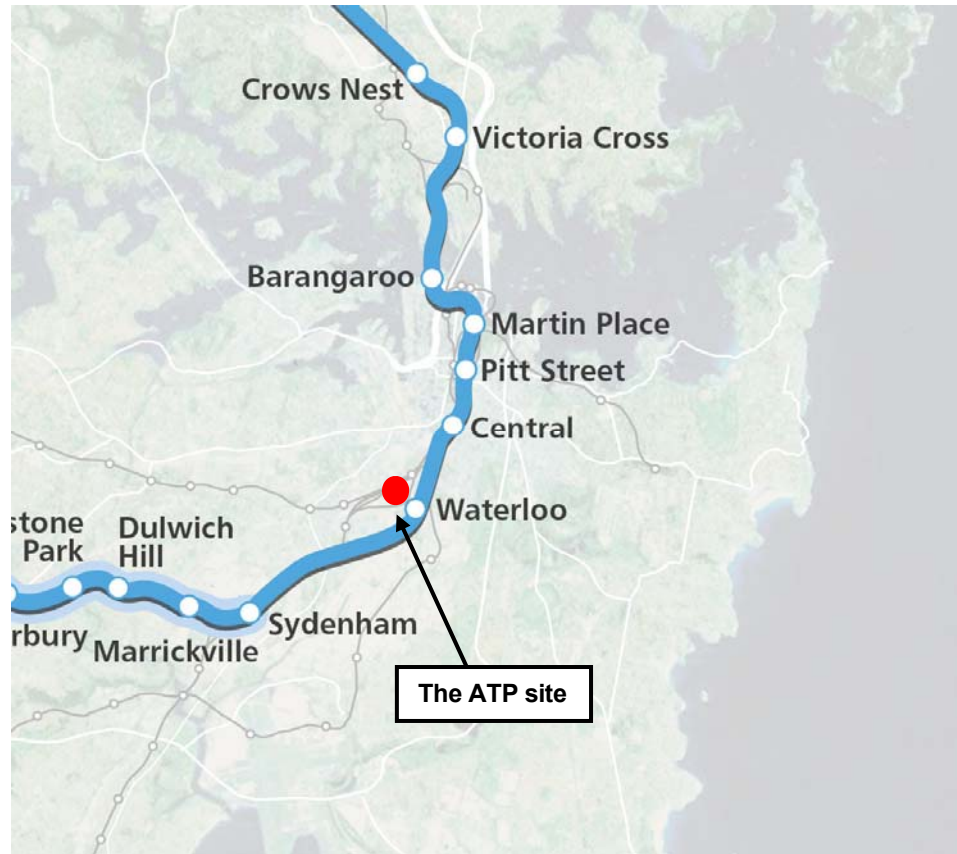


Figure 4 – Proposed Chatswood to Bankstown metro corridor
Source: Sydney Metro, Transport for NSW



