



Planning &
Environment

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

AUSTRALIAN TECHNOLOGY PARK, EVELEIGH

SSD 7317 MOD 4



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

October 2017

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1. BACKGROUND

1.1 Introduction

This report provides an assessment of a proposed modification application to modify the State Significant Development consent for redevelopment of a commercial campus at the Australian Technology Park (ATP) (SSD 7317).

The application is lodged by Mirvac Projects Pty Ltd (The Applicant) pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The proposal seeks to increase the height of mechanical exhausts, flues, vents and photovoltaics on top of the roof of Building 1 by between 0.4 and three metres (m).

1.2 Subject site

The ATP site is 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.

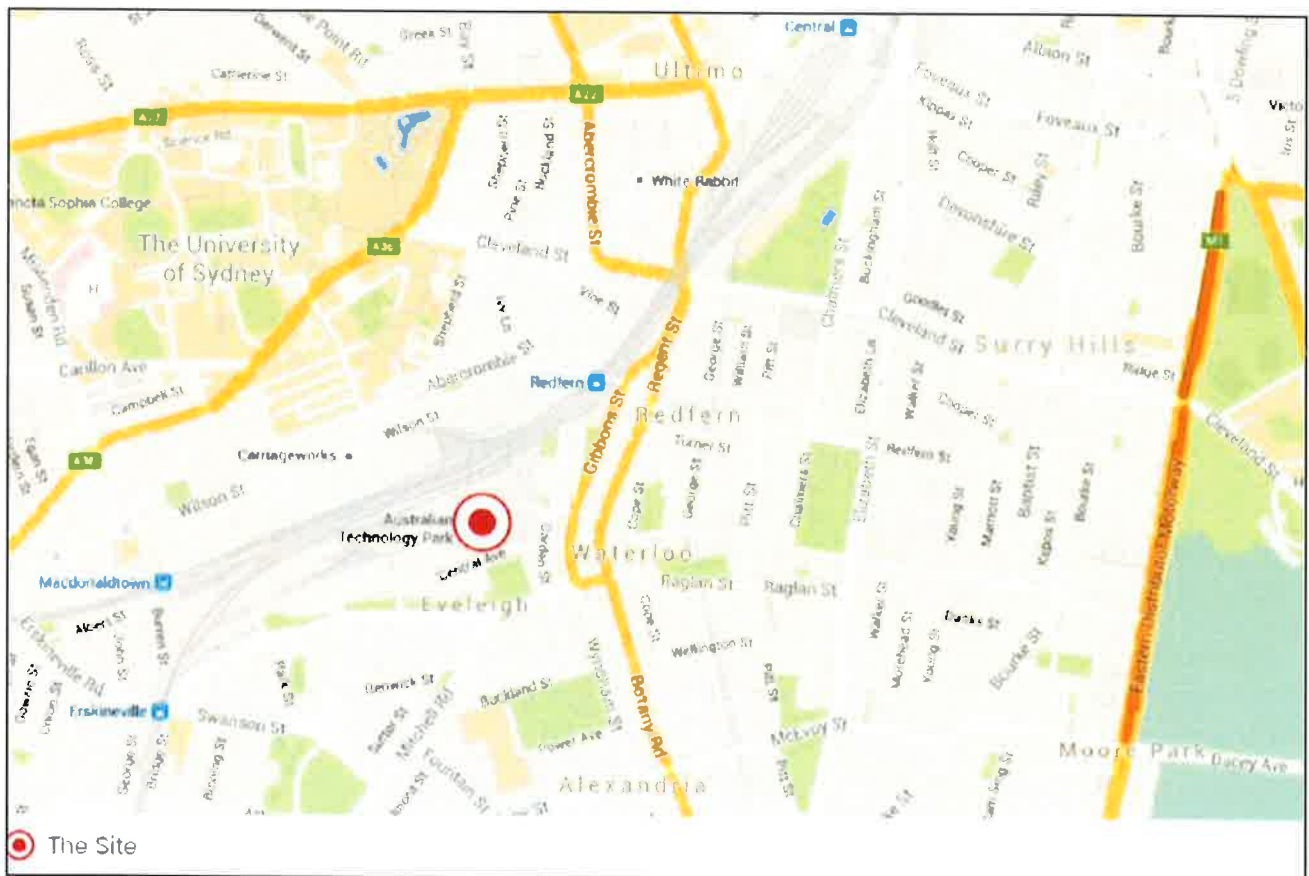


Figure 1: Australian Technology Park location (Source: Applicant's EIS for SSD 7317)

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 and Lot 9 (Building 1) is shown in a solid red outline (Base map source: Near map)

1.3 Approval history

On 20 December 2016, the Planning Assessment Commission (the 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 the ATP commercial campus has now commenced with construction of Building 1 and site preparation works for Building 2 underway. No works have commenced on Building 3.

