

# State Significant Development Response to Submissions



## Site 9, Sydney Olympic Park

### Mixed use Development

Submitted to Department of Planning and Environment  
On Behalf of Ecove Group Pty Ltd

July 2016 ■ 15719



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## Executive Summary

The Environmental Impact Statement (EIS) in support of the State Significant Development Application (SSDA) for the development of Site 9 at Sydney Olympic Park was publicly exhibited between 27 April and 30 May 2016.

Seven submissions were received in response to the public exhibition of the EIS, with all submissions made by government agencies and authorities and none by the general public. The key issues raised in submissions can be broadly grouped into the following categories:

- Floor space;
- Design; and
- Parking.

The proponent, Ecove Group, and its expert project team have considered all issues raised within the submissions made pursuant to the requirements of the *Environmental Planning and Assessment Act 1979*.

A considered and detailed response to all submissions made has been provided within this report at Section 2.0 and further expanded upon within the accompanying documentation.

In responding and addressing the range of matters raised by government agencies and authorities, the proponent has sought to refine the project design. The refined proposal also captures changes made by the project team post exhibition.

Section 3.0 and the accompanying documentation provide an analysis and assessment of the proposed changes and the refined project more broadly. In summary, the nature of the changes is considered to result in development that does not substantially differ from the original application that was publicly exhibited. Where any changes have occurred to an aspect of an environmental impact as a result of the amended proposal, there is on balance an overall improved outcome that is achieved from the resulting amended development.

Final measures to mitigate the impacts associated with the refined proposal are detailed at Section 4.0.

In conclusion, the development of Site 9 responds to the ongoing rejuvenation of Sydney Olympic Park and provides an opportunity to deliver an upgraded public domain and new commercial, retail and residential spaces which together will further activate the precinct and complement the surrounding land uses.

## 1.0 Introduction

The Environmental Impact Statement (EIS) in support of the State Significant Development Application (SSDA) for the development of Site 9 at Sydney Olympic Park was publicly exhibited between 27 April and 30 May 2016.

Public exhibition occurred in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.

Seven submissions were received in response to the public exhibition of the EIS, as follows:

- Government authorities and agencies - 7;
- Members of the public – 0.

The proponent, Ecove Group, and its specialist consultant team have reviewed and considered all issues raised.

This report, prepared by JBA on behalf of the proponent, sets out the responses to the issues raised in accordance with Clause 85A of the *Environmental Planning and Assessment Regulation 2000*, and details the final project design and final Mitigation Measures for which approval is now sought. The final project design includes amendments made by Bates Smart pursuant to Clause 55 of the EP&A Regulation, including changes to address matters raised in the submissions.

The key issues raised in submissions can be broadly grouped into the following categories:

- Floor space;
- Design;
- Parking.

This report provides a detailed response to each of the above issues and outlines the proposed amendments to the exhibited Environmental Impact Statement. Where individual issues are not discussed in this report, a detailed response can be found in the tables at **Appendix A**.

### Amendments to Proposed Development

To reflect the design changes that have been made to the proposed development following public exhibition of the proposal and for which approval is now sought, and to address issues raised in the submissions, a range of updated plans and documentation has been prepared.

The following consultants' information further supplements the material originally submitted in support of the EIS:

- Architectural Drawings and Design Report;
- Traffic Impact Assessment;
- Water Cycle Management Plan;
- Remediation Action Plan;
- Acoustic Statement;
- Waste Management Plan;
- BCA Report;

- Access Report;
- BASIX Expert Judgement;
- Preliminary Fire Safety Measures; and
- Landscape Drawings and Report.

The revised supporting documentation enables the Department to undertake an informed assessment of the amended proposal.

A final schedule of the mitigation measures proposed to mitigate the impacts associated with the proposed works is provided at Section 4.

This report should be read in conjunction with the EIS prepared by JBA, dated April 2016, as relevant.

## 2.0 Key Issues and Proponent's Response

This section of the report provides a detailed response to the following key issues raised by the Department, government agencies and authorities, and the general public during the public exhibition of the SSDA:

- Amendment of floor space ratio development standard;
- Design;
- Bicycle parking and access; and
- Other issues.

### 2.1 Amendment of Floor Space Ratio Development Standard

#### Clause 22

It is noted that the request to vary the floor space ratio development standard at Section 5.3.3 of the Environmental Impact Statement refers to Clause 22 of Part 23 of Schedule 3 of the State Significant Precincts SEPP, and therefore an amended request is not required.

It is also noted that the request to vary the height development standard resulting from the proposed amended development (refer Section 3.1.1 of this report) also addresses the provisions of this clause.

#### Site 9 Guidelines

The Site 9 Guidelines were developed by the NSW Government Architect's Office after a detailed assessment of multiple development sites, including Site 9. The assessment of the proposed development in the EIS demonstrates that the additional GFA on Site 9 does not have any significant negative environmental impacts, including in relation to overshadowing, traffic, urban design and heritage issues.

It should be noted that the Site 9 development site the subject of this development application includes part of Site 12 as designated in Master Plan 2030 (MP2030). Sites 9 and 12 each have a different maximum FSR under MP2030, as follows:

- Site 9: 4.5:1; and
- Site 12: 6:1.

This provides an allowable GFA for each site as follows:

- Site 9: 13,509m<sup>2</sup>; and
- Site 12: 44,706m<sup>2</sup>.

