



63-77 West Parade, West Ryde Modification 4

63-77 West Parade, West Ryde Concept Approval Modification 4
Section 75W Modification Assessment (MP09_0029 MOD 4)

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Glossary

| Abbreviation | Definition |
|----------------------------|--|
| BCA | Building Code of Australia |
| Council | City of Ryde Council |
| Department | Department of Planning, Industry and Environment |
| EP&A Act | <i>Environmental Planning and Assessment Act 1979</i> |
| EP&A Regulation | Environmental Planning and Assessment Regulation 2000 |
| EPBC Act | <i>Environment Protection and Biodiversity Conservation Act 1999</i> |
| EPI | Environmental Planning Instrument |
| GSC | Greater Sydney Commission |
| ESD | Ecologically Sustainable Development |
| LEP | Local Environmental Plan |
| Minister | Minister for Planning and Public Spaces |
| RLEP | Ryde Local Environmental Plan 2014 |
| RMS | Roads and Maritime Services, TfNSW |
| Planning Secretary | Secretary of the Department of Planning, Industry and Environment |
| SEE | Statement of Environmental Effects |
| SEPP | State Environmental Planning Policy |
| SSD | State Significant Development |
| TfNSW | Transport for NSW |

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1 Introduction

This report provides the Department of Planning, Industry and Environment's assessment of a request to modify the concept approval for 63-77 West Parade, West Ryde (MP 09_0029).

The request 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 application was lodged on 17 May 2021 by Billbergia Group (the Applicant) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Background

63-77 West Parade, West Ryde is legally described as Lot 1 in DP1272136 and has an area of 3,748m². The site is located in the Ryde local government area (Figure 1), approximately 13 km from the Sydney CBD and 8 km from the Parramatta CBD.

