

Our Ref: Project 579  
Your Ref: SSD 17\_8449



15 December 2017

Major Projects Assessment  
Department of Planning and Environment (DPE)  
NSW Government

**By electronic lodgement–**

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8449](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8449)

**Attention: Brendon Roberts and Amy Watson**

Dear Mr Roberts and Ms Watson,

**Re: Bays 6-16, Locomotive Workshop**

**Property: Locomotive Street, Australian Technology Park Eveleigh, 2015(Lot 4000/ DP1194309)**

We are instructed by Top Education Group Ltd trading as Top Education Institute (TOP) to make submissions for the consent authority's consideration under section 79C(1)(d) of the Environmental Planning and Assessment Act 1979 (EPA Act). This submission seeks the amendment of DA SSD 17\_8449 for Bay 16 (or specified as Bay 15 in the DA Proposal) to retain its education use.

**Submission Issues**

1. The current use
2. Misdescription of Existing Use Bay 16 (AKA Bay 15)
3. Proposed Use
4. Insufficient Information
5. Social Impacts
6. Economic Impacts
7. Extension of Time to Prepare Detailed Social and Economic Submissions
8. Summary

**The Current Use**

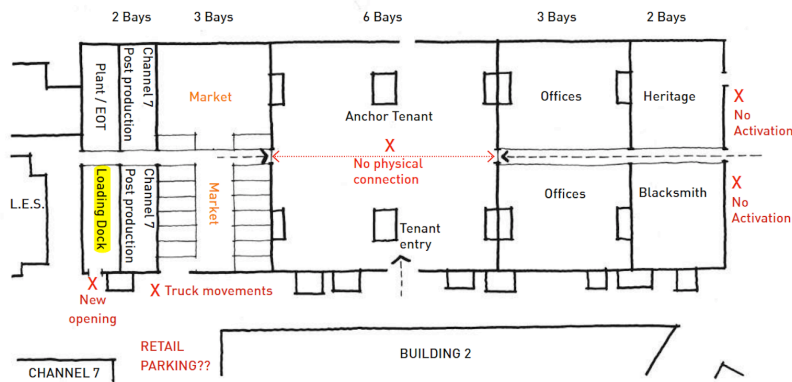
The current use of Bay 16 (AKA Bay 15) is an educational institution carried on by TOP. TOP is a registered Australian Higher Education Provider with the Tertiary Education Quality and Standards Agency (TEQSA). Through its two academic divisions, the Sydney City School of Business and Sydney City School of Law, TOP provides degree courses in business and law studies for about 1,000 FTE students, including a majority from overseas as well as domestic students. In line with the industrial analyses, TOP is one of the leading private Higher Education Providers in the Broad Field of Education (BOE) of Management & Commerce ranked 3rd with respect of international student numbers and ranked 1<sup>st</sup> with respect of the number of higher education courses above AQF level 6 (Bachelor), with active accreditations by TEQSA. TOP has been engaged within ATP since 2002 and has consistently

and directly contributed to the provision of international education, which is the 3rd largest export of Australia and promoted by NSW and Sydney, since that time. According to the annual audited reports by PwC and EY, TOP has provided undergraduate and post graduate degrees to 8059 students from 2005 to 2017.

PwC Australia is a shareholder of TOP with an Alliance Agreement, under which the unique Student Career Development Programs to enhance learning outcomes and the corporate training programs have been provided. Further background to TOP will be the subject of a further detailed submission together with the Social and Economic impacts reports.