This equates to a total GFA of 58,215m<sup>2</sup> across the two sites. Taking into account the amendment to the Site 9 boundary and the Site 9 Development Guidelines, Site 9 has an allowable GFA of 24,426m<sup>2</sup> (site area of 4,071m<sup>2</sup> and FSR of 6:1). This leaves a residual GFA for Site 12 of 33,789m<sup>2</sup>, equivalent to an FSR of 5.3:1.

The primary driver for the movement of the FSR boundary is to allow a mixed use tower closer to the intersection of Sarah Durack Avenue and Olympic Boulevard, increasing separation from the future tower on Site 12.



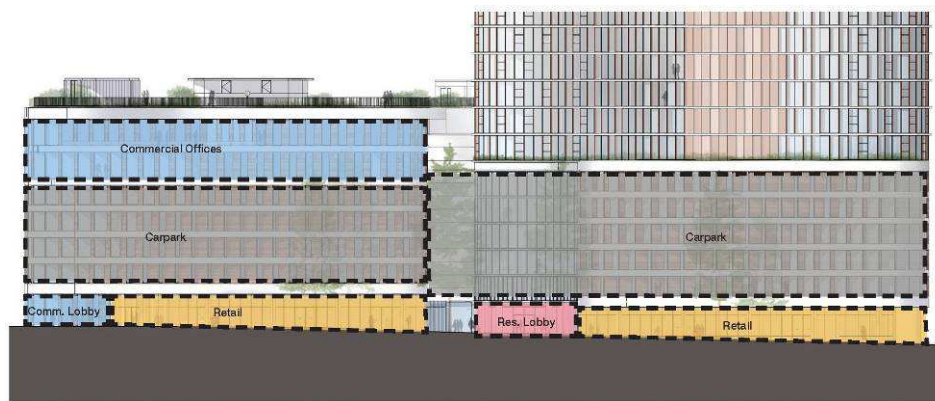
This residual FSR reflects the movement of the boundary between the 4.5:1 and 6:1 areas, and allows for a feasible development to proceed on Site 12. It is important to note that the development of Sites 9 and 12 can proceed in accordance with the SOPA Site 9 Development Guidelines without increasing the overall total GFA of the precinct. Given that there is no increase in the overall GFA, issues such as transport planning and infrastructure servicing for the wider precinct do not need to be revisited.

## 2.2 Design

### Colonnade Height

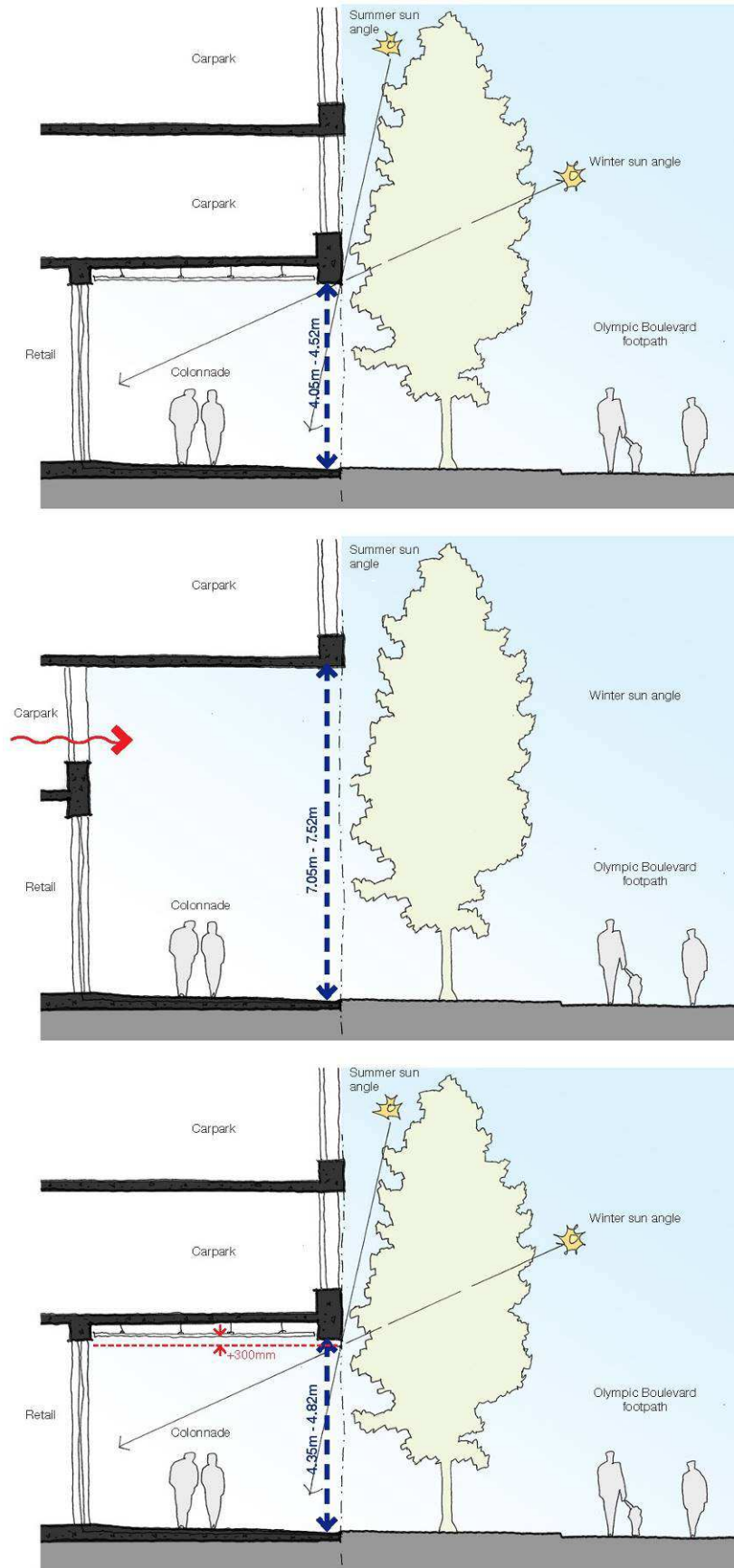
The podium has been designed as a response to the various uses as illustrated in **Figure 1**, and provides a single storey colonnade which relates to the active uses of the development at ground level. Detail sections are provided at **Figure 2** which demonstrate the following:

