



Request for Variation to Development Standard (Height) State Environmental Planning Policy No.1



Australian Technology Park, Eveleigh

Submitted to NSW Department of Planning & Environment
On Behalf of Mirvac Projects Pty Ltd

15 December 2016 ■ 15756

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1.0 Introduction

This objection under *State Environmental Planning Policy No. 1 - Development Standards* (SEPP 1) has been prepared by JBA on behalf of Mirvac Projects Pty Ltd.

It is submitted to the NSW Department of Planning & Environment in support of a State Significant Development Application (SSD DA) for the redevelopment of three development sites and associated significant public domain works within the Australian Technology Park, Eveleigh.

This SEPP 1 Objection should be read in conjunction with the Environmental Impact Statement dated December 2015 and the Response to Submissions dated May 2016. It relates to the maximum Building Height development standard (Clause 21(1), Division 3, Part 5, Schedule 3) that applies to the subject land under *State Environmental Planning Policy (State Significant Precincts) 2005* (The SSP SEPP).

1.1 SEPP 1 Framework

The objective of SEPP 1 is to allow flexibility in the application of numeric development standards. It enables a consent authority to vary a development standard within an environmental planning instrument (EPI) where strict compliance with that standard is shown to be unreasonable or unnecessary, or would hinder the attainment of the objectives specified in Section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act).

The objectives of Section 5(a) are to encourage:

- (i) *the proper management, development and conservation of natural and man-made resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
- (ii) *the promotion and co-ordination of the orderly and economic use of and development of land;*

Clause 6 of SEPP 1 provides that a person may make a written objection demonstrating that compliance with a development standard is unreasonable or unnecessary in relation to the proposed development.

Clause 8 of SEPP 1 sets out matters to be considered by the Department of Planning or consent authority under delegation in assessing SEPP 1 objections where it states:

the matters that shall be taken into consideration in deciding whether concurrence should be granted are:

- (a) *whether non-compliance with the development standard raises any matter of significance for State or regional environmental planning; and*
- (b) *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

The NSW Land and Environment Court (LEC) established five questions to be addressed in SEPP 1 objections through the judgment of Justice Lloyd, in *Winten Property Group Ltd v North Sydney Council* [2001] 130 LGERA 79 at 89. The test was later rephrased by Chief Justice Preston, in the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827. The test is now as follows:

1. *The applicant must satisfy the consent authority that “the objection is well founded” and compliance with the development standard is unreasonable and unnecessary in the circumstances of the case;*
2. *The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy’s aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979; and*
3. It is also important to consider:
 - a) *whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
 - b) *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

Accordingly, the following SEPP 1 Objection is set out using the current LEC considerations for SEPP 1.

1.2 Is the Planning Control in Question a Development Standard?

The Environmental Planning Instrument to which this objection relates is *State Environmental Planning Policy (State Significant Precincts) 2005*. The maximum height of buildings development standards applicable to the site are found in clause 21(1) of Division 3 in Schedule 3, and is as follows:

- (1) *The height of a building on any land that is the subject of the Height of Buildings Map is not to exceed the maximum height shown for the land on that map.*

On the Height of Buildings Map, it identifies that the maximum building height is in ‘storeys’. A ‘storey’ is defined under the SSP SEPP as follows:

storey means a space within a building that is situated between one floor level and the floor level next above or, if there is no floor level above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic, or
- (d) a basement, or
- (e) any space within a building with a floor level that is predominantly below a basement.

The height of buildings map establishes a maximum number of storeys across each of the three key development sites. An extract from the height of buildings map is included in **Figure 1** below.

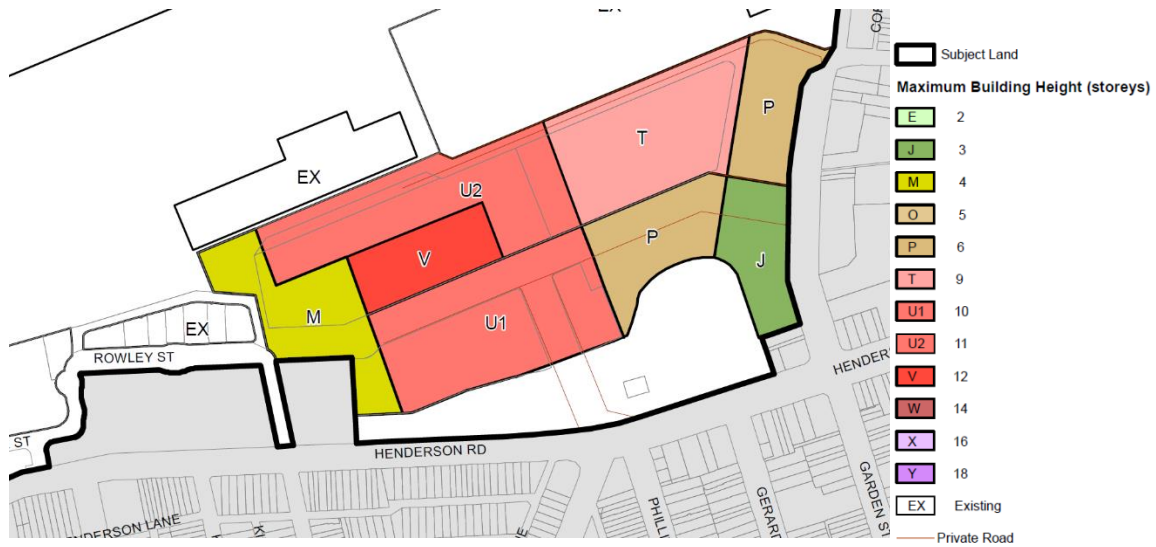


Figure 1 – Extract from SSP SEPP Height of Buildings Map
 Source: NSW Legislation website

The proposed development includes seeking approval for the development of three buildings, one of which (Building 1) will (in part) exceed the maximum building height under the SSP SEPP. Refer to **Figure 2** and **Table 1** for further details of the proposed height distribution across the site and the extent of building height variation proposed.

