

13 December 2017

Attention: Brendon Roberts and Amy Watson

Dear Brendon and Amy

RE: THE LOCOMOTIVE WORKSHOP (BAYS 6 TO 15) – COMMERCIAL STATE SIGNIFICANT DEVELOPMENT (SSD8449) FOR THE AUSTRALIAN TECHNOLOGY PARK (ATP) LODGED BY MIRVAC (APPLICANT)

We are instructed by Top Education Group Ltd (TOP Education) to submit for the Consent Authority's consideration an objection to SSD8449. We have reviewed the following documents in preparing this submission:

1. SSD8449, including the Secretary's Environmental Assessment Requirements (SEARS), and the Environmental Impact Statement (EIS) and Engagement Report prepared by Ethos Urban
2. The State Significant Development Applications for the ATP Concept Plan (SSD7317), and The Locomotive Workshop (Bays 1 to 5) – Retail (SSD8517)
3. Documents provided by TOP Education, including correspondence with the Applicant regarding SSD8449
4. Policies, objectives, plans and other information relevant to the locality and proposed development, such as the City of Sydney's *Sustainable Sydney 2030*, UrbanGrowth NSW (UGNSW) plans for the Central to Eveleigh Urban Renewal Corridor, publically available information on the NSW Government's Redfern, Waterloo and Waterloo Quarter State Significant Precincts, relevant zone objectives for the Australian Technology Park (Business Park Zone B8), and other relevant NSW Government policies

[This submission](#)

This submission addresses the following issues relevant to SSD8449:

1. Description of TOP Education, the tenant of an educational establishment use within Bay 16 (refers to Bay 15 in the Mirvac plan) of the Locomotive Workshop which SSD8449 intends to replace with commercial and retail uses
2. Adequacy and compliance of the Engagement Report for SSD8449 with the SEARS
3. Compliance of SSD8449 with NSW Government policies and plans relevant to social impacts
4. Peer review and adequacy of the EIS social impact considerations with reference to the NSW Department of Planning and Environment's *Guidelines for Social Impact Assessment for State Significant Mining, Petroleum Production and Extractive Industry Development* (SIA Guidelines)

The submission has been prepared by Professor Roberta Ryan and Mr Alex Lawrie of the Institute for Public Policy and Governance at the University of Technology Sydney. They are both appropriately qualified and experienced to prepare the submission. Professor Ryan is a qualified social scientist with a Bachelor of Arts, Bachelor of Social Science and Graduate Diploma in Public Policy, and Mr Lawrie a qualified urban planner with a Bachelor of Planning and Master of Urban Policy and Strategy. Both

have prepared Social Impact Assessments (SIAs) for various major land uses including commercial, retail, entertainment, housing, extractive industry and social service and infrastructure developments.

Professor Ryan was involved in development of the SIA Guidelines and, together, Professor Ryan and Mr Lawrie were amongst the first to apply the Guidelines to a State Significant Development application before the NSW Planning Assessment Commission (Sydney Zoo, SSD7228). Professor Ryan and Mr Lawrie also provide post-graduate education in social impact assessment.

TOP Education

TOP Education is a non-university higher education service provider. Since 2002, it has grown to provide 23 undergraduate and postgraduate degrees in business, accounting and law. TOP Education has an approved capacity for 1,000 international students (about 3% of the 35,000 international students studying in the City of Sydney). About 95% of TOP Education's cohort is international students from China, and it employs around 50 full time equivalent (FTE) staff.

As noted by the Department's approval for SSD7317, TOP Education operates from an approximately 500.4m² tenancy approved as an educational establishment use in the ATP Biomedical Building. However, most of its services are provided from a 1,343.2m² tenancy approved as an educational establishment use in Bay 16 of the Locomotive Workshop.

The Department's approval documents for SSD7317 and the SSD8449 application documents miscategorise the existing use of TOP Education's Bay 16 tenancy as commercial, rather than an educational establishment (City of Sydney Approval D/2016/177).

Uniquely, TOP Education is:

1. The first private law school in Australia and only non-university law school accredited to deliver a Bachelor of Law by the NSW Department of Justice Legal Profession Admission Board.
2. The third largest, privately operated non-university higher education service provider of business degrees to international students in Australia.
3. One of three Australian non-university higher education service providers which the Chinese Ministry of Education recognises qualifications, and a recommended provider by the Chinese Government.
4. PwC Australia has acquired a 15% stake in TOP Education in 2016 June, the first time that the firm directly invest on higher education sector
5. Co-located at ATP with two private education service providers Digital Intelligence, which provides courses in advanced computer coding, and Education Training and Employment Australia, which provides courses in leadership and management, community health, early childhood education, allied health and nursing.
6. One of the largest non-university higher education service providers. TOP Education provides approximately 2.5% of all non-university higher education courses accredited by Australia's Tertiary Education Quality and Standards Agency (TEQSA), compared to an industry average of under 1%.
7. Provider of corporate training services for some of the largest Chinese enterprises in Sydney including Bank of China, UniPay, China Eastern Airlines, amongst others.