- the current colonnade design and height provisions
- consideration of a two-storey height colonnade
- revised colonnade heights achieved by raising the first floor level by 300mm (and subsequent building levels) to provide additional height along the colonnade



**Figure 1** – Proposed uses within the podium  
Source: Bates Smart

The two-storey height colonnade provides additional height to the ground level, however such a design exposes the upper level carpark facade directly to the colonnade. For this reason, it is proposed to raise the first floor level by 300mm to provide additional height along the north and south colonnades whilst minimising impact on the carpark podium design and exposure. **Figures 3** and **4** illustrate the height of the colonnade as originally submitted and now proposed.



**Figure 2** – Sections showing originally proposed colonnade (upper), double-height colonnade with exposed carpark (middle), and now proposed increased height colonnade (lower)  
Source: Bates Smart



**Figure 3** – Originally proposed colonnade and podium heights  
Source: Bates Smart



**Figure 4** – Now proposed colonnade and podium heights  
Source: Bates Smart

## Through Site Link

The proposed increase in the Ground Floor floor to ceiling height to improve the proportions of the colonnade also results in an increased height for the through site link. The proposed width of the link has also been reviewed, and it is noted that the 5.4m proposed exceeds the width of 4.5m recommended by the Site 9 Development Guidelines. The proposed width will permit clear pedestrian thoroughfare, and it is noted that casual bicycle parking has been relocated out of the link. An indicative montage of the link, illustrating the proposed proportions, is provided at **Figure 5**.

The originally proposed through site link was to be activated via the following measures:

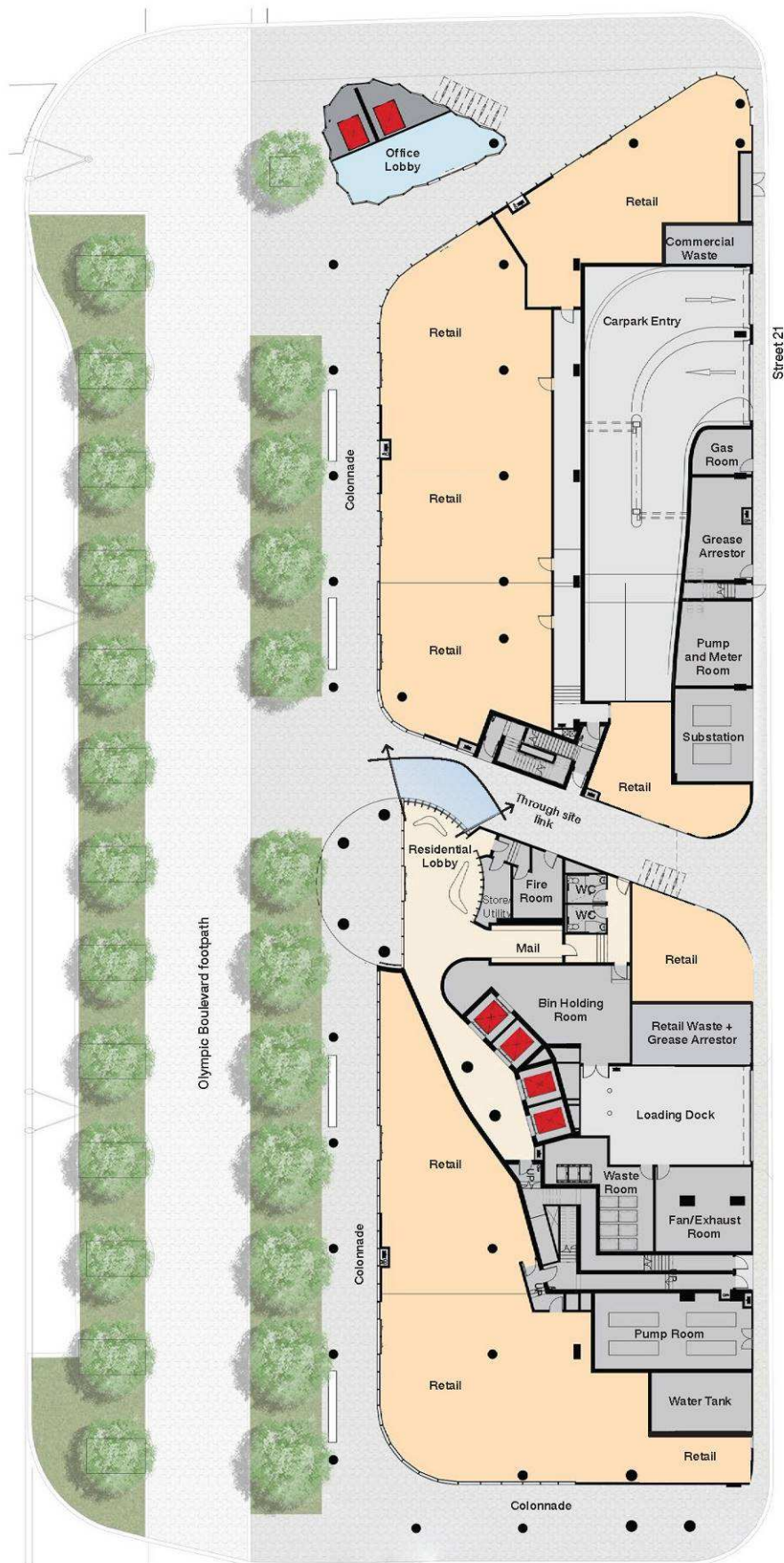
- Provision of bicycle storage room access off the link and additional visitor bicycle parking rails located within the link;
- Public amenities accessed off the link;
- Glazed retail colonnade along Olympic Boulevard returns around the corner into the link for approximately 7 metres for passive surveillance and activation; and
- The residential lobby facade features a series of glazed panels adjacent to the lobby waiting area directly overlooking the link for passive surveillance.

