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Minister for Planning
Department of Planning Industry and Environment
Locked Bay 5022
Parramatta NSW 2150

21 April 2021

Dear Minister,

SECTION 75W – MODIFICATION TO THE HEIGHT OF BUILDINGS | CONCENPT PLAN MP09_0029 | 63-77 WEST PARADE, WEST RYDE

This Statement of Modification has been prepared by Urbis Pty Ltd on behalf of Billbergia Group to modify the approved Part 3A Concept Plan MP09_0029, for the construction of three residential towers at 63-77 West Parade West Ryde, under the transitional arrangements within Schedule 2, Clause 3BA (5) of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017).

This application seeks to modify the height for Buildings A and B. In effect, this application seeks consent to increase the overall building height of Building A and B to accommodate the lift overruns. The proposed works illustrated in the attached Plans, have been sympathetically designed to avoid adding to the bulk and scale of the proposed buildings, when viewed from street level.

This Statement of Modification report includes:

- Identification of site and locality
- Description of the proposed development
- Assessment of the proposal against all relevant state and local controls

This letter is accompanied by:

- Completed DA form and checklist, including owners' consent,
- Site Plans prepared by PTW Architects, and
- Lift Headroom Requirements letter by JHA Consulting Engineers.

The proposal is the subject of a Section 75W application as the proposal requires the modification of Consent MP09_0029. The proposed modifications are suitable for the site and are not considered to result in any unreasonable or adverse impacts on the surrounding locality. Accordingly, it is recommended that approval be granted.

1. SITE AND SURROUNDING CONTEXT

This site is located at 63-77 West Parade, West Ryde and is legally described as Lot 1 in DP1272136. The site comprises a total site area of 3,748m². The site is defined by a 136 metre (m) primary frontage to West Parade and the T9 Northern Railway Line along its eastern boundary. It comprises of one vacant lot with scattered trees and vegetation and falls approximately 0.4 m from the west.

The site is located in Ryde Local Government Area (LGA), approximately 13 kilometres (km) from Sydney CBD and 8 km from Parramatta CBD. The site is situated within an established residential area with access to the West Ryde Town Centre and Train Station to the south. The site is outlined in red in the aerial image in Figure 1 below.

