

6 June 2016

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NSW Planning and Environment
GPO Box 39,
SYDNEY NSW 2000

Attention: Mr Brendon Roberts, Senior Planning Officer
email: brendon.roberts@planning.nsw.gov.au

Dear Brendon,

RE: SSD 15_7317 – Australian Technology Park - Response to Submissions

I write in relation to the Department's invitation to comment on Mirvac's Response to Submissions for State Significant Development Application SSD 7317 relating to the redevelopment of the Australian Technology Park, Eveleigh.

The City's submission to the SSD DA during the exhibition of the Environmental Impact Statement stage was an objection due to the building height non-compliance and the Applicant's proposed waiver of Section 94A levies.

The City reaffirms its **strong objection** to the development and invites the Planning Assessment Commission (PAC) to adjudicate on the building height non-compliance and Applicant's steadfast view that the project does not generate demand for additional services and infrastructure within and around the site.

Should the Applicant, or the PAC through its determination, remove the height non-compliance in full and confirm the imposition of Section 94A levies, the City's objection would be immediately withdrawn.

Please find attached a table summarising the City's review of the Response to Submissions. The table nominates the issues raised within the City's submission to the DA, discusses the Proponent's response to the issues raised and outlines the City's sustained contentions in relation to the project.

In reviewing the Response to Submissions (RtS) it is instantly ascertainable that:-

- (a) the project's construction programme and cost predictions have restricted reasonable interrogation of the matters raised in authority and public submissions; and
- (b) a commercial agreement between the developer and the potential anchor tenant is repeatedly used as a defence against poor planning outcomes.

The project is allegedly totally unfeasible if the development as proposed in its entirety is not approved.

The RtS, clearly written in haste with a vast amount of errors, unresolved arguments and repetition through-out, provides excuses for not carrying out reasonable amendments to the project. The City asks the PAC to see past such claims and:-

(a) impose Section 94A levies;

In this regard, it is clear that the costs itemised by the Applicant in arguing for a waiver of levies are part-and-parcel of redevelopment of the land when creating real need for additional pedestrian circulation, outdoor space for workers in the development, increased safety for workers in the development, essential street upgrades and the like.

None of the works itemised in the RtS and nominated as being “above and beyond what is typically provided in a suburban business park” are extraordinary. The works itemised are totally expected as routine works to cater for the incoming workers.

The project places high demand on local and regional infrastructure for the wider public domain; wider roads, public transport and access; community facilities and drainage. There are no off-site works at all within the project. The RtS makes a point several times of reinforcing that the scope of the project is wholly within the ATP. Somewhere within the formation of the project, the on-site needs of upgrading privately owned land to cater for needs of the development have been confused with the additional strain the development will place on local and regional public infrastructure. Public benefit evasion on this scale is unwarranted.

The Section 94A contribution amount, said to be \$8.6 million, should be put to public benefits arising from the demands of the development in the local and wider region.

Examples of required infrastructure upgrading with real nexus to the development, and to address the failings of the project, including connecting workers to Redfern Station via improved pathways along Cornwallis and Marian Streets, on cycleway infrastructure along Henderson Road to connect the existing on-road path via a safer passage to the Waterloo Estate precinct or embellishment of the eastern and western interface of the project where the scope ends abruptly.

(b) require compliance with the statutory height standards.

In this regard, the PAC is requested to thoroughly assess the full range of impacts of the proposal and decide whether a more skilful and compliant design would produce less impact and still allow the outcomes proposed.

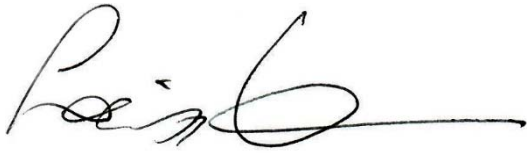
It is patently obvious that non-complying height (spurred on by greater GFA than the planning controls anticipate) is manifestly unreasonable and unnecessary at the western end of Building 1 through excessive bulk and scale, overbearing visual impact from the south and west, stark lack of building height transition from east to west, lack of integration with existing development to the north, excessive overshadowing of properties protected from this impact through the existing controls and excessive visual impact

and sense of enclosure on the adjoining child care centre. Yet we still see arguments relating to the commercial brief driving these outcomes. Page 15 of the RtS, under "Contractual Implications/Context" captures the Applicant's intentions clearly. This discussion has no place in a planning report lodged for planning approval and is not relevant in reviewing the environmental impacts of the development.

