State Significant Development

Response to Submissions

Site 9, Sydney Olympic Park

Mixed use Development

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

October 2016 ▪ 15719

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Contents

Figures

Contents

Tables

Appendices

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 that also incorporates responses to requests for further information from the NSW Department of Planning and Environment (the Department).

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.

It is noted that the Sydney Olympic Park Master Plan 2030 (2016 Review) was recently placed on public exhibition on 10 October 2016. Both the State Environmental Planning Policy (State Significant Precincts) 2005 and the Master Plan 2030 require the Sydney Olympic Park Authority to review the Master Plan every five years. Given the 2016 Review has been placed on public exhibition, it is relevant matter for consideration for by the Department in the assessment of the subject SSDA. Furthermore, the Department has requested the final Response to Submissions to address the 2016 Review. Accordingly, this document makes an assessment against the key changes identified in the publicly exhibited 2016 Review as they apply to the site.

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**.

This report also considers the key aspects of Sydney Olympic Park Master Plan (2016 Review) that is currently on public exhibition and therefore is a relevant matter for consideration for the Department in its assessment of this SSDA.

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;
- Landscape Drawings and Report; and
- SOPA Design Review Panel Advice Sheet.

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 SEPP (State Significant Precincts) 2005 (SSP 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 (GAO) 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^2; and
- Site 12: 44,706m^2.

This equates to a total GFA of 58,215m^2 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^2 (site area of 4,071m^2 and FSR of 6:1). This leaves a residual GFA for Site 12 of 33,789m^2, 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.

The Site 9 Guidelines were presented to the Department of Planning and Environment in January 2014, including a presentation of the GAO's urban design study that showed that the proposed modifications to the existing MP 2030 controls would be consistent with the overarching desired future character of Olympic Boulevard within the Boundary Creek Precinct. At the time, the Department noted that it would support, in principle, the proposed amendments to the planning controls via clause 22 of the SSP SEPP, and that SOPA could proceed with preparing a Request for Development Proposal for Site 9.

Sydney Olympic Park Master Plan (2016 Review)

The 2016 Review has responded to the Site 9 and Site 12 boundary issue by rationalising the boundaries as proposed in this application and in accordance with the Site 9 Guidelines. Also, importantly the FSR applying to Site 9 is proposed to increase from 4.5:1 to 5.5:1 under the 2016 Review, which in turn seeks to amend the SEPP SSP FSR Map applying to the site accordingly.

The proposed development provides approximately 25,476m^2 of GFA equating to a FSR of 6.25:1. The Planning Report prepared by the Department dated August 2016 that accompanies the 2016 Review states the following with regard to design excellence:

> *"Design Excellence It is proposed to retain the existing Master Plan provision which enables a bonus floor space allocation of up to 10% if the consent authority is satisfied that the proposed development exhibits design excellence. This potential to achieve bonus floor space for design excellence is not explicitly stated in the design excellence provision in clause 30 of the State Significant Precinct SEPP. As part of the proposed amendments to the SEPP, clause 30 is proposed to be amended, consistent with section 4.6 of the Master Plan 2030."*

This is reflected in Section 4.6.10 of the 2016 Review that states:

4. *If the consent authority is satisfied that the proposed development exhibits design excellence and is based upon the preferred scheme selected through a design competition process, a bonus floor space allocation of up to 10 per cent may be permitted.*

Site 9 is identified as a Design Competition site in both the current Master Plan 2030 and the 2016 Review. As detailed below in Section 2.2 of this report, the proposed design is a product of a competitive design tender process run by SOPA and its design review panel that selected the proposed design as its preferred scheme. Accordingly, by virtue of this process it is considered that the proposed development achieves design excellence and therefore a 10% FSR bonus may be permitted.

A FSR of 5.5:1 equates to 22,390.5m^2 of GFA. Providing a 10% floor space bonus for design excellence increases GFA to 24,629.55^2 of GFA or a FSR of 6.05:1. Accordingly, the proposed development's departure from the 5.5:1 FSR designated in the 2016 Review plus a 10% bonus for design excellence equates to approximately 846m^2 of GFA or a 3% variation.