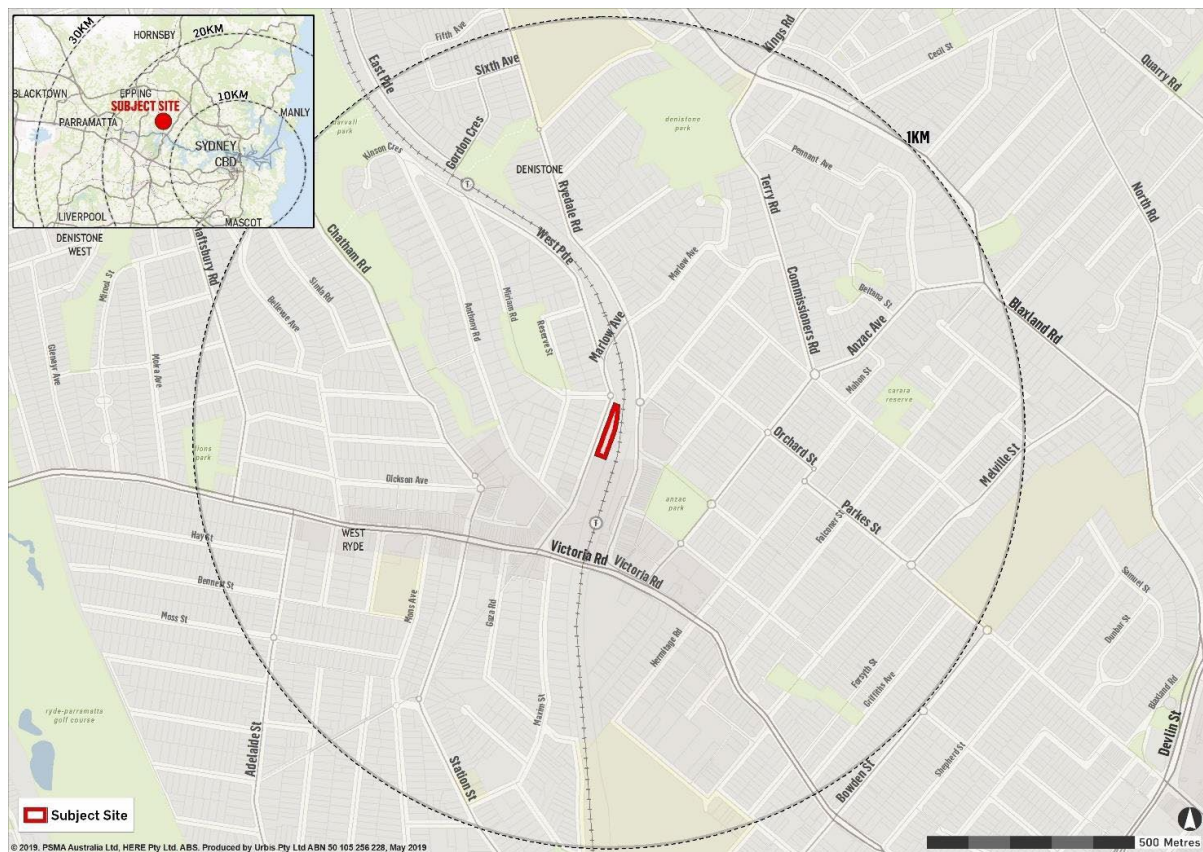


Figure 1 | Regional Context Map (Source: Applicant's documentation)



Figure 2 | Local Context Map (Source: Applicant's documentation)

The site has not yet been developed in accordance with the concept approval, which includes the construction of 3 residential flat buildings ranging in height from 6 to 11 storeys, containing 150 dwellings, with 3 levels of basement car park. (**Figure 2**). This modification relates to this concept approval.

1.2 Approval history

A concept plan application was approved by the then Minister for Planning on 18 June 2010, under Part 3A of the EP&A Act.

The concept plan approved:

- Use of the site for residential, retail, and commercial purposes
- A part 6/ part 12 storey residential building with ancillary retail on the ground floor at the southern end of the site (Building A)
- An 8-storey residential building with commercial on the ground floor (Building B)
- A 5-storey residential building at the northern end of the site (Building C)
- Car parking and landscaping

The concept plan and project approval have been modified on 3 occasions as outlined at **Table 1** below.

Table 1 | Summary of Modifications

| Mod No. | Summary of Modifications | Approval Authority | Type | Status |
|---------|---|--------------------|------|------------------------------|
| MOD 1 | 3-year extension to the lapse date of the Concept Approval. | Department | 75W | Approved on 20 October 2014 |
| MOD 2 | Deletion of the approved commercial and retail floor space and increase of the approved dwellings from 138 to a maximum of 150. | Department | 75W | Approved on 20 November 2018 |
| MOD 3 | Amendment to lapse date condition of the Concept Approval to require the lodgement of a development application instead of having to physically commence works. | Department | 75W | Approved on 14 May 2019 |

2 Proposed modification

The request 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 maximum building heights in the Concept Plan MP09_0029 are as follows:

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

The request seeks to modify the maximum building heights to 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)

The request to modify the Concept Approval seeks to modify Condition A2 to include the amended plans.

The proposed modifications to the building envelope plans are illustrated below in **Figures 3 and 4**.

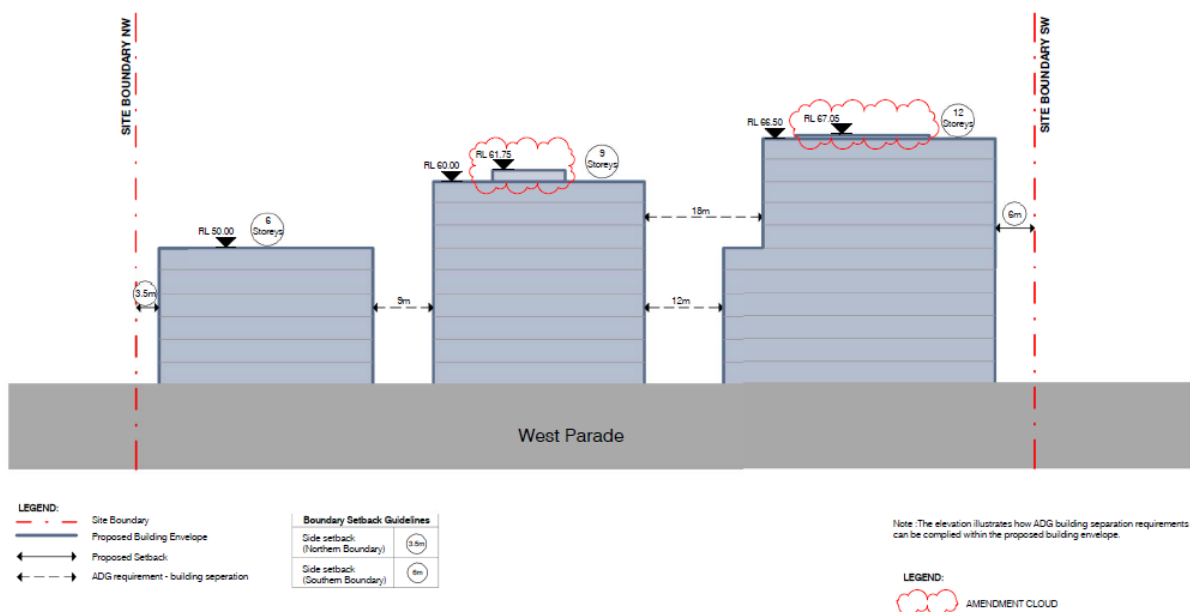


Figure 3 | Proposed Height of Buildings – Buildings A and B (Source: Applicant's documentation)