Further to these measures, the design of the through site link and adjoining building has been refined to further increase activation (refer **Figure 6**). Additional retail / commercial tenancies are provided at the eastern corners of the site link, which will provide additional activation to the link. The bicycle storage and plant have been relocated. (The bicycle storage will be relocated to Level 9 of the tower, requiring the deletion of one apartment on this level).



**Figure 5** – Proposed colonnade  
*Source: Bates Smart*





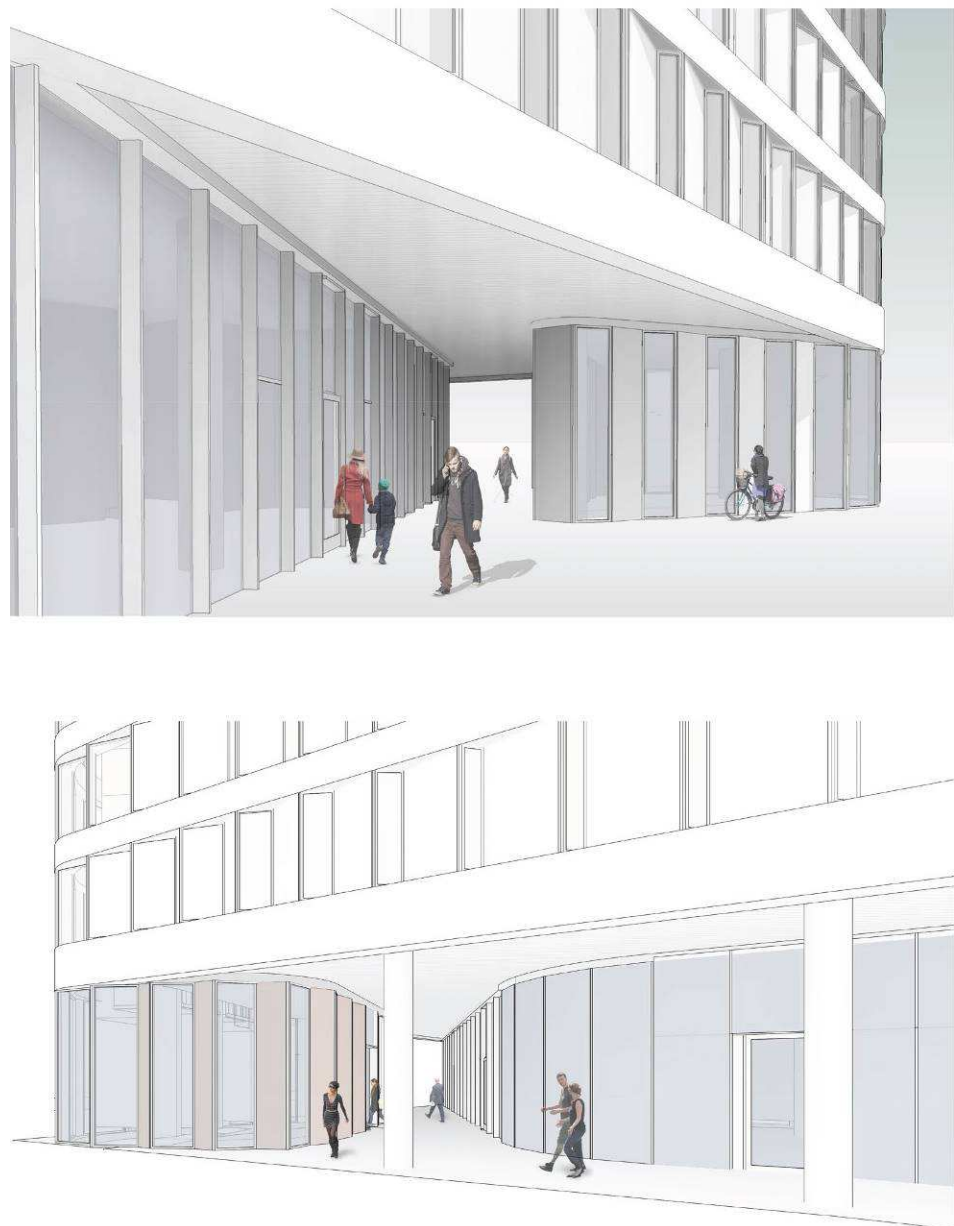
**Figure 6** – Amended ground floor plan  
Source: Bates Smart