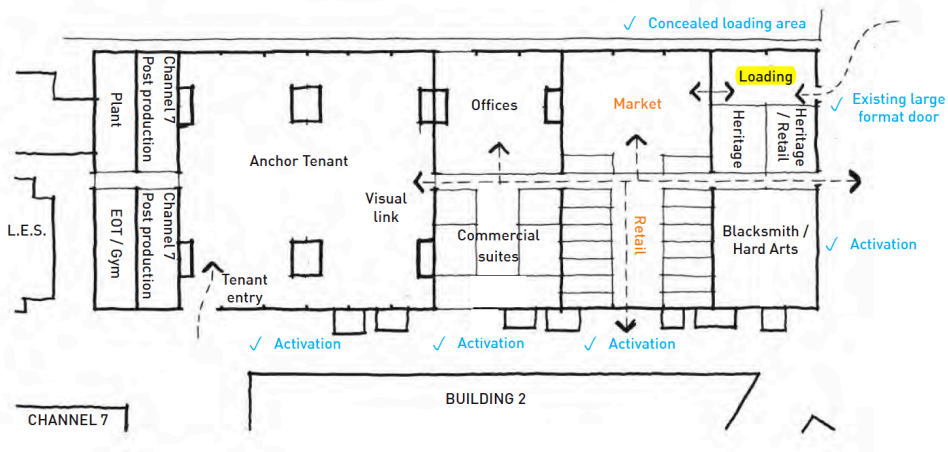
The current proposal, as set out in the DA, would force TOP out of Bay 16 (AKA Bay 15) and replace this existing Education use with several vague retail options, for instance, Option A locates Plant/EOT and Loading Dock in Bay 16 (AKA Bay 15), and another Option C is for Plant and EOT/Gym, relocating the loading dock to the eastern end of the building.

Organisation System - Option A



SISSONS 23

Organisational System - Option C



SISSONS 24

By this submission, TOP does not object to the Proposal with respect of its principle to refurbish the Locomotive Workshop generally. Simply, TOP suggests that:

- (1) Option C is better with respect to the location the loading dock side at the eastern end of the building next to the Market (retail), rather than with another end at Bay 16 (AKA Bay 15).
- (2) To seek a revision of the proposal to retain Bay 16 (AKA Bay 15) as it is, (in the same way the Proposal retains Bay 14 (current Bay 15)) to avoid unnecessary loss of the approved Education use in the portfolio of Locomotive Workshop.

The benefits of TOP's submission above are that these alternatives would not unreasonably impact the Applicant's development potential whilst retaining a valuable Education use in Locomotive Workshop. Further, the inclusion of options demonstrates that there is flexibility within the proposal to retain the education use in Bay 16 and place other uses elsewhere.

The higher education and international education sector supports the growth of other industries including retail, tourism, real estate, and transportation. The social impact and economic impact are subject to further submissions below and interim social and economic impact submissions by Professor Roberta Ryan and Mr Glenn Fahey are attached.

### **Misdescription of Existing Use**

The existing use of Bay 15 (AKA 16) is described by the Application at page 23 of Annexure C Architectural Design Report as "Office Suites" (Figure 1 - Purported Existing and Proposed Uses - extract p.23 Appendix C Architectural Design Report - Part 1. The EIS at page 28 Figure 32 then acknowledges the educational use but fails to provide any acknowledgement of the social and economic effects of replacing this use with plant and loading dock facilities.

Any proper assessment of the proposal must detail the existing use and the impacts upon that use by the proposal. General reference to the existing tenants, and the need to deal with them in Key issue 7 (on Page 77) does not address the deficiencies in the EIS and the application as a whole.

Bay 15 (AKA 16) is occupied by TOP in part and the failure to recognise the existing high value - higher educational use and assess the social and economic impacts arises from removing this use is at the outset driven by an initial failure to correctly classify the existing use. There is cursory reference to the use on Figures 31 and 32 (page 28 of the EIS) – which has the caption "Existing Bay 15 fit-out, used for educational/commercial purposes (currently known as Bay 16)". This scant reference is not acknowledged or explained elsewhere in the document.

