

## ASSESSMENT REPORT

### Mixed-Use Development, Ettalong Beach MP 09\_0121 MOD 3

#### 1. INTRODUCTION

This report is an assessment of a request to modify the Project Approval (MP 09\_0121) for a mixed-use development at Ettalong Beach in the Central Coast local government area.

The request has been lodged by Planning Lab on behalf of Longbeach Living Pty Ltd (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval for minor internal and façade changes, a minor increase to height and floor space ratio (FSR) and a reduction in the number of loading bays.

#### 2. SUBJECT SITE

The subject site is located on the southern edge of the Ettalong Beach town centre. The development site comprises two land holdings separated by a six metre (m) wide Council laneway (see **Figure 1**). The site has frontage to The Esplanade to the south and Memorial Avenue to the west.



**Figure 1** Site Location (source: Nearmap)

### 3. APPROVAL HISTORY

On 24 November 2010, the Minister for Planning granted Project Approval (MP 09\_0121) for the construction of a mixed-use development over two stages. The approved works included:

- Stage 1- construction of a seven-storey mixed use building
- Stage 2- construction of a two-storey commercial/retail building.

The proposal has been modified on two occasions, as summarised in **Table 1**.

*Table 1 – Modifications to the Project Approval*

MOD	Key Modifications	Approval Authority	Approved
1	<ul style="list-style-type: none"><li>• Amend Stage 1 to incorporate 14 additional apartments, reduce the building height from 23.5 m to 22.85 m and internal and external design changes</li></ul>	Planning Assessment Commission	24/03/16
2	<ul style="list-style-type: none"><li>• Amend Condition A2 to correct the application number</li></ul>	Executive Director, Key Sites and Industry Assessments	4/10/16

