



**Planning &
Environment**

***STATE SIGNIFICANT DEVELOPMENT:
Section 96(1A) Modification Application***

AUSTRALIAN TECHNOLOGY PARK, EVELEIGH

SSD 7317 MOD 2



Environmental Assessment Report
Section 96(1A) of the *Environmental Planning
and Assessment Act 1979*

August 2017

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1. BACKGROUND

1.1 Introduction

This report provides an assessment of a proposed modification to the State significant development (SSD) consent (SSD 7317) for the development of a commercial campus at the Australian Technology Park (ATP). The application has been lodged by Mirvac Projects Pty Ltd (Applicant) pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval for amendments to the required Voluntary Planning Agreement (Condition B4), car parking (Condition B8), amendments to an approved building identification signage zone on Building 1, and internal and external alterations to Building 2.

1.2 Subject site

The subject site is located in the City of Sydney local government area, in the suburb of Eveleigh (**Figure 1**). It is located approximately 2.5 kilometres (km) to the south west of the Sydney central business district (CBD), approximately 5 km to the north of Sydney Airport, within 200 metres (m) of Redfern railway station and 400 m from Redfern town centre.

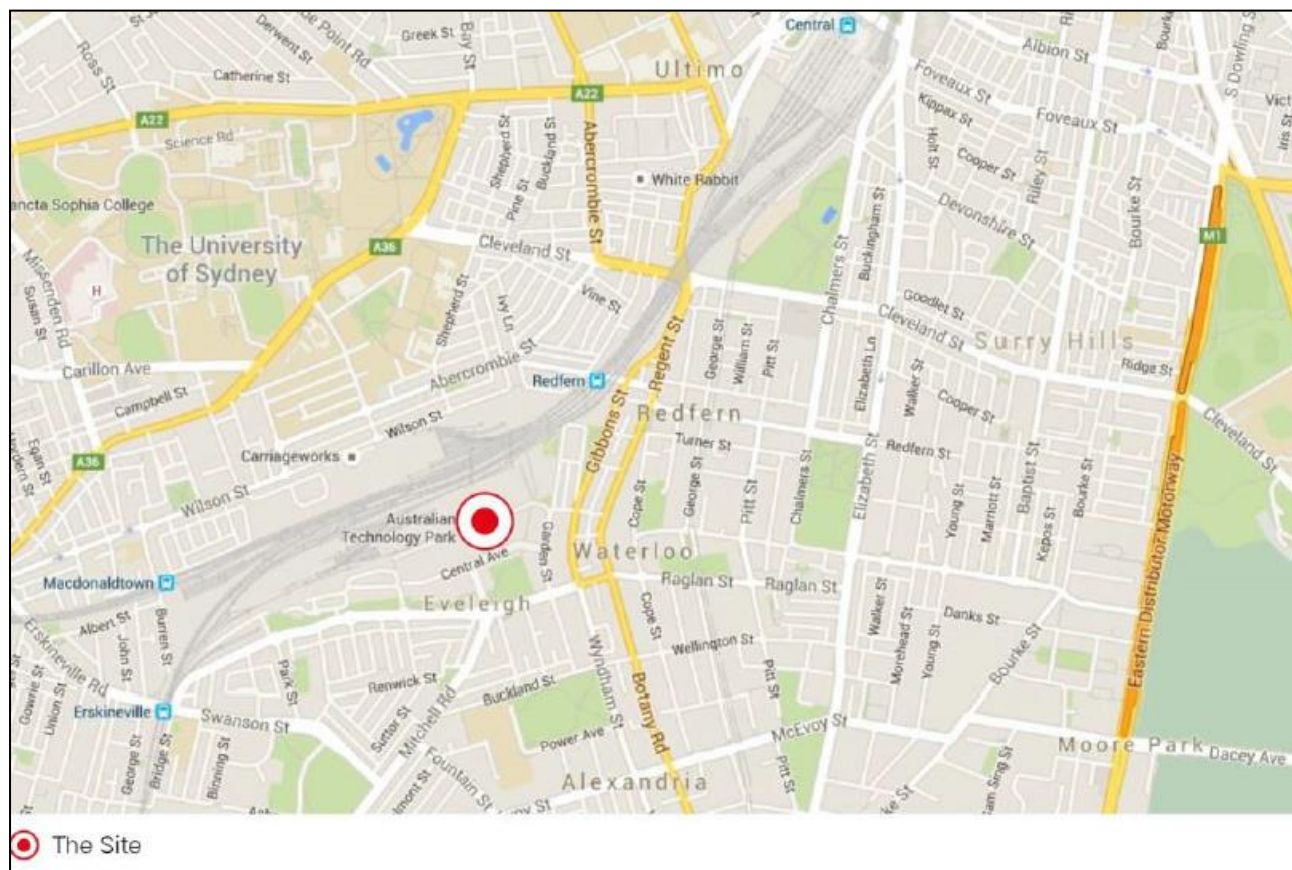


Figure 1: Australian Technology Park location (Source: Applicant's EIS for SSD 7317)

The ATP has an area of 13.5 hectares (ha) and is bound by (**Figure 2**):

- the main western railway line and railway shed to the north
- Henderson Road to the south
- Alexandria Child Care Centre, Alexander Street and Rowley Lane to the west
- Garden Street and Cornwallis Street to the east.



Figure 2: The ATP site shown in a solid red outline (Base map source: Nearmap)

1.3 Approval history

On 20 December 2016, the Planning Assessment Commission (Commission) granted development consent for a commercial campus at the ATP (SSD 7317), which included:

- site preparation works, site clearance, excavation and remediation
- construction of three mixed use buildings with a total gross floor area (GFA) of 107,427 square metres (m²)
- car and bicycle parking
- landscaping, road and public domain works
- building identification signage zones.

Construction of Building 1 has commenced, and the Building 2 site has been cleared ready for construction. No works have commenced on Building 3.

The development consent includes the following conditions relevant to this modification request:

- Condition A16 allows for the development to be constructed in stages and provides a framework for the Principal Certifying Authority (PCA) to issue Construction Certificates (CCs) for 19 different components of the development. This includes five CCs for each of the three buildings and four CCs for the public domain.