8. Looking to expand its service offering including the number of enrolments, disciplines and degree, campus facilities, digital teaching methods, and on-shore student experience centres in China to respond to continued growth in Chinese international education market and exports for Sydney, NSW and Australia.
9. TOP Education has applied through the Hong Kong Stock Exchange to raise capital for service expansion on 31st October 2017
10. A provider of a range of student support services, including English language and counselling services, student career development, and paid work experience.
11. Regularly hosts senior Chinese delegations visiting ATP on official exchanges, including the Chinese Minister of Technology and head of the China National Chamber of Commerce.

TOP Education's services are unique to the privately operated non-university higher education sector in Sydney, NSW, Australia and internationally, and provide benefits that position NSW as leader in the international education export market in Australia. Any changes to these services will necessarily impact service users across these localities and compromise NSW's international education export market leadership.

Adequacy and compliance of the Engagement Report for SSD8449 with SEARS

Amongst others, the SEARS for SSD8449 require the Applicant's EIS to consult relevant local, State or Commonwealth authorities, service providers, and the local community (particularly City of Sydney, NSW Roads and Maritime Services, Transport for NSW, Sydney Water, UGNSW, and Local Aboriginal and Community Groups), and describe how the proposed development has been amended to respond to issues raised during consultation or provide a short explanation where amendments are not made.

In the Engagement Report for the earlier ATP Concept Plan (SSD7317, p.10), the Applicant responded that it would continue working with UGNSW and other stakeholders to maintain ATP's technology focus and drive local economic growth in innovative knowledge-intensive, education, creative, cultural and digital industries. In the Report, the Applicant recognized UGNSW's significant consultation on the Central to Eveleigh Urban Renewal Corridor and some of the 'key moves' UGNSW proposed as relevant to the ATP including improving productivity and creating a major centre for Sydney's growing new economies focused on knowledge intensive, education, creative, cultural and digital industries.

As part of SSD8449, the Applicant established stakeholder working groups to advise its project team on development themes including innovation, education and creative industries. It also consulted ATP tenants through phone calls, emails, letterbox drops, and community information sessions. On 24 September 2017 and 21 October 2017, TOP Education wrote to the Applicant requesting they amend SSD8449 to retain the existing educational establishment use of Bay 16, and to discuss future tenancy arrangements.

However, TOP Education's feedback to the Applicant is not listed at Section 3.6 (Existing Locomotive Tenant Consultation) of the Engagement Report. Whilst Section 4.0 (Consultation Outcomes, p.22) of the Report addresses feedback regarding future tenancy arrangements, it does not mention how retention of the existing educational establishment use of Bay 16 has been addressed, nor does it provide a short explanation for why plans have not been amended to address this issue.

The Engagement Report does not describe how the Applicant has amended the proposed development in response to feedback from TOP Education that the Bay 16 educational establishment be retained, nor does it provide a short explanation why plans have not been

amended. In this way, the Report fails to comply with the SEARS and cannot be relied upon by the Consent Authority.

Compliance of SSD8449 with relevant planning policies and objectives

The proposed development is located in the City of Sydney Local Government Area and a primary activity centre of intense current and future redevelopment activity. The site is well-located with respect to transport access to education services, and located close to the Waterloo Estate, Redfern, and Waterloo Metro Quarter State Significant Precincts, the Botany Road retail centre, and the NSW Ambulance Garden Street station. The ATP adjoins the Central to Eveleigh Urban Renewal Corridor which includes the recent redevelopment of the North Eveleigh precinct and future redevelopment of the adjoining South Eveleigh and Redfern Station precincts.



UGNSW's vision for working in the Corridor includes creating a place that connects many types of businesses and offers the right balance and diversity of service, trade, digital, education, innovation and creative industries. In addition to TOP Education's co-location with digital, innovation and creative industry businesses and its connections to a range of business types such as PWC and some of the largest Chinese enterprises in Sydney, the existing use of Bay 16 as an educational establishment contributes to this vision. In addition, the potential social impacts of additional retail development on the nearby and depressed Botany Road retail centre have not been made clear.

