

DA 487/2015 – 229 MILLER STREET, NORTH SYDNEY

VIEW IMPACT ANALYSIS

INTRODUCTION

This report has been prepared to consider the impact of the proposed development at 229 Miller Street North Sydney on the views from apartments on Levels 17-19 of the Meriton building at 225 Miller Street (“the Meriton building”), located immediately to the west of the subject site.

The impact on the affected apartments in the Meriton building, of which there are five in total, predominantly relates to their views to the east. It is noteworthy that the majority of the view impact is caused by the compliant elements of the proposed building. The proposed building sits within the RL135 height limit set by the North Sydney LEP 2013. The only element of the proposed building that does not comply with the height limit is the lift overrun which provides for access to the rooftop of the building. The lift overrun has a height of RL 136.6.

The Meriton building has been constructed to a height of RL139.96, with a lift overrun that sits above the overall roof height at RL142.90.

The principles of view sharing and the impact on neighbours was considered in the NSW Land & Environment court in **Tenacity Consulting v Warringah** [2004] NSWLEC 140. In that case, the court identified four step assessment of view impact:

- 1. The first step is the assessment of views to be affected.*
- 2. The second step is to consider from what part of the property the views are obtained.*
- 3. The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected.*
- 4. The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them.*

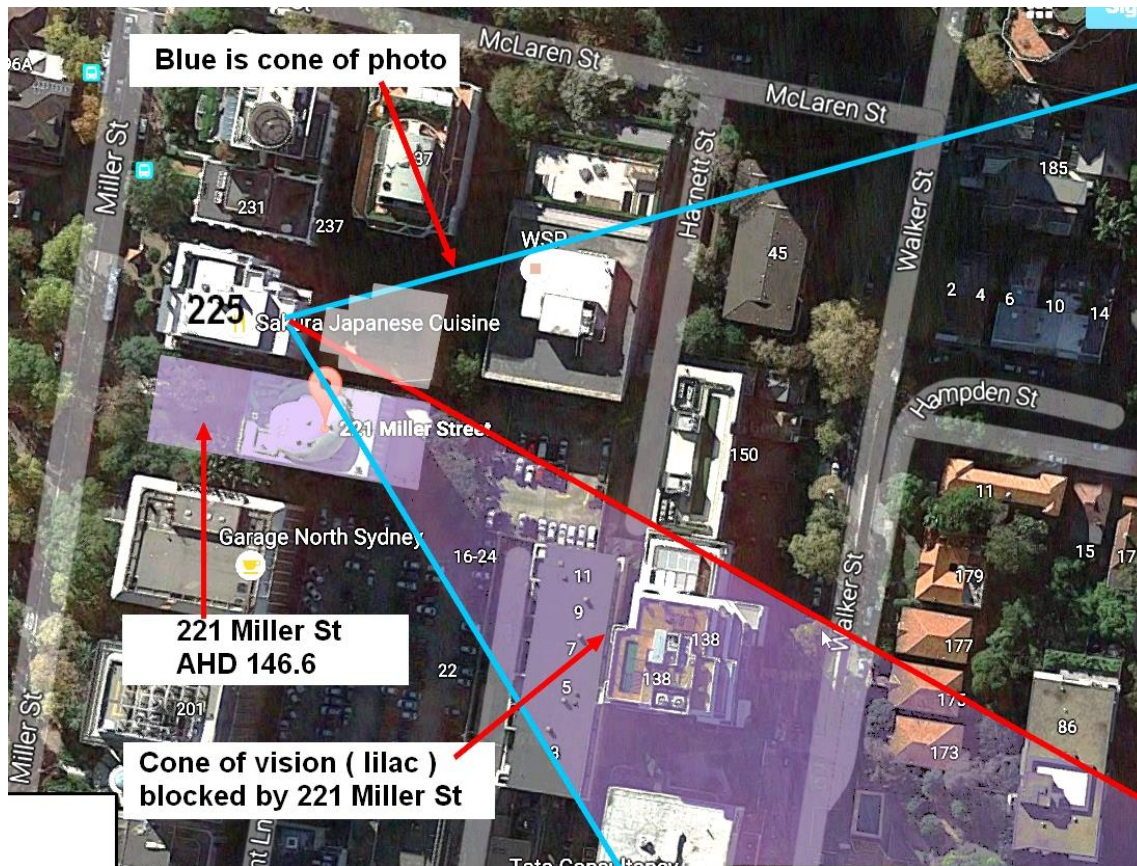
This view analysis has been structured to consider impacts in accordance with the issues raised in this case. Each of these steps are addressed below.