- Condition B3(b)(3) requires amended plans showing the relocation of the loading dock entrance in Building 2 to be consolidated with the vehicle entrance in Building 2.
- Condition B4 requires a VPA between the Applicant and the City of Sydney Council (Council) in accordance with a public benefit offer by the Applicant. The condition requires the executed VPA to be registered on the title of the land prior to the issue of the first CC for any façade works.
- Condition B8 limits the provision of new car parking to a maximum of 738 spaces.

1.4 Modification applications

On 26 June 2017, the Commission approved a modification to the development consent (Modification 1) to defer the approval of a landscaping and public domain plan and stage the delivery of the public domain works (Condition B53).

2. PROPOSED MODIFICATION

The application (SSD 7317 MOD 2), as revised in the Applicant's Response to Submissions (RtS) and correspondence dated 7 August 2017, seeks approval for various modifications, as summarised in **Table 1** below.

Table 1: Key components of the application

Aspect	Description
VPA	- Stage the milestones for the VPA, as follows: - execute the VPA prior to the CC for Building 1 Stage 4 Façade Works - register the VPA on title prior to the Building 1 Occupation Certificate (OC) (currently both execution and registration of the VPA is required prior to the first CC for any façade works).
Building 1	- Relocate the building identification signage zone on the south elevation (Figure 3). - Reduction of car parking spaces (from 207 to 205).
Building 2	- Reconfigure the lower ground level plan to: - combine the loading dock and car park entrances (as required in Condition B3(b)(3)), with consequential alterations to the loading dock, retail tenancies and other back of house services - reconfigure the bicycle parking and end of trip facilities - increase the number of car parking spaces (from 225 to 235 spaces) - design modification including reconfiguration of the rainwater tank room, increase the size of the generator diesel tanks within the loading dock, provision of additional security doors in various locations, minor modifications to internal walls and structural columns, and relocation of electrical and communications cupboards - alter the internal finished floor levels to increase floor to floor clearances. - Reconfigure the mezzanine level plan to: - increase the number of car parking spaces (from 264 to 265 spaces) - alter the internal finished floor levels to increase floor to floor clearances - minor modifications to the position of various structural columns. - At the eastern elevation, provision of new retail tenancy to lower ground floor level. - At the south elevation, amendments to lower ground floor and minor plan changes.
Public domain	Reduction of on-street car parking (from 42 to 33 spaces), including 19 car parking spaces and 14 drop off zones.