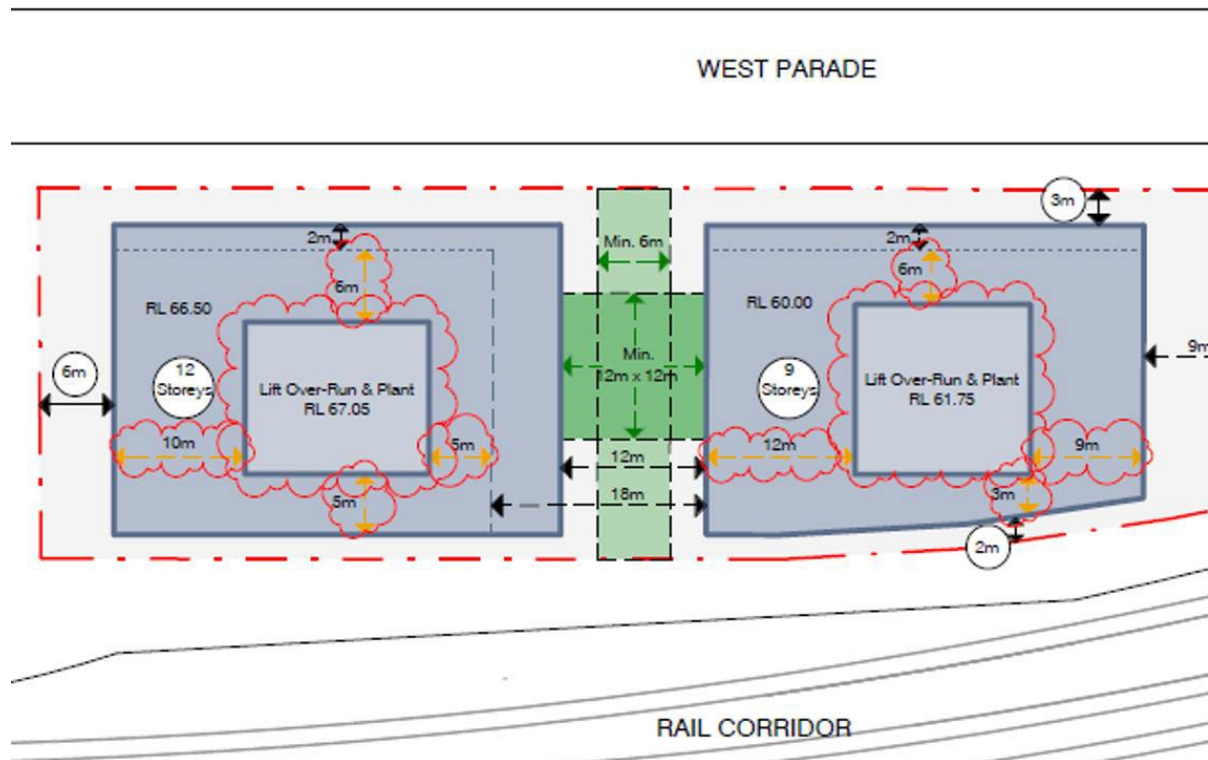


Figure 4 | Proposed minimum setbacks and separation – Buildings A and B (Source: Applicant's documentation)

2.1 Applicant's Justification

The Applicant provided a letter regarding lift headroom requirements with the request for modification, noting that 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 will result in an exceedance of the approved maximum building heights of Building A and B. The updated lift designs are in accordance with the relevant requirements of the BCA, lift standards (AS 1735.1/EN 81-20) and OHS Act (WorkCover).

3 Strategic context

3.1 A Metropolis of Three Cities

In March 2018, the Greater Sydney Commission published 'A Metropolis of Three Cities – The Greater Sydney Region Plan'. This plan seeks to align land use, transport and infrastructure planning across three 'cities'. That is, the eastern, western and central city.