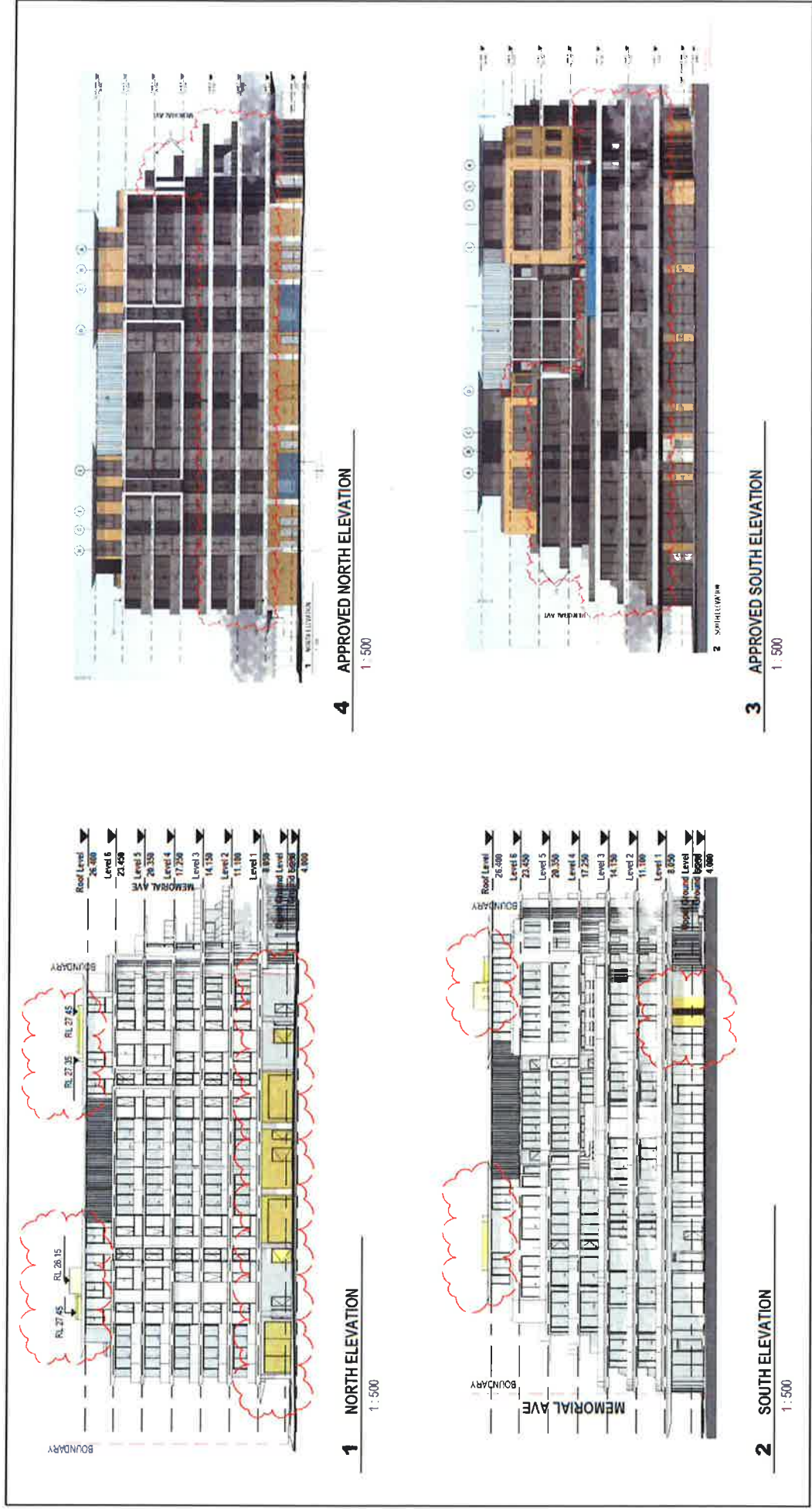
### 4. PROPOSED MODIFICATION

On 30 March 2017, the Proponent lodged a section 75W modification application (MP 09\_0121 MOD 3) seeking approval for minor internal and façade changes, a minor increase to height and FSR, changes to staging and a reduction in the number of loading bays.

Key aspects of the modification include:

- Introduction of an exclusive penthouse express lift (Lift 3)
- Conversion of the previously approved Retail Space 1 to a private residential lift lobby
- Approval of the required lift overruns in association with the lifts
- Relocation of previously approved Lift 1
- Reconfiguration and increase in the size of the residential lobby areas
- Minor reconfiguration of parking and garbage storage areas
- Minor reduction in the size of some apartments
- Merging of back of house corridors into retail tenancies
- Reduction in the number of loading bays from two to one
- Minor modifications to the ground level façade to incorporate increased glazing, new doorways and openings, relocation of an approved roller door, and introduction of a fresh air intake vent
- Introduction of a carpark vent exhaust
- Removal of the requirement for street trees to be planted within the footpaths along Memorial Avenue and the Esplanade.

The proposed modifications are illustrated in **Figures 2 to 5** below.