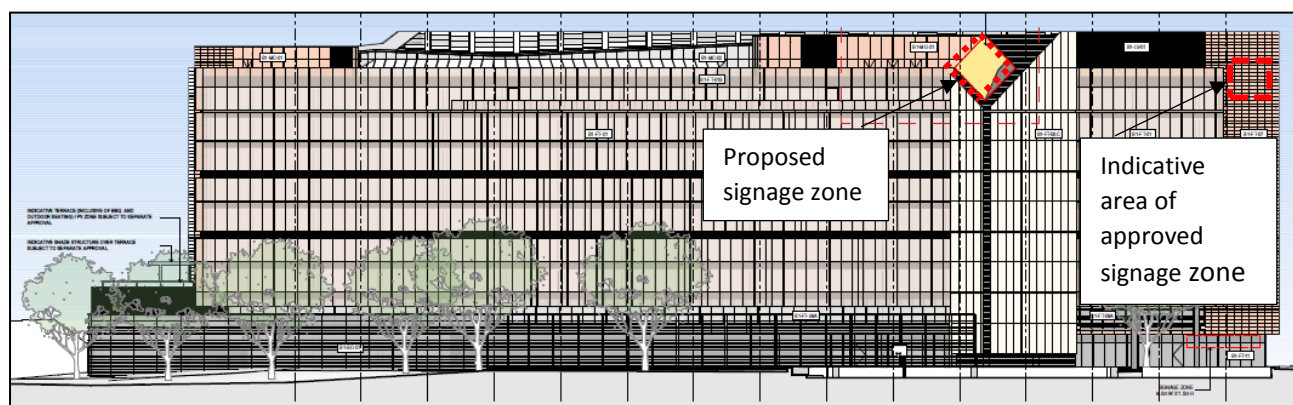


Figure 3: Proposed building identification signage zone on Building 1 (Source: supplied by the Applicant)

The Applicant accordingly proposes to amend Condition B4 and Condition B8, as follows:

B4 Voluntary Planning Agreement

A Voluntary Planning Agreement in accordance with the public benefit offer dated 8 August 2016 between the Applicant (or its nominated entity) and the Council of the City of Sydney shall be prepared, publicly exhibited, executed and registered on the title of the land with the Office of Land and Property Information.

~~The Voluntary Planning Agreement, as executed, must be registered on the title of the land prior to the issue of the first Construction Certificate for any façade works~~ **must be executed prior to the issue of the Construction Certificate for Building 1 Stage 4 Facade Works and registered prior to the issue of the Building 1 Occupation Certificate.**

A copy of the executed Voluntary Planning Agreement shall be submitted to the Secretary.

B8 Car Parking

A maximum total of 738 new car parking spaces shall be provided, comprising:

- ~~207~~ **205** car parking spaces in Building 1;
- ~~489~~ **500** car parking spaces in Building 2; and
- ~~42~~ **33** on-street car parking spaces within the ATP.

3. STATUTORY CONTEXT

3.1 Modification of approval

Section 96(1A) of the EP&A Act requires the consent authority to be satisfied that the following matters are addressed in respect of the subject application (**Table 2**):

Table 2: S96 (1A) considerations

Section 96(1A) matters for consideration	Comment
S96(1A)(a) that the proposed modification is of minimal environmental impact.	Section 5 of this report provides an assessment of the impacts associated with the proposal. As the proposal is limited to minor internal and external modifications, predominantly as a result of design development, and the timing for the VPA, the Department is satisfied that the proposed modifications will have minimal environmental impacts.
S96(1A)(b) that the development to which the consent as modified is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).	As the proposal is limited to minor internal and external modifications, and the timing for the VPA, the Department is satisfied it would result in development that is substantially the same as the originally approved development.
S96(1a)(c) The application has been notified in accordance with the regulations.	The modification application has been notified in accordance with the Regulation. Details of the notification are provided in Section 4 of this report.
S96(1a)(d) Any submission made concerning the proposed modification has been considered.	The Department has received two submissions on the proposal. The comments provided in the submissions have been considered in Section 4 and Section 5 of this report.

3.2 Environmental planning instruments

The following EPIs are relevant to the application:

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (State Significant Precincts) 2005*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Urban Renewal) 2010*

- *State Environmental Planning Policy No. 1 – Development Standards*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy No. 64 – Advertising and Signage.*

The Department comprehensively assessed the original SSD application against the above EPIs. As the proposal is limited to minor internal and external modifications, predominantly as a result of design development and the timing for the VPA, the Department is satisfied it remains consistent with the above EPIs.