The City will raise the above issues with the PAC and thanks the Department for providing a copy of the RtS for comment.

Should you wish to speak with a Council officer about the above, please contact Russell Hand, Senior Planner, on 9246 7321 or rhand@cityofsydney.nsw.gov.au

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Louise Kerr', with a long horizontal flourish extending to the right.

Louise Kerr
Acting Director
City Planning | Development | Transport

SSD 15_7317 – Australian Technology Park – City of Sydney comments on Response to Submissions Report

Issued raised in City submission	Applicant response	Issue addressed?	City's contention
Bulk, Scale and Design			
<p>Building 1 must comply with the building height standard in the Major Development SEPP. The existing 4-storey height control should be enforced and Building 1 height reduced from 9 to 4 storeys by redistribution</p> <p>The SEPP 1 objection lodged is not well founded and cannot be supported.</p> <p>The at-grade car park to the west of Building 1 eliminates any ability to screen and soften the development with landscaping including mature trees.</p>	<p>The RtS concludes that the visual impacts and overshadowing impacts do not unreasonably affect neighbouring properties.</p> <p>The RtS compares a “compliant” scheme with a 4 storey height and minimal western setback to the west with the proposal development.</p> <p>Redistribution of GFA from Building 1 to Building 2 is undesirable due to scale shift in Building 2 adjacent to Locomotive Workshop and associated heritage impacts.</p>	No	<p>The SEPP non-compliance is significant in quantity and quality and should not be supported due to avoidable adverse environmental impacts.</p> <p>A Clause 4.6 objection is not the appropriate planning pathway to propose a significant non-compliance with a key development standard.</p> <p>Media City / the Channel 7 building to the north is appropriately transitioned in height and the proposal, if approved, will be viewed as an anomaly of the planning system failing to uphold the established controls.</p> <p>The non-complying height (propped up by greater GFA than the planning controls anticipate) is unnecessary and unreasonable at the western end of Building 1 through excessive bulk and scale, overbearing visual impact from the south and west, stark lack of building height transition from east to west, lack of integration with existing development to the north, excessive overshadowing of properties protected from this impact through the controls and excessive visual impact, sense of enclosure and loss of sky views on the adjoining child care centre.</p>

<p>Future proof north-south pedestrian and cyclist desire lines for north-south crossing of the railway line.</p>	<p>Any future north-south connection is likely to form part of an additional platform access point to Redfern Station. The public domain plans demonstrate (with an easement also in place to accommodate) a future crossing is able to be integrated into the proposal for the site and Mirvac will cooperate with the relevant authorities at the appropriate time to achieve enhanced access through the precinct. There is also flexibility to accommodate and support any future secondary and more centralised pedestrian and cyclist</p>	<p>Partially</p>	<p>The SSD DA ought to demonstrate how the future connections can be integrated into the proposed public domain through retro-fitting and future-proofing. For example, how will the width of the Village Square also allow cyclists to pass through it if a centralised crossing is provided? Adjustments may be immediately necessary to the project to accommodate these future connections.</p>
<p>Underground car parking must be utilised across the buildings. All opportunities for undergrounding car parking must be exhausted. The area south of Building 1 requires particular attention.</p>	<p>Various environmental, cost and program implications have been found to severely impact on the option for basement parking. On this basis, Mirvac are proceeding with aboveground car parking.</p>	<p>No</p>	<p>The RtS shows there are no actual constraints to building partial or full basements under Building 1 or Building 2. The construction programme is the key driver. A 6-7 month extension on the programme to build underground car parking, with such structures lasting for anywhere between 15 and about 60 years, is not a sufficient basis to offset the adverse long term building height impacts, visual impacts, poor activation impacts and acoustic impacts of aboveground car parking.</p>
<p>Incorporate a landscaped setback to the west of Building 1 toward the existing child care centre by deletion of the external car park and shade structure and introduction of mass planting.</p>	<p>The car park shade structure has been rationalised. However, at grade parking has been retained to serve the needs of “the CBA precinct”.</p>	<p>No</p>	<p>If the building height is propped up to 9 storeys where a 4 storey height standard applies, then at grade car parking excludes opportunities to screen and soften the development from the west, including the Alexandria Child Care Centre.</p>