A 3% variation to the FSR control is considered to be visually imperceptible on such a proposed building. Given its robust location in Sydney Olympic Park adjacent to a multi-level car park to the east, Olympic Boulevard to the west and other large future development sites adjacent to the north and south (Site 50 and Site 12) with higher proposed FSRs than the subject site, the proposed minor variation would not give rise to adverse amenity impacts upon adjoining land uses. Furthermore, the proposed building is entirely consistent with the desired future character of Sydney Olympic Park as detailed in the 2016 Review and will make a significant contribution to the dramatic tower edge that is envisaged to frame the eastern side of Olympic Boulevard.

Importantly, the north facing design of the proposed development allows for 100% of units to achieve 2 hours of sunlight between 9am and 3pm on 21 June. The cost of this

exceptionally high amenity design is that floor plate efficiencies and therefore dwelling yields are considerably reduced. Therefore it is considered that the minor variation being sought to FSR is entirely reasonable and worthy of support when taking into account the exceptional solar access outcome for the proposed building.

It is noted that an updated Local Infrastructure Contribution Framework (ICF) for Sydney Olympic Park is publicly exhibited together with the 2016 Review. Attachment B of the ICF identifies the amount of GFA on each site in order to allow a calculation of the contributions payable for each site. Site 9 is identified as having 25,130m^2 of GFA, therefore the GFA expectation of SOPA for Site 9 is in excess of the proposed 5.5:1 FSR standard of the 2016 Review.

2.2 Design

Design Excellence Competition Process

Pursuant to Clause 30(3)(a) of Part 23 under Schedule 3 of SSD SEPP the consent authority must not grant consent for a new building that attains a height of greater than 42m unless a design competition has been held.

Accordingly, given that the proposed development achieves a building height greater than 42m the Department has requested that the Design Excellence Competition process is provided in more detail to ensure consistency with the requirements of the SSP SEPP.

We can confirm that the process to select the proponent for the development of Site 9 was competitive. SOPA issued a Request for Detailed Proposals (RFDP) on 12 May 2015. A key component of the submissions was the design quality of the proposed development, as well as the commercial offer to the land owner. The design scheme responding to the RFDP was presented to SOPA's RFDP Committee that included members of SOPA's Design Review Panel (DRP) as part of the competitive process in July 2015.

The key issues raised by the RFDP Committee were:

- Poor street activation due to one tenant on single level
- Residential entry location to remote
- Tower floorplate size and residential amenity
- Corridor length of end apartments
- Query recessed living rooms

Following the Ecove proposal being announced as the winning scheme by the RFDP Committee, Bates Smart refined the scheme in response to the comments received during the judging process as follows:

- Reduced tower floorplate with improved amenity
- Revised ground plane to increase activation
- Reduced parking podium height to increase prominence of commercial floors
- Taller tower within SSP SEPP height to balance GFA

This revised scheme was then presented to the DRP on 3 December 2015 (see **Appendix O**). The following issues were raised:

- At 3m floor to floor, the above ground carpark levels will be unsuitable for conversion to other uses at some point in the future
- Proposed indentation to the southern façade needs further consideration in terms of its impact on wind turbulence on the podium
- the tower cladding is a very sleek 'skin' when a textured approach may be more suitable to mitigate wind turbulence particularly around the re-entrant façade and the core wall

- That hard monochrome surface finishes are proliferating at SOP, and that even the proposed terra cotta finishes will not provide enough warmth and colour to alleviate the extensive use of glass and metal claddings
- The scale of the colonnade – single storey is too low for a development of this scale and for the Boulevard frontage

Subsequent to this presentation, the following changes were addressed/considered prior to submission for land owners consent:

- Indentation was revised to be more integrated and tower façade was amended from sleek metallic skin to be staggered terracotta coloured fins (addressing points 2, 3 and 4)
- Studies of increased floor to floor height and two-storey colonnade were submitted to SOPA showing impact on design. Direction was provided to not change the colonnade height of the podium floor to floor height

Once the design and studies were finalised in response to the December 2015 DRP comments, the scheme was issued to SOPA for sign-off and land owners consent. SOPA considered the final design against DRP's comments and determined that the proposal was suitable for lodgement and assessment by the Department.