3.3 Consent Authority

The Minister for Planning is the consent authority for the application. However, in accordance with Schedule 1 of the Minister's delegation dated 16 February 2015, the Director, Key Sites Assessments may determine the application under delegation as:

- City of Sydney Council has not made an objection
- a political disclosure statement has not been made
- there are no public submissions in the nature of objections.

4. CONSULTATION AND SUBMISSIONS

4.1 Notification & Submissions

The Department notified relevant State and local government authorities of the proposal in writing. The Department also made the proposal publicly available on its website.

The Department received two submissions from public authorities in response to the notification of the application. No submissions from the general public were received.

City of Sydney Council initially objected to the modification, on the basis that it is inappropriate to amend the DA while negotiations relating to the VPA are still underway. Council also objected to the use of the word 'generally' in conditions B4, B8 and B11, and the proposal to delete secure bicycle parking from the basement areas.

UrbanGrowth NSW do not object to the proposal, and did not provide any further comments.

4.3 Response to Submissions

The Applicant provided a RtS which:

- confirms that previously proposed amendments to the bicycle parking provision (Condition B11) have been removed from the application
- confirms that the proposed word 'generally' is no longer being sought in Conditions B4 and B8
- confirms the reallocation of car parking numbers across Buildings 1 and 2 and the public domain (Condition B8), while not increasing the maximum number of spaces (being 738).

Council has reviewed the Applicant's RtS and has advised it withdraws its objection.

5. CONSIDERATION OF PROPOSED MODIFICATION

The Department has considered the proposed modifications, the issues raised by Council and the Applicant's response to those issues in its assessment of the application. The Department considers the key issues requiring further assessment are:

- amendments to the timing of the VPA
- provision of car parking
- reconfiguration of the building identification signage zone (Building 1)
- design changes (Building 2).

Voluntary Planning Agreement (Condition B4)

The proposal seeks to:

- introduce a new milestone for the execution of the VPA, being prior to the issue of the CC for Building 1 Stage 4 Façade Works
- defer registration of the VPA with Land and Property Information from until 'prior to the issue of the Building 1 OC'.

The Applicant has advised that there is insufficient time within the construction program for the VPA to be executed and registered prior to the first construction certificate for any façade works.

The Department notes that the proposed staging of the VPA differs from the Applicant's offer to enter into a VPA, as agreed by Council, which is reflected in the current condition milestones. Council initially objected to this aspect of the proposal, however following negotiation and agreement on the terms of the VPA Council has advised it supports the proposed timeframes.

Further, the Department considers that the Applicant's approach to stage the execution and registration milestones for the VPA is acceptable, for the following reasons:

- the proposal does not change the required content of the VPA, and the extent to which it must be in accordance with the public benefit offer agreed between Council and the Applicant
- the proposed timing of execution of the VPA (prior to the issue of the CC for Building 1 Stage 4 Façade Works) is reasonable and provides certainty of execution prior to a critical stage of construction
- the proposal to defer the registration of the VPA until prior to the issue of the OC for Building 1 is appropriate noting the terms of the VPA relate to the future dedication of public domain to Council in the event that the anchor tenant (Commonwealth Bank of Australia) vacates the premises at the expiry of their lease (no earlier than 15 years in the future)
- the proposed milestone for registration allows the construction to proceed while providing certainty that it is registered on title prior to occupation of Building 1, which will be the first building completed in the ATP.

Noting the above, and that Council supports the proposed changes to the timing of both execution and registration of the VPA, the Department supports the proposed changes to Condition B4.

Car parking provision (Condition B8)

The proposal seeks to re-allocate the mix and location of car spaces across the site as a result of design development. In particular, car parking within Building 1 has been reduced by two spaces (from 207 to 205), Building 2 is increased by 11 spaces (from 489 to 500), and nine less spaces are provided in the public domain (from 42 to 33). The total provision of 738 car parking spaces across the two buildings and public domain remains unchanged.

The Department supports the reconfiguration of car parking spaces within the buildings.

In relation to the reduction of car parking within the public domain, the Department notes the 42 spaces approved within the public domain is a maximum provision. The detailed design of the public domain has progressed in consultation with Council and through this process the detailed location of all public domain infrastructure and car parking is more resolved. The public domain plans will be ultimately be submitted for approval by the Secretary in accordance with Condition B53.