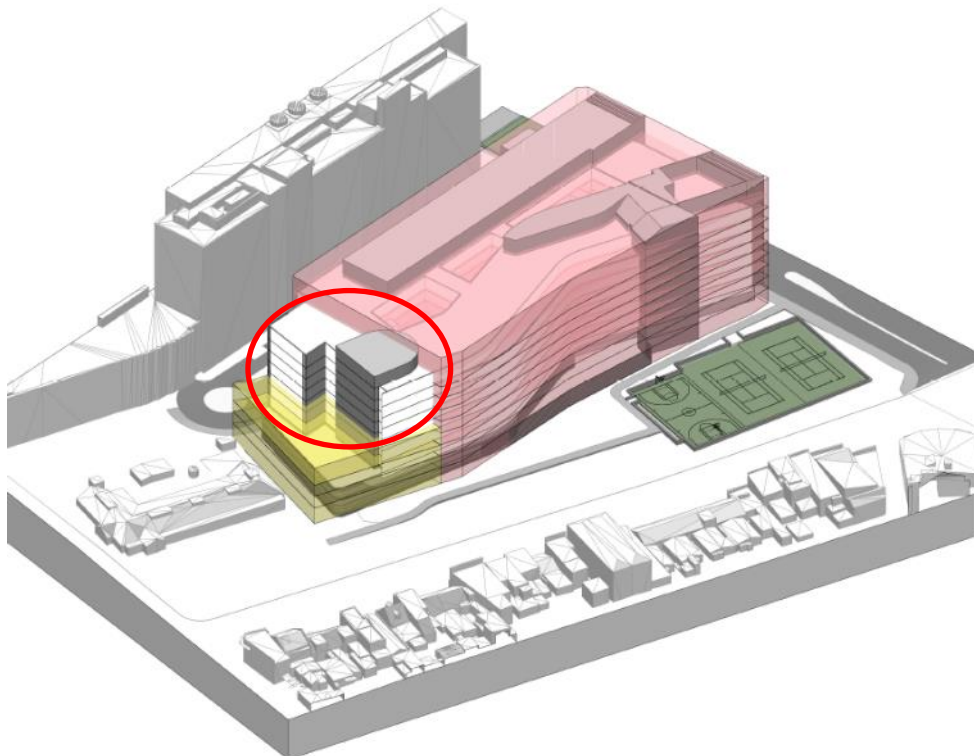


Figure 2 – Illustration of height distribution across ATP (with proposed variation circled in red)
 Source: fjmt

Table 1 – Height distribution and analysis

Site	SSP SEPP Maximum Height (storeys)	Proposed Height (storeys)	Difference
Building 1	10	9 + 1 plant	- 1 storey / 0
	4	Part 3 / Part 9	Part -1 storey / + 5 storeys
Building 2	11	7 + 1 plant	- 3/4 storeys
	9	7 + 1 plant	- 1/2 storeys
Community Building	10	4 + 1 plant	- 5/6 storeys

“Development Standards” has the following definition under Section 4(1) of the Environmental Planning and Assessment Act (EP&A Act):

“development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

.....

- c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,**

.....

(our emphasis)

As this SEPP 1 objection relates to a departure from the numerical standard for building height, it is considered that clause 21(1) of Division 3, Part 5 in Schedule 3 of the SSP SEPP is a development standard and not a ‘prohibition’ in respect of development.

1.3 What is the Underlying Object or Purpose of the Standard?

No objectives are given for the maximum building height development standard as detailed in the SSP SEPP.

Notwithstanding this, it is possible to understand the implicit objectives of the standard through an understanding of the history of the strategic planning that has informed the State Significant Site listing and built form controls for the Redfern Waterloo Sites.

The statutory controls contained within the SSP SEPP for ATP were based on the Redfern-Waterloo Built Environment Plan (Stage 1) 2006 (BEP 1). The BEP was informed through an urban design analysis and developed with stakeholder and community input. BEP 1 was released on August 2006 and is a planning framework for a number of larger sites and blocks within the Redfern and Waterloo Areas.

Key rationale for the development of building height controls derived from BEP 1 for the ATP site are as follows:

“The Australian Technology Park and South Eveleigh sites are important employment hubs. Proposed development will reflect the character of the railway yards, lot sizes and configuration. The ATP is physically separated from lower rise residential development by major roads. Where this does not occur, appropriate heights in the ATP and South Eveleigh adjoining the existing residential area have been considered. The proposed increase of floor space ratio and heights offers the opportunity to anchor these sites as major employment generating centres for the local and metropolitan workforce.”

The ATP site (and broader Redfern to Waterloo area) sits within an area that is surrounded by land where *Sydney Local Environment Plan (LEP) 2012* applies and is the principal planning instrument. In the absence of any specific objectives relating to the building height development standard under the SSP SEPP, it is considered reasonable to apply the objectives of the height of buildings development standard under Sydney LEP 2012.

Therefore, the objectives of the height of buildings clause 4.3 under Sydney LEP 2012 are as follows:

The objectives of this clause are as follows:

- (a) *to ensure the height of development is appropriate to the condition of the site and its context,*
- (b) *to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,*
- (c) *to promote the sharing of views,*
- (d) *to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,*
- (e) *in respect of Green Square:*
 - (i) *to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and*
 - (ii) *to ensure the built form contributes to the physical definition of the street network and public spaces.*

Of the above objectives, only (a), (b), and (c) are relevant.

1.3.1 Compliance with the Zone Objectives

The proposed development, notwithstanding the minor variation to the GFA development standards also importantly meets the relevant zone objectives under the State Significant Precincts SEPP – refer to **Table 2**.

Table 2 – Zone objectives compliance

Provision	Compliance
Subclause 8 – Business Zone – Business Park	
<p>The objectives of the zone are as follows:</p> <ul style="list-style-type: none"> 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. <p>Commercial premises, community facilities, recreation facilities and child care facilities are all permitted land uses within the zone.</p>	<p>The proposal is consistent with the objectives of the Business Park zone as follows:</p> <ul style="list-style-type: none"> ▪ it will deliver new high-technology (fin-tech) business and office premises; ▪ it provides opportunities for ancillary supporting facilities such as retail, recreation and community facilities – all of which will serve the working population/local community; ▪ provides over \$25 million towards the embellishment of the public domain to the benefit of workers of the entire precinct and the local community; ▪ Includes CPTED principles in the design of the proposal; ▪ Design of spaces to enhance connectivity and inclusion; and ▪ Design excellence in all areas of the proposed works – achieved in the main through a world class design team.