The approved development (and as modified by this application) is consistent with Objective 10 – Greater Housing Supply and Objective 11 – Housing is More diverse and Affordable. The site has been identified for a mixed use tenure residential development to be delivered under the NSW Government Communities Plus program.

3.2 North District Plan

The Greater Sydney Commission's (GSC) role is to coordinate and align planning to shape the future of Metropolitan Sydney. In March 2018, the GSC published the Greater Sydney Region Plan (the Region Plan) and associated District Plans.

The Region Plan outlines how Greater Sydney will manage growth and change and guide infrastructure delivery. It sets the vision and strategy for Greater Sydney, to be implemented at a local level through District Plans.

The site is located within the North District area. The approved development as modified by this application is consistent with the objectives of the North District Plan, as it will:

- Support opportunities for communities to be healthy and socially connected by providing housing in an area with access to retail centres and excellent public transport connections (Planning Priority N4)
- Provide social and affordable housing which will provide for additional housing supply, choice and affordability in an area with excellent public transport connections (Planning Priority N5)
- Provide local infill development in a lower density part of suburban Greater Sydney undergoing replacement of older housing stock.

4 Statutory context

4.1 Modification of the Minister's Approval

The concept plan was originally approved under Part 3A of the EP&A Act, which has been repealed. The power to modify concept plans approved under Part 3A of the EP&A Act under former section 75W of the EP&A Act is being wound up.

Clauses 3BA(5) of Schedule 2 to the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (ST&OP) Regulation) provides that an approved concept plan can only be modified under section 75W in response to a request lodged after 1 March 2018 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).*

This proposal was lodged on 17 May 2021 and seeks to modify Condition A2 to include amended plans and increase the maximum building heights of Buildings A and B. The Department is satisfied that the proposal is within the scope of clause 3BA(5)(b) as it is a minor modification with minimal environmental impact, as considered in Section 5.

4.2 Consent authority

The Minister for Planning and Public Spaces is the approval authority for the modification request. However, under the Minister's delegation dated 26 April 2021, the Director, Regional Assessments, may determine the application as:

- a political disclosure statement has not been received, and
- no unique submissions were received from the public objecting to the proposal.

4.3 Relevant matters for consideration

The following matters are relevant to the consideration of the modification request:

- relevant environmental planning instruments (EPIs)
- objects of the EP&A Act
- Ecologically Sustainable Development
- Environmental Planning and Assessment Regulation 2000.

Environmental Planning Instruments (EPIs)

The Department comprehensively assessed the project against the mandatory matters for consideration under section 4.15 of the EP&A Act as part of the original assessment (of MP 09_0029). The Department considers this modification request does not alter its assessment of the proposal against these mandatory matters for consideration and the conclusions made as part of the original assessment.

The Department has also considered the modification request against the relevant EPIs that currently apply to the proposal, including:

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- Draft State Environmental Planning Policy (Remediation of Land)
- State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65)
- Ryde Local Environmental Plan 2014 (Ryde LEP 2014)

The proposal complies with the EPIs that apply to the assessment of the modification. However, the proposed modified Concept Approval would override some of the RLEP 2014 planning controls that would otherwise have applied to the assessment of future applications on the site including minimum lot size controls, building height and floor space ratio (FSR). This is discussed further in **Section 6.1**.

Objects of the EP&A Act

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment the objects should be considered to the extent they are relevant.

Consideration of the Objects of the EP&A Act, as they relate to the proposed modification, is provided at **Table 2**.

Table 1 | Response to the objects of section 1.3 of the EP&A Act

| Objects of the EP&A Act | Consideration |
|--|--|
| (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources | The proposal seeks to maximise the use of the site and provides social and economic benefits by the delivery of increased housing supply and improvements to housing diversity and affordability. Appropriate future assessment requirements were recommended to ensure the proposal would not adversely impact on the State's natural or other resources. |
| (b) to facilitate ecologically sustainable development by integrating relevant | The Precautionary and Inter-generational Equity Principles have been applied in the decision-making process by a thorough |