Figure 5 – ATP's highly accessible location
Source: JBA

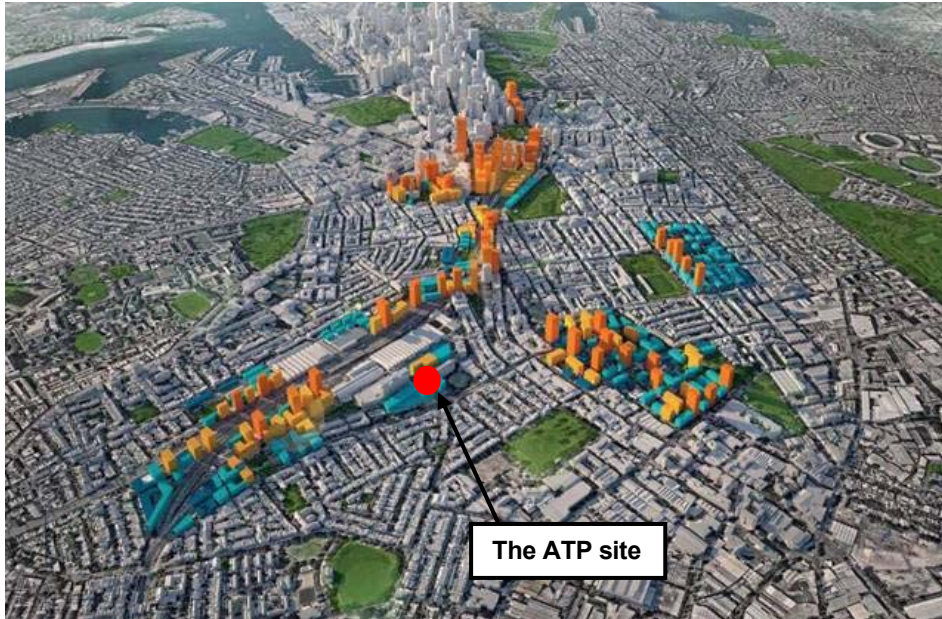


Figure 6 – Proposed Central to Eveleigh Corridor Transformation Project
Source: UrbanGrowth NSW

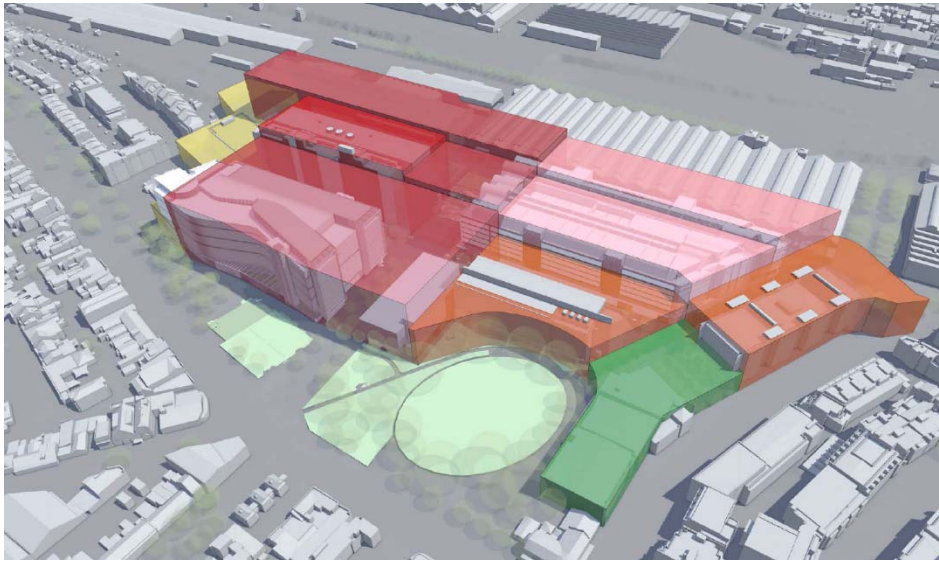


Figure 7 – ATP height comparison
Source: fjmt

Building 1 (as illustrated in **Figure 8**) sits comfortably in terms of height within the context of the adjacent much larger Media City building to the north and by virtue of the substantial space afforded between it and the nearest residential dwellings to the south fronting Henderson Road. The substantial streetscape planting and the open space provided along the southern edge of ATP (refer to **Figure 9**) will also greatly assist with ensuring a comfortable relationship between Building 1 and adjacent dwellings to the south.



Figure 8 – Building 1 (foreground in white) and context
Source: FJMT + Sissons Architects



Figure 9 – Henderson Road streetscape
Source: Nearmap

The balancing of urban form across the site also offers a lower scale interface with the Vice Chancellor's Oval and other buildings surrounding this space, including the heritage listed Alexandria Hotel. This will result in a more intimate recreational and relaxation space for the wider community and one with a greater level of sunlight, than which would be achieved if strict compliance with the MD SEPP was taken (in terms of building height).

