

- 1 744 Victoria Road & 2A 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 - LDA2018/0117**

**Report prepared by:** Assessment Officer - Town Planner

**Report approved by:** Senior Coordinator - Major Development; Manager - Development Assessment; Director - City Planning and Environment

**File Number:** GRP/09/6/12/1/2 - BP20/902

### City of Ryde Local Planning Panel Report

<b>DA Number</b>	LDA2018/0117
<b>Site Address &amp; Ward</b>	<ul style="list-style-type: none"> <li>• 744 Victoria Road and 2a Eagle Street, Ryde</li> <li>• 2-4 Eagle Street, Ryde</li> </ul> Central Ward
<b>Zoning</b>	B6 Enterprise Corridor under RLEP 2014
<b>Proposal</b>	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.
<b>Property Owner</b>	<b>744 Victoria Road:</b> CPD 888 Pty Ltd, AJ Harb Holdings Pty Ltd, Centurion 777 Pty Ltd <b>2A Eagle Street:</b> CPD #001 Pty Ltd <b>2-4 Eagle Street:</b> The Owners – Strata Plan No. 21619
<b>Applicant</b>	Cadence Property Developments Pty Ltd
<b>Report Author</b>	Madeline Thomas – Senior Town Planner
<b>Lodgement Date</b>	22 March 2018
<b>No. of Submission</b>	Public Exhibition 1: 8 submissions Public Exhibition 2: 1 submission Public Exhibition 3: 1 submission
<b>Cost of Works</b>	\$12,069,281

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<b>Reason for Referral to RLPP</b>	<ul style="list-style-type: none"> <li>• Sensitive Development - SEPP 65 applies</li> <li>• Departure from Development Standard greater than 10% - Clause 4.3 Height of Building</li> </ul>
<b>Recommendation</b>	<b>Approval - Deferred Commencement</b>
<b>Attachments</b>	<b>Attachment 1</b> – Draft Conditions of Consent <b>Attachment 2</b> – Clause 4.6 written variation request <b>Attachment 3</b> – Alternative Building Envelope Plan prepared by Council for the site <b>Attachment 4</b> – Amended plans submitted with application

**1. Executive Summary**

The following report is an assessment of a development application for demolition and construction of an up to 6 storey mixed use development comprising 2 commercial tenancies on the ground floor and 37 dwellings over 2 basement levels of car parking at No. 744 Victoria Road and No. 2a Eagle Street, Ryde.

The application was lodged on the 22 March 2018. The application was notified over three notification periods. During the first notification period, eight submissions were received. The application was notified two more times throughout its assessment, with one submission being received during each notification. All submissions objected to the development. The issues raised in the submissions related to concerns with the bulk and scale of the building, overshadowing, visual and acoustic privacy and impact on adjoining trees. These matters are addressed in full detail in this report.

The proposal has been amended several times since it was lodged in March 2018 in order to demonstrate the site is suitable for the proposed development. The proposal (as amended) has appropriately responded to the constraints of the site, including its sloping landform, proximity to adjoining residential flat buildings (RFB) and being within the visual catchment of a heritage item of local significance (St Anne's Church).

The development application has been referred to the Ryde Local Planning Panel (RLPP) as it involves a departure from the building height development standard of 6.86m (55%). Additionally, State Environmental Planning Policy No. 65 (SEPP 65) is applicable to the proposal and is considered sensitive development.

During the assessment of the application, Council provided the applicant with a revised building envelope plan which reflected the desired built form on the site taking the existing constraints into account. These constraints would impede a compliant scheme on the site from reaching its full development potential permissible under RLEP 2014. This building envelope plan was prepared by Council's Urban

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Strategy Department and is considered to effectively address the objectives of the development standards in the RLEP 2014 and the controls within the RDCP 2014.

The proposed development complies with the building envelope plan with the exception of a minor non-compliance to the height of the building for the lift overrun and the separation between the two buildings on the ground floor. These non-compliances are considered acceptable as they do not result in unreasonable overshadowing of adjoining properties or any unacceptable impact on the nearby heritage item.

Given the reasons detailed above and within this report, the development application is recommended for approval (deferred commencement).

## 2. The Site and Locality



Figure 1: Aerial view of the subject site (shaded) and surrounds.

The site comprises two lots, legally described as Lot 4 and 5 in DP 815938 and is known as 744 Victoria Road and 2a Eagle Street, Ryde.