**Figure 2** Approved and proposed north and south elevations (source: Proponent)



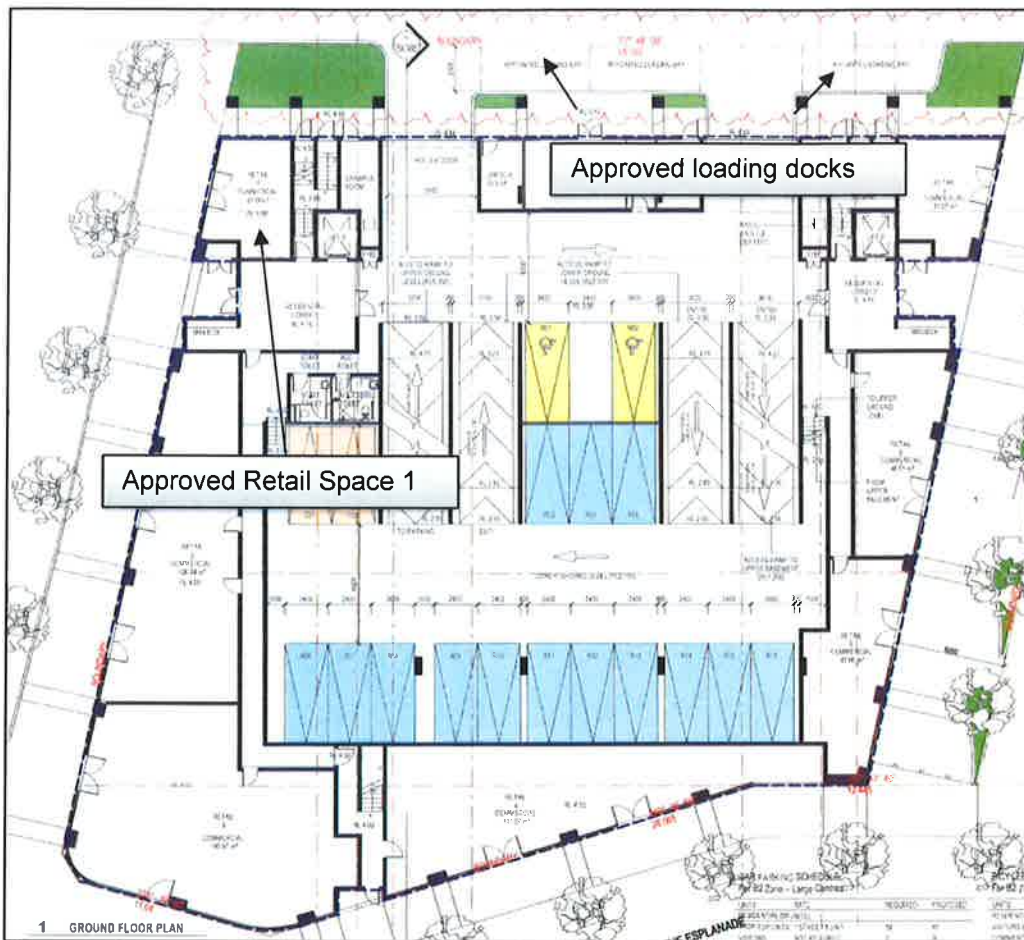


Figure 4 Approved lower ground floor plan (source: Proponent)