Overshadowing

Detailed shadow analysis has been undertaken by fjmt in order to understand the impacts associated with the proposed height variation on those adjacent dwellings to the south along Henderson Road (included within **Appendix B** of the EIS). An extract from this study is reproduced at **Figures 10 and 11**. The figures provide plan and elevational shadow diagrams (at midday at mid-winter) in relation to Building 1, with:

- light blue - representing the maximum shadows cast from a complaint building envelope;
- deep purple – representing the shadows cast from the complaint built form of Building 1; and
- light red – representing the additional shadows cast from the proposed height variation.



Figure 10 – Detailed plan view shadow analysis
Source: fjmt

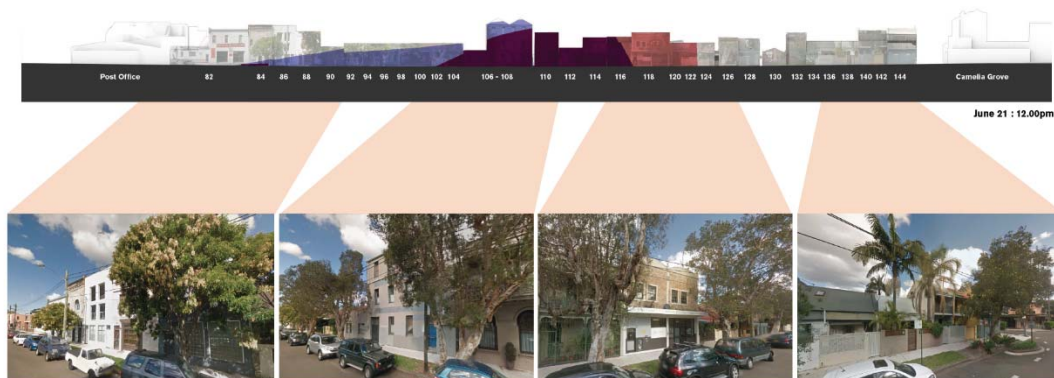


Figure 11 – Detailed elevational view shadow analysis
Source: fjmt

The extensive study undertaken by ffmt analyses both overshadowing to private open space and northern principal windows. The key outcomes from this analysis are:

- The principal private open space areas of affected dwellings along Henderson Road are to the south fronting Henderson Lane. These open space areas are typically overshadowed by the existing dwellings in mid-winter. Accordingly, the height variation results in a negligible impact on adjacent private open space areas of affected dwellings along Henderson Road;
- That the height variation does result in additional overshadowing to northern principal windows of dwellings along Henderson Road. However, a fully compliant building height also results in additional overshadowing to northern principal windows. Further, the proposed design of Building 1, which incorporates a large sweep/setback along its main southern elevation, actually results in less overshadowing impacts than would occur if the development was built fully in accordance with the built form controls. Therefore, on balance whilst there is some additional overshadowing, there is also some improvements upon a 'compliant' building envelope; and
- There is additional overshadowing caused by the height variation on the public realm/street, but there is also a reduction in shadows resulting from the large setback of the building off the western boundary and in not building within the majority of the 4 storey height zone.

The above outcomes also need to be considered in the context that the Henderson Road streetscape is heavily vegetated, and therefore 'on the ground' these overshadowing impacts (in particular to northern principal windows) may be reduced from what is illustrated.

- (f) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,

Whilst acknowledging the building height control supports the transition down of built form to the west, such a transition does not appear to be in response to heritage considerations. **Figure 12**, an extract from the Sydney LEP 2012, reveals that the nearest heritage/conservation area is to the south across Henderson Road and not to the west.



Figure 12 – Sydney LEP 2012 Heritage Map extract
Source: NSW Legislation website

The Heritage Impact Statement prepared in support of the SSDA also concludes for Building 1 that:

- The form, bulk and materials chosen for Building 1 have been developed using the industrial aesthetic of the Locomotive Workshop as the basis for key elements of the design.
- The design takes into account the fact that the views and vistas into the site from Henderson Road, and the surrounding vicinity, will be of the new development and that the materials, form and fabric of new building will create an aesthetic that is consistent with the industrial fabric of the site and respects the character of the heritage precinct– in terms of design, materials, textures and finishes.
- The proposed redevelopment responds positively, in terms of the orientation of the intended built form and circulation — the development conforms with the historical patterns of development on site – large east/west oriented blocks and meets with the heritage objectives of the masterplan.