## Safety and Security

**Figure 7** shows two perspectives through the corner cut-through link as viewed from Sarah Durack Avenue and Olympic Boulevard. The link is directly flanked by a series of glazed retail tenancy entries and a glazed commercial lift lobby entry on both sides, providing both active use of the space as well as passive surveillance.

Its proximity to Sarah Durack Avenue and Olympic Boulevard as well as the proposed visitor bicycle parking directly adjacent also serve to provide activation and passive surveillance. The structural column has been designed to sit within the commercial lift lobby so as to ensure no hiding places at this junction.

The commercial lobby and retail tenancies will have CCTV facilities which will overlook the cut-through link, and lighting will be integrated into the colonnade ceiling design to further enhance safety and security.



**Figure 7** – Views of proposed cut-through link and commercial lobby  
Source: Bates Smart

## Materials and Finishes

The car park mesh panelling is proposed to be a powder coated punched aluminium mesh product. The final precise specification will be subject to the following performance specifications:

- Wind and acoustic analysis;
- Natural ventilation minimum area requirements; and
- Aesthetic considerations.

The final mesh panelling specification will be prepared in consultation with SOPA as part of a condition of consent and submitted to the Certifying Authority for approval.

**Figure 8** provides clarification of the location of mesh panels on the CGIs submitted with the original application. An additional CGI is included at **Figure 9**, illustrating the mesh panels as viewed from outside the residential lobby entry.



**Figure 8** – Pink shading showing location of car park ventilation panels  
*Source: Bates Smart*





**Figure 9** – Entry to residential lobby  
Source: Bates Smart

The option of a fully mechanically ventilated carpark system, as well as a hybrid mechanical / natural ventilation system, was investigated, with particular consideration given to subsequent facade impacts. These alternatives are considered to be inferior to the current scheme from a sustainability perspective, as the current scheme currently permits full natural ventilation through the perforated aluminium mesh and terracotta facade. Furthermore, the additional plant associated with mechanical ventilation would result in a loss of car and bicycle spaces within the carpark levels and would require additional height to the podium to compensate.

### Podium Roof Access

The residential communal garden is located to the north of the tower to maximise amenity derived from the northern aspect. Turf landscape architects have designed a landscape of over 1,000m<sup>2</sup> with a variety of spaces for the residents to enjoy and optimising useability, privacy and opportunities for social interaction.

The advice received from the wind consultant was that localised windy conditions will be expected on the podium roofs, and as such the communal garden has been designed with trees and raised pavilions in order to provide a calm environment regardless of wind direction.

By comparison, the southern roof is overshadowed by the tower, windy and overlooked by the glazed lift lobbies above. It was anticipated that given a choice, residents are likely to make use of the sun-drenched northern facility instead of a south-facing garden that is overlooked and overshadowed.



The south podium roof was advised to be especially windy due to prevailing winds from the south-west quadrants and proximity to the tower. The proposed landscaped roof provides a response to the climate conditions yet also providing an attractive outlook from the glazed lift lobbies on each tower floor (refer **Figure 10**).

If the space was to be accessed by residents, extensive screens and roof structures would be required in order to make the roof useable which would visually impact the landscape view from what is currently shown.

Early studies proposed private outdoor terraces on the south podium roof directly linked to the level 7 corner apartments. Again, due to wind advice, overlooking from lift lobbies and apartments above as well as the generous garden provided to the north, it was established that a well-designed landscape garden for outlook was the most climactically and functionally appropriate response.



**Figure 10** – View from lift lobby over landscaped podium roof  
Source: Bates Smart

### Additional Images

**Figures 11, 12 and 13** provide additional views from the pedestrian paths surrounding the development.



**Figure 11** – Proposed development as viewed from Sarah Durack Avenue, with the P3 carpark in the foreground

Source: *Bates Smart*



**Figure 12** – Proposed development as viewed from Sarah Durack Avenue, closer to the intersection of Olympic Boulevard

Source: *Bates Smart*



**Figure 13** – Proposed development as viewed from Olympic Boulevard, looking north  
*Source: Bates Smart*

## 2.3 Bicycle Parking and Access

### Bicycle Parking Numbers

As detailed in the amended Traffic and Parking Assessment prepared by Parking & Traffic Consultants (refer **Appendix B**), the amended proposal now provides the number of bicycle parking spaces required by SOPA's controls (390 spaces).

### Retail Car Parking

The retail car parking is for staff use only. If required, customers will park in the surrounding streets and adjacent P3 car park. This arrangement is considered acceptable given the small scale of the proposed retail tenancies and the proximity to the P3 parking station.