Figure 1 Aerial Photograph

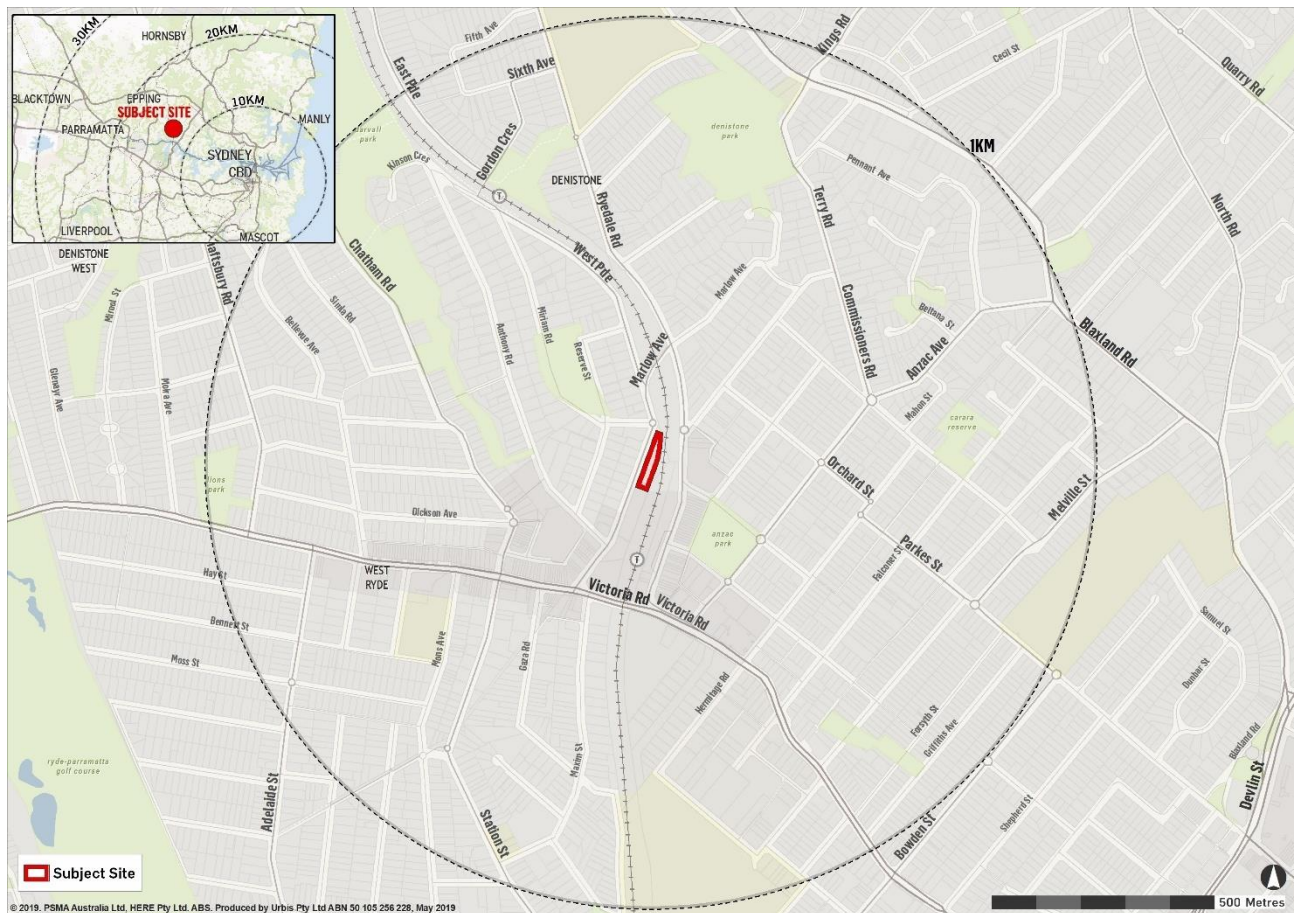


Source: Nearmap/Urbis

The site is located within the West Ryde suburb in the Ryde LGA. It is approximately 300m north from Victoria Road (A40), less than 300m walking distance north of the West Ryde Train Station and adjacent to the West Ryde Town Centre. The site is located in a high-density residential area with a mix of shops in the West Ryde Town Centre to the south.

Figure 2 below highlights the location of the site in relation to the locality and shows its proximity to Victoria Road, West Ryde Train Station and the West Ryde Town Centre.

Figure 2 Location Plan



Source: Urbis

The surrounding development includes:

- North: Commuter Car Park;
- East: T9 Northern Railway Line;
- South: 8-storey residential flat building known as 61 West Parade; and
- West: 2-3 storey walk up residential flat buildings.

A photomontage of the surrounding sites is provided at **Figure 3** below.

Figure 3 Photographs of the Site and Surrounds



Picture 1 Commuter car park (north of the site)

Source: Urbis



Picture 2 61 West Parade (south of the site)

Source: Urbis



Picture 3 T9 Railway Line (east of the site)

Source: Urbis



Picture 4 1950s walk up residential flat buildings (west of the site)

Source: Urbis

The site is located close to various civic and transport infrastructure including (all measurements assume walking distance):

- 270 m to West Ryde Train Station – with direct service to Sydney CBD taking 30 minutes;
- 350 m to West Ryde Town Centre;
- 350 m to Miriam Park;
- 500 m to Anzac Park; and

- 900 m to Denistone Sports Club.

It is located directly north of the West Ryde Town Centre. The desired future character of the area per the Ryde Development Control Plan 2014 (RDCP 2014) is the following:

To revitalise the commercial and retail core and encourage higher density development surrounding the town centre and provide transition to surrounding suburban areas.

While the site-specific controls for the West Ryde Town Centre do not apply to this site, the proposed development aligns with the town centre vision. A context diagram has been prepared and is provided at **Figure 4** below.