Provision	Compliance
Subclause 12 – Recreation Zone – Public Recreational	
<p>The objectives of the zone are as follows:</p> <ul style="list-style-type: none"> a) to enable land to be used for public open space or recreational purposes, b) to enable development for the enjoyment of the community, c) to ensure the vitality and safety of the community and public domain, d) to enhance and protect the natural environment for recreational purposes, e) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area. 	<p>The proposal is consistent with the objectives of the Public Recreation zone as follows:</p> <ul style="list-style-type: none"> ▪ Extensive upgrades are proposed to existing public open space areas; ▪ Will enhance the site for the enjoyment of the community; ▪ Vegetation will be protected and augmented throughout the ATP site; ▪ Public access will remain and be secured into the future; ▪ Proposed public domain works have been designed to enhance visual and aesthetic values, drawing upon the heritage of the area.

2.0 The Objection is "Well Founded"

An applicant must satisfy the consent authority that “the objection is well founded” as compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston expressed the view that there are five different ways or methods in which an objection to a development standard might be shown as unreasonable or unnecessary and is therefore well founded. The five ways or methods include:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Of particular relevance in this instance is the first method identified by his honour, although the 3rd method is also of relevance. The following section demonstrates that the proposed development will 'achieve the objectives of the standard notwithstanding the non-compliance with the standard' and that the underlying objective of the standard will not be achieved if strict compliance with the standard is required.

2.1 The objectives of the standard are achieved notwithstanding noncompliance with the standard.

- (a) to ensure the height of development is appropriate to the condition of the site and its context.

As illustrated within **Figure 2** and **Table 1**, Building 1, whilst resulting in a variation to the building height control, is not proposed to be developed across the entire site. In this regard, the building is setback (~ 6.6m) from the side western boundary. The building then steps 3 storeys from the adjoining existing childcare centre and nearer residential dwellings along Henderson Road. Setback (min of 9.5m and max of 22.2m) and above this podium style building form then sits the 9 storey building form which is partly non-compliant.

Figure 3 below illustrates the improved benefits from the design including, the breaking up of the western edge of Building 1 to break up bulk and mass and to better maximise the setback to the south (i.e. Henderson Road).



Figure 3 – View comparison from the north west showing the three storey podium and stepped form of the western edge of Building 1.
 Source: *fjmt*

The 4 storey height control is intended to enable a transition in building heights where the ATP site adjoins more sensitive and lower scale forms of development.

The setback between Building 1 and the adjoining childcare centre (~6.6m) is sufficient to provide an area of deep soil planting which can accommodate significant planting and landscaping to soften and ameliorate any visual impact of the building when viewed west.

A hierarchy and priority in the Building 1 design is given to addressing integration to the south-west corner (interface with the lower built form along Henderson Road) as opposed to the north-west corner (interface with the much larger and imposing Media City building).

The proposal allows for potential to accommodate a landscaped podium and accessible roof terrace – a superior design outcome.

The building 1 site like the other development sites across ATP present as ideal redevelopment sites, being flat, cleared/vacant, and without any significant constraints. The site's condition therefore strongly supports the proposed building design response.

Further, the site's context is characterised by its highly accessible location adjacent to Redfern Station and within easy walking distance of the new Waterloo Metro Station (refer to **Figure 4** and **Figure 5**), its location within the transformative Central to Eveleigh project (refer to **Figure 6**), its heritage attributes, its significant employment generating potential, and its relative isolation/separation from lower scale/sensitive land uses.

Understanding these conditions and context, the proposed variation to the building height control in this isolated area of the site is appropriate, especially when considering that the other two buildings are lower (and in the case of the community building substantially lower) than the maximum heights applicable.

Further, the controls themselves developed for the ATP site respond as articulated within BEP 1 to the immediate context and character of the site and provide a transition between scales. This is achieved through the zoning and building height/floor space controls. BEP 1 in this regard notes that ATP is physically separated from lower rise residential development by major roads, where ATP does adjoin existing residential areas (i.e. to the west) building heights have been transitioned down. The public recreation zoning within the southern half of the ATP site and north-east corner (refer to **Figure 7**) further ensure an appropriate interface and soft green edge of the development to its immediate context.

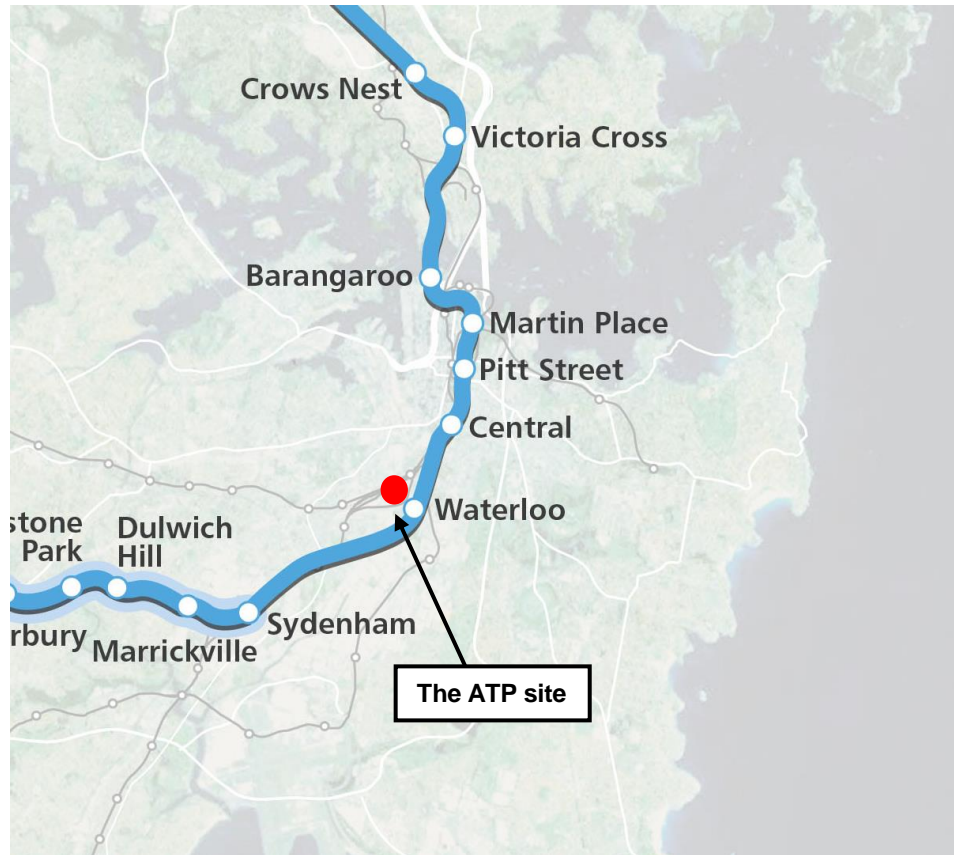


Figure 4 – Proposed Chatswood to Bankstown metro corridor
 Source: Sydney Metro, Transport for NSW