VIEWS TO BE AFFECTED

The building at 225 Miller Street has been constructed with a blank wall on the common boundary with 229 Miller Street up to Level 16. The east-facing balcony to the apartment on Level 17 has a solid balustrade to a height of 1.05m above the balcony slab.

A detailed analysis of the views from the upper three floors of the residential building at 225 Miller Street (“the Meriton building”), immediately to the west of the subject site, has been undertaken. In total, five of the 79 apartments in the Meriton building will be affected by

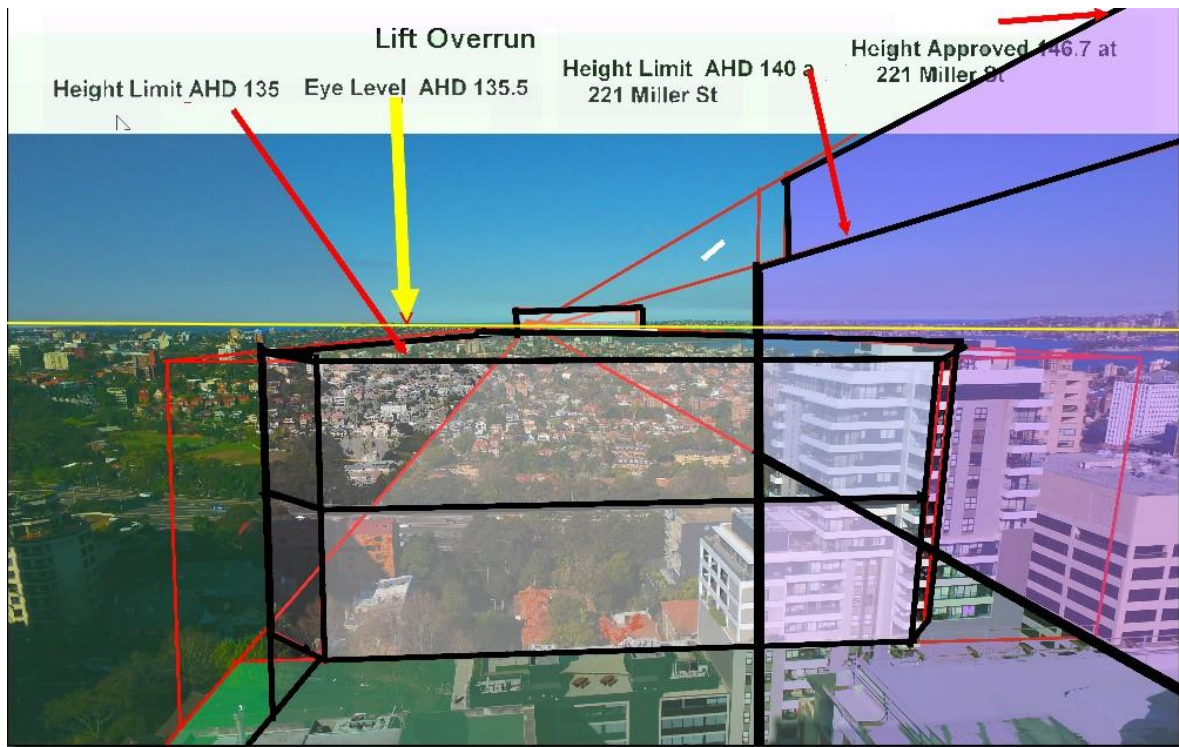
the proposed building on the subject site. The diagram below indicates the field of view from the east-facing balconies of the five impacted apartments within the Meriton building.



The diagram above indicates that a large portion of the view to the south-east will be blocked by the approved building at 221 Miller Street which has a height of RL146.6 (which exceeds the applicable height limit by 6.6m). The building at 221 Miller Street will in effect block the views that the apartments in the Meriton building have to the harbour.

When the view analysis takes into consideration the approved building at 221 Miller Street, the remaining views to the east from the five affected apartments are predominantly of buildings, the Warringah expressway and housing areas further to the east.