Figure 4 Context Map



Source: Urbis/ Major Projects website

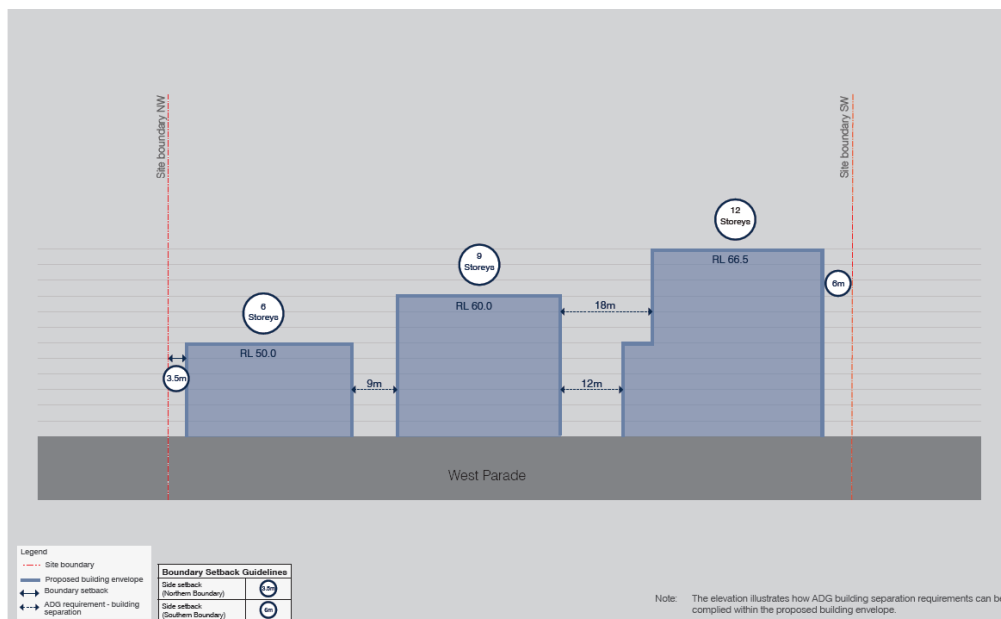
2. PROJECT HISTORY

2.1. MP09_0029: PART 3A APPROVAL

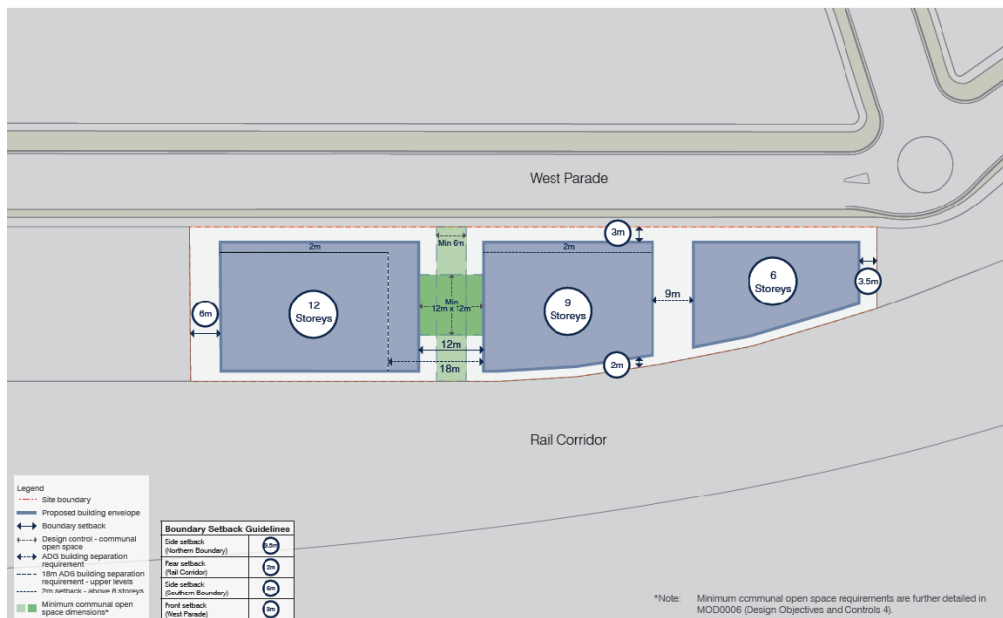
A Concept Plan MP09_0029 was approved by the Department of Planning, Industry and Environment (DPIE) under the former Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) on 18 June 2010. Since the original approval, several modifications were approved to extend the lapsing period and update building envelopes and setbacks. The current approved modification has a lapsing period requiring a development application to be submitted to the consent authority which extends to 18 June 2020.

Approved building envelopes and setbacks for MP09_0029 Mod 2 are shown in **Figure 5** below.

Figure 5 Concept Plan 09_0029 Mod 2



Picture 5 Modified Concept Plan: Approved heights and building separation.
Source: Major Project website



Picture 6 Modified Concept Plan: Approved minimum setbacks and separation.
Source: Major Project website

2.1.1. Consistency with MP09_0029

The proposed modification is generally consistent with the approved Concept DA 09_0029 (as modified) building envelopes and setback requirements and conditions. A tabulated assessment against the conditions of approval is listed at **Table 2** below.