The external spaces of the child care facility in Building 1 requires redesign to address useability, access to sunlight, air quality and surveillance.	The external space is considered acceptable in terms of shape, location and functionality. A solid facade has been introduced between the ground level car park and the child care play space.	No	The shape and orientation of the play space lacks sunlight, useable area (through fire stairs cutting the most useable portion) and clear sight lines for carer surveillance due to narrow angles and structural obstruction.
Redesign the south-eastern corner of the Community Building to wrap gym or retail active frontage toward the Vice Chancellor's Oval and proposed play space.	The area of the retail space has been expanded to the south to increase activity and the alfresco dining area will better integrate the building with the public domain.	Partially	A minor improvement exists when extending the retail space and associated outdoor dining area closer to the Oval. However, the gym was already proposed in that space. The activation of the proposed play area remains very poor and requires reconsideration.
Landscaping and Public Domain			
Incorporate a mid-block pedestrian crossing on Davy Road and adjust surrounding road infrastructure, lighting infrastructure and landscaping infrastructure.	No change proposed. The proposed approach is considered acceptable and balances desire lines with pedestrian safety and vehicle access requirements. Mirvac wish pedestrians to cross Davy Road at the low speed intersection of Central Avenue or the signalised intersection with Henderson Road.	No	The proposed pedestrian paths opposite each other should be removed or adjusted to reflect the pedestrian crossing wishes of the Applicant at Central Avenue and Henderson Road. As it stands, the proposed design will encourage pedestrians to cross at this location.
Incorporate infrastructure that supports use of the sports courts and open space by the tenants and community.	Mirvac has implemented seating and outdoor fitness equipment surrounding the sports courts to enhance the usability and attractiveness of the space.	Partially	The City contends that further infrastructure is necessary to provide comfort and amenity to the sports courts. This certainly includes shade structure, toilets, lockers and change rooms.
Adopt the City's Street Design Code and document the public domain facilities that are essential to the good management of the streets and	Mirvac and Aspect have considered relevant policy guidelines in formulating their public domain design, which appropriately balances	To be resolved	Mirvac and the City are currently in discussions regarding the future ownership and maintenance of the public domain and open space

open space. Increase tree canopy cover within the site.	<p>design requirements and programming of the open space areas within the site to achieve Mirvac and CBA's vision for the precinct.</p> <p>The tree canopy cover within the site will be substantially increased through the SSD.</p>		areas. This may influence the design standards adopted for the project.
A Flood Model is required to demonstrate adequate capacity within the site and establish flood planning levels if necessary.	Project civil engineers have prepared a Flooding and Stormwater Statement discussing necessary flood planning levels for the site.	Yes	No further comments.
Clarify and extend the scope of public domain upgrades at the western end of Central Avenue, the footpaths along Henderson Road and the pedestrian connection along the south-east boundary adjacent to the Alexandria Hotel.	The scope of the project works is limited to ATP. Details regarding interface works with adjoining land can be dealt with through the detailed design phase.	No	<p>Interface works cannot be dealt with at the detailed design phase without responsibility and funding being resolved. This has been demonstrated through the Department's determination of Darling Harbour Live and various Barangaroo DAs where interface works have not been allowed for.</p> <p>Works at the interface with surrounding properties require resolution at the DA stage.</p> <p>The pedestrian connection to the Waterloo Estate Precinct and future station will be a key future demand. Public domain upgrading is required off site. The scope of the SSD cannot be limited purely to the ATP site.</p>
Prepare and lodge an Arboricultural Impact Assessment.	The public domain plans prepared aim to protect and enhance as many existing trees as possible. The development will result in removal of	No	It is a basic requirement in the environmental assessment of a project to understand the impacts of development on trees and ecology.