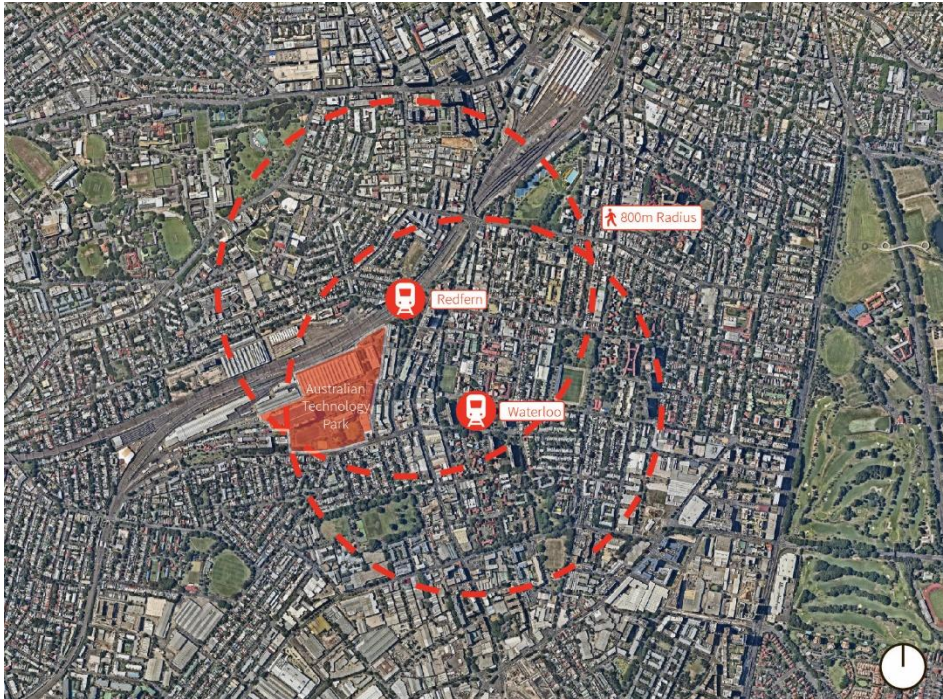


Figure 5 – ATP's highly accessible location
Source: JBA

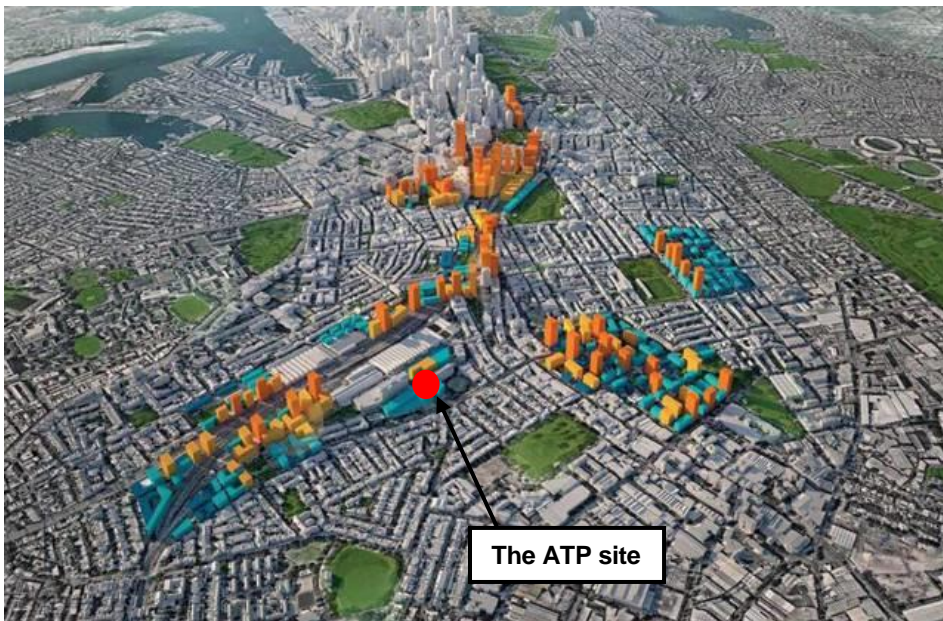


Figure 6 – Proposed Central to Eveleigh Corridor Transformation Project
Source: UrbanGrowth NSW