The development consent has been modified on two occasions:

- on 26 June 2017, the Commission approved a Section 96(1A) modification (MOD 1) to amend the timing for approval of the landscaping and public domain plan (Condition B53 (a)) and timing for the completion of those works (Condition B53 (d))
- on 22 August 2017, the Director, Key Sites Assessments approved a modification to the development consent (MOD 2) to amend the timing of the Voluntary Planning Agreement (VPA) (Condition B4); change the required car parking provision (Condition B8) and building identification signage zone on the south elevation of Building 1 and alter the ground level layout of Building 2.

The Department is also considering a modification application (MOD 3) seeking to modify the design of Building 3. The Department is currently awaiting additional information and a response to submissions prior to finalising its assessment.

2. PROPOSED MODIFICATION

The Section 96(1A) application seeks approval to increase the height of the roof top plant on Building 1 by between 0.4 to 3 m.

The Applicant notes that during design development it became apparent that to provide safe and effective dispersion to comply with AS-NZS 5601.1 (Gas Installations), the mechanical exhausts, flues and vents would need to be at least 1.565 m and 3 m higher than the roof level of the building respectively. In addition, the photovoltaics need to be positioned approximately 0.4 m above the roof sheeting level.

The modification therefore seeks to increase the overall maximum height of the approved building from 57.9 m AHD to 60.9 m AHD.