Table 1 Assessment against MP09_0029 Conditions of Approval

Condition	Reference	Proposal
<p>A1 Development Description</p> <p>Concept approval is granted to the development below:</p> <ul style="list-style-type: none"> ▪ Use of the site for residential purposes for a maximum of 150 dwellings. ▪ Excavation of the site for the construction of the basement car parking area; ▪ Construction of the following: <ul style="list-style-type: none"> – 12 storey residential building (Building A); – 9 storey residential building (Building B); – 6 storey residential building (Building C). ▪ Landscaping 	MP09_0029 Mod 2	<p>The proposal complies with the development description. Details on proposed development further discussed in Section 2 below.</p> <p>No change is proposed to the approved building envelopes in terms of heights of buildings in storeys.</p>
A2 Development in Accordance with Plans and Documentation	MP09_0029 Mod 2	The proposal aligns with the concept plans and documentation with the exception of the maximum height of buildings A and B for the additional height associated with left over runs, which is proposed to be modified by this application.
<p>A3 Maximum Gross Floor Area</p> <p>The redevelopment of the site for residential development shall have a maximum Gross Floor Area (GFA) of approximately 13,149m².</p>	MP09_0029 Mod 2	The proposal complies with the maximum GFA.

Condition	Reference	Proposal
<p>A4 Inconsistencies between Documentation</p> <p>In the event of any inconsistency between the plans and documentation referred above, the most recent document shall prevail to the extent of the inconsistency.</p>	MP09_0029 Mod 2	The proposal notes Condition A4.
<p>A5 Date of Approval Liable of Lapse</p> <p>Notwithstanding the details within Part A of Schedule 1, the approval will lapse on 18 June 2020 unless a development application is submitted to carry out any part of the project or development for which concept approval has been given.</p>	MP09_0029 Mod 3	<p>The proposal notes the lapse date.</p> <p>Lodgement of the LDA2020/0133 on 28 April 2020 means the Concept approval did not lapse on 18 June 2020.</p>

2.2. LDA2020/0133

A Development Application was approved on 2nd December 2020 by the Sydney North Planning Panel for the construction of 3 residential flat buildings ranging in height from, 6 to 11 storeys containing 150 dwellings involving a mixture of market rate & social housing dwellings. The approved development includes three levels of basement carpark with 171 parking spaces, 23 bicycle spaces and loading dock, storage areas and servicing.

This proposal is considered ancillary to the approved use of the site.

Figure 6 West Elevation LDA2020/0113



3. PROPOSED MODIFICATION

This Section 75W application seeks to modify the proposed height of Buildings A and B in approved Concept Plan MP09_0029 to accommodate the lift overrun in each building.

The approved Concept Plan MP09_0029 has the following maximum building heights:

- Building A: RL 66.5
- Building B: RL 60
- Building C: RL 50

The proposal seeks to modify the approved development consent for the following building heights:

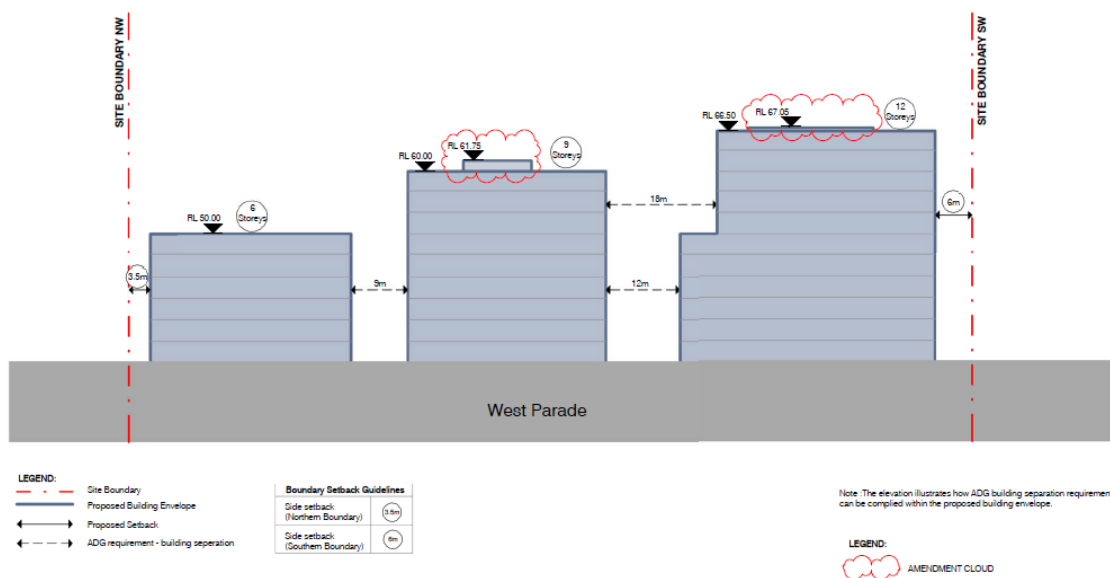
- Building A: RL 67.05 (increase of 0.55m)
- Building B: RL 61.75 (increase of 1.75m)
- Building C: RL 50 (remains unchanged)