The site is located on the south western side of Victoria Road, with a total site area of 1,784m<sup>2</sup>. The site has a frontage to Victoria Road of 77.3m and a frontage to Eagle Street of 7.925m.

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The site is irregular in shape, and is currently occupied the following uses:

- Sydney Carwash and associated café (located within No. 2a Eagle Street)
- Jack's Service Vehicle Centre (located within No. 2a Eagle Street)
- Tibby Rose Auto Electrical (located within No. 744 Victoria Road)

A number of buildings are located on the site associated with the above uses. The site predominantly comprises of these buildings and hardstand structures, with very limited landscaping and deep soil areas. The site is on the ridge with desirable district views to the south away from the northern aspect to Victoria Road.

**Figure 2** and **3** below shows the site as viewed from Victoria Road.



**Figure 2:** Photograph of the site from the northern side of Victoria Road

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**Figure 3:** Photograph of the site from the northern side of Victoria Road

The site slopes significantly from Victoria Road to the rear boundary by approximately 3.2m - 3.6m.

**Figure 4 to 6** below shows the existing structures on the site and also demonstrates the slope of the site to the rear.



**Figure 4:** Photograph of building at 744 Victoria Road and existing vehicular access to vehicle workshop at rear of site

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**Figure 5:** Photograph of existing car wash as viewed from 744 Victoria Road frontage



**Figure 6:** Photograph of existing car wash as viewed from north western corner of site

Surrounding Development

The site is located on the southern side of Victoria Road, which is an arterial road. The site is on the ridge with desirable views to the south. The site is also located

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across the road from St Anne's Church, which is identified as a heritage item of local significance. St Anne's is located on the crest of the hill, with the Church and the associated cemetery afforded significant views to the south and south west which form part of the significance of this heritage item. **Figure 7** and **8** below show St Anne's Church.



**Figure 7:** View from St Anne's Church towards site to the south



**Figure 8:** View from Victoria Road of St Anne's Church and cemetery

Adjoining the site to the south west is Wandoo Reserve. The road reserve between Wandoo Reserve and the subject site contains a number of established trees that assist in mediating the heavy traffic impacts along Church Street and at the intersection with Victoria Road (see **Figure 9**).

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**Figure 9:** View towards Wandoo Reserve to the west of the site.

Adjoining the site to the east at No. 734 Victoria Road is a recently constructed four storey mixed use building which utilises the driveway located on No. 744 Victoria Road. The adjacent site benefits from a right of way along the eastern end of the subject site for vehicle access from Victoria Road to the car park at the rear.



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**Figure 10:** Photograph of mixed use development to the east at No. 734 Victoria Road

No. 2 – 4 Eagle Street and No. 6 Eagle Street adjoin the site at the rear. No. 2 – 4 Eagle Street contains a three storey residential flat building. The rear boundary is approximately 3.2m to 3.6m lower than the Victoria Road frontage.

The adjoining properties to the south are shown in **Figures 11 and 12** below.

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**Figure 11:** Adjoining RFB located at No. 2 – 4 Eagle Street (rear elevation facing subject site)



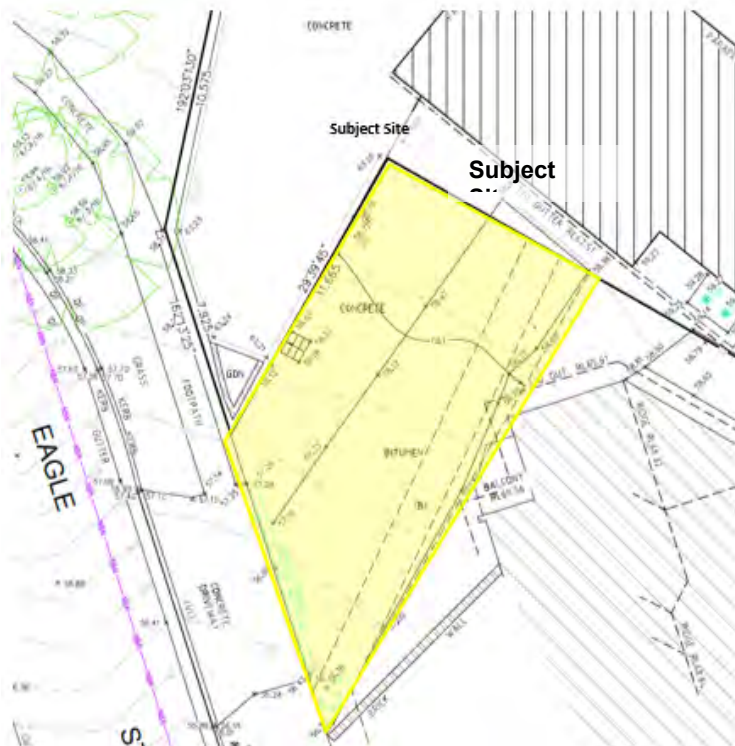
**Figure 12:** Residential development existing at No. 6 Eagle Street (as viewed from Eagle Street)