Should SSD8449 be approved, the Bay 16 tenancy will be replaced with commercial and retail uses and TOP Education will likely be required to find alternative premises. Strict requirements and long-time process of CRICOS capacity approval taken by TEQSA for the designate educational establishments means there is no guarantee in such short period these premises will be found within the Corridor. Should SSD8449 be approved and TOP Education be unable to find alternative premises within the Corridor, this would see the replacement of 50 FTE high value education sector jobs with potentially low value jobs in the commercial and retail sectors.

TOP Education's tenancy represents 6% of the entire floor area of the Locomotive Workshop. Approving SSD8449 and replacing the existing educational establishment use of Bay 16 with

commercial and retail uses that already dominate the site does not meet the NSW Government's vision for balance and diversity in service, trade, digital, education, innovation and creative industry uses for the Corridor. Replacing 50 FTE high value education sector jobs with potentially low value jobs in the commercial and retail sectors would also impact the NSW economy.

City of Sydney's Sustainable Sydney 2030 sets a target of 97,000 new jobs and an increase in finance, advanced business services, education and creative industries and tourism sectors. As an education service provider with well-progressed expansion plans and co-located with creative industry businesses, TOP Education is already contributing to this vision.

Should SSD8449 be approved in its current form and the existing educational establishment use of Bay 16 be replaced with potentially low value commercial and retail uses TOP Education may be required to find alternative premises. Strict requirements and long-time process of CRICOS capacity approval taken by TEQSA for the designate educational establishments means there is no guarantee TOP Education will in such short period find alternative premises within the Corridor or the City of Sydney. This does not meet the Sustainable Sydney 2030 job targets and, therefore, Objective 5(b) of the EP&A Act for levels of government to share responsibility for planning.

The ATP is zoned as Business Zone – Business Park (B8). The Objectives of this zone are:

- 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,
- b) to support development that is related or ancillary to business, technology or education,
- c) to support development for retail uses that primarily serve the needs of the working population in the Zone and the local community,
- d) to ensure the vitality and safety of the community and public domain,
- e) to ensure buildings achieve design excellence,
- f) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.

From these objectives it is clear employment generating uses for a range of business types, particularly education, technology and entertainment, are the primary aim for the Zone and to be supported by development that is ancillary to these.

Replacing the existing educational establishment use of Bay 16 with potentially low value commercial and retail uses that already dominate the site, runs counter to the objective of delivering a range of employment generating activities in this zone. Replacing 50 FTE high value education sector jobs with potentially low value jobs in the commercial and retail sectors would also impact the NSW economy.

The NSW Department of Industry's China Strategy states the NSW Government will focus efforts on growing its relationship with China across trade, investment, education and tourism. The Strategy will assist NSW maintain its position as the largest share and fastest growth rate of any State in Australia's \$16.1billion international education export market.

Action 1 of the Strategy, led by the Department of Premier and Cabinet, commits the NSW Government to building on long standing relationships with China and growing new partnerships by facilitating exchanges between NSW and Chinese education institutions. Action 7 of the Strategy, led

by the Department of Education and Communities, commits the NSW Government to maintain its leading share in the Chinese international education market by supporting NSW education industry exporters and exploring on-shore campuses in China.

TOP Education is one of three non-university higher education service providers which the Chinese Ministry of Education recognises qualifications, and a service provider recommended by the Chinese Government. It also hosts senior Chinese delegations visiting ATP on official exchanges, most recently the Chinese Minister of Technology, and plans to expand its services to provide on-shore student experience centres in China to respond to continued growth in the Chinese international education exports market for NSW and Australia.

TOP Education already contributes to the NSW Government's China Strategy aims and has expansion plans to grow this contribution. Should SSD8449 be approved in its current form and the existing educational establishment use be replaced with commercial use, TOP Education may be required to find alternative premises. Strict TEQSA accreditation requirements and CRICOS capacity approval for the design of educational establishments means there is no guarantee TOP Education will in such short period find alternative premises within the Corridor or the City of Sydney. This presents a substantial risk to achieving the aims of the NSW Government's China Strategy.