## 2.4 Other Issues

### Signage Zones

The proposed signage zone at the top of the tower measures approximately 10.2m long by 8m high. The future sign will likely utilise LED technology for ESD and maintenance reasons.

### Tree Retention

Ongoing consultation has been undertaken with SOPA in relation to tree management. It has been confirmed that not all of the trees in question are healthy, with Tree 13 confirmed as deteriorating.

The currently agreed position is that the proponent would work with SOPA throughout construction, on the basis that SOPA would prune and relocate the two nominated trees prior to construction. SOPA advised they will review the trees regularly during construction to manage any stress related issues experienced by the trees.

### Stormwater Impacts

A Water Cycle Management Plan has been prepared by AJ Whipps (refer **Appendix C**) This report concludes:

*The findings of this report and associated concept designs indicates effective stormwater management measures can be integrated into the proposed development, in accordance with authority engineering standards, and that no major factors relating to stormwater management would preclude the proposed development of the site.*

### Contamination and Air Quality

The following documentation will be prepared and approved by the Site Auditor prior to the commencement of works:

- Specific Risk Assessment & Hazard Identification
- Construction Management Plan
- Gas Management Plan

These documents are dependent on the final design and construction details, and as such will be prepared in parallel with the construction documentation. The review, approval and implementation of this documentation will ensure that contamination and air quality issues are appropriately addressed.

### Remediation Action Plan

An amended Remediation Plan has been prepared by DLA Environmental Services (refer **Appendix D**). This amended RAP has been reviewed and accepted by SOPA.

### Updated Reports

The Department has requested that all reports submitted with the EIS be reviewed in light of any revisions made or to assist in the resolution of the issues, and to ensure consistency with the final proposal. The reports that required amendment, together with additional information, are appended to this report and listed in the Table of Contents.

## 3.0 Proposed Amended Development

Following public exhibition and in response to the issues and concerns raised by the Department, other government agencies and the general public, a number of design changes have been made to the proposed development. The proposed changes are shown on the revised Architectural Plans prepared by Bates Smart (**Appendix E**), and are summarised as follows:

- Increase in Ground Floor floor to ceiling height, to improve design of colonnade and through site link;
- Relocation of an apartment on Level 9 to Level 39, to allow for increased bicycle parking;
- Additional ground retail and associated relocation of services to increase activation of through site link;
- Level 38 plant relocated to roof;
- Lift deleted within residential tower;
- Revised workplace core (in response to access comments) no GFA or amenity impact.

The amended drawings result in minor changes to gross floor area, as detailed in Table 1 below.

**Table 1** – Original and currently proposed gross floor area

GFA	Original DA	Amended Proposal
Commercial	2,540m <sup>2</sup>	2,540m <sup>2</sup>
Retail	950m <sup>2</sup>	1,067m <sup>2</sup>
Residential	21,640m <sup>2</sup>	21,869m <sup>2</sup>
Total	25,130m <sup>2</sup>	25,476m <sup>2</sup>

In relation to the BASIX certification of the amended design, an expert judgement has been provided by Arup (refer **Appendix K**) confirming that the design is capable of meeting the energy and water reduction targets as required for BASIX Certification. Final BASIX certification is being undertaken and will be issued once completed.

The changes overall are considered to be positive and aim to deliver an improved outcome. The changes are not considered to give rise to any material alteration to the environmental assessment of the potential impacts considered as part of the original development application.

The exhibited EIS assessed the potential impacts of the overall development against a range of matters relevant to the development. Except where addressed in this report, the conclusions of the original assessment remain unchanged.

### 3.1.1 Assessment of Amended Building Height

Building height is defined in the State Significant Precincts SEPP as:

*the vertical distance, measured in metres, between ground level (existing) at any point to the highest point of the highest habitable floor (including above ground car parking) of the building, excluding plant and lift overruns, communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The 'highest point of the highest habitable floor' has been interpreted as the top of the slab that forms the roof of the highest apartment.

If measured in accordance with the above definition, the originally submitted building height was 121.45 metres. The proposed amended building has a height of 125.05



metres. The State Significant Precincts SEPP specifies a maximum building height of 122 metres on the site.

The increase in building height from the originally submitted scheme is a result of the following:

- 300mm due to an increase of the ground level floor to ceiling height, primarily in relation to the design of the colonnade and through site link;
- 3.3 metres due to the provision of a single apartment on Level 39.

The original building had a height to the top of the roof feature (being the absolute highest point of the building) of 124.45 metres. The amended height to the top of the roof feature is 124.75 metres – an increase of 300mm. Behind this roof feature, the roof of the apartment on Level 39 is 300mm higher again, and there is a small, centrally located lift overrun to service this apartment. The lift overrun has a height of 700mm above the apartment roof. Overall, the absolute highest point of the building is 125.75 metres above ground level – an increase of 1.3 metres above the original proposal. However, it should be noted that the apartment roof and lift overrun are set back from the perimeter of the building and are therefore not readily visible from the public domain. The element of the building that is readily visible, being the crown of the architectural roof feature, is only increasing 300mm in height.

### Request to Vary a Development Standard

Clause 22 of Part 23 of Schedule 3 of the Major Development SEPP allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the SEPP. The Clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

Clause 22 requires that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard:

- that the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- that the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard; and
- that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The consent authority's satisfaction as to those matters must be informed by the objective of providing flexibility in the application of the relevant control to achieve better outcomes for and from the development in question.