Colonnade Height

Existing Colonnades
A review of the existing colonnades on Olympic Boulevard (all to the north of the site) indicates:

- The colonnade fronting the Pullman hotel varies in height from 2.86m to 4.06m;
- The colonnade fronting the Novotel varies in height from 2.48m to 3.58m; and
- The colonnade fronting the Ibis hotel caries in height from 6.38m to 7.53m and exposes upper floor tenancies to the colonnade below.

Bates Smart have considered these colonnades and make the following comments:

> *We believe that the heights of the existing 'single storey' colonnades are generally too low. Any areas less than around 3.5m high feel oppressive. We also believe that exposing an inactive upper level to the colonnade provides little benefit to the pedestrian experience of the colonnade.*
>
> *Areas at the northern end of the Pullman hotel which are higher than around 3.5m create a good pedestrian experience.*

Annotated photographs of the Pullman, Ibis and Novotel colonnades are provided at **Figures 1**, **2** and **3** below.

Figure 1 – Pullman Hotel colonnade, with height varying from 2.86 to 4.06 metres
Source: Bates Smart

Figure 2 – I Novotel Hotel colonnade, with height varying from 6.38 to 7.35 metres
Source: Bates Smart

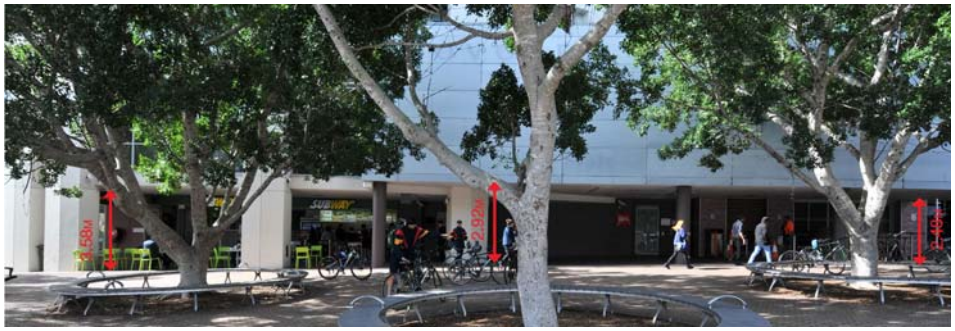

Figure 3 – Ibis Hotel colonnade, with height varying from 2.48 to 3.58 metres
Source: Bates Smart

Proposal for Site 9

The podium has been designed as a response to the various uses as illustrated in **Figure 4**, and provides a single storey colonnade which relates to the active uses of the development at ground level. Detail sections are provided at **Figure 7** 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 4 – 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 5** and **6** illustrate the height of the colonnade as originally submitted and now proposed.

The proposed colonnade varies in height between approximately 3.6m and 4.8m. Halfway along the length, the colonnade increases in height to 7.1m to define the residential entry. This ensures that the lowest height at any point on the proposed colonnade is higher than the highest point of the Novotel colonnade. Furthermore, 80% of the proposed colonnade is higher than any point of the Pullman hotel colonnade.

At no point is the Level 1 carpark open into to the colonnade below. Bringing the carpark use to the building edge has the added benefit of allowing natural ventilation. If the carpark opened to the colonnade it would need to be enclosed and mechanically ventilated, which has significant ESD impacts.