Peer Review of the EIS and adequacy of social impact considerations

The Department's SIA Guidelines provide guidance on defining, identifying and assessing social impacts.¹ Social impacts are a composite of social costs and benefits and can only be assessed once both costs and benefits are known. Generally, there is a net positive social impact where benefits outweigh costs and a net negative impact if costs outweigh benefits. In social impact settings, impacts can include:²

TABLE 1 SOCIAL IMPACT CATEGORIES

Category	Description
Way of life	How people live, work, play, and interact with one another on a day-to-day basis
Culture	People's shared beliefs, customs, values, and language or dialect (including Aboriginal culture and connection to country)
Community	Its cohesion, stability, character, services, and facilities
Political systems	The extent to which people are able to participate in decisions that affect their lives, and the resources provided for this purpose
Environment	The quality of the air and water people use; the availability and quality of the food they eat; the level of hazard or risk, dust and noise they are exposed to; the adequacy of sanitation; their physical safety; and their access to and control over resources
Health and wellbeing	People's physical, mental, social, and spiritual wellbeing
Personal and property rights	Particularly whether people are economically affected, or experience personal disadvantage which may include a violation of their civil liberties
Fears and aspirations	Their perceptions about their safety, their fears about the future of their community, and their aspirations for their future and the future of their children

The Guidelines note social impacts can be tangible or intangible, cumulative, direct or indirect:

- Tangible impacts are physically experienced, such as income loss or gain, whereas intangible impacts are perceived to be experienced, such as reputational damage or enhancement.
- Cumulative impacts are the successive, incremental and combined impacts of one or more projects, including current and foreseeable projects.

¹Available at: http://www.planning.nsw.gov.au/Policy-and-Legislation/~/_media/8B6753256417468F80E11708762DA11D.ashx

²Vancly, F. (2003). International Principles for Social Impact Assessment. Impact Assessment & Project Appraisal 21(1), 5-11 *op cit* SIA Guidelines (p6)

- Direct impacts are experienced by producers and consumers of a good or service and stem from the value producers and consumers place on that good or service. This value can include a producer or consumer willingness to pay for the good or service (instrumental value), appreciating the availability of the good or service for themselves or others (intrinsic value), or the contribution a good or service makes to broader societal goals expressed through policy (institutional value).
- There are two types of indirect impacts. First round impacts are experienced by third parties as a result of a good or service being consumed. For example, a coal mine might provide profits to suppliers. These are typically considered in impact assessment. Second round impacts are experienced in related markets when the good or service is consumed. For example, profits made by a coal mine supplier are, in turn, used to purchase other supplies. These are not typically considered in impact assessment.
- Other impact categories include market or non-market, quantifiable and unquantifiable, and distributed impacts that are experienced differently by different people or groups across different localities or timescales.

As the proposed development is State Significant Development, it is appropriate to be instructed by the SIA Guidelines, which outline good practice social impact considerations for major developments. In particular, the Guidelines advise that in order to adequately identify social impacts, SIAs should understand the project's area of social influence, including potentially affected people and groups such as service users. Then, SIAs should prepare a social baseline documenting conditions and trends, predict changes to the baseline with and without the proposed development, evaluate the significance of these changes and develop responses to them, and develop a monitoring and management framework including impact mitigation or enhancement measures as required.

The EP&A Act requires the Consent Authority to consider social impacts in decision-making. We have peer reviewed the social impact considerations of the EIS and found a number of deficiencies. The EIS:

1. Has not been informed by a dedicated socio-economic impact assessment as could reasonably be expected of a proposed development with a Capital Investment Value in excess of \$88million and subject to a State Significant Development application. A number of deficiencies with the social impact considerations in the EIS stem from this and are described below.
2. Does not provide a social baseline documenting conditions and trends and changes to these with and without the proposed development. Should a baseline have been provided, it is reasonable to expect the EIS would have included a profile of the education services provided from Bay 16 by TOP Education as well as the students using these services. Because of this omission, which stems from miscategorising the existing use of Bay 16 as commercial rather than educational establishment, potential social impacts have not been adequately identified and assessed such as the contribution the existing use of Bay 16 make to the NSW Government's vision for the Central to Eveleigh Urban Renewal Corridor and its China Strategy aims. Further, an adequate social baseline would have identified the Garden Street Ambulance Station and then predicted and assessed potential social impacts from construction on this crucial social service.
3. Does not identify the localities for identification and assessment of potential social impacts. This stems from miscategorising the existing Bay 16 tenancy as a commercial use rather than educational establishment use and failure to properly identify service users of the educational establishment. Should this have been done, it is reasonable to assume the SIA would have identified a primary locality of the immediate vicinity of the proposed development and secondary localities of the City of Sydney, NSW, Australia and China as service users constitute about 3% of

the 35,000 international students studying in the City of Sydney and come from an international education export market of crucial importance to the governments and economies of NSW and Australia.