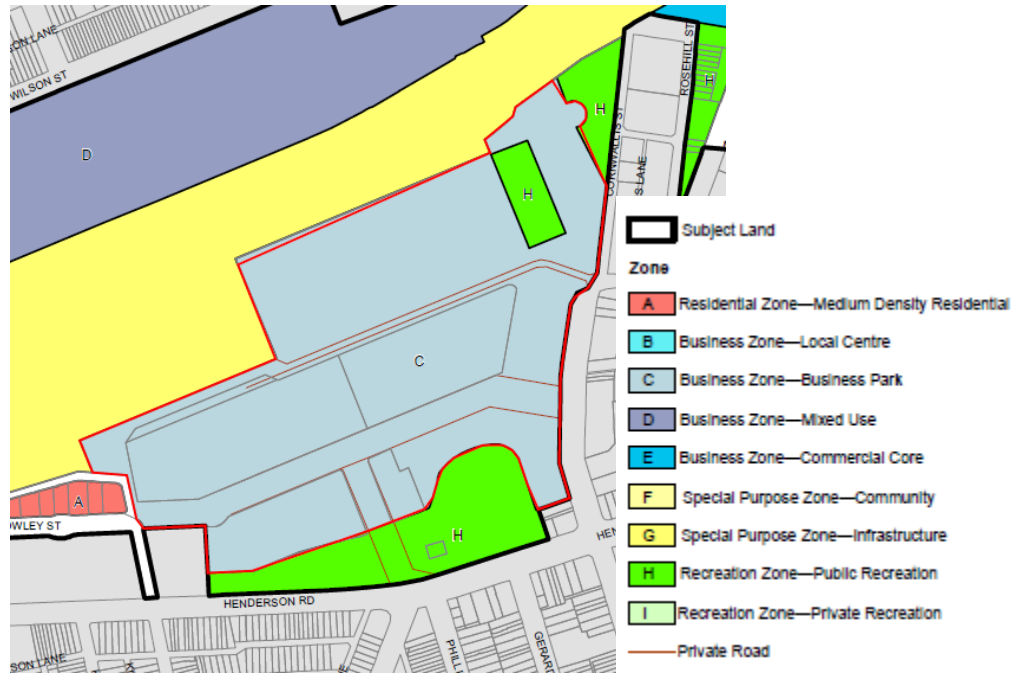


Figure 7 – Zoning map under State Significant Precincts SEPP
 Source: DPE

Building 1 (as illustrated in **Figure 8**) sits comfortably in terms of height within the context of the adjacent much larger Media City building to the north and by virtue of the substantial space afforded between it and the nearest residential dwellings to the south fronting Henderson Road (min 43 – 70m). The substantial streetscape planting and the open space provided along the southern edge of ATP (refer to **Figure 9**) will also greatly assist with ensuring a comfortable relationship between Building 1 and adjacent dwellings to the south. Building 1 also with its sweeping, sinuous forms of the southern façade supports a distinctive character to the precinct upon approach from Henderson Road and seeks to provide a softer and refined integration to the landscaped edge of Henderson Road.

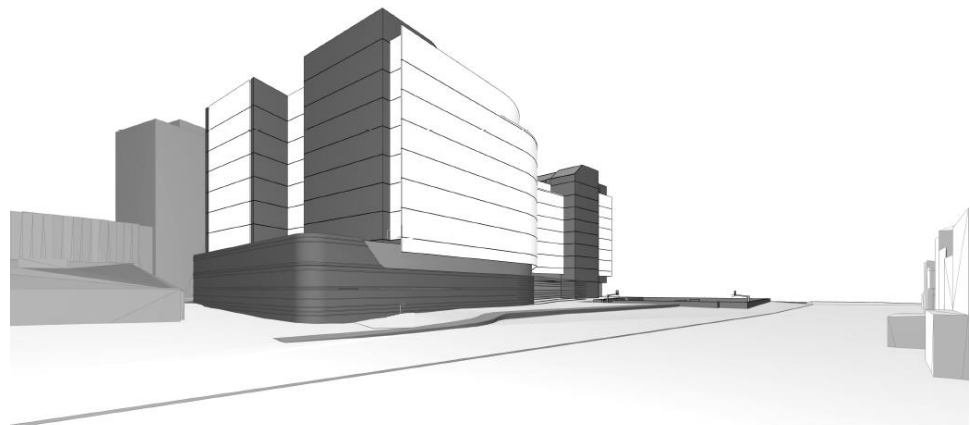


Figure 8 – Outline of Building 1 when viewed from Henderson Road
 Source: Nearmap



Figure 9 – Henderson Road streetscape
Source: *Nearmap*

The balancing of urban form across the site also offers a lower scale interface with the Vice Chancellor’s Oval and other buildings surrounding this space, including the heritage listed Alexandria Hotel (refer to **Figure 9**). This will result in a more intimate recreational and relaxation space for the wider community and one with a greater level of sunlight, than which would be achieved if strict compliance with the SSP SEPP was taken (in terms of building height).



Figure 10 – Illustration of the adopted floor space strategy and its resulting reduced external impacts
Source: *FJMT + Sissons Architects*

Overshadowing

Detailed shadow analysis has been undertaken by fjmt to understand the impacts associated with the proposed height variation on those adjacent dwellings to the south along Henderson Road (included within **the Response to Submissions** and additional information submitted to the Department of Planning during its assessment of the application). An extract from this study is reproduced at **Figures 11**) which shows an earlier version of the Building 1 design. The additional information provided to the Department makes a few key findings regarding the preservation of a minimum of 2 hours of sunlight to the northern elevations of the Henderson Road properties, namely:

- The south western leading edge of the building is an important element of the building in reducing shadow impacts; and
- A reduction in volume in the middle part of the uppermost level of Building 1 (as shown in blue in **Figure 11**) also reduces shadow impacts.

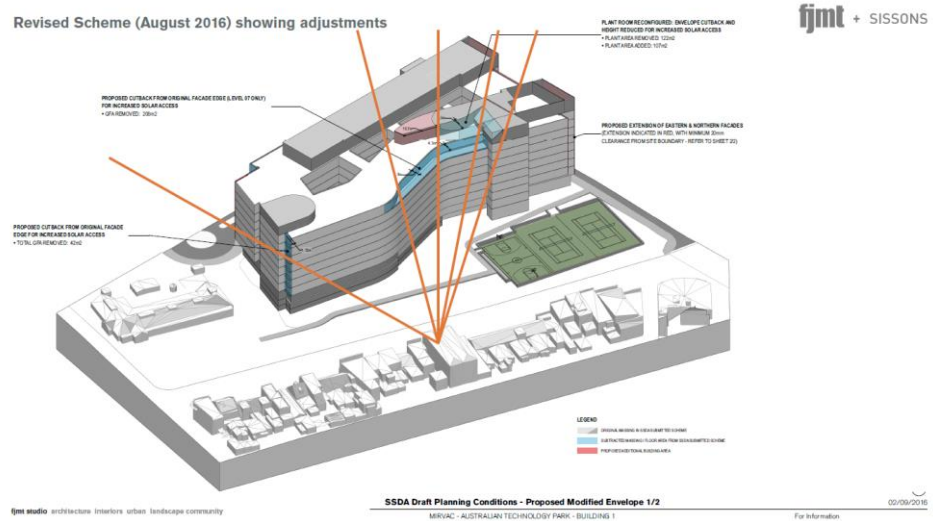


Figure 11 – Elements of Building 1 which are key to preserving solar access to Henderson Road
Source: fjmt

The area in blue was redesigned and removed as part of an amended design proposal submitted to the Department. The amended proposal submitted clearly demonstrated the preservation of 2 hours of solar access to each of the northern elevations of the Henderson Road residential properties (on 21 June).

