



Australian Government

Department of Infrastructure and Regional Development

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<p>TO:</p> <p>Mr Brendon Roberts NSW Planning and Environment brendon.roberts@planning.nsw.gov.au</p> <p>Cc:</p> <p>Ms Claire Burdett JBA CBurdett@jbaurban.com.au</p>	<p>Cc:</p> <p>Sydney Airport airspaceprotection@syd.com.au</p> <p>Airport Developments Airservices Australia airport.developments@airservicesaustralia.com IFP@airservicesaustralia.com</p> <p>Airspace Protection Civil Aviation Safety Authority airspace.protection@casa.gov.au</p> <p>City of Sydney Council council@cityofsydney.nsw.gov.au</p>	<p>FROM:</p> <p>Flysafe Airspace Protection flysafe@infrastructure.gov.au</p>
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DECISION UNDER THE AIRPORTS (PROTECTION OF AIRSPACE) REGULATIONS 1996:

- Proposed Activity:** Building construction: Multi-storey building
- Location:** Australian Technology Park, Eveleigh NSW
- MGA 94 Coordinates:** E333045; N6247800
- Proponent:** NSW Planning and Environment on behalf of JBA

I refer to the application from Bayside Council (the proponent), received by the Department on 26 May 2017 from Sydney Airport Corporation Ltd (SACL). This application sought to vary a condition under the Airports (Protection of Airspace) Regulations 1996 (the Regulations) for the intrusion of a multi-storey building (Building 1) at Australian Technology Park, Eveleigh NSW into airspace which, under the Regulations, is prescribed airspace for Sydney Airport. The building was previously approved by the Department on 22 April 2016 for a height of 57.9 metres Australian Height Datum (AHD). The proponent seeks to install mechanical vents on Building 1, thereby increasing the height of the building to 60.9 metres AHD. This application therefore seeks to vary condition 1 of the original approval to increase the height of the building from 57.9 metres AHD to **60.9 meters AHD**.

‘Prescribed airspace’ includes ‘the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS) surface for the airport’ (see subregulation 6(1)).

The Conical Surface of the OLS above this site is at a height of 53.5 metres AHD and hence prescribed airspace above the site commences at 53.5 metres. At a maximum height of 60.9 metres AHD, the building will penetrate the OLS by 7.4 metres.

Accordingly, the proposed construction of the building would constitute a “controlled activity” under Section 182 of the *Airports Act 1996* (the Act). Section 183 of the Act prescribes that controlled activities cannot be carried out without approval. Details of the penetrations of prescribed airspace are provided in Table 1.

Table 1: Height and location of the proposed building at the site that will intrude into prescribed airspace for Sydney Airport

Activity	MGA 94 coordinates	Maximum height (AHD)	Penetration of prescribed airspace
Building	E333045; N6247800	60.9 metres	7.4 metres

Regulation 14 provides that a proposal to carry out a controlled activity must be approved unless carrying out the controlled activity would interfere with the safety, efficiency or regularity of existing or future air transport operations into or out of the airport concerned. Paragraph 14(1)(b) provides that an approval may be granted subject to conditions. Under the Regulations, the Secretary is empowered to make decisions in relation to the approval of controlled activities, and impose conditions on the approval.

Decision

As you may be aware, the Secretary of the Department is required under regulation 15(1AB) of the Regulations to make a decision about the proposal within 28 days of receiving the application. I am the Secretary’s Delegate for the purposes of the Regulations.

Due to delays with our processes, I was not able to make a decision within this timeframe. Therefore, under regulation 15(2) this proposal was taken to have been refused. However, the Department has now considered the application in full and I have re-made the decision.

In making my decision, I have taken into consideration the opinions of the proponent, advice from the Civil Aviation Safety Authority based on a reassessment at 60.9 metres AHD, Airservices Australia advice number SY-CA-301 P2 and SACL.

Pursuant to Regulation 16, I vary Condition 1 of the approval dated 22 April 2016 for the height of Building 1 at Australian Technology Park, Eveleigh NSW to **not exceed** a maximum height of **60.9 metres AHD**.

Breaches of approval conditions are subject to significant penalties under sections 185 and 187 of the Act.

I apologise for the delay in finalising this approval.

Yours sincerely



Craig Downsborough
Director, Airspace Protection
Aviation and Airports Division

4 July 2017