This issue is further demonstrated by the following diagram, which shows the views that will be affected as a result of the 221 Miller Street building as the proposed development.



This diagram clearly demonstrates that the lift overrun will result only in loss of outlook to a small portion of the sky.

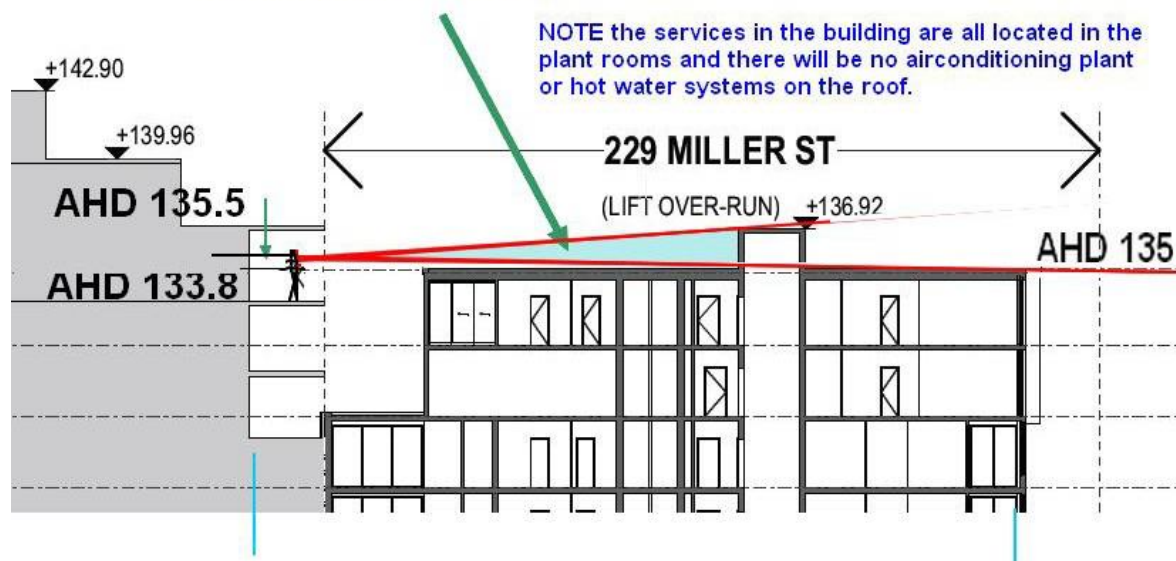
Inspection of the approved drawings (as constructed) of the building at 225 Miller indicates that the floor level of Level 28 (approved Level 19) is AHD 133.8. The proposed roof level of the proposed building is at AHD 135.00, which is the height limit set by North Sydney LEP 2013.

A person standing in the apartment on the eastern side of Level 19 (the uppermost habitable floor) of the Meriton building would have his eyes at approximately AHD 135.5 (1.7m above the balcony slab), being 0.5m above the permissible height for 229 Miller Street. Thus it follows that from that level, a person would not be able to see the ground or Harbour as the view will be blocked by the complying building.