4. Does not predict changes that may occur with and without the proposed development. For example, strict TEQSA accreditation requirements and CRICOS approval for the design of educational establishments means it is reasonable to assume that, should SSD8449 be approved in its current form and the educational establishment use of Bay 16 be replaced with commercial and retail uses, it is unlikely the education services currently provided from Bay 16 could be readily relocated in such short period. The impact of this potential loss of services for users and the risk this presents to realising institutional value through TOP Education's contribution to the NSW Government's vision for the Central to Eveleigh Urban Renewal Corridor and aims of its China Strategy, as well as the City of Sydney's Sustainable Sydney 2030 targets have not been considered by the SIA.
5. Does not account for nor identify the cumulative impact of other reasonably foreseeable projects in the immediate locality, including the known proposed redevelopment of the Alexandria Hotel and the Waterloo Estate State Significant Precinct. Whilst the EIS in some ways accounts for the cumulative impact of an additional 400 to 700 dwellings Central to Eveleigh Urban Renewal Corridor and changes from the Waterloo Metro Quarter State Significant Precinct, similar consideration is not given to the Redfern and Waterloo Estate State Significant Precincts. This is despite publically available information on the NSW Government's Communities Plus program for the Waterloo State Estate Significant Precinct indicating there is to be no net loss of social housing and a target of 5% to 10% affordable housing that, when taken together, would increase the Precinct's existing density.
6. Only identifies community (or social) benefits of the proposed development and erroneously includes second round impacts of additional wages from construction jobs being directed towards local retail, entertainment and business services (the EIS, p.118). Of greatest concern is the socio-economic considerations of the EIS (p118-9) make no attempt to identify or assess community (or social) costs of the proposed development. Therefore, the EIS is unable to, and has not, assess the social impacts of the proposed development as these are a composite of social benefits *and* costs.

In these ways, the social impact considerations of the EIS are deficient and the Consent Authority is unable to rely on it to inform its decision-making which the EP&A Act requires to take into account social impacts.

At a minimum, an adequate SIA for a State Significant Development application at detailed design stage with a CIV of \$88million and that proposes to replace with commercial and retail uses a 1,343.2m² education establishment providing services to over 1,000 international students would:

1. Define the area of social influence for the proposed development with reference to the people and groups potentially affected during construction and operation. This would include a description of services and users of the Locomotive Workshops as well as other services in the locality that may reasonably be impacted during construction such as the NSW Ambulance Station in Garden Street.
2. Include a social baseline documenting conditions and trends relevant to the potentially affected people and groups. This would include a profile of the local community and service users with a qualitative description of their values and aspirations and quantitative social indicators. This would also describe reasonably foreseeable projects in the locality such as the Alexandria Hotel and

Waterloo Estate State Significant Precinct, and relevant policies affecting the baseline such as the NSW Government's vision for the Central to Eveleigh Urban Renewal Corridor, the Redfern, Waterloo Estate and Waterloo Quarter State Significant Precincts, China Strategy, Communities Plus program, and the City of Sydney's Sustainable Sydney 2030.

3. Predict changes to the social baseline with and without the proposed development, evaluate the significance of these, and develop social impact mitigations or enhancements. As noted by the Department's SIA Guidelines, this would include a table identifying potential impacts and the people or groups likely affected by these, the likelihood and significance of potential impacts including the duration, extent, sensitivity and severity, as well as stakeholder views towards these impacts and any proposed mitigations or enhancements.
4. Develop a monitoring and management framework to ensure mitigation of potentially negative social impacts and enhance or secure potentially positive social impacts. This would include a table identifying likely effectiveness and monitoring indicators for the mitigations or enhancements.

In closing

We object to SSD8449 on the following grounds as well as offer advice to the Consent Authority on the adequacy of the EIS social impact considerations and what could be done to make these considerations adequate to determine SSD8449 under the EP&A Act:

- Adequacy and compliance of the Engagement Report with the SEARS. In particular the Applicant has not responded to feedback from ATP tenants that the Bay 16 educational establishment use be retained. It is a requirement of the SEARS that the applicant not only document feedback received *but also* respond to this feedback through the Engagement Report.
- Compliance of SSD8449 with NSW Government policies and plans relevant to potential social impacts. In particular, the educational services provided from Bay 16 contribute to a range of NSW Government policies and plans and loss of the Bay 16 educational establishment use directly contradicts these.
- An expert peer review identified deficiencies with the EIS social impact considerations when compared to the Department's SIA Guidelines. Suggestions have been offered as to how these deficiencies could be addressed and social impact considerations made adequate to enable the Consent Authority to determine the application.

We thank you for the opportunity to submit to SSD8449. Should you have questions or require any further clarifications, please do not hesitate to contact us.

Yours sincerely,



Prof. Roberta Ryan
Director