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The site has an existing Right of Carriageway across No. 2 – 4 Eagle Street, which is shown in **Figure 13** and **14** below.



**Figure 13:** Existing driveway to site partially within adjoining site



**Figure 14:** Extract from survey (yellow shading illustrates existing ROC over No. 2 – 4 Eagle Street)

**3. The Proposal (as amended)**

The proposal seeks to demolish the existing buildings on the site and construct a part 1/part 6 storey mixed use and residential development comprising 2 commercial City of Ryde Local Planning Panel - 10 September 2020

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tenancies on the ground floor, 32 dwellings (18x1 bedroom, 5x2 bedroom, 1x3 bedroom, 1 x 4 bedroom and 7x studio apartments).

The building comprises two towers, which are linked by a partially open ground floor lobby area. The towers are separated by 15m to allow for views from St Anne’s Church toward the Parramatta River. A communal open space is located above the ground floor in between the two towers. The western tower has access to the centrally located communal open space, with communal open space also being provided on the roof level of the eastern tower. The proposal does not involve the removal of any trees.

The proposed building includes 2 basement levels of car parking providing a total of 59 car spaces. The basement is accessed from entrances from both Victoria Road and Eagle Street. It is noted that the Victoria Road entrance does not allow for vehicles to exit, in accordance with requirements from Transport for NSW (TfNSW). An intercom has been proposed at the Victoria Road entrance to ensure that exiting occurs at the Eagle Street access only.

The Eagle Street access is partially located on the adjoining property at 2-4 Eagle Street. As such, owner’s consent has been provided from 2-4 Eagle Street.

**Figure 15** and **16** show the proposed development as viewed from Victoria Road and Eagle Street.



**Figure 15:** Proposed development as viewed from Victoria Road



**Figure 16:** South elevation (from Eagle Street).

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**4. Application Background**

20 December 2016	A previous approval was granted to LDA2016/93 on 744 Victoria Road for a part 4/part 5 storey mixed use development. The construction of this development has not occurred on the site.
22 March 2018	<p>The Development Application was lodged for the demolition of existing structures and construction of a mixed use building. (#1).</p> <p>The built form of the proposal as lodged read as a single building, which complied with height along the Victoria Road but due to the slope of the site resulted in breaches to the height control at the rear of the site. This revision of the development resulted in excessive bulk and resulting in overshadowing, building separation and setback concerns.</p>
April 2018	The applicant was requested to demonstrate that the site was suitable for development as the Preliminary Site Investigation report indicated there was a possibility of spills on the site.
3 May 2018	A request for information was sent to the applicant with respect to the heritage impact the proposed development would have on St Anne's Church. It was requested that a View Analysis be provided, given the significance of the views from St Anne's.
24 May 2018	<ul style="list-style-type: none"> <li>• Comments from the RMS were sent to the applicant, raising concern with the access (to and from the site) from Victoria Road, with the comments indicating the site could have no access to Victoria Road at all.</li> <li>• An RFI was also sent with issues raised by City Works, including a request that the existing drainage pipe on the site be physically located and shown on the survey plan and the structures be clear of this pipe. City Works also raised concern with the vehicle manoeuvring for the required waste vehicle.</li> <li>• An Urban Design Review Panel was also attended on the 24 May 2018. The comments from the Urban Design Review Panel included concerns with variations to the ADG, with particular concern with building separation, overshadowing, unsuitable landscaped areas and setbacks.</li> </ul>
August 2018	A follow up meeting was attended with the applicant and Council. Council's Urban Strategy team prepared a design sketch showing an acceptable building envelope for the proposal, including adequate building separation