(g) to promote the sharing of views.

The overall approach and distribution of floorspace and building height across the site is considered to promote the sharing of views. One of the key public domain views identified for the site (under BEP) is the north-south view from Henderson Road towards the Locomotive Workshop (refer to **Figure 13**). As evident from **Figure 14**, the proposed development not only supports this key public domain views but also results in an improved outcome given the approach to the distribution of built/ form/height across the site (i.e. given that Building 2 is 4 storeys lower in height than the maximum along its western end and the community building is 6 storeys lower in height than the maximum) – refer to **Figure 15**.



Figure 13 – ATP Height and View Corridors
Source: BEP 1



Figure 14 – View south from Locomotive Street looking towards Henderson Road

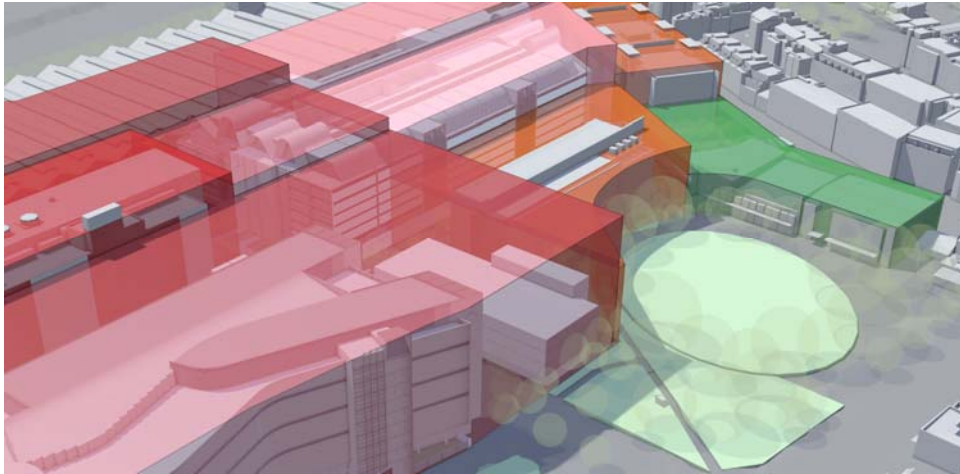


Figure 15 – Improved visual and built form outcome
Source: fjmt

Fjmt have undertaken a detailed key view impact study in relation to Building 1 to understand the potential impacts associated with the proposal and its height variation in comparison with a 'complaint' building envelope/form. Five (5) key locations were selected, and are illustrated within **Figure 16**. The results of this analysis are reproduced within the series of images within **Figure 17**. The key conclusions from this study are:

- The proposed development has been scaled to fit the development site appropriately with no undue overbearing impacts on the surrounding properties or on the public domain.
- There will be a reduction in sky views resulting from the height variation, however this is balanced with an improvement in sky views when considering the proposal incorporates a large sweep/setback along its main southern elevation.
- There is a large degree of separation between Building 1 and adjacent dwellings to the south, supporting the protection of outlook.