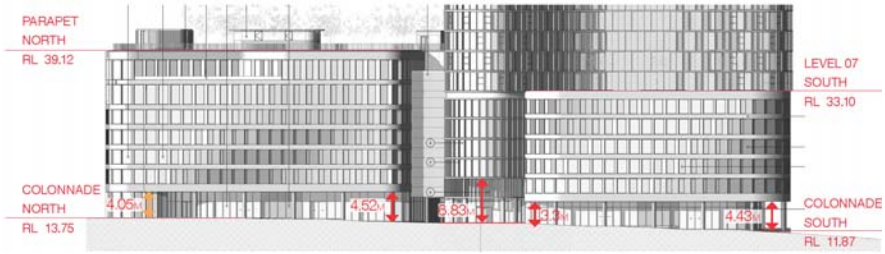

Figure 5 – Originally proposed colonnade and podium heights
Source: Bates Smart

Figure 6 – Now proposed colonnade and podium heights
Source: Bates Smart

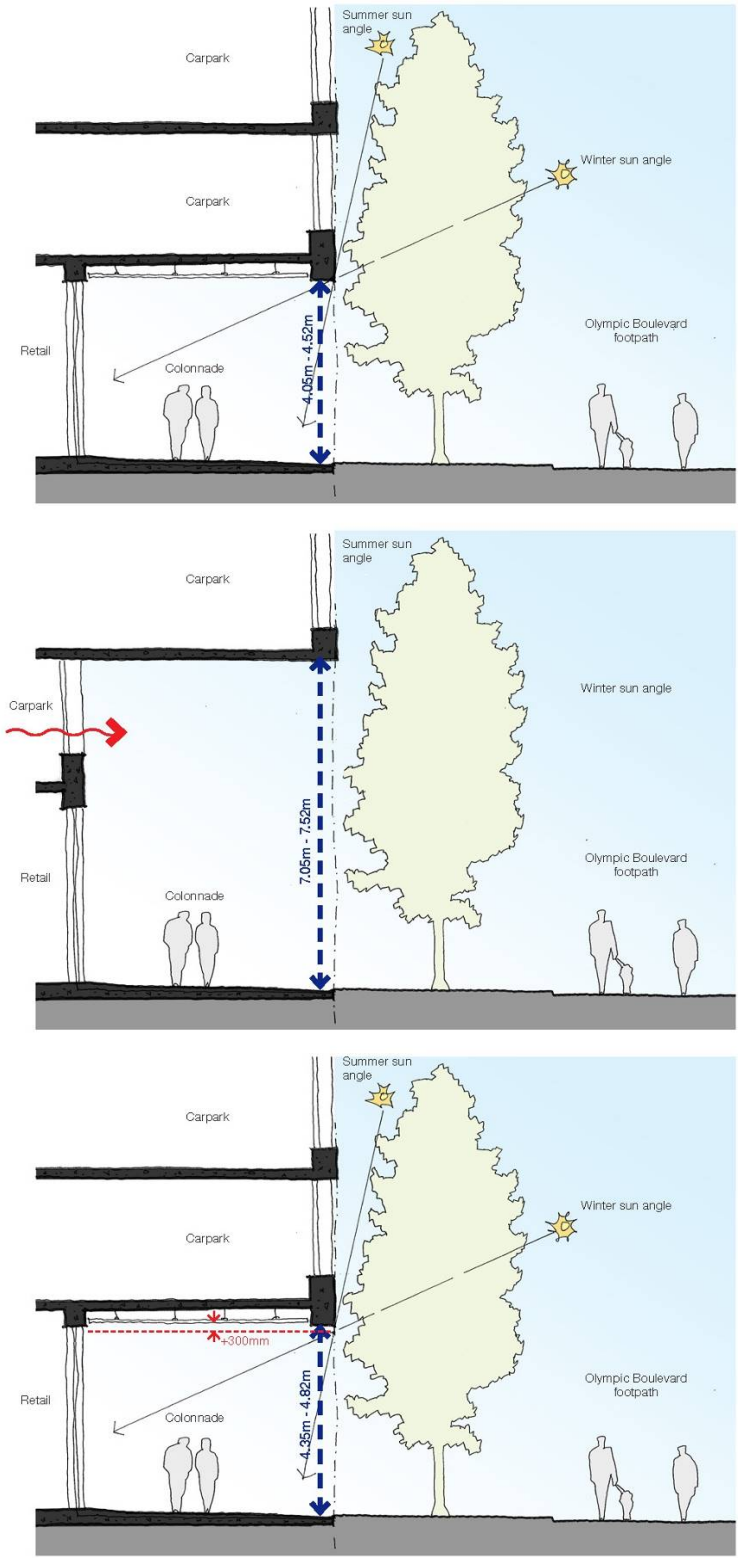

Figure 7 – Sections showing originally proposed colonnade (upper), double-height colonnade with exposed carpark (middle), and now proposed increased height colonnade (lower)
Source: Bates Smart

Sydney Olympic Park Master Plan (2016 Review)

Section 4.0 of the 2016 Review identifies a double height (8m high) colonnade extending along both sides of Olympic Boulevard and including Site 9. This is a proposed extension to the double height colonnade requirement of the current Master

Plan 2030 that does not require double height colonnades for sites south of Sarah Durack Avenue (see **Figure 8** below).