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	between the two building sections to allow for views from St Anne's, as well as compliance with the ADG for building separation.
October 2018	This advice was provided to the applicant in October 2018 (see Attachment 3). This advice was extensive and very explicit in its recommendations. It was also requested at this time that the applicant provide landowners consent for the works occurring on the adjoining property, 2-4 Eagle Street.
February 2019	The applicant provided amended plans (#2) that attempted to address all of the issues previously raised. However, a number of key issues were immediately raised by Council's Assessment Officer, including the failure to comply with the building envelope that Council provided. This was with respect to building height, setbacks and separation. Issues were also raised with respect to vehicular access and previous comments from the RMS not being addressed in the amended design.
February – May 2019	Council's assessing officer and the applicant conversed at great length to the number of issues that were unresolved with the plans, including impact on trees on the adjoining site, issues raised with the RMS regarding vehicular access, waste requirements, heritage impact and views analysis. During this time, Council's Assessing Officer liaised with the RMS in order to gain support for some access to be allowed from Victoria Road. In April, the RMS consented to vehicular entry only from Victoria Road, but requested changes to the design.
14 May 2019	Amended plans and documentation (including heritage report) was received by Council (#3).
July 2019	Issues were raised by the RMS with respect to the amended design and how access would be restricted to vehicular entry only from Victoria Road.
1 August 2019	Following discussions with Council's Assessing Officer, the RMS provided support for the application.
15 August 2019	An additional Urban Design Review Panel was attended by the applicant to discuss the amended plans (#3). It was discussed in this meeting that whilst the applicant had resolved some issues previously raised, the applicant failed to comply with the building envelope and design advice previously provided by Council's Urban Designer, in that the overshadowing to No. 6 Eagle Street was unacceptable and the building separation requested was not achieved. The applicant was also advised they had failed to provide a View Analysis to demonstrate that the proposal did not adversely impact the heritage significance of St Anne's.
November 2019	Council's Environmental Health Officer also advised that Clean Up notices still applied to the site, and that this needed to be resolved with the amended documentation. Council's Assessing Officer advised this could be provided in a separate submission to the amended plans previously requested.
February 2020	The applicant submitted amended plans (#4), along with owners consent from the adjoining property. These plans were renotified and referred to the relevant Council Officers.
14 May 2020	A letter was sent to the applicant identifying the following issues with the amended plans: <ul style="list-style-type: none"> <li>The amended plans still depart from the building separation requested by Council, in that a section of the top floor has not been stepped back in order to reduce the</li> </ul>

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	<p>overshadowing impact on No. 6 Eagle Street, and does adequately ameliorate the impact of the development on St Anne's.</p> <ul style="list-style-type: none"> <li>• The overshadowing impact on No 6 Eagle Street is unacceptable.</li> <li>• Insufficient swept paths have been provided to demonstrate adequate vehicle (and waste vehicle) access has been provided.</li> <li>• The documentation provided does not demonstrate that the stormwater pipe has been physically located, and as such, Council's Drainage Engineers cannot determine if adequate setbacks from the pipe have been provided.</li> <li>• Stormwater plans have insufficient information to allow for assessment, as they focus on onsite detention only.</li> <li>• Arborist report fails to assess the major encroachment on a number of trees proposed for retention. Additionally, the Arborist report does not consider the impact of the development on the adjoining Council land.</li> <li>• There are inconsistencies between the architectural, engineering and landscape plans.</li> </ul>
<p>14 July 2020</p>	<p>Amended plans (#5) were provided by the applicant that adequately addressed the outstanding issues as follows:</p> <ul style="list-style-type: none"> <li>• Amendment to architectural plans to comply with the alternative building envelope plan with the exception of three small building components</li> <li>• Amended waste management plan</li> <li>• Survey provided locating drainage infrastructure on site</li> <li>• Amended arborist report</li> <li>• Amended shadow diagrams showing compliance with ADG for shadowing on adjoining properties</li> <li>• Amended heritage impact statement.</li> </ul> <p>The amended plans were not required to be renotified as they reduced the impact on adjoining properties.</p>

**5. Planning Assessment**

The following planning policies and controls are of relevance to the development:

- 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;
- Deemed SEPP – Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Ryde Local Environmental Plan 2014;
- Ryde Development Control Plan 2014:
  - Part 4.4 Ryde Town Centre
  - Part 7.2 Waste Minimisation and Management;

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- Part 9.2 Access People with Disabilities; and
- Part 9.3 Car Parking.
- Section 7.11 Contribution Plan.