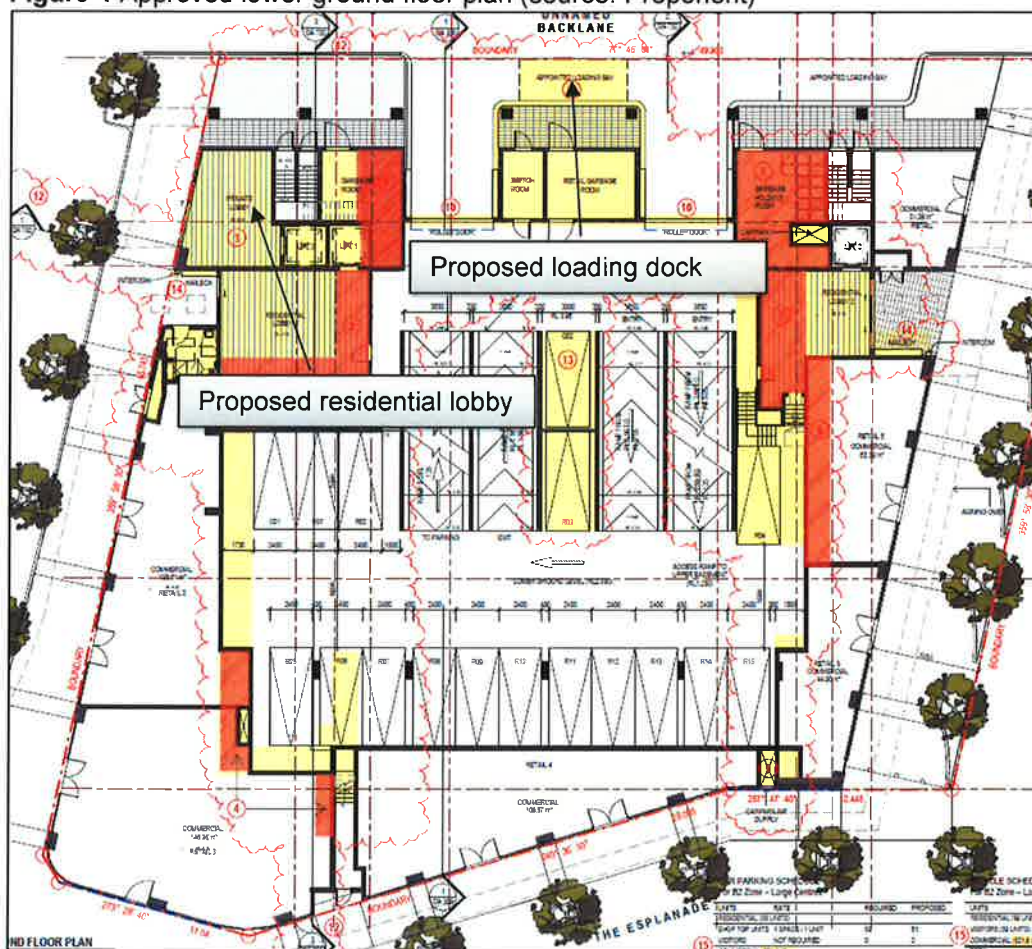


Figure 5 Proposed lower ground floor plan (source: Proponent)

The modification is requested on the basis that it would result in a more efficient use of the available floor space and improved building design.

## **5. STATUTORY CONSIDERATION**

### **5.1 Section 75W**

The project was originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former section 75W of the Act.

The Department is satisfied that the proposed changes are within the scope of section 75W of the EP&A Act, and the proposal does not constitute a new application as it would not change the overall intent, use or design of the approved mixed-use development.

### **5.2 Approval Authority**

The Minister for Planning is the approval authority for the application. However, the Acting Executive Director, Key Sites and Industry Assessments, may determine the application under delegation.

## **6. CONSULTATION**

The modification request was made publicly available on the Department's website and referred to Central Coast Council (Council) for comment. The Department also notified surrounding landowners in writing.

**Council** requested an updated waste management plan and that amended plans showing internal access from all retail tenancies to the waste storage room be provided. Council also advised the street tree planting should be removed, and the layback along the laneway be reduced to reflect the reduction in loading bays.

No **public** submissions were received on the proposal.

The Proponent provided a Response to Submissions (RtS) addressing Council's concerns (**Appendix B**). The RtS was referred to Council, who noted the waste arrangement for Retail Tenancy 4 is not ideal, but did not maintain any objection to the proposal. All other issues, including the removal of street trees and amending the length of the layback have been resolved through recommended conditions.

## **7. ASSESSMENT**

The Department considers the key issues associated with the proposed modification are waste management and building height.

Other issues are considered in **Table 1** below.