Figure 8 – Colonnade Maps (Current Master Plan 2030 on left & 2016 Review on right)

The requirement of a double height colonnade applying to Site 9 is not supported by SOPA as detailed in its letter of 13 October 2016 (**Appendix P**). This is due to prevailing site contamination issues affecting Site 9 that necessitates car parking to be above ground. This means that providing a double height colonnade would expose the first floor car parking level to the colonnade space thereby adversely affecting visual and pedestrian amenity and contradicting an aim of double height colonnades in creating visual interest/activity above street level.

Raising the floor to ceiling height of the ground floor of the proposed development to 8m to comply with the 2016 Review colonnade control has been contemplated by the applicant as an alternative. However, this was ultimately rejected as a design solution as it would have necessitated raising the entire building by almost 4m and also creating excessively voluminous retail spaces inappropriate to the retail tenancies intended for the site.

In any event, an 8m high colonnade for sites south of Sarah Durack Avenue (such as Site 9) is considered excessive as they are visually and physically separated from the main street level retail strip of Olympic Boulevard of the Central Precinct that is expected to attract the higher order retail uses and high pedestrian activity. These higher order retail uses are typically complemented by a double height colonnade, however conversely a double height colonnade can appear out of place in other street level retail areas that do not require such grand entry scale.

Through Site Link

The proposed increase in the Ground Level 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 8**.

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 9**). 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. It is noted that the bicycle storage will be relocated to Level 9 of the tower, requiring the deletion of one apartment on this level.