Council, as the future custodian of the public domain, did not raise any concerns about the reduction of on-street parking. The Department also accepts the reduction in car parking within the public domain as a positive design outcome.

The Department further notes the proposed amendments will not result in any additional traffic impacts beyond those assessed as part of the original application noting that the modification does change the overall number of car spaces.

Noting the above, the Department supports the minor reconfiguration and allocation of car parking spaces and the proposed changes to Condition B8.

Building identification signage zone – Building 1

The proposal seeks to relocate and reorientate the building identification signage zone on the south elevation of Building 1, to improve the relationship and integration of future signage with the building. A comparison of the approved and proposed signage zone is provided in **Figure 3**.

The Department considers the amendments do not alter the assessment of the signage zone against the criteria set out within *State Environmental Planning Policy No 64 – Advertising and Signage* as provided within the original EIS, and considers the proposal is acceptable for the following reasons:

- the relocation of the signage zone does not compromise compatibility with the existing and desired character for the building
- the relocation of the signage zone will be integrated with the proposed building and not obstruct or compromise views
- the relocation of the signage zone does not significantly alter the scale, proportion and form of the sign, so will remain consistent with the setting of the precinct
- the relocation of the signage zone is designed to have an improved relationship with the appearance and function of Building 1
- the relocation of the signage zone will not result in any safety impacts.

Noting the above, and that no submissions object to the proposed changes, the Department supports the proposed changes to the building identification signage zone.

Design changes – Building 2

The proposal seeks to alter the overall layout of the Mezzanine and Lower Ground Floor, and appearance of the eastern and southern elevations of Building 2. An overview of the proposed changes as a result of design development and to improve level of activation is as summarised in **Table 1**.

The Department notes that the proposed modifications do not alter the conclusions of the original assessment of the development. In particular:

- the modification does not alter the maximum 56,686 m² GFA for Building 2
- while not increasing overall GFA, the retail tenancies will provide additional reconfigured activation at the south east corner of Building 2
- while modifications to the Lower Ground Level will alter the appearance of the southern and eastern elevations to a minor extent, appearance of the building façade will be enhanced by the placement of additional retail tenancies, and the amendments do not alter the appearance of Building 2 and its interface with the Locomotive Workshop
- the modification moves the loading dock entrance sufficiently away from the pedestrian intersection of Central Ave and Mitchell Way and consolidates it with the vehicle entrance, therefore improving pedestrian safety at its junction
- the reconfigured internal layout appears orderly and reasonable with good direct access provided to the internal bike storage and end of trip facilities.

The Department therefore supports this component of the proposal. The Department also notes that modification to the loading dock addresses the requirements of Condition B3(b)(3), by relocating and consolidating the loading dock entrance with the vehicle entrance in Building 2. As this condition has now been addressed, the Department recommends deletion of Condition B3(b)(3).

6. CONCLUSION

The modification application has been assessed in accordance with the matters for consideration under section 96(1A) of the EP&A Act and the Department is satisfied that the proposal complies with all statutory and strategic provisions, subject to the recommended amendments to the conditions.

The Department's assessment concludes the proposed modification is acceptable on the basis that it would:

- not detract from the overall design of the ATP
- ensure the execution and registration of the VPA at an appropriate construction stage
- ensure appropriate allocation of car parking across the site.

Consequently, it is recommended the modification is approved subject to the recommended conditions.

7. RECOMMENDATION

It is recommended that the Director, Key Sites Assessments, as delegate for the Minister for Planning:

- **consider** the findings and recommendations of this report
- **determine** that the application falls within the scope of Section 96(1A) of the EP&A Act
- **approve** the modification application (SSD 7317 Mod 2), subject to conditions
- **sign** the attached notice of modification (**Attachment A**).

Prepared by: Diane Sarkies
Senior Planning Officer
Key Sites Assessments

Recommended by:



Amy Watson

Team Leader, Key Sites Assessments

DECISION

Approved by:



Ben Lusher

Director, Key Sites Assessments

as delegate of the Minister for Planning.

APPENDIX A RELEVANT SUPPORTING INFORMATION

The notice of modification and supporting documents and information to this assessment report can be found on the Department of Planning and Environment's website at <http://majorprojects.planning.nsw.gov.au>.