Figure 16 – Detailed key view vantage points
Source: fjmt

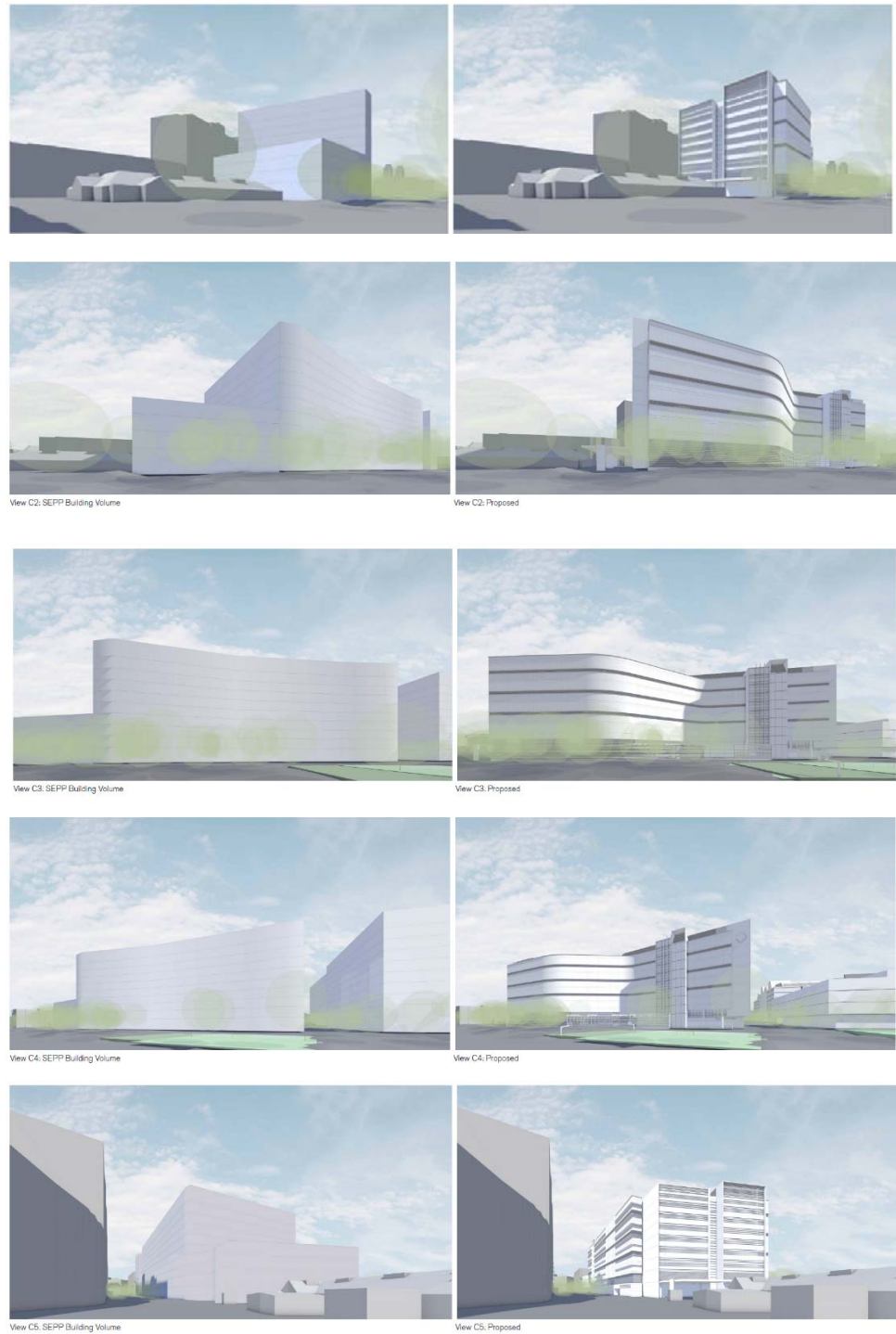


Figure 17 – Compliant (left image) and proposed (right image) key views

2.2 Underlying purpose would be defeated if compliance is required

The key underlying purpose of the building height standard is considered to focus around recognising ATP as an important innovation and technology employment hub, fostering major employment generating development across the site, and minimising impacts on surrounding lower scale development.

Strict compliance with the development control would result in a built form which does not specifically suit the layout requirements of anchor tenant CBA and would likely result in a larger built form immediately adjacent to an existing childcare centre. The larger format buildings are considered to be optimal for CBA's desire for a truly collaborative campus which will contribute to the high-technology values of ATP. A typical floorplate of Building 2 is provided at **Figure 18**.