Figure 9 – Proposed colonnade
Source: Bates Smart

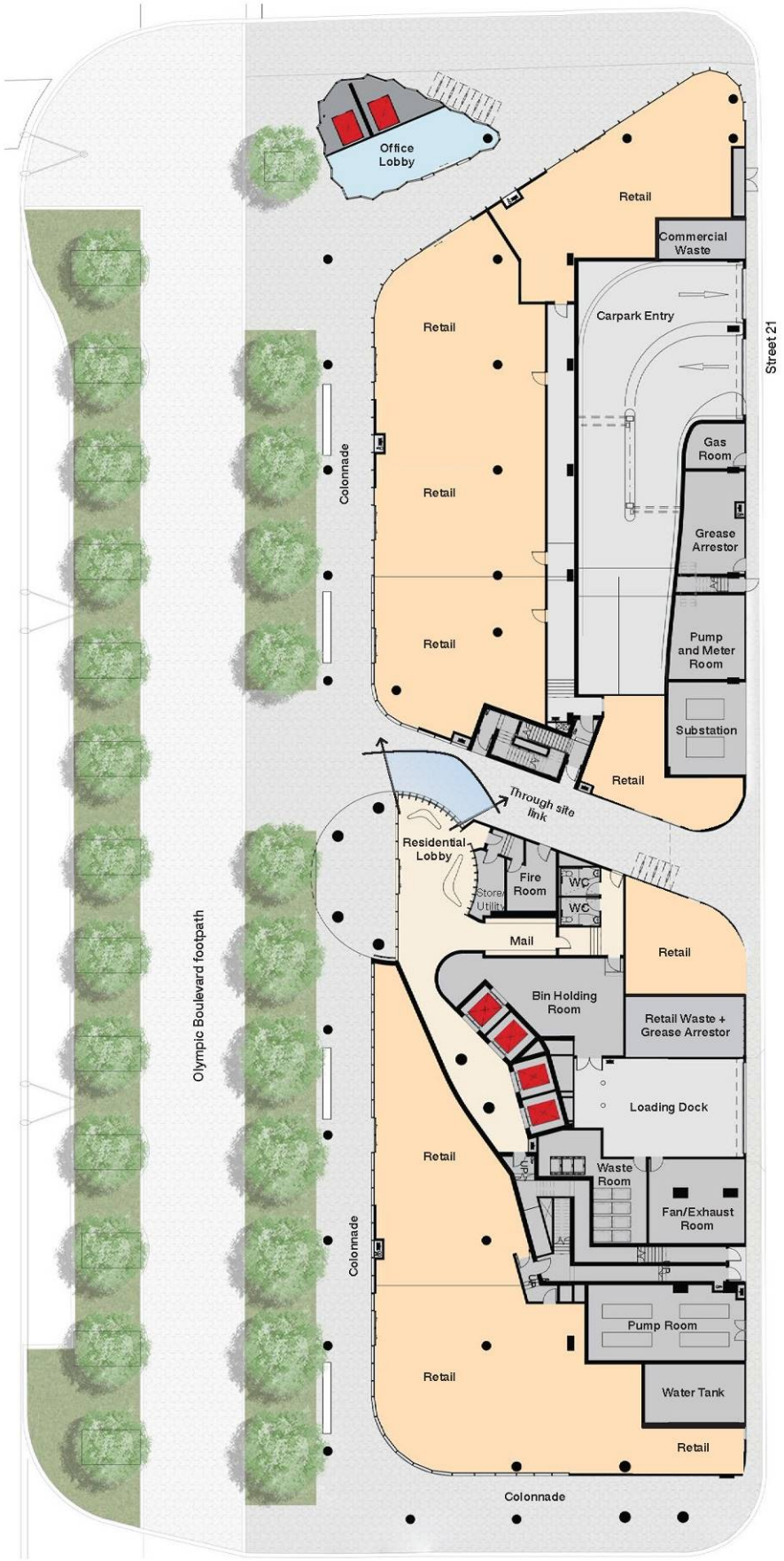

Figure 10 – Amended ground floor plan
Source: Bates Smart

Safety and Security

Figure 10 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 to further enhance safety and security.

Figure 11 – 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 and is recommended to be provided as part of a condition of consent and submitted to the Principal Certifying Authority for approval. **Figure 11** provides clarification of the location of mesh panels on the CGIs submitted with the original application. This is best viewed together with the original montage, which is reproduced at **Figure 12**. An additional CGI is included at **Figure 13**, illustrating the mesh panels as viewed from outside the residential lobby entry.

Figure 12 – Pink shading showing location of car park ventilation panels
Source: Bates Smart

Figure 13 – Photomontage of the proposed development as viewed from the west
Source: Bates Smart

Figure 14 – 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^2 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 14**).

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 15 – View from lift lobby over landscaped podium roof
Source: Bates Smart

Building Height

A detailed assessment of the proposed amended development against the provisions of clause 22 of Part 23 of Schedule 3 of the SSP SEPP is provided in Section 3.1.1 of this report. This assessment responds to the technical definition of building height, which is not measured to the top of the building, but rather to the highest point of the highest habitable floor.

To enable a comparison of the bulk and scale of the proposed amendments against the original proposal, it is valuable to consider the highest point of the building which is visible from the surrounding public domain. In this case, it is the edge of the parapet at the crown of the building. The proposed amendment only seeks to increase this height by 300mm, which is imperceptible when viewed from ground level.

Figure 15 overleaf provides a comparison of the original and now proposed elevation, and clearly demonstrates that the difference between these is imperceptible.

Figure 16 – Comparison of original and amended elevation, illustrating negligible change to the built form.
Source: Bates Smart

Additional Images

Figures 16, **17** and **18** provide additional views from the pedestrian paths surrounding the development.

Figure 17 – Proposed development as viewed from Sarah Durack Avenue, with the P3 carpark in the foreground
Source: Bates Smart

Figure 18 – Proposed development as viewed from Sarah Durack Avenue, closer to the intersection of Olympic Boulevard
Source: Bates Smart

Figure 19 – Proposed development as viewed from Olympic Boulevard, looking north
Source: Bates Smart

The image shown at Figure 16 above has been further developed into a photomontage, as provided at **Figure 19**.

Figure 20 – Proposed development as viewed from Sarah Durack Avenue, with the P3 carpark in the foreground
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 in this instance by SOPA and JBA given the small scale of the proposed retail tenancies and the proximity to the P3 parking station.