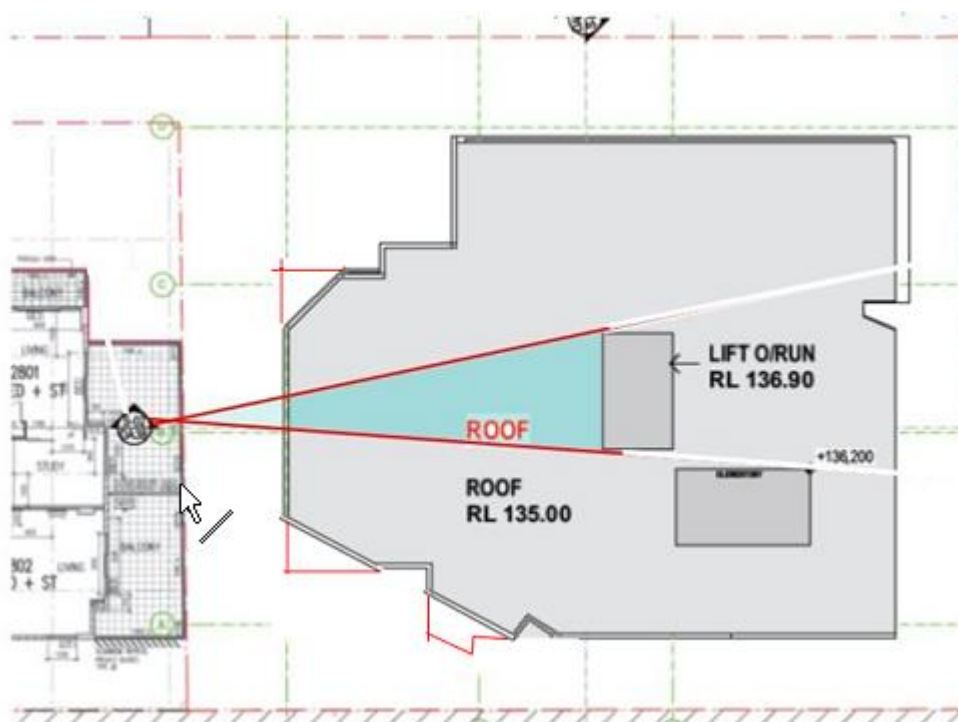
It is noted that, in addition, because of the curvature of the earth, the ground falls away by 125mm per kilometre, so in 4 kilometres the ground will have fallen away by 500mm.

Examination of the diagram below shows that there is no loss of view resulting from the non-compliance with the height limit, because the eye level of the residents at 225 Miller Street is level with or below the permissible height limit of AHD 135.

There is no view to the east that is affected by the lift overrun's non-compliance with the height limit. Although there is some loss of the view of the sky



The following diagram shows that the view loss of sky caused by the non-compliant element of the proposed building only represents a small cone in the overall field of view of the sky from these balconies.