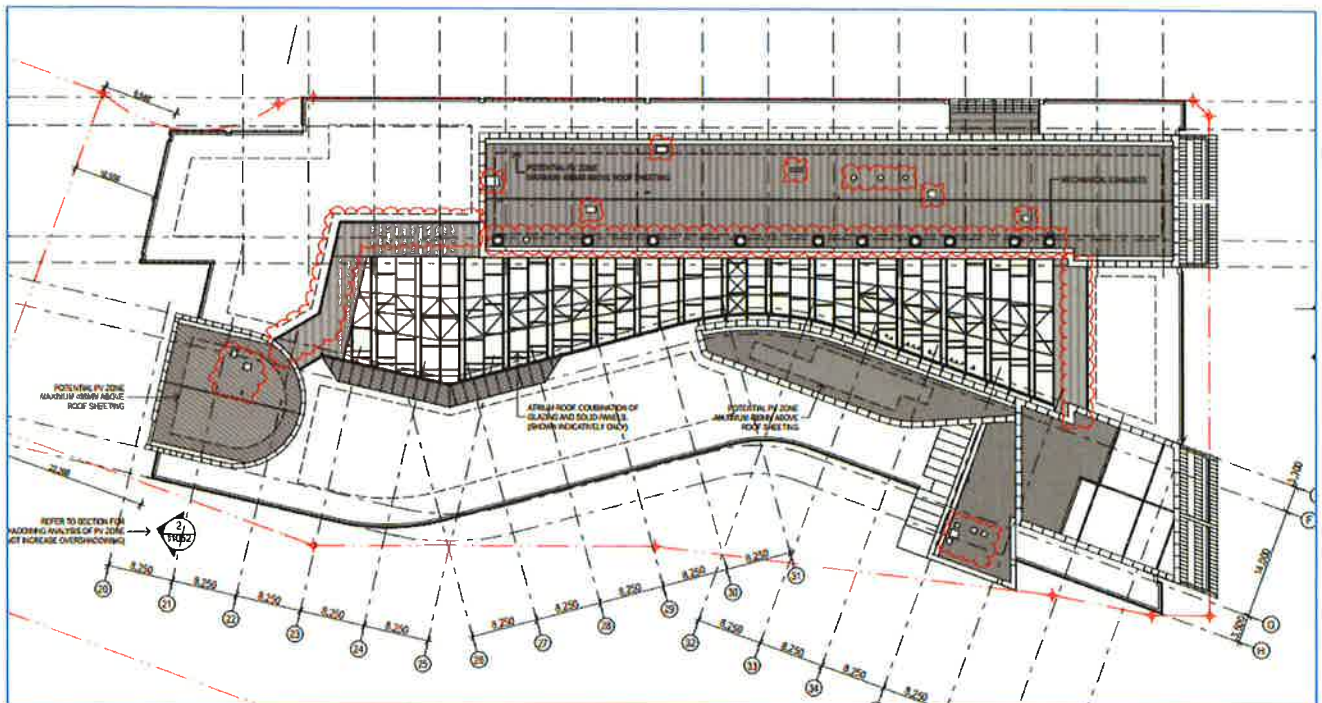


Figure 3: Location of rooftop mechanical exhaust, flue/vent infrastructure and photovoltaics circled red (Source: Applicant's Section 96 application).

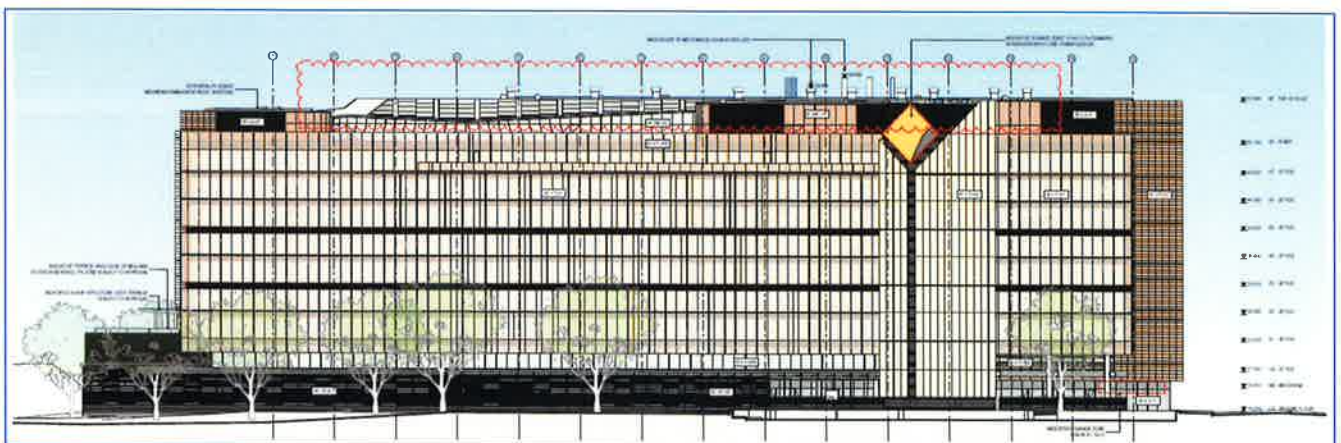


Figure 4: Rooftop mechanical exhaust, flue/vent infrastructure and photovoltaics circled red on southern elevation (Source: Applicant's Section 96 application).

The Applicant seeks to modify Condition A2 to amend the approved Level 8 plant, roof, and elevation plans and amend Condition A14 as follows:

A14 Airspace Protection (Building 1)

*For the purposes of controlled activities with the protected airspace of Sydney Airport, Building 1 must not exceed a maximum height of **57.9m 60.9m** AHD, inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, lighting rods, any roof top garden plantings, exhaust flues etc.*

Separate approval must be sought under the Airports (Protection of Airspace) Regulations 1996 for any cranes required to construct the building (see Condition B59).

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. The Department is satisfied that the proposed modifications will have minimal environmental impact.
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).	The Department is satisfied the proposed changes are minor, would not result in any additional impacts and the development 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 referred to relevant public authorities and made available on the Department's website 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.	No submissions have been received to the modification application.

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

The Department comprehensively assessed the original SSD application against the above EPIs. As the proposal is limited to minor external alterations, predominantly as a result of required mechanical exhaust infrastructure and photovoltaics for the approved use of the building, the Department is satisfied it remains consistent with the above EPIs.