| | |
|--|---|
| economic, environmental and social considerations in decision-making about environmental planning and assessment | assessment of the environmental impacts of the project. Overall, the proposal is generally consistent with ESD principles noting the modification does not seek to change ESD initiatives and sustainability measures which will primarily be addressed as part of future development applications in accordance with the Sustainability Report approved by the Concept Plan. |
| (c) to promote the orderly and economic use and development of land | The proposal involves the orderly and economic use of land through the utilisation of land already approved for urban development adjacent to a new local centre for the delivery of additional dwellings with good access to services and public transport. |
| (d) to promote the delivery and maintenance of affordable housing | Although the proposal doesn't specifically deliver affordable housing, the provision of additional dwellings on smaller lots will make a positive contribution to housing supply and affordability in the area. |
| (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats | Environmental impacts are discussed in Section 6.5 . The Department is satisfied the proposal would not result in significant additional impacts and that ecological impacts would be appropriately mitigated and offset as part of future Development Applications. |
| (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage) | The modification request does not impact on built or cultural heritage. The Department is satisfied impacts to both Aboriginal heritage and European heritage would be appropriately assessed, minimised and mitigated as part of future applications. |
| (g) to promote good design and amenity of the built environment | The Department considers the proposal would not result in unacceptable built form impacts. The impact of the proposal with respect to design and built environment is discussed in Section 6.3 . |
| (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants | N/A. No construction approved by the Concept Plan. Construction matters would be assessed as part of future development applications. |
| (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State | The Department publicly exhibited the modification request, which included consultation with Council, State agencies and the public (Section 5) and consideration of their responses (Section 6). |
| (j) to provide increased opportunity for community participation in environmental planning and assessment. | The Department publicly exhibited the application as outlined in Section 5 . |

Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the relevant requirements for notification and fees have been complied with.

5 Engagement

5.1 Department's engagement

The Department notified the modification request for 14 days between 3 June 2021 and 16 June 2021. The request was made publicly available on the Department's website. The Department also provided written notice to the Council, relevant State agencies, surrounding landholders and residents, inviting submissions in response to the modification request.

The modification request was renotified due to a change in project description between 23 June and 6 July 2021. The request was made publicly available on the Department's website and the Department provided written notice to surrounding landholders and residents, inviting submissions in response to the modification request.

5.2 Summary of submissions

During the notification and renotification periods, the Department received a total of one submission on the proposal. The submission received was from a member of the community in objection. A link to the full copy of the submission is provided in **Appendix A**.

5.3 Key issues raised in submissions

The Department received one public submission in response to the notification of the modification request in objection from a community member.

Key concerns raised in the public submission included:

- The documentation was inconsistent with the Statement of Environmental Effects (SEE) and Exhibition Notice containing conflicting information in regard to which building heights were being amended.

The Department renotified the modification request with consistent information between 23 June 2021 and 6 July 2021, no further submissions were received.

6 Assessment

In assessing the merits of the proposed modification, the Department has considered:

- the Modification Report and associated documents (**Appendix A**)
- the Environmental Assessment and conditions of the original approval and previous modifications
- relevant EPIs, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the key assessment issue associated with the proposal to be the increase in building heights and the associated impacts. This is considered below.

6.1 Building Heights

The proposed changes will not increase the approved building height for Building C but will increase the height of Buildings A and B by 0.55 m and 1.75 m respectively. This will increase the overall maximum height of the development by 0.55 m from RL 66.5 m to RL 67.05 m. Buildings A and B will remain as their approved 12 and 9 storeys respectively, with the additional height for the accommodation of the lift overruns for each building.

The Department notes that the approved concept does not comply with the maximum 11.5 m Height Building standard specified in the current Ryde Local Environmental Plan 2014 (or the former contained in the Ryde Planning Scheme Ordinance as considered in the original assessment). The Department in its original assessment supported the development's building heights noting the highly accessible location of the site and the site's context, immediately adjoining the West Ryde Town Centre which has a height control of up to 33.5 m (approximately 10-12 storeys). The site is also immediately adjacent to two existing 9-storey residential flat buildings to the south (next to building A).

The Department considers the proposed modification does not materially change the development's impacts within the context of the surrounding development when compared to the approved concept and associated modifications. The proposed building heights will continue to provide a transition of building heights between West Ryde Town Centre and lower density residential development to the north of the site and also a transition of height within the site.

The Department supports the proposed changes in building heights for Building A and B. The changes in building height will allow for the accommodation of the lift within each building, continuing the delivery of good residential amenity pursuant to the site's R4 zoning objectives and SEPP 65.