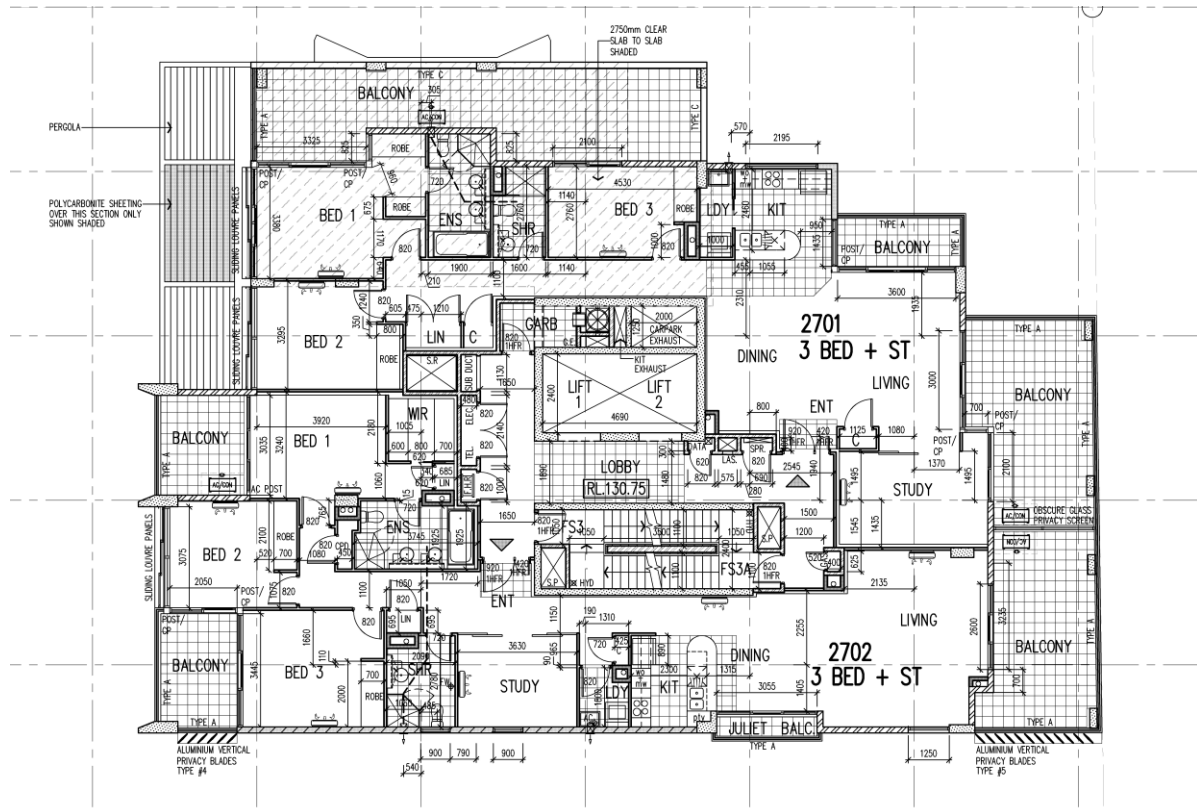


The lift overrun results in a very minor loss of outlook to the sky only on Level 19 (the uppermost habitable floor) of the Meriton building. This loss of sky view is restricted to the

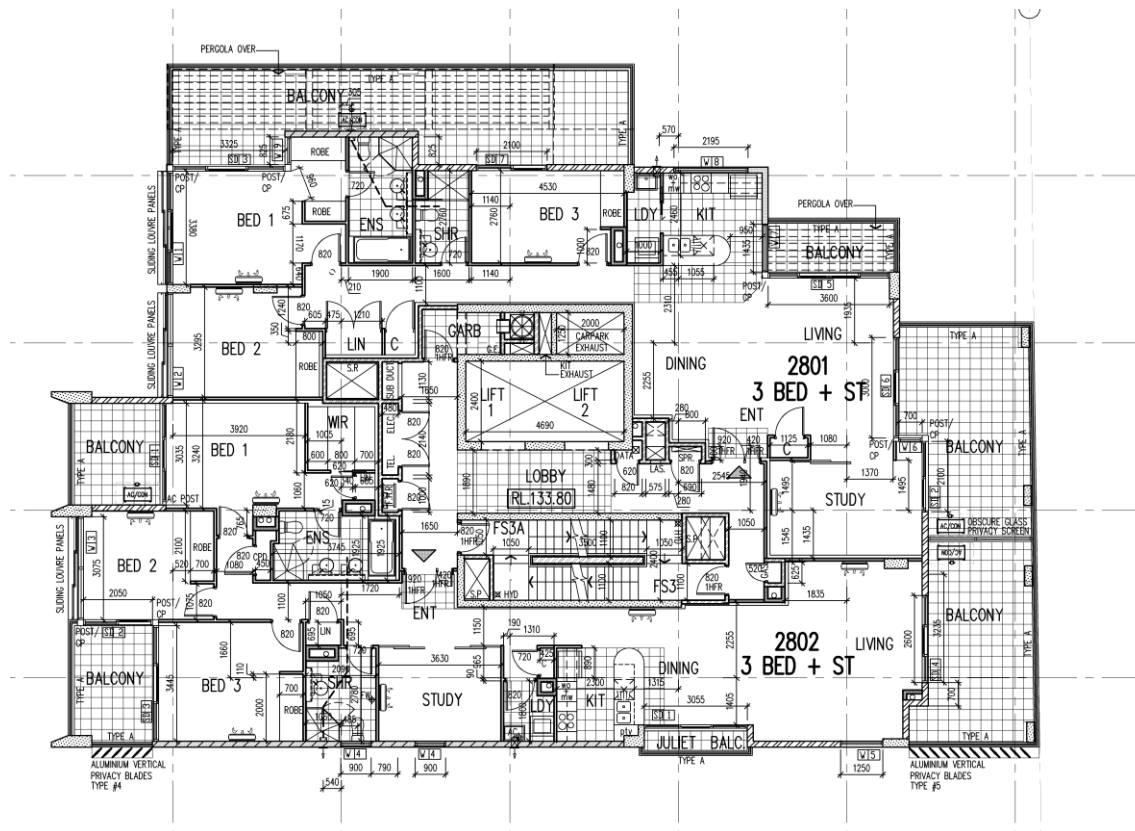
The lift overrun will not be visible from Level 27 or Level 26 (approved levels 18 and 17) of Meriton's building as it has been set back well beyond the complying portion of the development.

The views impacted are from the apartments on the upper three floors of the Meriton building. The as-constructed floor plans of these levels of the building have been included below to show the layout of the apartments.





225 Miller Street – Level 18



225 Miller Street – Level 19

Examination of these plans indicates that on Level 17, while views will be lost from the balcony, kitchen, dining and living rooms, this view loss will be caused by the compliant element of the proposed building. There will be no additional impact caused by the non-compliant lift overrun.