**5.1 State Environmental Planning Instruments****State Environmental Planning Policy No. 55 – Remediation of Land**

The development has been assessed with regard to the criteria specified in SEPP 55. Clause 7 of SEPP 55 states the following:

**7 Contamination and remediation to be considered in determining development application**

- (1) *A consent authority must not consent to the carrying out of any development on land unless—*
  - (a) *it has considered whether the land is contaminated, and*
  - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

The applicant submitted a Detailed Site Investigation (prepared by EI Australia, dated 22 January 2020) which demonstrates the suitability of the site, stating that

*“Widespread contamination was not identified at the site during this investigation. It is concluded that the site is suitable for the proposed land use activities”.*

It is noted that the DSI also confirmed that the contaminated soils that were subject to Council’s Clean Up Notice have been excavated and removed from the site.

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Council's Environmental Health Officer has reviewed the Detailed Site Investigation and concurs with the findings and recommendations subject to conditions of consent (see **Conditions 103-106, 174, 175 & 177**).

**State Environmental Planning Policy (Infrastructure) 2007**

The development has been assessed against the criteria under Clauses 101 and 102 of SEPP Infrastructure, which are assessed below.

**Clause 101 – Development with frontage to classified road**

*The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*

*(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*

*(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*

*(i) the design of the vehicular access to the land, or*

*(ii) the emission of smoke or dust from the development, or*

*(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*

*(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road*

The site has a frontage to Victoria Road, which is identified as a classified road. As such, a referral was made to Transport for NSW (TfNSW) requesting concurrence for the application. It was considered by TfNSW that the vehicular access will not affect the safety, efficiency and ongoing operation of Victoria Road given vehicles would be restricted from exiting onto Victoria Road, and can only exit the basement via Eagle Street.

As such, Clause 101 has been satisfactorily addressed by the amended proposal.

In order to ensure that vehicles cannot egress to Victoria Road there will be a card reader/intercom on the ingress side (on building column) but no provision to open this roller shutter from within Basement 1.

**Clause 102 – Impact of road noise or vibration on non-road development**

*(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*

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- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

An Acoustic Report was provided by the applicant to address the impact of the noise and vibration from the traffic on Victoria Road. Recommendations with respect to the construction materials and glazing used have been made within this report.

The report was reviewed by Council's Environmental Health Officer, and no issues have been raised subject to conditions of consent (see **Condition 33, 34, 76, 78 & 186**).

**State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development**

The SEPP aims to improve the design quality of residential apartment development.

This proposal has been assessed against the following matters relevant to the SEPP for consideration:

- Urban Design Review Panel;
- The SEPP 65 Design Quality Principles; and
- The Apartment Design Guide.

Ryde Urban Design Review Panel (UDRP)

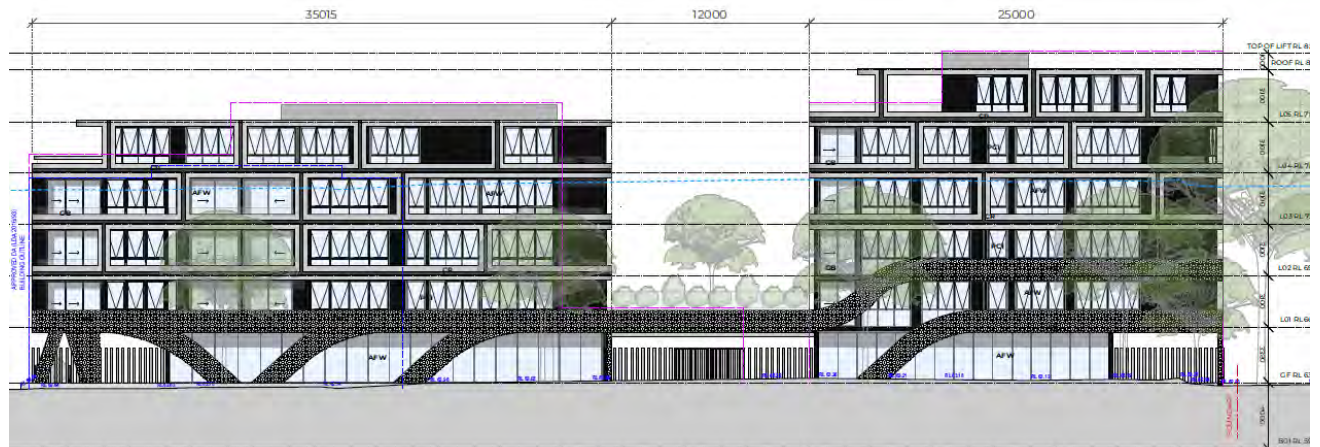
The proposal was most recently reviewed by the UDRP on 15 August 2019 after amended plans (#3) were received. The Panel had previously reviewed this application on a numerous occasions. The comments made by the Panel at the most recent meeting are included below.