The Land and Environment Court has established questions to be addressed in variations to developments standards lodged under State Environmental Planning Policy 1 – Development Standards (SEPP 1) 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 (Wehbe).

These tests and considerations can also be applied to the assessment of variations under clause 22 of the SEPP. Accordingly, this variation request is set out using the relevant principles established by the Court.

An additional principle was established in the recent decision by Commissioner Pearson in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (Four2Five), which was upheld by Pain J on appeal.

Clause 22 states:

- (1) *This clause applies to development on land within the Sydney Olympic Park site, other than development that is part of a transitional Part 3A project.*
- (2) *The objectives of this clause are:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (3) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (5) *Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Director-General has been obtained.*
- (6) *In deciding whether to grant concurrence, the Director-General must consider:*
  - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

...

### Development Standard to be Varied

Clause 18 of Part 23 of Schedule 3 of the Major Development SEPP stipulates that the maximum height of a building on any land within the Sydney Olympic Park site is not to exceed the maximum height shown for the land on the Height of Buildings Map, which shows a maximum height of 122 metres for the site.

As detailed above, the proposed amended building has a height of 125.05 metres as measured in accordance with the relevant definition. This represents a variation of 3.05 metres.

## Is the Planning Control in Question a Development Standard?

Development Standard is defined under Section 4(1) of the EP&A Act as follows:

*“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...”*

Clause 18 of Part 23 of Schedule 3 of the Major Development SEPP is clearly and unambiguously a development standard.

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

No objectives are given for the maximum height of buildings development standard as detailed in the State Significant Precincts SEPP.

However, the purpose of the standard is clearly to restrict the built form of development to ensure that its bulk and scale is compatible with the desired future character of the locality, and to mitigate against undesirable amenity impacts.

## Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

Clause 22(4)(a) of Part 23 of Schedule 3 of the State Significant Precincts SEPP requires the departure from the development standard to be justified by demonstrating:

*that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

In the decision of Wehbe, the Chief Justice expressed the view that there are five different ways in which an objection to a development standard might be shown as unreasonable or unnecessary and is therefore well founded. Of particular relevance in this instance is the first way, as follows:

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

Notwithstanding that there are no applicable objectives for the floor space ratio development standard, the generally accepted principles behind such standards is to ensure that the proposed developments have bulk and scale that is compatible with the surrounding character, to ensure the development does not cause unreasonable amenity impacts on surrounding properties, and to protect public and private views.

Given that the applicable definition of building height does not measure building height to the top of the building, but rather to the top of the uppermost habitable floor, amending the scheme to comply with the numerical standard would not result in a change to the height of the parapet of the architectural roof feature or roof top plant. This means that the proposed scheme and a complying scheme would have the same bulk and scale, the same compatibility with the surrounding area, the same amenity impacts on neighbouring properties, and the same impact on public and private views.

Having regard to the above, it would be unreasonable and unnecessary to enforce compliance with the building height development standards contained within the State Significant Precincts SEPP



## There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

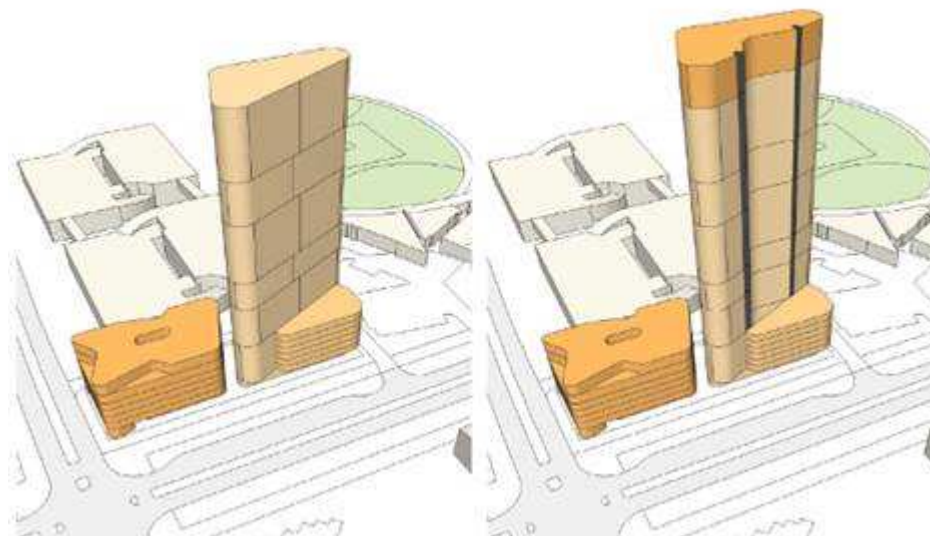
Clause 22(4)(b) of Part 23 of Schedule 3 of the State Significant Precincts SEPP requires the departure from the development standard to be justified by demonstrating:

*that there are sufficient environmental planning grounds to justify contravening the development standard.*

There are considered to be sufficient environmental planning grounds to justify contravention of the height of buildings development standards in this specific instance.

In Four2Five, the Court found that the environmental planning grounds advanced by the applicant in a variation request must be particular to the circumstances of the proposed development on that site.