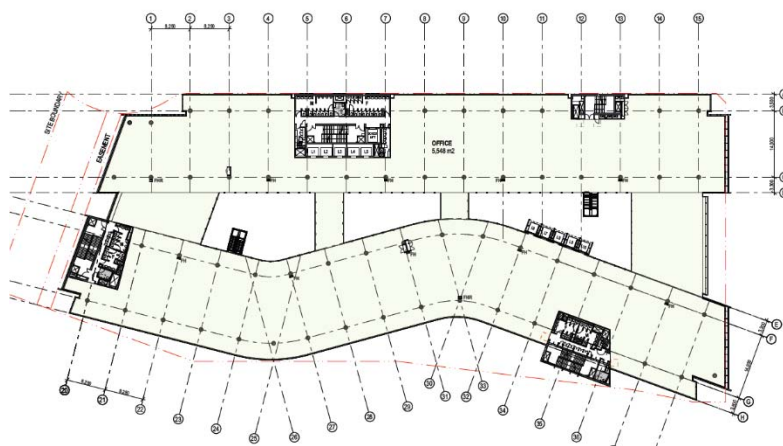


Figure 18 – Typical floorplate of Building 1, design for optimal collaboration of CBA workers
Source: FJMT + Sissons Architects

Mirvac's proposal is a direct outcome of Urban Growth Development Corporation (UGDC)'s endorsement of Mirvac's bid to secure ATP. This bid involves the creation of a large-scale campus to consolidate Commonwealth Bank of Australia's (CBA) innovation and technology based workforce from various sites within Western Sydney to a new and purpose built facility in Eveleigh. CBA's commitment to ATP and the Redfern-Waterloo precinct is unprecedented and is one of the largest ever single pre-commitment to occupy commercial floorspace within Australia's history.

CBA has worked closely with Mirvac and architectural partners FJMT and Sissons to prepare a specific design that meets the environmental needs of the site and surrounds together with balancing the occupancy requirements of CBA. The submitted design is a result of extensive site testing and modelling to arrive at the present design and the subject variation to the building height standard.

Notwithstanding the non-compliance with the building development standard, the resultant design has resulted in an exemplary built form outcome with strong environmental credentials, which is capable of offering CBA a purpose built innovation campus which is capable of being adapted to the changing needs of their workforce into the future.

Overall, given that one of the overarching aims of the Major Development SEPP is to facilitate the redevelopment of sites of economic significance to the state so as to facilitate their orderly use/development for the benefit of the State, the strict enforcement of the building height development standards would defeat the overarching purpose of this planning control.

3.0 Consistency with the Policy's Aim

SEPP 1 requires that the consent authority must be of the opinion that granting consent to the development application would be consistent with the Policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979*.

Section 2.0 demonstrates that strict compliance with the maximum building height development standards is both unreasonable and unnecessary in the circumstances of the case.

In addition to this, strict compliance with the maximum building density development standard will hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act, as detailed below.

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

The strict compliance with the building height standard will not offer the optimal built form arrangement within the site, which has been derived from extensive site testing and detailed design.

To this end, the variation proposed will ensure a site redevelopment which ensures the appropriate use of urban land for purposes which provide significant economic and social benefits for the local community and Sydney more broadly. Further, the proposed variation allows for an improved environmental outcome in terms of interface and relationship with the public domain and surrounding development.

(ii) the promotion and co-ordination of the orderly and economic use and development of land,

The strict enforcement of the building height standard will hinder the orderly and efficient development of ATP and the achievement of project objectives specifically developed for the proposal. These project objectives include:

- Deliver world-class working, learning, training and collaboration space for the anchor tenant of CBA;
- Support the NSW Government's long term vision and commitment to deliver on the site's technology employment focus;
- Increase the portfolio of businesses and land uses within ATP and reposition the precinct as one of Australia's leading diversified technology and knowledge parks;
- Demonstrate excellence in design and environmental sustainability;
- Enhance connectivity around and through the Precinct and optimise the quality of the public domain;
- Facilitate high levels of public transport usage for workers and visitors of the precinct;
- Maximise the direct and indirect economic benefits to NSW from the project;
- Deliver a rejuvenated ATP precinct that preserves and embraces the site's rich heritage;
- Create a more vibrant and activated precinct that provides a range of day to day services and offerings for employees, visitors and the local community; and
- Explore opportunities to partner with University of Sydney to deliver new creative and digital industries that promote a positive economic impact for the City.