The Panel's comments were based on plans the involved the following:

- 37 units
- 12m building separation between the two tower elements
- No communal open space provided between the tower elements (only landscaped area)

The north and south elevations of these plans are provided below in **Figure 17 and 18**:

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**Figure 17:** North Elevation of amended plans #3 reviewed by UDRP



**Figure 18:** South Elevation of amended plans #3 reviewed by UDRP

It is noted that the Panel agreed that any amended plans received could be reviewed by Council’s Urban Designer, rather than being referred back to the Panel.

*The Panel has reviewed a number of proposals on the site. In the Ryde DCP 2014 the site is designated a key site with site specific buildings envelopes. Since the last review, Council has prepared a new key site diagram describing preferred building envelope for the site.*

*The site is zoned B6 Enterprise Corridor with a permissible floor space ratio of 1.5:1 and a height of 12.5 metres. Council’s revised key site diagram describes a 1 storey podium to Victoria Road with two building forms above separated by 15m, which defines a view corridor from St Anne’s Church toward the Parramatta River. To the east is an “L shaped” form with part 5 storey and part 4 storey building form including ground floor podium along Victoria Road and 3 storeys to the rear. To the west is a part 5 storey and part 6 storey building form including ground floor podium along Victoria Road.*

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*Council's envelopes in the new building envelope plan define a maximum 19m or 6 storeys building height.*

SEPP 65 – Design Quality of Residential Flat Buildings	Comments
<p><b>Context and Neighbourhood Character</b></p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p><b>UDRP Comment:</b></p> <p><i>The proposal is located on the south side of Victoria Road, a major arterial road, and directly across from St Anne's Church, a local heritage item. To the east of the site is a new 4 storey mixed use building that benefits from right of way vehicle access on the subject site. To the west is Wandoo Reserve, which provides opportunity for tree outlook and separation from the major intersection of Victoria Road and Church Street. To the south is a low density residential neighbourhood on a south facing slope, which affords the site with district views toward the Parramatta River and beyond. The site falls approximately 5m from Victoria Road to the rear boundary. An existing three storey apartment building at 2 Eagle Street shares a rear boundary with the site and is sited approximately 3 metres below the subject site.</i></p> <p><i>Vehicle access to the site from Victoria Road is limited to entry only by RMS/TfNSW. A secondary entry and egress are provided at Eagle Street. The proponent has acquired land from 2 Eagle Street to enable an appropriate driveway width and access to an upper and lower basement.</i></p> <p><i>The site's land use zone limits ground floor uses to commercial along Victoria Road with minor other uses such as lift lobbies serving upper level residential uses. Council aims to ensure business and commercial uses are supported in the corridor. The proposal provides commercial tenancies along the Victoria Road frontage and associated open space immediately adjacent and within the building. Recent development approvals have allowed limited residential uses at ground level away from the Victoria Road frontage as an alternative to the typically under-utilised ground floor space.</i></p> <p><i>Key issues with the proposal addressed in this report are:</i></p> <ul style="list-style-type: none"> <li><i>- St Anne's Church setting and Council's desired view corridor. The proponent reduces the separation between building parts to 12m. No heritage assessment was included with the Panel's drawing package.</i></li> <li><i>- Alignment with Council's building envelope and land use objectives. The limitations of the zoning and the proponents desire to limit commercial floor space results in undercroft open space, a large 'lobby' space and concealed residential lobbies.</i></li> </ul>

