

Date of Determination	10 September 2020
Panel Members	Steve O'Connor (Chair) Eugene Sarich (Independent Expert) Michael Leavey (Independent Expert) Rob Senior (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference (Council staff at the North Ryde Office) on 10 September 2020, opened at 5:00pm and closed at 6:28pm.
 Papers circulated electronically on 2 September 2020.

MATTER DETERMINED

LDA2018/0117 - 744 Victoria Road, 2A & 2-4 Eagle Street, Ryde

Demolition and construction of an up to 6 storey mixed use and residential development comprising 2 commercial tenancies on the ground floor, 32 dwellings (18x1 bedroom, 5x2 bedroom, 1x3 bedroom, 1 x 4 bedroom and 7x studio apartments) over 2 basement levels of car parking providing a total of 59 car spaces together with associated landscaping works.

The following people addressed the meeting:

1. Vishtaspa Dorabjee (objector)
2. Tina Christy (planner) & Aleks Jelicic (architect) - on behalf of applicant

PANEL CONSIDERATIONS AND DECISION

The Panel considered the matters listed at item 6, the material listed at item 7, and the material presented at meetings and briefings listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of a written request from the applicant, made under clause 4.6(3) of the Ryde Local Environmental Plan 2014 (LEP), that has demonstrated that:

- a) compliance with clause 4.3 (Height of buildings) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

The Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under clause 4.6(3) of the LEP; and

- b) the development is in the public interest because it is consistent with the objectives of clause 4.3 (Height of buildings) of the LEP and the objectives for development in the B6 Enterprise Corridor zone; and
- c) the concurrence of the Secretary has been assumed.

DEVELOPMENT APPLICATION

The Panel determined to **approve** the development application as described in Schedule 1, pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to **approve** the application as a deferred commencement for the following reasons:

1. The proposed development provides an opportunity to redevelop a highly constrained site with a contemporary mixed use development that is generally consistent with the Apartment Design Guide and strategic intentions of the associated planning controls adopted for the locality by Council.
2. The development has undergone significant amendments to ensure that the impacts to adjoining properties have been mitigated and to ensure a high degree of amenity for future occupants.
3. The site is consistent with the objectives of the B6 Enterprise Corridor zone under the Ryde LEP 2014.
4. The applicant has provided sufficient justification in the form of a Clause 4.6 variation request for the departure to the building height development standard under the Ryde LEP 2014.
5. The proposed development is consistent with the desired future character of the area.
6. The submissions received in response to the development application have been adequately addressed in the assessment of the proposal (as amended).

The Panel adopts the recommendation and reasons for approval as outlined in the Assessment Officer's report noting that the statement on Page 72 of the assessment report was made in error when recommending refusal of the application within the conclusion. This section of the report should read as follows:

"After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979, the development application is recommended for **approval (deferred commencement)** for the following reasons..."

CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendments:

Deferred commencement condition

Parts (b) and (c) of the deferred commencement condition is amended to reflect **Conditions 1 AND 2** and now reads as follows:

(A) Pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, a deferred commencement consent is granted to LDA2018/0117 subject to the following conditions of consent:

1. **Creation of Right of Access.** The development will require the creation of a “Right of Access” over the neighbouring property at 2 to 4 Eagle Street (SP21619) so as to permit construction of the proposed driveway ramp on this property. The dimensions of the “Right of Access” are to encompass (as a minimum) the works being proposed under the development on the neighbouring lot must have terms in accordance with the *Conveyancing Act 1919*. Any deviation from these requirements that may arise from negotiation of the affected property must be approved by Council prior to commencing with the registration of the agreed easement.

Title details confirming the registration of the “*Right of Access*” must be submitted to Council for approval prior to the issue of the development consent.