### **7.1 Key Issues**

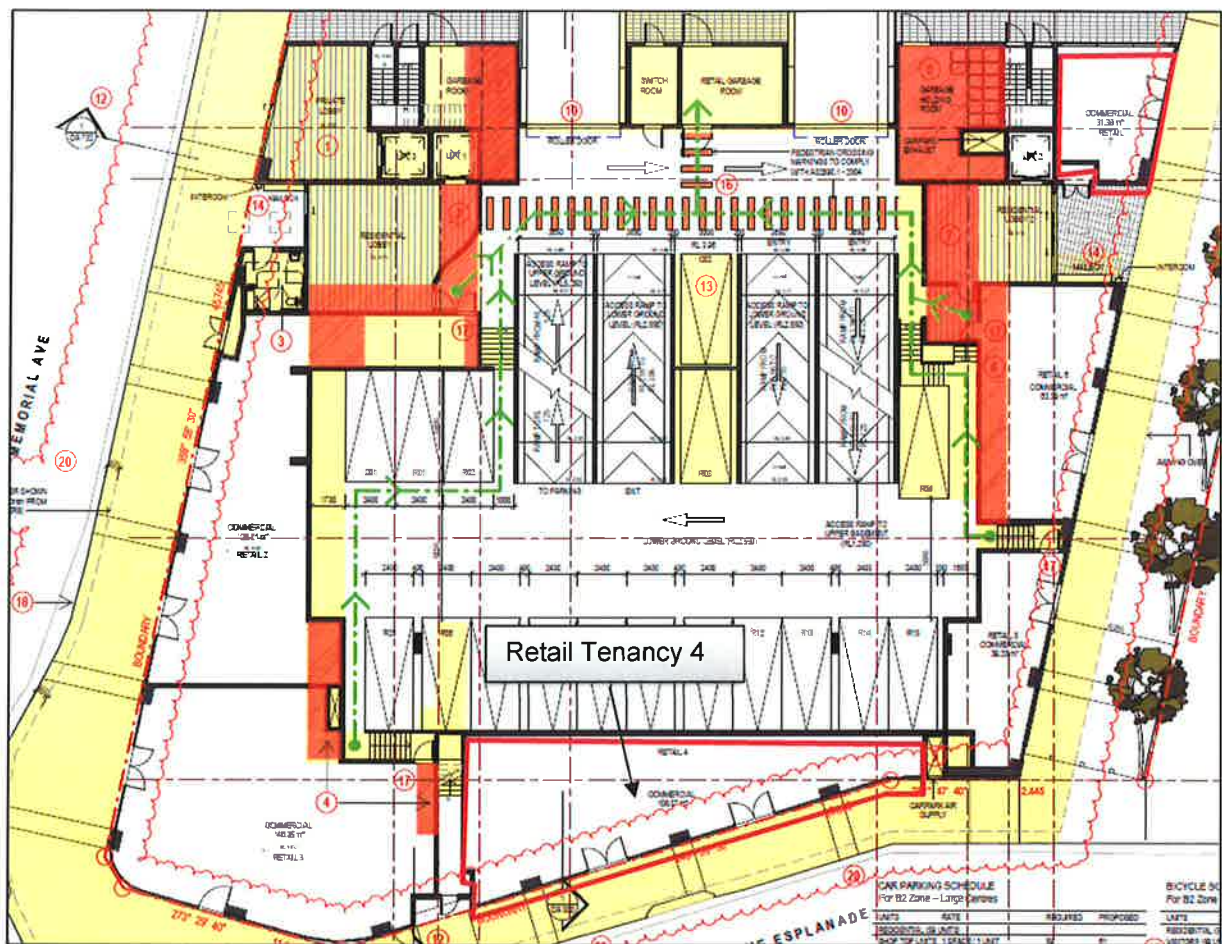
#### **Waste Management**

The proposal seeks to remove internal access corridors from the retail spaces to the waste storage room, and incorporate this space into the retail tenancies. Council requested that a revised Ground Floor Plan be submitted, indicating the path of travel from the internal access of each retail space to the waste storage enclosure.



Council also requested an updated Waste Management Plan with all references to residential waste being collected by Council deleted, noting an agreement was reached regarding the collection of waste from the site by a private commercial contractor.

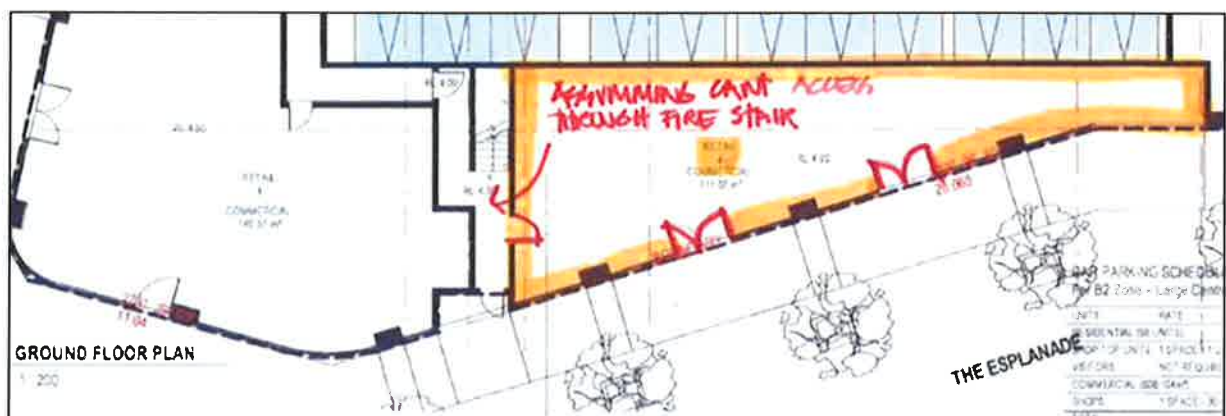
The Proponent submitted a revised Waste Management Plan and updated Architectural Plans addressing Council's requests (see **Figure 6**).



**Figure 6** Internal path to retail garbage room (source: Proponent)

Council reviewed the updated documents, and advised the Proponent's response addressed its concerns, however Retail Tenancy 4 should be provided with internal access to the waste storage room.