The modified architectural plans have been prepared by PTW Architects at **Appendix A**.

The Lift Headroom Requirements letter that accompanies the modified architectural plans is attached at **Appendix B**. The purpose of the lift overrun is to accommodate the mechanical and personnel safety clearances necessary for the operation of the lift. The increased headroom height, identified in design development of the subsequent approved LDA2020/0113, will result in an encroachment of the approved heights of Buildings A and B. The updated lift designs have been designed in accordance with the relevant requirements of the BCA, lift standards (AS 1735.1/EN 81-20) and OHS Act (WorkCover).

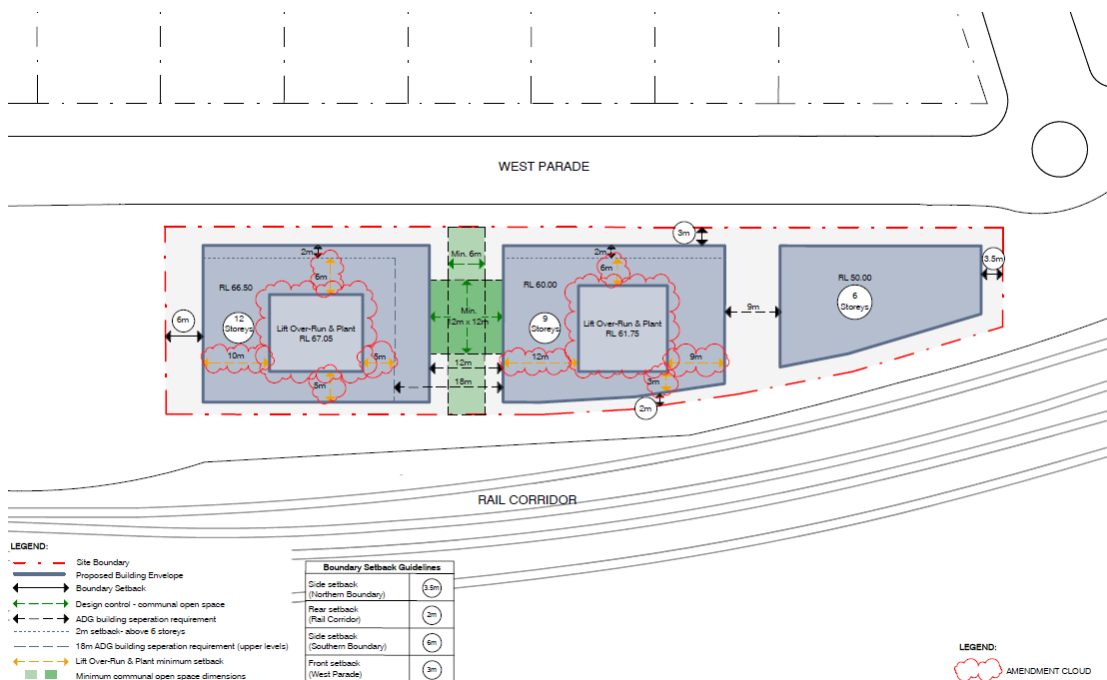
The proposed modifications to the approved building envelope plans are illustrated in the figures below.