Figure 12 illustrates that further revisions made to the south-western edge of Building 1 can only then further improve the solar access of the Henderson Road properties from the solar access that was demonstrated as part of the discussions and negotiations with the Department. The blue line illustrates the western edge of Building 1 that was considered as part of the solar access modelling in the amended proposal submitted to the Department. The red line illustrated the western edge of Building 1 that is now proposed as part of the development application. It clearly illustrates an improved level of solar access is achieved beyond that minimum threshold considered by the Department and City of Sydney Council as acceptable (being 2 hours of solar access to habitable windows on 21 June).

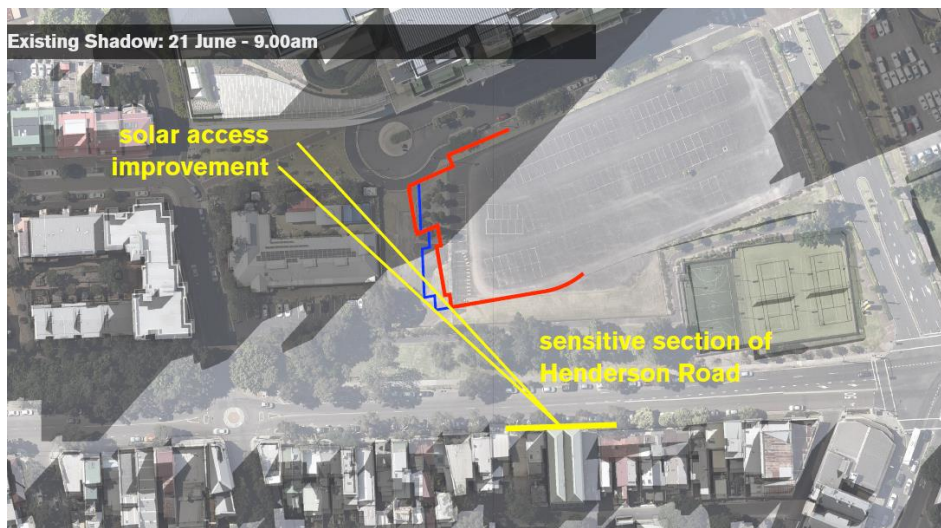


Figure 12 – Illustration of solar access improvement to Henderson Road properties
 Source: *fjmt*

Similarly **Figure 13** illustrates that any early morning mid-winter shadow of the adjoining child care centre is caused by the existing Media City (channel 7) building. By 11am on 21 June, any shadow caused by Building 1 would have moved to the east of the childcare centre. However as illustrated below, the childcare centre is in any event cast in some shadow caused by the Media City building.



Figure 13 – Illustration of solar access to the adjoining child care centre

The noncompliance of Building 1 with the height development standard therefore clearly does not cause adverse or unreasonable overshadowing to either the Henderson Road properties or the adjoining childcare centre. Therefore, the principle of achieving an appropriate integrated response to the site’s context (noting there are no additional adverse impacts caused by the height exceedance) is achieved.

Accordingly, compliance with the height development standard is both unreasonable and unnecessary on the grounds of overshadowing and solar access preservation.

- (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas.

Whilst acknowledging the building height control supports the transition down of built form to the west, such a transition does not appear to be in response to heritage considerations. **Figure 14**, an extract from the Sydney LEP 2012, reveals that the nearest heritage/conservation area is to the south across Henderson Road and not to the west. This said, it is noted that all land to the south is subject to a conservation area. This feature is reflected and acknowledged with the design of Building 1, with the built form response assisting with integrating the development (i.e. the sweeping curve of the southern elevation and the substantial setback of the above podium floors in the south-western corner).



Figure 14 – Sydney LEP 2012 Heritage Map extract
Source: NSW Legislation website

The Heritage Impact Statement prepared in support of the SSDA also concludes for Building 1 that:

- The form, bulk and materials chosen for Building 1 have been developed using the industrial aesthetic of the Locomotive Workshop as the basis for key elements of the design.
- The design takes into account the fact that the views and vistas into the site from Henderson Road, and the surrounding vicinity, will be of the new development and that the materials, form and fabric of new building will create an aesthetic that is consistent with the industrial fabric of the site and respects the character of the heritage precinct— in terms of design, materials, textures and finishes.
- The proposed redevelopment responds positively, in terms of the orientation of the intended built form and circulation — the development conforms with the historical patterns of development on site – large east/west oriented blocks and meets with the heritage objectives of the masterplan.

(c) to promote the sharing of views,

The overall approach and distribution of floorspace and building height across the site is considered to promote the sharing of views. One of the key public domain views identified for the site (under BEP) is the north-south view from Henderson Road towards the Locomotive Workshop (refer to **Figure 15**). As evident from **Figure 16**, the proposed development not only supports this key public domain view but also results in an improved outcome given the approach to the distribution of built/ form/height across the site (i.e. given that Building 2 is 4 storeys lower in height than the maximum along its western end and the community building is 6 storeys lower in height than the maximum). So notwithstanding the variation to the height standard for Building 1, it does not impact upon the key identified view corridors.



Figure 15 – ATP Height and View Corridors
Source: BEP 1



Figure 16 – View south from Locomotive Street looking towards Henderson Road

Fjmt undertook as part of the EIS and RTS documentation a detailed key view impact study in relation to Building 1 to understand the potential impacts associated with the proposal and its height variation in comparison with a ‘compliant’ building envelope/form. The key conclusions from this study (which can be applied to the design the subject of the SSDA) are:

- The proposed development has been scaled to fit the development site and integrate with the Henderson Road locality appropriately with no undue overbearing impacts on the surrounding properties or on the public domain.
- There will be a reduction in sky views resulting from the height variation, however this is balanced with an improvement in sky views when considering the proposal incorporates a large sweep/setback along its main southern elevation.
- There is a large degree of separation between Building 1 and adjacent dwellings to the south (between 43m – 70m), supporting the protection of outlook.

2.2 Underlying purpose would be defeated if compliance is required

The key underlying purpose of the building height standard is considered to focus around recognising ATP as an important innovation and technology employment hub, fostering major employment generating development across the site, and minimising impacts on surrounding lower scale development.