## Proposed Use

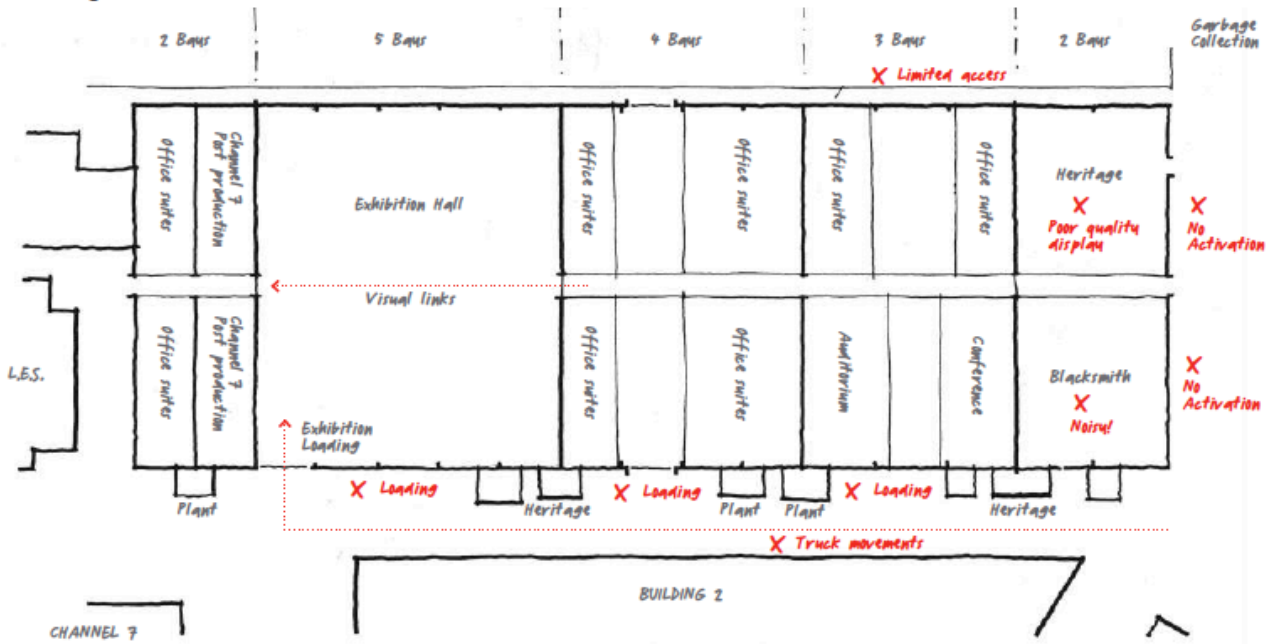
The proposed use, also detailed by Figure 1 - Purported Existing and Proposed Uses - extract p.23 Appendix C Architectural Design Report - Part 1, would see the high value social and economic benefits provided by TOP in partnership with PwC and other existing tenants replaced with low social and economic value plant/EOT and a loading dock to service the proposed adjoining retail "market" and "anchor tenant" use.

There is no social or economic impact assessment measuring the quantitative or qualitative impacts of removing higher education facilities and their replacement with plant, equipment and loading dock facilities to service retail space in "Australian Technology Park".

The proposed use as retail "Market" and ancillary plant and loading areas is jarringly discordant with the whole concept of Australian Technology Park's social and economic aims and objectives. The proposed complete conversion of such high value technology focussed facilities with retail uses is socially and economically unacceptable and not in the public interest.

The proper adaptive reuse of the high conservation value Locomotive Workshop, as one central element of a Technology Park, will not be achieved by the proposed retail, plant and loading docks to service a market.