Figure 7 Proposed Modification



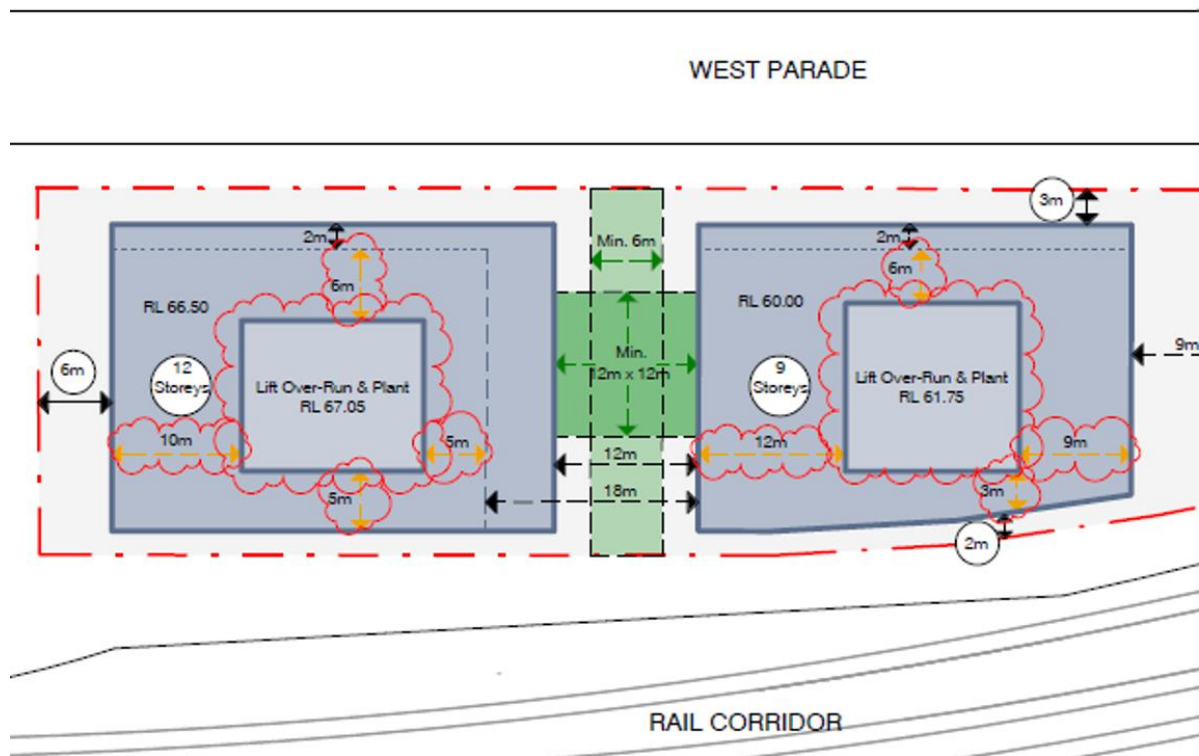
Picture 7 Amended height of building – Buildings A and B.

Source: PTW Architects



Picture 8 Amended minimum setbacks and separation.

Source: PTW Architects



Picture 9 Extract from amended minimum setbacks and separation plan.

Source: PTW Architects

3.1. MODIFIED CONDITIONS OF CONSENT

The following conditions of consent are proposed to be modified:

- Condition A2 – Development in Accordance with Plans and Documentation

The requested modifications to condition A2 are described below:

A2 Development in Accordance with Plans and Documentation

The approval shall be generally in accordance with MP 09_0029 and with the Environmental Assessment, except where amended by the Preferred Project Report, and additional information further to the Preferred Project Report and the S75W Modification Application Planning Report (MP 09_0029 MOD 2) prepared by Family and Community Services dated 14 March 2018 **and the S75W modification request Planning Report (MP 09_0029 MOD 3) prepared by FPD Pty Ltd dated 3 April 2019**, and the conditions of consent and the following drawings prepared by Caldis Cook Group and Architectus:

Concept Plan Drawings prepared by Architectus			
Drawing No.	Issue	Name of Plan	Date
MOD0000	D	Cover Sheet	18 October 2018
MOD0001	D	Site Plan and Building Envelope	18 October 2018
MOD0002	D	West Parade Elevation and Building Envelope	18 October 2018
MOD0003	D	Design Objectives and Controls 1	18 October 2018
MOD0004	D	Design Objectives and Controls 2	18 October 2018
MOD0005	D	Design Objectives and Controls 3	18 October 2018
MOD0006	D	Design Objectives and Controls 4	18 October 2018

except for as modified by the following pursuant to Section 75O(4) of the Act.

Delete the following drawings, in the table of Concept Plan drawings, prepared by Architectus:

- MOD0000 Issue D Cover Sheet 18 October 2018
- MOD0001 Issue D Site Plan and Building Envelope 18 October 2018
- MOD0002 Issue D West Parade Elevation and Building Envelope 18 October 2018

Insert the following replacement Concept Plan drawings prepared by PTW Architects:

- MOD0000 Revision A Cover Sheet 15 March 2021
- MOD0001 Revision A Site Plan and Building Envelope 15 March 2021
- MOD0002 Revision A West Parade Elevation and Building Envelope 15 March 2021

4. STATUTORY CONTEXT

As part of the repeal of Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Schedule 6A of the EP&A Act was enacted to allow the application of the repealed Part 3A provisions to certain projects that had been approved or were in the process of environmental assessment under Part 3A. These projects are known as “Transitional Part 3A Projects” and enable approved projects to be modified under the modification framework set out in the repealed section 75W of the EP&A Act, as if it were still in effect.