Appointing an internationally and Australian renowned design team (fjmt + Sissons + Aspect) which is recognised for design innovation and excellence has also assured that despite an increase in building height, a high quality and pedestrian friendly built form and public domain outcome is still able to be achieved (refer to **Figure 19**).



Figure 19 – Photomontage of Building 1 as viewed from Henderson Road and Davy Road
Source: FJMT + Sissons

The enforcement of the current building height standard would hinder the achievement of these project objectives and significantly reduce the ability of new development on the site to contribute positively to the social and economic values of ATP and the broader community.

4.0 Other Matters for Consideration

It is also important to consider:

- a) whether non-compliance with the development standard raises any matter of significance for State or regional planning; and
- b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

The matters are addressed in detail below.

4.1 Matters of State or Regional Planning Significance

The urban renewal of this site as part of the ATP precinct has been identified as a matter of state significance under the Major Development SEPP, the State and Regional Development SEPP, and a Plan for Growing Sydney.

A Plan for Growing Sydney is a strategic document that sets out the NSW Government's vision for the development of the Sydney Metropolitan area for the next 20 years. The Plan anticipates that the population of Sydney will increase by 1.6 million people over the next 20 years and sets out housing targets for the Sydney region at 664,000 additional dwellings. The NSW Government has also set a target of delivering 689,000 jobs by 2031.

The proposal directly supports a number of key goals, directions, actions and priorities established under the Plan which collectively aim to achieve the Government's vision for Sydney (as a strong global city and a great place to live). One of the key goals the proposed development supports is Goal 1: A competitive economy with world class services and transport. The proposed development in this regard creates new opportunities to grow Sydney CBD office space by expanding the CBD's footprint along the Central to Eveleigh Corridor (refer to **Figure 20**). Furthermore, the proposal will deliver more than 10,000 technology focused jobs.

Strict compliance with the development standard would significantly impede the redevelopment of the site for this purpose, thereby hindering the urban renewal of the ATP precinct generally. Strict adherence to the development standard would therefore undermine the attainment of the underlying, state-significant objective of the Redfern-Waterloo urban renewal process and would undermine Sydney's global position and aspirations to be at the forefront of innovation and technology.