2. **Studio Apartments.** Apartments 04, 05, 14, 15, 22, 23 and 31 are to be reconfigured as follows:
 - a) to be studio apartments as defined within the Apartment Design Guide. The studios are to consist of one habitable room that combines kitchen, living and sleeping space.
 - b) to provide a balcony for each apartment with a minimum size of 4m²
 - c) an amended BASIX Certificate is to be provided to reflect the amendments to the studio apartments.

(B) Written evidence that the matter identified in deferred commencement conditions (A) (1) **and (2)** above has been satisfied, must be submitted to Council within 12 months from the date of this development consent, failing which, this development consent **will lapse** pursuant to Section 95 (6) of the Environmental Planning and Assessment Act 1979.

(C) This Development Consent will not operate until such time that the Council notifies the Applicant in writing that that deferred commencement consent conditions (A) (1) **and (2)** above have been satisfied; and

Upon Council giving written notification to the Applicant that deferred commencement consent conditions (A) (1) **and (2)** above has been satisfied, the development consent will become operative from the date of that written notification, subject to the following conditions of consent.





Condition 45 – TfNSW condition is modified to reflect the **requirement of the applicant, not the requirement of Council** and now reads as follows:

45. Appropriate mechanisms must be implemented to prevent any potential vehicular exit from the basement carpark onto Victoria Road through the access easement with adjoining property.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report. No new issues were raised during the public meeting.

PANEL MEMBERS	
Steve O'Connor (Chair)	
Eugene Sarich	
Michael Leavey	
Rob Senior	

SCHEDULE 1

1	DA No.	LDA2018/0117
2	Proposal	Demolition and construction of an up to 6 storey mixed use and residential development comprising 2 commercial tenancies on the ground floor, 32 dwellings (18x1 bedroom, 5x2 bedroom, 1x3 bedroom, 1 x 4 bedroom and 7x studio apartments) over 2 basement levels of car parking providing a total of 59 car spaces together with associated landscaping works.
3	Street Address	744 Victoria Road, 2A & 2-4 Eagle Street, Ryde
4	Applicant / Owner	Applicant: Cadence Property Developments Pty Ltd Owners: 744 Victoria Road: CPD 888 Pty Ltd, AJ Harb Holdings P/L, Centurion 777 P/L 2A Eagle Street: CPD #001 Pty Ltd 2-4 Eagle Street: The Owners – Strata Plan No. 21619
5	Reason for referral to RLPP	<ul style="list-style-type: none"> • Sensitive Development - SEPP 65 applies • Departure from Development Standard greater than 10% - Clause 4.3 Height of Buildings
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) ○ State Environmental Planning Policy (Infrastructure) 2007 ○ Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP) ○ Ryde Local Environmental Plan 2014 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Ryde Development Control Plan 2014 • Section 7.11 Development Contributions Plan – 2007 Interim Update (2014) • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: [Nil] • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations <p>The public interest, including the principles of ecologically sustainable development</p>
7	Material considered by the Panel	<ul style="list-style-type: none"> • Council assessment report • Clause 4.6 variation request to C4.3 Height of buildings

		<ul style="list-style-type: none"> • Written submissions during public exhibition: 10 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support – Nil ○ In objection – Vishtaspa Dorabjee ○ Council assessment officer – Madeline Thomas ○ On behalf of the applicant – Andrew Harb (Owner), Tina Christy (Planner) & Aleks Jelicic (Architect)
8	Meetings, briefings and site inspections by the Panel	<ul style="list-style-type: none"> • Site inspection: Nil– site photos provided • Pre-Briefing: 21 August 2020 • Briefing: 10 September 2020 <p>Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Steve O'Connor (Chair), Eugene Sarich, Michael Leavey (did not attend pre-briefing), Rob Senior ○ <u>Council assessment staff</u>: Madeline Thomas, Kimberley Kavwenje, Daniel Pearse <ul style="list-style-type: none"> • Papers were circulated electronically on 2 September 2020
9	Council Recommendation	Approval – Deferred Commencement
10	Draft Conditions	Attachment 1 of assessment report