Major Project No. 09_0029 was approved on 18 June 2010 by the then Minister for Planning and is a transitional Part 3A project. Modification of MP09_0029 is sought under Section 75W of the EP&A Act in accordance with the proposed modifications set out in this SEE.

The following sections assess the proposed modifications against the relevant legislation, instruments, strategies, plans and guidelines, relevant to this proposal.

4.1. SECTION 75W MODIFICATION OF CONCEPT APPROVAL

Section 75W of the EP&A Act provides a mechanism by which the proponent of a Part 3A project may request the modification of, and the Minister may modify, that project.

Under Schedule 2, Clause 3BA(5) and Clause 3C of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017, state that concept approvals determined under Part 3A can still be modified under S75W.

Clause 3BA(5) sets out the provisions for modifications to those projects approved under the former Part 3A.

A concept plan may continue to be modified under section 75W pursuant to a request lodged on or after the cut-off date (whether or not the project is or has ceased to be a transitional Part 3A project), but only if the Minister is satisfied that:

- (a) the proposed modification is to correct a minor error, misdescription or miscalculation, or*
- (b) the proposed modification is of minimal environmental impact, or*
- (c) the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).*

Clause 3C sets out the provisions for Modifications of Concept Plans.

- (1) Section 75W continues to apply (subject to clause 3BA) for the purpose of the modification of a concept plan approved before or after the repeal of Part 3A, whether or not the project or any stage of the project is or was a transitional Part 3A project.*
- (2) This clause applies despite anything to the contrary in this Schedule (other than provisions relating to approval for the carrying out of a project or stage of a project that is given in connection with an approval to modify a concept plan).*

It is submitted that the Minister has the power under section 3BA(5) of the EP&A Act to make the proposed modifications, particularly as those modifications are minor in detail, have limited environmental impact and are substantially the same development. This is demonstrated by the following considerations:

- The approved use on site remains unchanged.
- The proposed modifications do not affect the land-uses, total gross floor area or internal layout of the development approved under MP09_0029.
- The modifications are external to the approved building envelope and simply seek to increase the height of approved buildings A and B to accommodate a lift overrun in the respective buildings towards the centre of the building footprint above the level of the roof. Therefore, it is considered

that the proposal will have a minor impact upon the surrounding environment and minimal alteration to the approved building envelopes across the site. The proposed works involve:

- An increase in the building height of Building A of 0.55m to accommodate a lift overrun.
- An increase in the building height of Building B of 1.75m to accommodate a lift overrun.
- The proposed modifications will result in minimal changes to the existing building envelope and built form across the site.
- The proposal does not introduce any new adverse amenity impact upon the surrounding area and public domain.

4.2. OBJECTS OF THE ACT

In considering the proposed development with regard to the 'Objects of the Act' included in Section 5 of the EP&A Act. It is noted that the proposal:

- Has been designed with regard to the environmental sensitivities of the site,
- Promotes good design and amenity of the built environment with respect to the surrounding Ryde locality. The proposed development will have negligible difference in overshadowing or view loss to surrounding residents, given the central location of the lift over run structures. The overall intensity of use of the development and overall built form will therefore be commensurate with that originally approved.
- The proposed modifications to buildings A and B promote the proper construction and maintenance of buildings, by considering the height requirements for the lift overruns to ensure the safe use of the lifts by all building occupants.

The proposal is therefore considered to be consistent with regards to the objectives of the EPA& Act.

5. SECTION 4.15 ASSESSMENT

The matters referred to in Section 4.15 of the EP&A Act need to be considered in the assessment of the proposed modifications. Each of the matters relevant to the proposal are assessed below.

5.1. ENVIRONMENTAL PLANNING INSTRUMENTS

The environmental planning instruments applicable to the site and development are:

- Ryde Local Environmental Plan 2014.

Consistency with each of the relevant controls within the above environmental planning instrument is discussed within the subsection below.

5.1.1. Ryde Local Environmental Plan 2014

The Ryde Local Environmental Plan (RLEP) 2014 is the principal environmental planning instrument government development at the site.