2.4 Other Issues

Proposed Uses

The originally proposed club/retail uses at ground floor level have been amended to refer only to retail uses. If a future club use is proposed, this will be addressed through a separate approval process.

Signage Zones

The proposed signage zone at the top of the tower will be subject to a future development application.

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 tees 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, Remediation and Risk Assessment

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.

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

DLA Environmental Services have also reviewed the proposed development in relation to State Environmental Planning Policy 33 – Hazardous and Offensive Development (SEPP 33) (refer **Appendix N**). It is noted that the proposed development is not a potentially hazardous industry or a potentially offensive industry as defined in SEPP 33. Although the provisions of SEPP 33 therefore do not do apply, the SEPP and associated guidelines do provide a reasonable framework for assessing the potential risks of the gas management system.

A detailed risk assessment is currently being prepared, however for this to be completed the design of the proposed building needs to be developed well beyond the development application drawing stage. The assessment requires construction level specification as well as specific inputs from the builders (which are yet to be engaged). This assessment will be completed, reviewed and signed off as part of the Section B Site Audit Statement, which is recommended to be provided prior to the issue of a construction certificate for the project.

The Site Auditor that has been engaged by the proponent is Enviroview. The site auditor will be reviewing all the matters and related documents above as part of the Site Audit Review Process.

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 Level 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; and
- 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^2	2,540m^2
Retail	950m^2	1,067m^2
Residential	21,640m^2	21,869m^2
Total	25,130m^2	25,476m^2

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 SSP 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 SSP 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 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 which will be visually imperceptible on a 39 storey building.

Request to Vary a Development Standard

Clause 22 of Part 23 of Schedule 3 of the SSP 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 SSP 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 Part 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 SSP 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 SSP 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 SSP 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 SSP 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 a visual 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 equivalent bulk and scale, equivalent compatibility with the surrounding area, the equivalent amenity impacts on neighbouring properties, and the equivalent 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 SSP 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 SSP 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 a minimum of 2 hours of solar access on 21 June. This is an exceptional and rare achievement for a residential tower and was only achieved by sacrificing the dwelling yield efficiency of the floor plate. If the apartments were rearranged in a more traditional manner that locates units 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 a minimum of 2 hours of solar access to 100% of proposed apartments on 21 June. 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.

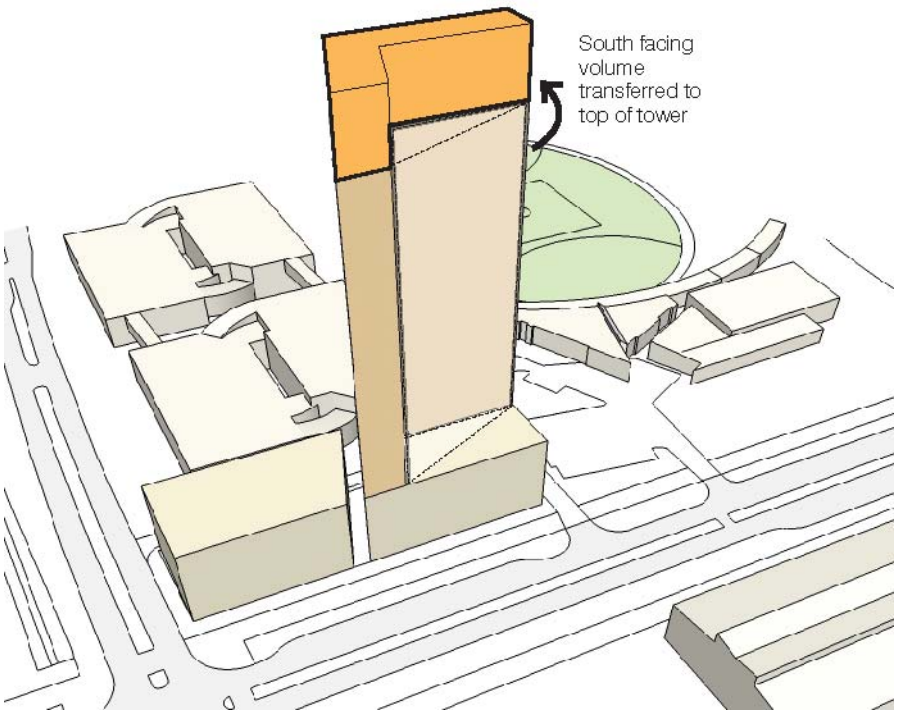

Figure 21 – Illustration of building bulk shifted from southern elevation to the top of the building, ensuring all apartments enjoy excellent amenity
Source: Bates Smart