Strict compliance with the development control would result in a built form which would likely result in a larger built form immediately adjacent to an existing childcare centre. The larger format buildings (consistent with the envisaged character for the precinct) are considered to provide for a world class collaborative campus which will contribute to the high-technology values of ATP. A typical floorplate of Building 2 is provided at **Figure 17**.

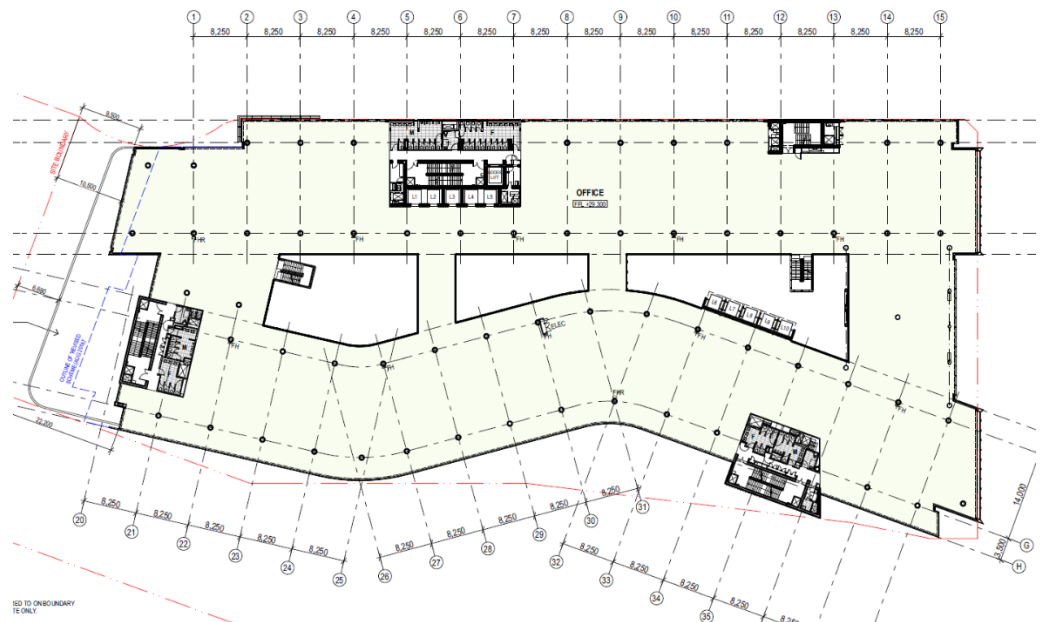


Figure 17 – Typical floorplate of Building 1
 Source: FJMT + Sissons Architects

Notwithstanding the non-compliance with the building development standard, the resultant design has resulted in an exemplary built form outcome with strong environmental credentials.

Overall, given that one of the overarching aims of the State Significant Precincts SEPP is to facilitate the redevelopment of sites of economic significance to the state so as to facilitate their orderly use/development for the benefit of the State, the strict enforcement of the building height development standards would defeat the overarching purpose of this planning control.

3.0 Consistency with the Policy's Aim

SEPP 1 requires that the consent authority must be of the opinion that granting consent to the development application would be consistent with the Policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979*.

Section 2.0 demonstrates that strict compliance with the maximum building height development standards is both unreasonable and unnecessary in the circumstances of the case.

In addition to this, strict compliance with the maximum building density development standard will hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act, as detailed below.

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

The strict compliance with the building height standard will not offer the optimal built form arrangement within the site, which has been derived from extensive and iterative site testing and detailed design.

To this end, the variation proposed will ensure a site redevelopment which ensures the appropriate use of urban land for purposes which provide significant economic and social benefits for the local community and Sydney more broadly. Further, the proposed variation allows for an improved environmental outcome in terms of interface and relationship with the public domain and surrounding development.

(ii) the promotion and co-ordination of the orderly and economic use and development of land,

The strict enforcement of the building height standard will hinder the orderly and efficient development of ATP and the achievement of project objectives specifically developed for the proposal. These project objectives include:

- Deliver world-class working, learning, training and collaboration space for 10,000 new employees within ATP;
- Support the NSW Government's long term vision and commitment to deliver on the site's technology employment focus;
- Increase the portfolio of businesses and land uses within ATP and reposition the precinct as one of Australia's leading diversified technology and knowledge parks;
- Demonstrate excellence in design and environmental sustainability;
- Enhance connectivity around and through the Precinct and optimise the quality of the public domain;
- Facilitate high levels of public transport usage for workers and visitors of the precinct;
- Maximise the direct and indirect economic benefits to NSW from the project;
- Deliver a rejuvenated ATP precinct that preserves and embraces the site's rich heritage;
- Create a more vibrant and activated precinct that provides a range of day to day services and offerings for employees, visitors and the local community; and
- Explore opportunities to partner with University of Sydney to deliver new creative and digital industries that promote a positive economic impact for the City.

Appointing an internationally and Australian renowned design team (fjmt + Sissons + Aspect) which is recognised for design innovation and excellence has also assured that despite an increase in building height, a high quality and pedestrian friendly built form and public domain outcome is still able to be achieved (refer to **Figure 18**).



Figure 18 – Photomontage of Building 1 as viewed from Henderson Road and Davy Road
Source: *FJMT + Sissons*

The enforcement of the current building height standard would hinder the achievement of these project objectives and significantly reduce the ability of new development on the site to contribute positively to the social and economic values of ATP and the broader community.

4.0 Other Matters for Consideration

It is also important to consider:

- a) whether non-compliance with the development standard raises any matter of significance for State or regional planning; and
- b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

The matters are addressed in detail below.

4.1 Matters of State or Regional Planning Significance

The urban renewal of this site as part of the ATP precinct has been identified as a matter of state significance under the State Significant Precincts SEPP, the State and Regional Development SEPP, and a Plan for Growing Sydney.

A Plan for Growing Sydney is a strategic document that sets out the NSW Government's vision for the development of the Sydney Metropolitan area for the next 20 years. The Plan anticipates that the population of Sydney will increase by 1.6 million people over the next 20 years and sets out housing targets for the Sydney region at 664,000 additional dwellings. The NSW Government has also set a target of delivering 689,000 jobs by 2031.