As stated above, Concept Approval MP09_0029 (and its subsequent modifications) granted consent for envelopes associated with gross floor area and building height. The proposal is consistent with these provisions, except for the proposed modification to building heights of buildings A and B.

The proposed modifications do not majorly alter the level of compliance with the RLEP objectives from the original approved Concept Plan because there are no changes to the built form and level of external impact. The increase in height to facilitate the lift overrun will however exceed the height approved under the original Concept Plan.

The proposal seeks development consent for the following:

- Building A: RL 67.05 (increase of 0.55m)
- Building B: RL 61.75 (increase of 1.75m)
- Building C: RL 50 (remains unchanged)

Despite this non-compliance, the proposed changes in height will be marginal and will not result in any adverse impacts to surrounding developments.

5.1.2. Ryde Development Control Plan 2014

The Ryde Development Control Plan 2014 (**RDCP**) provides detailed controls for specific development types and locations. Most controls relate to character, streetscape and public domain works.

The proposed modifications remain compliant with the relevant controls of the NSDCP 2013 from the approved Concept MP09_0029. The plans demonstrate that the modification to the lift overrun remains consistent with the architecture of the building. The proposed modifications will not adversely impact the surrounding locality in terms of view loss or overshadowing.

The proposed modifications to the lift, including increase the height of building to accommodate for the lift overrun, meets the requirements for Disability Access.

The proposed headroom height will provide a more accessible development than that which has already been approved under the approved Concept Plan, as it will allow for the complete construction of the lifts in Building A and B. The lift overruns will accommodate the appropriate mechanical and personnel safety clearances for each lift.

5.2. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

No draft environmental planning instruments are relevant to this proposal.

5.3. PLANNING AGREEMENT

No planning agreements are relevant to this proposal.

5.4. REGULATIONS

This application has been prepared in accordance with the relevant provisions of the Environmental Planning and Assessment Regulations 2000.

5.5. LIKELY IMPACTS OF THE PROPOSAL

An assessment of the likely impact of the proposed development is addressed within the following subsections.

5.5.1. Built Form

Given the nature of the proposed works the existing bulk and scale of the existing building at 63-77 West Parade West Ryde, will be unaffected. Accordingly, the proposal is deemed to be unobtrusive and will not result in the creation of any significant adverse built form impacts upon the surrounding locality.

5.5.2. Overshadowing and View Loss

Given the centralised location of the lift cores in Buildings A and B, the proposed height increases to accommodate the lift overruns will not adversely affect the surrounding developments. The proposed modifications is unlikely to result in further significant overshadowing or view loss to that approved under the original Concept Plan.

5.6. SUITABILITY OF THE SITE

The site is considered highly suitable for the proposed development for the following reasons:

- The proposal is a permissible modification and achieves a high level of planning policy compliance.
- The proposal seeks to increase the height of the existing residential buildings already occupying the site.
- The proposal seeks to increase the height of the buildings to accommodate for the lift overrun; and
- Given the central location of the lifts in Building A and B, the proposed works will not adversely impact surroundings residents, visitors, or persons within the surrounding area.

5.7. SUBMISSIONS

It is acknowledged that submissions arising from the public notification of this application will need to be assessed by the Department of Planning, Industry and Environment. Any submission made on the proposal will be duly considered and addressed by the applicant and its project team.

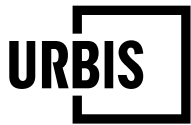
5.8. PUBLIC INTEREST

The proposed development is considered in the public interest for the following reasons:

- The proposal remains consistent with the vision to revitalise West Ryde Town Centre and to locate residents close to the West Ryde Train Station.
- The proposal accords with the principles and objectives of all relevant planning controls.
- No adverse social, environmental, or economic impacts will result from the proposed development.
- Considering the above, the proposed development is seen to be in the public interest.

6. CONCLUSION

This Section 75W application has been prepared by Urbis Pty Ltd on behalf of Billbergia Group to amend the proposed height on the approved Concept Plan MP09_0029 to accommodate the lift overruns on Buildings A and B.



The application has been prepared in accordance with the Transitional Part 3A provisions and has demonstrated that the proposed modifications are appropriate and can be approved under Section 75W as a modification.

Based on the content contained throughout this letter and each accompanying appendix, it is considered that the proposed modifications should be approved, subject to appropriate conditions.

Please do not hesitate to contact me should you wish to discuss our application in greater detail.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Murray Donaldson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Murray Donaldson
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