	around 99 trees, or relocated where suitable. Placement planting will be at a ratio of at least 1:1 – delivering in the order of 124 new trees.		An Arborist's Report is necessary to inform the designers about trees with significant retention value, how works can best avoid impacts to trees and replacement tree specifications.
Additional intersection assessment and a network model is required, with all necessary changes adopted taking into consideration the capacity of the network and the Proponent's intention for pedestrian priority through key intersections.	GTA Consultants have provided additional traffic assessment. Based on the findings of the assessment, TfNSW and RMS submissions, a network model is unnecessary.	Yes	TfNSW and RMS have indicated intersection assessment carried out is satisfactory.
Adopt modal shift targets aligned with the strategic objectives of Sydney 2030 and provide further demonstration how existing car dependence on site is capable of reducing from 46% to 6%.	GTA Consultants confirm that adopting aggressive modal split targets will be required. Preparation of implementation of a Workforce Travel Plan is recommended to be imposed as a condition of consent.	Yes	A Workplace Travel Plan or Green Travel Plan is necessary and should be conditioned.
Reduce the quantum of car parking provided and convert the space to active retail uses or office uses taking pressure off the building height non-compliance. The 1,600 space car parking cap on the site is from 1994 and is highly outdated given 20 years of change to transport and travel behaviours.	The proposed provision of parking accords with the SEARs which requires the total provision on the site to be less than 1,600 parking spaces. The proposal contains 1,574 spaces.	No	The proposed number of car parking spaces is not considered consistent with the modal shift targets designed for the precinct. The number of parking spaces is excessive and requires substantial reduction.
Analyses bi-directional pedestrian paths of travel and respond to potential conflicts between pedestrians and cyclists.	Background pedestrian flow to/from other sites is considered to be minimal, which may create some small amount of bi-directional flow. The pedestrian paths have operating	Yes	No further comments.

	levels of service “C” which allows some bi-directional flow.		
Consolidate vehicle access and loading dock accesses, narrow vehicle crossings and give priority to pedestrians along footways.	Appropriate sightlines and safety crossing measures will be included where necessary at driveways and within the internal road networks to ensure pedestrian are protected from vehicle movements.	No	Consolidated driveways are a superior outcome for pedestrian safety than infrastructure, allowing sightlines and devices around multiple driveways.
Prepare and lodge a Loading Dock Management Plan in association with network modelling.	A management plan will be prepared and could be secured by means of a condition of consent.	Yes	No further commentary.
Resist installation of any traffic signals giving vehicles priority over pedestrians.	Noted.	N/A	No further commentary.
<p>Cycleway connections should be provided with strong emphasis on connecting the ATP site with cycling networks on George Street, Wilson Street and Lawson Street. Upgraded facilities such as bicycle lanterns at traffic signals and pram ramps must be considered.</p> <p>East-west connection to the new Waterloo Station should be upgraded for both pedestrians and cyclists.</p> <p>Widen footpath widths to more than 3.5m along the route to Redfern Station, particularly if earmarked for shared paths.</p> <p>Demonstrate adequate infrastructure for cyclists access the bike parking and end of trip facilities in Buildings 1 and 2.</p>	<p>Aspect Studios have designed the public domain to include widened footpaths.</p> <p>Appropriate bicycle facilities have been designed within the ATP to cater for the expected number of cyclists traversing the site.</p>	No	<p>Commentary regarding the upgrading of pedestrian and cycling infrastructure outside the ATP is not provided. Previous comments in the RtS have been “The scope of the project works is limited to ATP”. This is not an adequate response.</p> <p>The City’s submission in relation to footpaths towards Redfern Station concerns off site conditions that require upgrading along Cornwallis Street and Marian Street.</p> <p>The Waterloo Metro will generate significant pedestrian and cyclist demand along Henderson Road and the existing infrastructure is poor.</p>