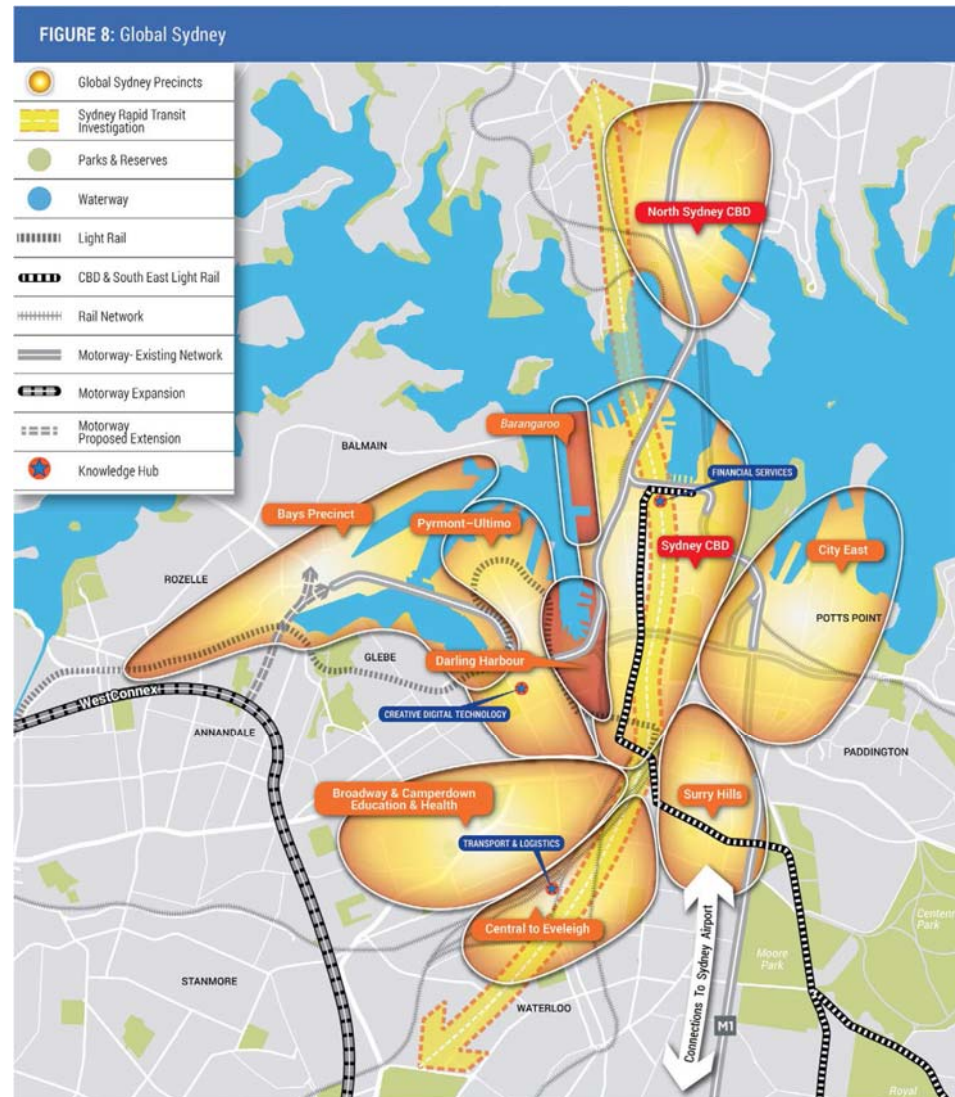


Figure 20 – Global Sydney and ATP's contribution
Source: Department of Planning

4.2 Public Benefit

As discussed in Section 2.0 above, the proposed development will achieve the objectives of the building height standard notwithstanding the non-compliance, and as such there is no benefit to the public achieved by strict adherence to this control.

Further, strict adherence to the maximum building height controls for each lot would significantly impede the redevelopment of the site, for its optimal use and configuration. As identified above, the NSW State Government has sold the ATP site (via UGDC) on the premise that it will be redeveloped as CBA's premier innovation campus. This is considered essential for CBA's growth planning and will in turn have significant flow-on effects for Sydney's economy.

Notwithstanding the proposed variation in building height, the proposal will improve the general built form of the ATP precinct, will embellish and upgrade the majority of public domain areas within ATP and will improve access and utilisation of public transport within the locality.

The proposed development will result in substantial material public benefits that cannot be delivered if strict adherence to the development standard is required, including:

- A low scale building with a community focus and purpose including retail uses, a gym, a child care centre, small office uses and dedicated community/office floorspace;
- A small scale supermarket and other assorted retail tenancies;
- An enhanced publicly accessible street and open space network within the ATP site; and
- A significant increase in local job opportunities that is highly accessible and in close proximity to existing and proposed housing.

Given that the proposed development is consistent with the objectives of the development standard and would not result in any unacceptable environmental impacts, there would be no public benefit of maintaining the relevant development standard in this instance.

5.0 Conclusion

This SEPP 1 Objection demonstrates the Minister for Planning (or his delegate) can be satisfied that the proposed variation to the development standard is justified and satisfies the tests established by the LEC for SEPP 1 Objections, in that:

- The SEPP 1 objection is 'well founded' because the adopted objectives of the development standard will be achieved notwithstanding the non-compliance;
- The strict application of the standard would be both unreasonable and unnecessary in the circumstances of the case;
- The strict application of the standard would hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act;
- The non-compliance with the development standard does not raise any matters of State and regional planning significance and will assist with the attainment of policies; and
- There is no public benefit in fully maintaining the maximum building height standard adopted by the environmental planning instrument for particular allotments within the site.

It is open to the Minister for Planning (or his delegate) as the consent authority to conclude that granting consent to the development application is appropriate and in doing so will allow flexibility in the application of the building height development standard adopted by the Major Development SEPP for the site.