6.2 Overshadowing

The Department considers the proposed modifications will not cause unacceptable amenity impacts. Due to the orientation of the site and developments adjoining the site boundary, the primary overshadowing impacts result from Building A. As part of MOD 2 of MP09_0029, Building A's setback was increased from the southern boundary to reduce the impacts of the height of the building on surrounding land. As part of MOD 2, solar access was assessed in the Urban Design Principles Report. The report found that the buildings, as approved in MOD 2 would achieve the minimum

requirements off sun light access with the approved building setbacks. Additionally, shadow analysis was undertaken as part of MOD 2 (**Figure 3**).

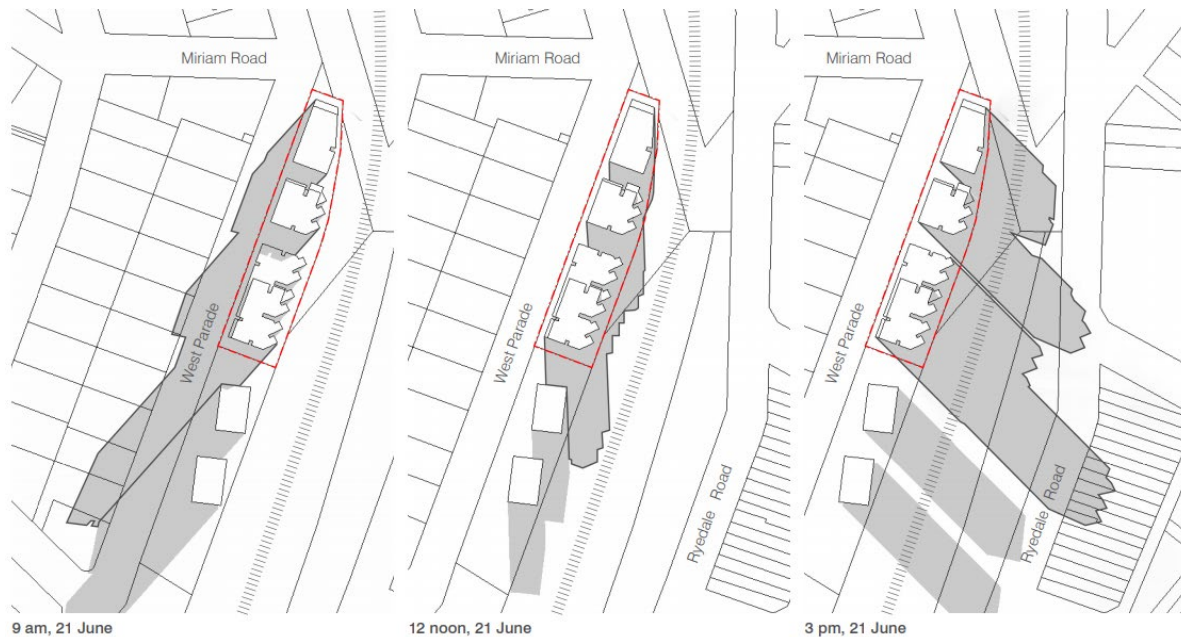


Figure 3 | Shadow Analysis of MP09_0029 MOD 2 (Source: Urban Design Report, MOD 2 - Architectus)

The additional height proposed for Buildings A and B is contained to the extent of the lift overrun located in the middle of the rooftop for both buildings with generous setbacks from the building edges. The Department is satisfied that these lift overruns will not significantly increase the shadows of the buildings as approved in MOD 2. Therefore, the Department considers that the proposed modification will not adversely impact on solar access or overshadowing of neighbouring properties and is appropriate.

7 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposal to be acceptable, subject to the recommended conditions, as:

- the proposal complies with statutory requirements of relevant environmental planning instruments;
- the proposal seeks a minor modification to accommodate a necessary element of the proposal; and
- the modifications will not create any significant environmental impacts.

The Department is satisfied that the modification can be approved, subject to the recommended conditions (**Appendix B**).

8 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning and Public Spaces:

- considers the findings and recommendations of this report
- determines that the application MP 09_0029 MOD 4 falls within the scope of former section 75W of the EP&A Act
- accepts and adopts all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- modifies the project approval MP09_0029 MOD 4
- signs the attached Modification of Project Approval (**Appendix B**).

Recommended by:



Tahlia Sexton
Planning Officer
Regional Assessments

Recommended by:



Teresa Gizzi
Team Leader
Regional Assessments

9 Determination

The recommendation is **Adopted** by:

A handwritten signature in blue ink, appearing to read 'K T' followed by a long horizontal stroke.

27 July 2021

Keiran Thomas

Director

Regional Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – Modification Report and Associated Documents

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10681

Appendix B – Modification of Project Approval