Reinforce pedestrian priority along proposed footways by continuous footpath treatments.	New and continuous footpath treatments are proposed.	Yes	No further commentary.
Increase bicycle parking and identify staff parking versus visitor parking. Innovative bicycle parking and end-of-trip facilities should be incorporated.	The proposal incorporates end-of-trip facilities based on an agreed brief with CBA which has been derived from CBA's internal forecasting for the proposal and sustainability rating tools. The amended proposal optimises the end-of-trip facilities to enhance their functionality and to more appropriately locate them to activate building frontage.	Yes	No further commentary.
Update the Green Travel Plan and incorporate provisions for it to be revised and updated regularly.	A Green Travel Plan will be provided and this could be suitably conditioned.	Yes	No further commentary.
Car share spaces should be provided within the site.	The final numbers and locations of car share spaces has not been finalised. They are likely to be on street within Davy Road and Central Avenue but will be finalised as a condition of consent.	Yes	No further commentary.
Heritage			
The interpretation of the former foundry should be clarified and documented prior to any approval.	The methodology outlined in the original Heritage Impact Statement requires the archival recording of the foundry before and during its removal.	No	The City's submission calls for the re-use of former foundry bricks in the public domain.
Further information on heritage interpretation should be supplied and assessed to ensure an integrated approach across the entire ATP site.	Further information will be provided.	Partially.	It remains to be resolved whether interpretive elements are capable of integration with the public domain and open space if the public realm design occurs separately.

			The City requests that the Heritage Consultant's proposals for interpretation be incorporated in any conditions of consent. In this regard, an Interpretation Strategy to be prepared prior to Construction Certificate, an Interpretation Plan and Implementation Plan to be prepared during construction.
Public Health Matters			
A Section B Site Audit Statement or Letter of Interim Advice should be prepared and reviewed demonstrating that the Remediation Action Plan is practical and the site will be made suitable after remediation.	A Final Remediation Action Plan is presently underway and following completion, a Site Audit Statement will follow.	Yes	No further commentary.
Potential risks associated with sources of electromagnetic radiation should be documented and addressed.	This will be addressed as part of the design development process.	Yes	No further commentary.
The Noise and Vibration Assessment should go further and address the City's standard noise conditions containing alternative noise criteria to the Industrial Noise Policy.	The City has two noise emission criteria for "Entertainment" and "General". Only the General condition would be applicable. The City's criteria are seen as unnecessarily complicated. The adoption of the standard NSW Industrial Noise Policy requirements will protect surrounding acoustic amenity.	Partially	Should the SSD purport to seek consent for the fitout and use of retail tenancies within the proposal, the City's standard entertainment and general noise conditions should be adopted.
Construction Management			
Construction vehicles should be restricted to and from Davy Road.	No response on construction vehicle routes.	No	Construction vehicles should be restricted to and from Davy Road.

The DA prioritises the amenity of existing ATP tenants over the surrounding residents and child care centre.			The City reiterates the view that the project prioritises the amenity of existing ATP tenants over the surrounding residents and child care centre.
The City's standard hours of construction should be adopted unless certain low impact works like fitout works can be segregated out.	The proposed hours are retained. The proposed hours balance the amenity of the surrounding neighbourhood with the project program requirements.	No	The City's standard construction hours should be applied due to the sensitive receivers around the site. Low impact works are able to be separated out from general construction activities and can usually proceed outside the standard construction hours. The Applicant's desire to construct the development faster to satisfy the tenant's brief ought not to be driving adverse construction impacts.
A Construction Liaison Committee/Group should be established before the commencement of works to provide communication to and from surrounding stakeholders.	No response	No	A Construction Liaison Committee should be established. The City's standard condition was included in the EIS objection.
Capture of Project Commitments			
Project commitments should be captured in any planning approval granted.	It might be that the development consent may not be the appropriate location to incorporate the project commitments.	No	It is the City experience that commitments, if not specifically secured in the planning approvals pathway, can be the first casualty after approval is granted if not clearly obligated in an approval or attached to a registered property instrument. NSW Planning and Environment should bind the Applicant to provide the commitments nominated.