Importantly, it is also noted that the additional apartment on Level 39 does not represent an increase in dwelling 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 SSP 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 SSP 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; and
- 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 Sydney Olympic Park Master Plan 2030 (2016 Review)

Sydney Olympic Park Master Plan 2030 (2016 Review) was recently placed on public exhibition on 10 October 2016. Both the State Environmental Planning Policy (State Significant Precincts) 2005 and the Master Plan 2030 require the Sydney Olympic Park Authority to review the Master Plan every five years. Given the 2016 Review has been placed on public exhibition, it is relevant matter for consideration for by the Department in the assessment of the subject SSDA. Furthermore, the Department has requested the final Response to Submissions to address the 2016 Review. Accordingly, the below table identifies the key changes identified in the publicly exhibited 2016 Review as they apply to the site and provides an assessment.

Section of Key Change	Current Master Plan 2030	2016 Review	Comment
4.3 Colonnade Height	Single height	Double height	Refer to Section 2.2 of this report
4.3 Retail and Active Street Frontages	N/A	Various controls and guidance	The ground floor plan indicating the proposed retail spaces and tenancies are generally consistent with this part of the 2016 Review.
4.4 Land Uses Plan	The site incorporates Site 9 & Site 12 and designates a commercial land use and a mixed commercial and residential land use respectively.	The site boundaries have been resolved and the site is identified entirely as Site 9 and a mixed commercial and residential land use.	2016 Review is consistent with proposed development.
4.6.8 Tower Building Controls	Various controls and guidance	Various controls and guidance	The proposed design was selected as a consequence of a competitive design process that was informed by the SOPA Design Review Panel. As such various updates and changes to this section that are inconsistent with the proposed scheme are not considered to carry significant weight in the assessment of this particular application.
4.7 Access and Parking	Where below ground parking cannot be avoided due to site conditions it must be well integrated into the overall design and create good address to the public domain.	Where below ground parking cannot be avoided due to site conditions it must be sleeved with active uses that create a good address to the public domain.	Given the site contamination issue affecting the site, basement car parking is not realistic on the site and therefore all parking has been provided above the ground level retail and well integrated into the overall design. The proposed design was selected as a consequence of a competitive design process that was informed by the SOPA Design Review Panel. As such the change to the wording of this control is not considered to

Section of Key Change	Current Master Plan 2030	2016 Review	Comment
			carry significant weight in the assessment of this particular application. Furthermore, SOPA has expressed in its letter dated 13 October 2016 (Appendix P) that it supports above ground car parking on heavily remediated land fill sites.
5.7.2 Site Configuration Controls	Site 9 and part of Site 12 comprise the site.	Site 9 comprises the site.	In accordance with the proposed development.
5.7.3 Floor Space Ratio Controls	4.5:1	5.5:1 + 10% design excellence bonus	Addressed in Section 2.1 of this report.

5.0 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
Construction Management and Construction Traffic Management ▪ 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
Traffic and Access ▪ 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.
Acoustic Impacts ▪ 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.
Waste Management ▪ Waste facilities will be provided in accordance with the Waste Management Plan prepared by Elephants Foot.
Site Contamination The applicant has engaged Site Auditor James Davis from Environview to prepare a Section B Site Audit Statement. This is currently being prepared and will be issued to the Department in due course.

6.0 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 and the Department's comments 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 public 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, in the opinion of JBA the proposed development will make a valuable contribution to the urban fabric of Olympic Park. The proposed development of Site 9 is a significant component in fulfilling SOPA's and the NSW Government's desire to transform appropriate precincts within Sydney Olympic Park into a dynamic and highly active mixed use urban environment that provides high quality housing. The provision of well designed and appropriate residential, commercial and retail floor space will deliver improved social and economic outcomes for NSW.