## Existing Conditions



## Organisation System - Option A

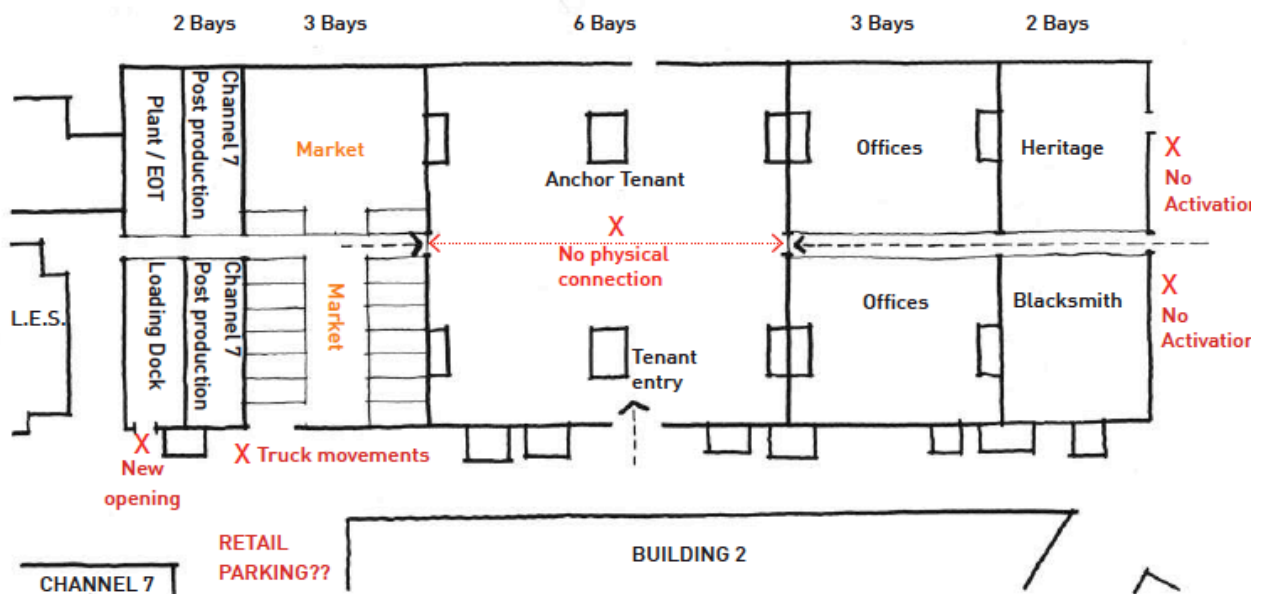


Figure 1 - Purported Existing and Proposed Uses - extract p.23 Appendix C Architectural Design Report - Part 1

## Insufficient Information

Although the Draft Secretary's Environmental Assessment Requirements dated 8 June 2017 (**SEARS**) do not specifically require the Applicant to address section 79C(1)(b) of the EPA Act, (specifically the SEARs do not require the Applicant to provide any Social Impact Assessment or Economic Impact Assessment) that does not entitle the applicant to ignore those requirements. The Applicant has that obligation despite the lack of detail in the SEARS, as section 89H of the EPA Act mandates that section 79C applies to the determination of the development application for State Significant Development.

The material exhibited does not include any detailed Social Impact Assessment or Economic Impact Assessment.

We submit that both are statutory considerations and required in order for the DPE to undertake a proper statutory assessment of the proposal under section 79C.

Top Education Group Ltd submits that there will be significant adverse social and economic impacts to the education use currently carried on with the development site (and in particular the students using the site) because of the proposal and these impacts both quantitatively and qualitatively must be specifically addressed by the Applicant's EIS by providing specific and detailed Social Impact Assessment and Economic Impact Assessment reports, from suitably qualified social planners and land economists.

The failure of the SEARs and the Application to specifically address the social and economic impacts of the proposal does not permit those affected by the proposal to make a full and proper submission under section 79C(1)(d) of the EPA Act and further does not permit the Department to assess whether the proposal is in the public interest, *ibid* section 79C(1)(e) of the EPA Act.

As well, the failure to specify the actual uses makes it difficult, if not impossible, to assess the impact of the development.

## Zone objectives

The EIS also does not properly address the zone objectives. Particularly, we do not support the contention that the commercial and retail uses proposed meet the Business Zone – Business Park Objectives under State Environmental Planning Policy (State Significant Precincts) 2005. The first objective in the zone under that SEPP is:

*“(a) to establish business and technology parks to encourage employment generating activities that provide for a wide range of business, technology, educational and entertainment facilities in the Zone”*

Further, the next objective is also not met. It provides as follows:

*“(b) to support development that is related or ancillary to business, technology or education,”*

The application simply does not demonstrate how the proposed development meets those objectives. Demonstrably, reference to proposed "commercial uses" cannot do so. Without more detail, the consent authority has no information to assess whether those objectives are achieved.

## **Social Impact**

The development will displace 700 students from Bay 16 (AKA Bay 15) of the Locomotive Workshop and also impact 300 other students at other buildings within ATP. This will have a severe social impact and economic impacts upon the students and staff employed at the facility.

In that regard, please find attached Social Impact Submission by Professor Roberta Ryan, the Director of the Institute for Public Policy and Governance (UTS:IPPG) and the UTS Centre for Local Government (UTS:CLG) at the University of Technology Sydney.