The proposal directly supports a number of key goals, directions, actions and priorities established under the Plan which collectively aim to achieve the Government's vision for Sydney (as a strong global city and a great place to live). One of the key goals the proposed development supports is Goal 1: A competitive economy with world class services and transport. The proposed development in this regard creates new opportunities to grow Sydney CBD office space by expanding the CBD's footprint along the Central to Eveleigh Corridor (refer to **Figure 19**). Furthermore, the proposal will deliver more than 10,000 technology focused jobs.

Strict compliance with the development standard would significantly impede the redevelopment of the site for this purpose, thereby hindering the urban renewal of the ATP precinct generally. Strict adherence to the development standard would therefore undermine the attainment of the underlying, state-significant objective of the Redfern-Waterloo urban renewal process and would undermine Sydney's global position and aspirations to be at the forefront of innovation and technology.

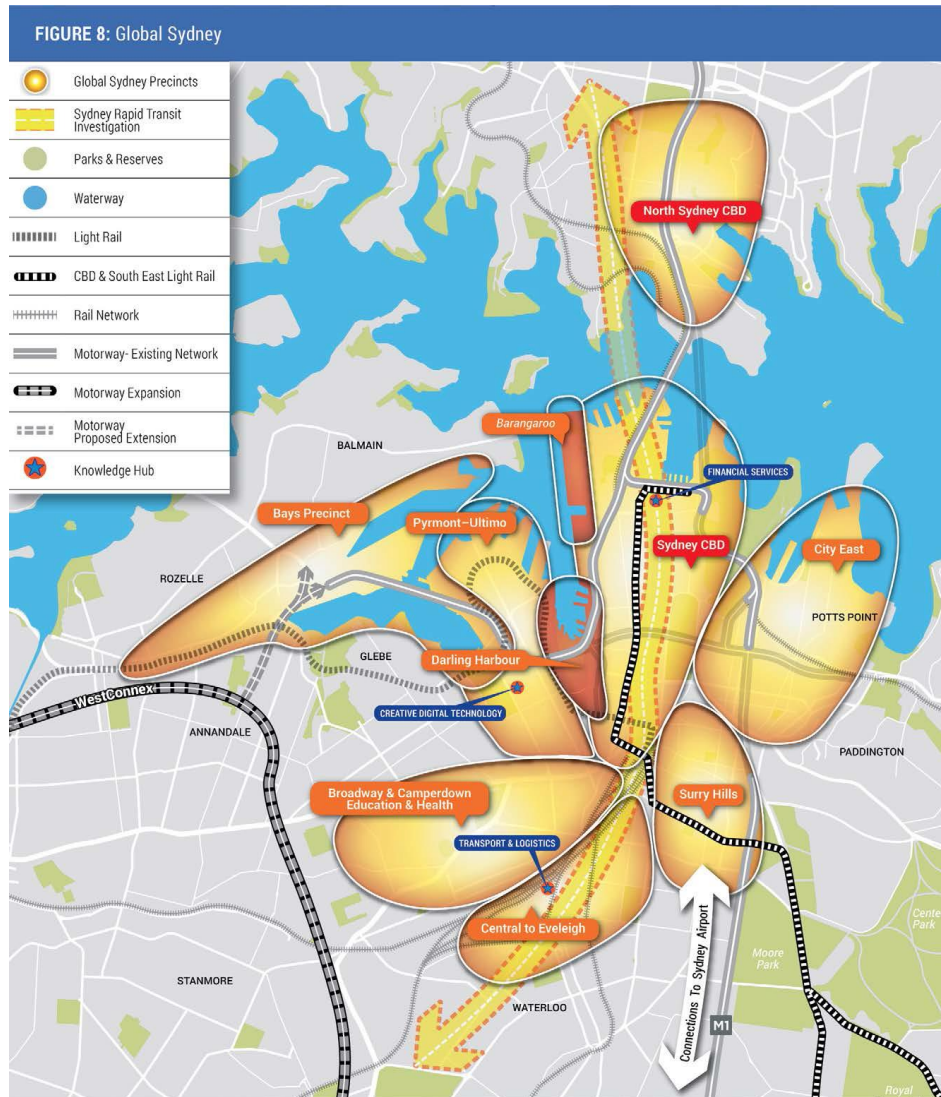


Figure 19 – Global Sydney and ATP’s contribution
 Source: Department of Planning

4.2 Public Benefit

As discussed in Section 2.0 above, the proposed development will achieve the objectives of the building height standard notwithstanding the non-compliance, and as such there is no benefit to the public achieved by strict adherence to this control.

Further, strict adherence to the maximum building height controls for each lot would significantly impede the redevelopment of the site, for its optimal use and configuration.

Notwithstanding the proposed variation in building height, the proposal will improve the general built form of the ATP precinct, will embellish and upgrade the majority of public domain areas within ATP and will improve access and utilisation of public transport within the locality.

The proposed development will result in substantial material public benefits that cannot be delivered if strict adherence to the development standard is required, including:

- A low scale building with a community focus and purpose including retail uses, a gym, a child care centre, small office uses and dedicated community/office floorspace;
- A small scale supermarket and other assorted retail tenancies;
- An enhanced publicly accessible street and open space network within the ATP site; and
- A significant increase in local job opportunities that is highly accessible and in close proximity to existing and proposed housing.

Given that the proposed development is consistent with the objectives of the development standard and would not result in any unacceptable environmental impacts, there would be no public benefit of maintaining the relevant development standard in this instance.

5.0 Conclusion

This SEPP 1 Objection demonstrates the consent authority can be satisfied that the proposed variation to the development standard is justified and satisfies the tests established by the Land and Environment Court for SEPP 1 Objections, in that:

- The SEPP 1 objection is 'well founded' because the adopted objectives of the development standard will be achieved notwithstanding the non-compliance;
- The strict application of the standard would be both unreasonable and unnecessary in the circumstances of the case;
- The strict application of the standard would hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act;
- The non-compliance with the development standard does not raise any matters of State and regional planning significance and will assist with the attainment of policies; and
- There is no public benefit in fully maintaining the maximum building height standard adopted by the environmental planning instrument for particular allotments within the site.

It is open to the consent authority to conclude that granting consent to the development application is appropriate and in doing so will allow flexibility in the application of the building height development standard adopted by the State Significant Precincts SEPP for the site.