The proposed development has been specifically designed to achieve a high quality built form that is compatible with the envisaged built form of the locality. The tall, narrow tower form allows 100% of the proposed apartments to achieve solar access. This is a significant achievement for a residential tower, and was only achieved by sacrificing the efficiency of the floor plate. If the apartments were rearranged to locate a dwelling on the southern side of the core, the floor plate would be more efficient and the Apartment Design Guideline target of 70% solar access would likely still be achieved. However, the resultant building would not have the same architectural elegance, and would not achieve 100% solar access. To achieve this high standard of design and amenity, the proponent is willing to forego the economic benefit resulting from a more efficient floor plate.



**Figure 14** – Illustration of building bulk shifted from southern elevation to the top of the building, ensuring all apartments enjoy excellent amenity  
Source: Bates Smart

It should also be noted that the additional apartment on Level 39 does not represent an increase in yield, but rather replaces an apartment at Level 9 which has been converted to residential bicycle parking.

## Consistency with Zone Objectives

Clause 22(5)(a)(i) of Part 23 of Schedule 3 of the Major Development SEPP requires the demonstration that the proposed development is in the public interest because it is consistent with the objectives of the development standard and consistent with the zone objectives.

As discussed above, there are no objectives for the development standard in question. The proposed development's consistency with the B4 Mixed use zone objectives is detailed in Section 5.1.2 of the EIS.

### Director-General's Concurrence

Clause 22(5)(b) of Part 23 of Schedule 3 of the State Significant Precincts SEPP requires that development consent for the contravention of a development standard not be granted until the concurrence of the Director-General (now Secretary-General) has been obtained. Clause 22(6) outlines the relevant matters for consideration, which are discussed below.

#### **Whether contravention of the development standard raises any matter of significance for the State or Regional environmental planning**

The proposal demonstrates that a variation to the height of buildings development standard is acceptable in terms of significance for State and Regional planning matters. The variance of the development standards will not contravene any overarching State or regional objectives or standards, or have any effect outside the sites immediate area.

#### **The public benefit of maintaining the development standard**

Maintaining the development standard would not result in any public benefit in this situation. The applicable definition does not measure building height to the top of the building, but rather to the top of the uppermost habitable floor. In this instance, reducing the building height to meet the standard would result in the Level 39 apartment being deleted, however the height of the parapet of the building would remain unchanged. To a person viewing the building from the public domain, strict compliance with the numerical standard would not result in any change to the built form of the building as the parapet would be in exactly the same location.

Further, the development as a whole will deliver a number of public benefits to the area, including:

- providing additional housing to contribute to overcoming the shortfall of housing in Sydney;
- supporting the ongoing development of Sydney Olympic Park;
- promoting ecological sustainability and sustainable practices through the achievement of BASIX targets.

#### **Any other matters required to be taken into consideration by the Director-General before granting concurrence**

No other matters require consideration by the Director-General. The proposed variation will allow the orderly redevelopment of the site and will better service future occupants of the building.

## 4.0 Final Mitigation Measures

The collective measures required to mitigate the impacts associated with the proposed works are detailed in **Table 2** below. These measures have been derived from the assessment described in this report and the Environmental Impact Statement (including appended consultants' reports).

**Table 2** – Mitigation measures

Mitigation Measures
<b>Construction Management and Construction Traffic Management</b> <ul style="list-style-type: none"> <li>A Construction Environmental Management Plan, incorporating a Construction Traffic Management Plan, is to be prepared after the appointment of a head contractor but prior to the commencement of works on the site</li> </ul>
<b>Traffic and Access</b> <ul style="list-style-type: none"> <li>Prior to the issue of an Occupation Certificate, a Travel Plans and Travel Access Guides will be prepared for distribution to new residents, staff and visitors to the site.</li> </ul>
<b>Acoustic Impacts</b> <ul style="list-style-type: none"> <li>The recommended noise control measures within the Acoustic Assessment prepared by Renzo Tonin and Associates will be incorporated into the detailed design of the proposed development.</li> </ul>
<b>Waste Management</b> <ul style="list-style-type: none"> <li>Waste facilities will be provided in accordance with the Waste Management Plan prepared by Elephants Foot.</li> </ul>

## 5.0 Conclusion

The proponent, Ecove Group, and its expert project team have considered all submissions made in relation to the public exhibition of the development of Site 9 at Sydney Olympic Park. A considered and detailed response to all submissions made has been provided within this report and the accompanying documentation.

In responding and addressing the range of matters raised by the government agencies and authorities, the proponent has sought to refine the project design. The refined proposal also captures changes made by the project team post exhibition.

As outlined within this report, the analysis of the amendments to the proposed development confirms that all key elements of the proposed development as originally proposed and exhibited have remained unchanged.

Further and more importantly, the refined development does not substantially differ from the original publicly exhibited development proposal. In addition, and to the benefit of the overall project, the refinements to the design are considered to reduce the environmental impacts and on balance deliver a project that results in an overall improvement to the scheme originally publicly exhibited.

In conclusion, the proposed development will make a valuable contribution to the urban fabric of Olympic Park, as well as delivering significant benefits by providing much needed housing stock and by injecting new activity into the precinct. Provision of well designed and appropriate residential, commercial and retail floor space will deliver improved social and economic outcomes for NSW.