Australian Technology Park primarily houses start-up hi-tech companies, especially biotech firms, and spin-offs from university research. ATP has been a showcase in this respect, providing a technology, innovation and education cluster. The Metropolitan Plan for Sydney (2014) identifies the Corridor as a long-term initiative with opportunities for "medium and high density office, education, retail, hospitality and residential development".

## **Economic Impacts**

The statutory process to gain Australian Government Tertiary Education Quality and Standards Agency accreditation of both courses and the facilities is time consuming and economically onerous. The displacement of TOP to provide plant rooms and loading docks for the retail uses proposed in adjoining bays will have a severe economic impact upon the ability of TOP to provide facilities and courses to existing students and have a negative economic effect upon TOP and PwC's planned growth in student numbers and thus upon export income for Australia in the education sector.

Please find attached an Economic Impact Submission by Mr Glenn Fahey.

In our opinion the displacement of an approved Education use to provide plant rooms and loading docks will have adverse economic impacts.

## **Request for Extension of Time to Prepare Detailed Social and Economic Submissions**

In the absence of any meaningful social and economic impact assessment required by the SEARS or provided by the EIS, TOP requests that DPE provide two months of additional time, to the middle of February 2018, such that TOP can procure further expert advice, undertake necessary studies and make a detailed social and economic impact submissions, given the current submission is so close to the Christmas and New Year period.

### **Summary**

The SEARS dated 8 June 2017 requires as the very first requirement that "The EIS shall address the statutory provisions applying to the site contained in all relevant environmental planning instruments (EPIs)..." including the *Environmental Planning and Assessment Act 1979*.

There has been no prior consultation with TOP about the social and economic impacts upon students, staff or TOP.

Section 79C of the EPA Act itself must be addressed. The DPE must, in turn, assess the proposal against every relevant clause of that section.

The EIS's assessment is currently incomplete and insufficient. The assessment of section 5(a) of the EPA Act (p.79-80 of the EIS) is itself superficial. The assessment of section 79(1)(b) as it relates to social and economic impacts at p.81 is also cursory and none of the purported assessments at sections 6.0, 7.0 and 8.0 address the impacts on the educational uses currently carried on at ATP.

Clause 6.17 at p.118-119 of the EIS does not consider the social and economic impacts of the existing uses, its students, staff or the institution itself.

As already noted, we do not support the contention that the uses proposed meet the Business Zone – Business Park Objectives under State Environmental Planning Policy (State Significant Precincts) 2005. In fact, the impact of the proposal will effectively remove the existing educational facilities and replace them with plant and equipment and a loading dock to service retail use "market" with unknown uses, including "anchor tenants" in the neighbouring bays.

The impacts of the proposal will thwart the achievement of the zone objectives listed under clause 8 of Schedule 3, Part 5 of SEPP SRD and repeated at p.85 of the EIS. As already stated, no meaningful consideration has been given to the social and economic impacts.

Nothing in the SEARs, the proposal or the EIS addresses section 79C(1)(b) in terms of the social and economic impacts and therefore any conclusion that the proposal can meet the public interest test at section 79C(1)(e) must fail.



In summary, TOP is seeking a reasonable amendment of the proposal to retain the education use in Bay 16 (AKA Bay 15), to avoid discontinuance of the operation and unnecessary loss of an education use at the Locomotive Workshop.

The retention of the existing uses in Bay 16 (AKA Bay 15) will not impact the general purpose of the refurbishment including the redevelopment of the commercial and retail uses.

We will submit detailed social and economic impact reports within two months' time for your further consideration.

### **Further Consultation**

TOP would welcome further direct discussions with the Applicant and the DPE to ensure that the existing education use is retained within existing Bay 16 (AKA Bay 15 as noted in the DA) consistent with the zone objectives.

Please don't hesitate to contact me on 0408 463 714 or by email [brett@daintry.com.au](mailto:brett@daintry.com.au) should you require any clarification or additional information.

Yours faithfully,



Brett Daintry, MPiA, MAIBS, MEHA  
Director