In response, the Proponent confirmed under the approved plans (MOD 1), internal access from Retail Tenancy 4 to the waste room was restricted by locked doors to the fire stairs (see **Figure 7**).



**Figure 7** Approved restricted access from Tenancy 4 (source: Proponent)

Council responded, noting the arrangement is not desirable and may impact the future use of the tenancy, but did not request further amendments to the plans.

The Department acknowledges Council's concerns regarding access to the waste room from the tenancies, but notes the arrangements have not altered from the approved development. The Department also notes subsequent approvals for uses within the tenancies will be required to address waste storage and ensure appropriate measures are implemented. The Department therefore considers the proposal is acceptable in terms of access to waste storage.

### **Built Form**

The proposal seeks approval for lift overruns associated with lifts 1 and 2, and the proposed lift 3. This would increase the height of the building within these areas by 0.6 m and result in a total height of 23.45 m. The Department notes the maximum permitted height for the site under the Gosford Local Environmental Plan 2014 (LEP) is 11.5 m.

While the additional height would continue to exceed the maximum building height of 11.5 m permitted under the LEP, the Department notes the proposed height is lower than the original approved height of 23.5 m (which was subsequently reduced to 22.85 m under MOD 1).

The Department considers the proposed increase in building height is acceptable, as:

- the proposed increase in height is minor and relates only to the lift overruns
- the lift overruns are set back from the edge of the building, minimising visual impact from the street, as shown in **Figure 8**
- the additional shadows associated with the overruns are contained within the building footprint and would not have any impact on surrounding properties or public open space
- the proposed height is consistent with the original approval.

On this basis, the Department is satisfied the additional height associated with the lift overruns would not result in any unacceptable visual, amenity or overshadowing impacts beyond those already assessed and approved.

The proposal also seeks approval for minor modifications to the building façade, including additional glazing, new doorways and openings, the relocation of a roller door, and introduction of a fresh air intake vent. The Department notes the proposed changes are minor and the materials and overall design of the facades remains largely unchanged. The Department also notes the introduction of additional glazing would improve visual presentation to the street.

The Department therefore considers the proposed changes to the built form would not result in any unacceptable impacts.