3.3 Delegation

In accordance with the Minister for Planning's delegation dated 11 October 2017, the Director, Key Sites Assessment, may determine the Section 96(1A) applications as:

- Council has not made an objection
- a political donation disclosure statement has not been made
- there are no public submissions objecting to the proposal.

4. CONSULTATION AND SUBMISSIONS

4.1 Consultation

The Department referred the application to City of Sydney Council (Council) and Urban Growth and also made the proposal publicly available on its website.

4.2 Submissions

The Department did not receive any submissions from Council, Urban Growth or from the public.

5. CONSIDERATION OF PROPOSED MODIFICATION

The Department considers the key issues associated with the modification are:

- building appearance
- airspace protection
- overshadowing.

5.1 Building appearance

The external appearance of Building 1, and achievement of design excellence, was a key issue in the Department's previous assessment. The Department concluded the building achieved a high standard of architectural design with a distinctive character particularly as it presents to the south.

The proposal seeks approval to install mechanical exhausts, flues, vents and photovoltaics, which will protrude between 0.4 and 3 m above the approved roof line. The majority of these will be located on the northern half of the roof and those on the southern half of the roof will be below 1 m in height above the approved roof line (**Figure 3**).

The Applicant states that the flues and photovoltaics have been restricted to the minimum height possible and positioned in plan to ensure their visual impact on the public domain is limited. As each of these elements is positioned away from the roof edge, the acute sightline from street level prevents any of the flues or photovoltaic cells from being seen at street level.

The Applicant submitted a Statement by the project architect, FJMT, confirming the rooftop elements will not impact the overall design quality of Building 1 as approved.

The Department notes the location of the exhausts, flues, vents and photovoltaics is not uniform across the approved roof of the building and are set back from the building edge a minimum of 5 m for the exhausts, flues and vents, and 2 m for the photovoltaics which minimises the visual impact from the public domain. It is likely these elements will be imperceptible when read in the context of the whole building. The Department therefore considers these elements are acceptable in design terms and that the overall design quality of Building 1 will be maintained.

5.2 Airspace protection

Condition A14 requires for the purposes of controlled activities with the protected airspace of Sydney Airport that Building 1 must not exceed a maximum height of 57.9 m, which was the maximum height of the building specified on the approved architectural plans. The approved plans did not indicate any mechanical exhausts, flues, vents and photovoltaics, which are now included on the submitted plans following further design development.

The Applicant obtained approval on 4 July 2017, from the Australian Department of Infrastructure and Regional Development to increase the height of the building to 60.9 m AHD. The Department therefore supports the proposed amendment of Condition A14 to reflect the amended maximum height of 60.9 m AHD.

5.3 Overshadowing

The Applicant provided a shadow analysis for mid-winter from 9 am to 3 pm, which includes an assessment of the overshadowing impact of the additional rooftop elements.

The analysis demonstrates that the mechanical exhausts, flues, vents and photovoltaics do not cast a shadow beyond the extent of the roof of the building. Accordingly, these elements will not cast any additional shadow to that cast by the approved building.

The Department supports the increased building height as there will be no additional overshadowing impacts on adjacent development.

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:

- accommodates the specific operational needs of the building's approved function
- will not detract from the approved building design and overall design of the ATP
- will not result in any additional impacts to the surrounding area
- has approval from the Department of Infrastructure and Regional Development to penetrate the prescribed airspace for Sydney Airport up a height of 60.9 m AHD

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

7. RECOMMENDATION

It is therefore recommended that the Director, Key Sites Assessments:

- **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 4), subject to conditions
- **sign** the attached notice of modification (**Appendix B**).

Prepared by: Brian Kirk
Planner
Key Sites Assessments

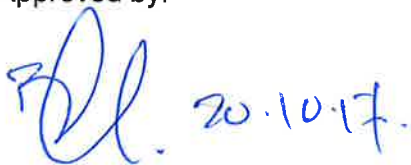
Endorsed by:



Amy Watson
Team Leader
Key Sites Assessments

DECISION

Approved by:



Ben Lusher
Director
Key Sites Assessments

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/index.pl?action=view_job&job_id=8714

APPENDIX B RECOMMENDED CONDITIONS OF CONSENT