Views will still be available from the balcony towards the north east and south east and from the bedrooms towards the south east. A Juliette balcony on the southern side of the apartment will allow views to the east and a separate north-facing balcony off the living area will provide views to the north and to the north-east.

Two apartments on Level 18 of the Meriton building will lose some views to the east as a result of the complying components of the proposed building. Again, the non-compliant lift overrun will not cause any additional view loss. While views will be lost from the east-facing balconies, views will still be available from balconies, kitchen, living and dining rooms facing north and east. Outlook will also be available from the Juliette balcony and living areas facing south and south-east.

On Level 19 of the Meriton building there are two apartments that will be affected by the complying elements of the proposed building. As is the case on the lower levels, these apartments will lose views from the east-facing balconies (a considerable proportion of which will be lost due to the approved building at 221 Miller Street), and from some areas of the living and dining rooms and a study. Apartment number 2801 has a study facing east. The adjacent living room has access to two separate balconies that will provide views to the north and the north east. Apartment 2802 will retain some views towards the south-east from the balconies and living/dining areas.

EXTENT OF THE IMPACT

As is outlined in the sections of the report above, a large portion of the view to the south-east that is currently available from Levels 17-19 of the Meriton building will be blocked by the approved building at 221 Miller Street which has an overall height of RL146.6. The building at 221 Miller Street will in effect block the views that the apartments in the Meriton building currently have to the harbour.

While there will be some views to buildings, the Warringah expressway and residential areas of Neutral Bay and Kurraba Point lost, these will be lost as a result of the compliant element of the proposed building.

The extent of view loss to these uppermost apartments caused by the non-compliant height of the lift overrun will be limited to a small portion of sky. This loss will only impact two of the five apartments – those on Level 19.

The extent of the view loss that would be caused by the non-compliant height of the lift overrun is therefore minor.

REASONABLENESS OF THE PROPOSAL

The proposal and its consequential view loss is considered to be reasonable for the following reasons:

- The majority of the current view (including those to the Harbour) from Levels 17-19 (a total of 5 of the 79 apartments) of the Meriton building will be lost as the result of the approved building at 221 Miller Street.
- The view towards the east that will be lost as the result of a building on the site of 229 Miller Street will result from the compliant elements of the building – that is, as a result of the building that is compliant with the height limit set by the North Sydney LEP 2013.
- No part of the view that would be lost is considered to be “iconic”.
- The non-compliant height of the lift overrun will not result in any additional detrimental impact on views.
- Due to the layout of the affected apartments, views will still be available from balconies and living/dining areas towards the north, north-east, south-east and south.
- The owners of the affected apartments were aware of the prospect of a building being built to adjacent to its building to AHD 135, at when they constructed the building with balconies along the boundary of the subject site.
- This is demonstrated by the fact that on the approved DA drawings there are notes, over a line extending over the subject site, “*Draft LEP Building Height AHD 135*”. It is noted that the DA at 225 Miller Street also extends 7.9m above the “*Draft LEP Building Height*”.



CONCLUSION

Five apartments in the Meriton building at 225 Miller Street North Sydney currently have views towards the east from balconies that have been built to the common boundary with 229 Miller Street. A considerable portion of these views to the south-east, including views to the Harbour will be lost as the result of the approved building at 221 Miller Street that is yet to be constructed.

The proposed building at 229 Miller Street fully complies with the height limit set for the site by the North Sydney LEP 2013 apart from the lift overrun that is proposed to provide access to the rooftop of the building. The lift overrun exceeds the height limit by 1.6 metres.

While there will be some impact on views from the five Meriton apartments, these impacts will be caused by the compliant elements of the proposed building. Views lost will be to buildings and residential areas to the east. No loss of water view will result from the proposed development

The lift overrun will result in the loss of view to a small portion of sky for the two uppermost Meriton apartments. This loss is considered to be minor given that view to the sky is available from numerous other areas within the apartments and from the balconies.

Having considered the points raised in *Tenacity Consulting v Warringah* [2004] and the more general issues relating to the subject site and those immediately adjacent, it is concluded that the view loss that will be caused by the non-compliant height of the lift overrun will be acceptable.