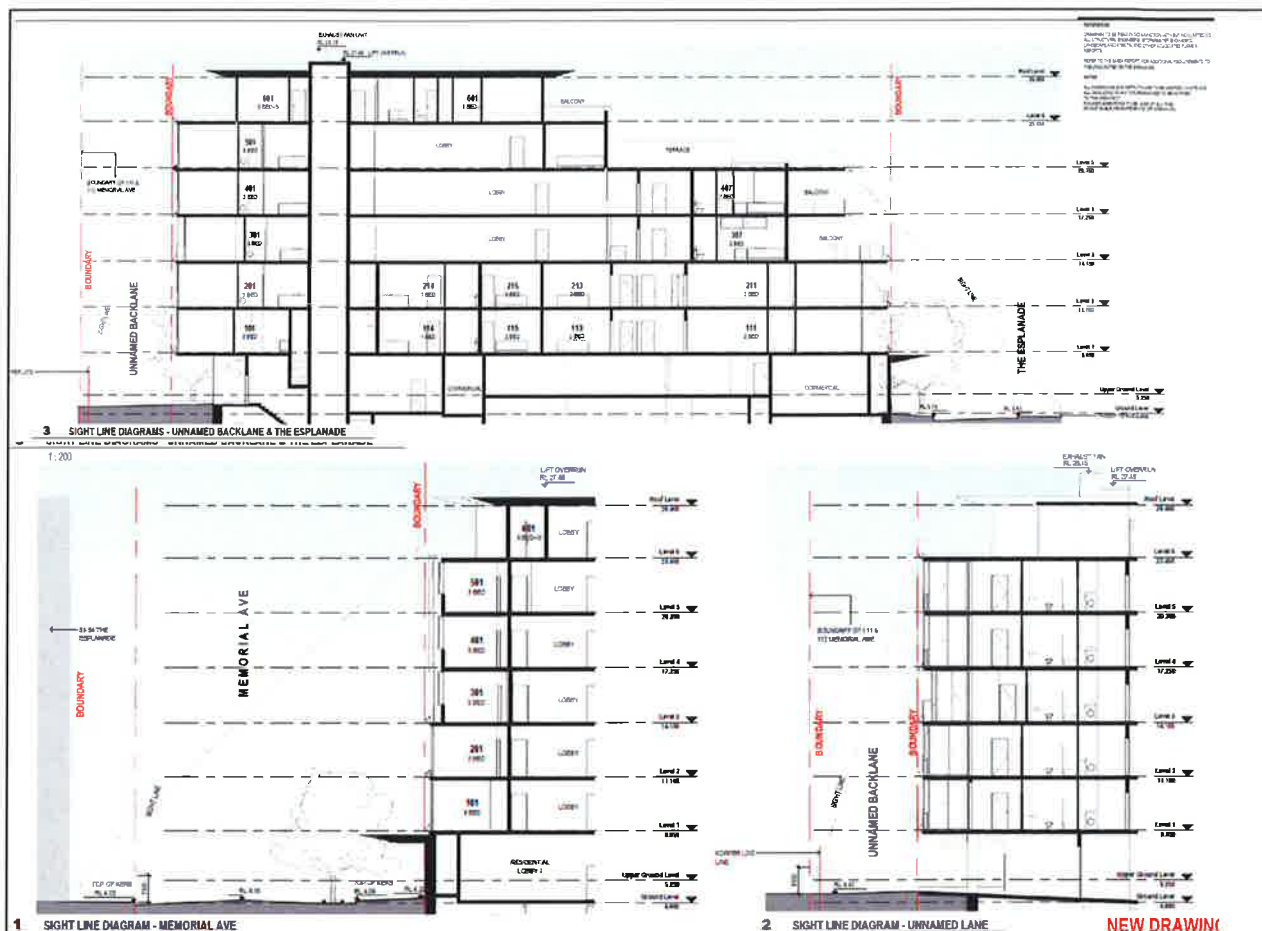


Figure 8 Lift overrun sightlines from Memorial Avenue (source: Proponent)

## 7.2 Other Issues

Table 1: Assessment of Other Issues

Issue	Consideration	Recommendation
Public Realm	<ul style="list-style-type: none"> <li>Council advised the proposed location of the street trees within the road along The Esplanade and Memorial Avenue is not supported.</li> <li>Council noted Condition B7 of the approval requires new street trees to be provided within the footpath and advised this would require the awning to be amended to permit the trees to grow.</li> <li>The Proponent raised concern that this would impact on the architectural merits of the awning.</li> <li>Council agreed with the Proponent, and recommended the street trees be removed from the road and footpaths along Memorial Avenue and The Esplanade.</li> <li>The Department considers the removal of the trees is acceptable as: <ul style="list-style-type: none"> <li>new trees are proposed along the eastern boundary of the site</li> <li>the awning provides an important architectural feature of the building</li> <li>Council raises no concerns about the tree removal.</li> </ul> </li> <li>The Department has therefore recommended a condition requiring the removal of existing and proposed street trees from within the road and footpaths across the frontage of the site in Memorial Avenue and the Esplanade.</li> <li>Council also advised it does not support the door associated with Retail Space 3 opening onto the footpath on The Esplanade and as it presents a potential trip hazard to pedestrians.</li> <li>The Department shares Council's concerns and has recommended a condition requiring amended plans to be submitted to the PCA showing the doorway opening away</li> </ul>	<p>The Department has recommended a modified condition B7(p) requiring removal of the existing and proposed street trees from within the road reserves across the frontage of the site in Memorial Avenue and the Esplanade.</p> <p>The Department has recommended a new condition B1(o) requiring amended plans showing the doorway associated with Retail Space 3 to open away from the footway to be submitted to the PCA.</p>



<i><b>Issue</b></i>	<i><b>Consideration</b></i>	<i><b>Recommendation</b></i>
	from the footway.	
<i><b>Loading Facilities</b></i>	<ul style="list-style-type: none"> <li>The modification request seeks to reduce the number of loading bays from two to one.</li> <li>The Department considers one loading bay is adequate for the proposal as: <ul style="list-style-type: none"> <li>it would continue to meet the requirements for loading facilities under the Gosford Development Control Plan 2013 (DCP)</li> <li>a reduction in the number of retail tenancies (from seven to six) is proposed</li> <li>vehicles would still be able to enter and exit the site in a forward direction.</li> </ul> </li> <li>Council raised no objection to the proposal, but noted the reduction in loading bay areas along the laneway would require the layback to be reduced from 44m to 29m.</li> <li>The Department has therefore recommended Condition B7(h) be modified to require a 29m heavy duty vehicle crossing be provided along the southern boundary of the laneway.</li> <li>The Department therefore considers the proposed reduction in the number of loading bays is acceptable subject to the recommended modified condition.</li> </ul>	The Department has recommended Condition B7(h) be modified to require a 29m heavy duty vehicle crossing be provided along the southern boundary of the laneway.
<i><b>Floor Space Ratio</b></i>	<ul style="list-style-type: none"> <li>The proposed modification would result in an additional 54m<sup>2</sup> of GFA due to the internal reconfigurations. The additional GFA is a result of the incorporation of corridors within the building into the retail and lobby spaces.</li> <li>The proposal would result in an increase in overall GFA from 5,932 m<sup>2</sup> to 5,986 m<sup>2</sup>, equating to an increase in the floor FSR from 2.66:1 to 2.68:1.</li> <li>A floor space ratio (FSR) of 1:1 is permitted for the site under the LEP.</li> <li>The Department considers the proposed increase in GFA is acceptable as: <ul style="list-style-type: none"> <li>no change to the building envelope is proposed, with the exception of the lift overrun discussed earlier in the report</li> <li>the proposed increase in FSR is minor and the development was approved with a FSR exceeding that permitted for the site</li> <li>the proposal does not seek additional parking and would still comply with Council's car parking controls</li> <li>Council did not raise any objection to the proposed increase in GFA.</li> </ul> </li> <li>The Department therefore considers the proposal would not result in any additional impacts beyond those already assessed and approved.</li> </ul>	No additional conditions or amendments necessary.
<i><b>Apartment Design Guidelines</b></i>	<ul style="list-style-type: none"> <li>The proposal seeks approval for minor modifications to the apartment sizes to accommodate the additional lift and altered garbage chutes within the building envelope.</li> <li>These changes are minor and would not result in apartments less than the minimum size permitted under the ADG, or changes to the internal amenity of the apartments in terms of solar access or privacy.</li> <li>The Department also notes no change to the building separation is proposed and the overall bulk, scale and appearance of the building remains the same as originally approved.</li> <li>The Department's assessment therefore concludes the proposed modification is acceptable and the revised apartments would still provide acceptable levels of amenity.</li> </ul>	No additional conditions or amendments necessary.

## 8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate on the basis that:

- the proposal would not result in any additional visual, overshadowing or amenity impacts beyond those already assessed and approved
- the modification would result in efficient use of space within the site, and would not compromise waste management or loading operations.

Consequently, it is recommended that the modification be approved subject to the recommended conditions.

## 9. RECOMMENDATION

It is recommended that the Acting Executive Director, Key Sites and Industry Assessments, as delegate for the Minister for Planning:

- **Considers** the findings and recommendations of this report;
- **Determines** that the request falls within the scope of section 75W of the EP&A Act;
- **Approves** the modification request MP 09\_0121 MOD 3, subject to conditions; and
- **Signs** the attached notice of modification (Appendix A).

Recommended by:



**Natasha Harras**  
**Team Leader**  
**Modification Assessments**

Recommended by:

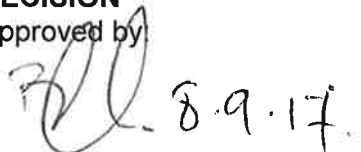


**Anthony Witherdin**  
**Director**  
**Modification Assessments**

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## DECISION

Approved by:



8.9.17

**Ben Lusher**  
**Acting Executive Director**  
**Key Sites and Industry Assessments**  
as delegate of the Minister for Planning.

## **APPENDIX A: NOTICE OF MODIFICATION**

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A copy of the notice of modification can be found on the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8355](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8355)



## **APPENDIX B: SUPPORTING INFORMATION**

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The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8355](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8355)

2. Submissions

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8355](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8355)

3. Response to Submissions

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8355](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8355)