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SEPP 65 – Design Quality of Residential Flat Buildings	Comments
	<p>- Residential communal open space, which are not equitably distributed.</p> <p>- Interface with neighbouring property to rear. The slope of the site to the rear boundary means that a level of car park is above ground at the rear of the site with a largely inactive wall and limited landscape area.</p> <p><b>Assessing Officer comment:</b></p> <p>The amended plans (#5) received address the issues raised by the UDRP. Council's Urban Designer has confirmed they are satisfied that the amended plans align with Council's building envelope plan (key site diagram), with the exception of two small components on each tower. These form part of the lift overrun, and do not result in non-compliances with overshadowing or unacceptable building bulk.</p> <p>Additionally, the amended plans do not provide a 2m gap on the ground floor. This departure from the building envelope plan has been assessed by Council's Urban Designer as being acceptable in this instance, as the ground floor has clear glazing on the front doors. Therefore, a degree of openness is still provided in this section.</p> <p>Additionally, the lobbies have been reconfigured to ensure they have sufficient surveillance from the front of the building.</p>
<p><b>Built Form and Scale</b></p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><b>UDRP Comment:</b></p> <p><i>The proposal follows Council's building envelope in part with some variations to the separation, ground floor resolution, communal open space and rear building alignment.</i></p> <p><b>Separation</b></p> <p><i>The proposal includes a 12m building separation between the east and west building forms. The Apartment Design Guide (ADG) was used to justify this separation. The numeric requirements in the ADG are mainly concerned with privacy and residential amenity. The applicant has not adequately addressed Council's heritage or urban design objectives for the building separation, which seeks to achieve a 15m separation.</i></p> <p><b>Ground Floor</b></p> <p><i>The ground floor open space for commercial tenancies seems excessive and it is not clear how these spaces will be used. The Panel recommends reducing the open space under the east building form by introducing an apartment at the rear. An apartment in this location maintains the amount of commercial floor space along Victoria Road and improves utilisation of the building</i></p>

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SEPP 65 – Design Quality of Residential Flat Buildings	Comments
	<p><i>envelope.</i></p> <p><i>The proposal provides the required 2m setback to Victoria Road. The architectural drawings do not adequately describe this space. Additional design refinement is required to define the landscape quality and access to commercial tenancies along Victoria Road.</i></p> <p><i>Council’s envelope includes a pedestrian access-way open to sky from Victoria Road to the rear of the site. As Victoria Road is approximately 5m above the rear of the site, the intent of the pedestrian link is not clear to the Panel. The applicant has proposed a large open air (but not open to sky) ‘main entry forecourt’ as the main building entry to both commercial tenancies and residential lobbies. The space has the potential for views through the site to the south. This approach is in lieu of two separate lobby entries from the street to each of the upper building forms.</i></p> <p><i>Further resolution of the ‘main entry forecourt’ space is required to achieve the applicant’s described design intent. The use of the space is not clear. A 12m wide and approximately 150sqm space is generous and could be better utilised for additional amenity, such as seats. Commercial tenancies are open to the ‘main entry forecourt’ but the space is gated at the street. The Panel discussed whether the location and visual dominance of the gate could be adjusted to create a more inviting entry space and promote commercial activity at the street edge. Further information on hours of operation for the forecourt is requested. The residential lobbies are concealed at the back of the buildings, particularly the eastern lobby which is hidden behind the fire stair. Residential lobbies should be directly accessible from the central entry lobby and visible from the main building entry at Victoria Road.</i></p> <p><b>Residential communal open space</b></p> <p><i>The primary communal open space for residential apartments is provided at Level 04 at the rear of the east building form. There is also a small space on Level 05 adjacent the lift lobby. The space between the two building forms at Level 01 includes landscape area but it is not proposed as communal open space. Communal open space should be accessible to all residents equally. In the current configuration, residents in the western building cannot access the main space without going down to the lobby and crossing to the eastern lift core. The Panel recommends the central space on Level 2 be converted to communal open space and made accessible to the western apartments at a minimum. The design of the space by a qualified</i></p>

**ITEM 1 (continued)**

SEPP 65 – Design Quality of Residential Flat Buildings	Comments
	<p><i>landscape architect should address the interface with apartment to achieve privacy.</i></p> <p><i>The Panel recommends that the building separation of 15m described in Council’s envelop be provided and suggests that floor space could be relocated to the ground floor as described above and potentially to Level 5 on the western building, where the small communal open space is currently proposed.</i></p> <p><b>Assessing Officer comment:</b></p> <p>The amended plans received address the issues raised by the UDRP. Council’s Urban Designer has confirmed they are satisfied that the amended plans address the issues previously raised by the UDRP.</p> <p>The ground floor lobbies have been reconfigures to increase passive surveillance and enhance amenity for residents/visitors. Seating has also been provided in these areas,</p> <p>Communal open space has now been provided on Level 01 and is accessible to the Western building, so that reliance on the communal open space in the eastern tower is no longer relied upon.</p>
<p><b>Density</b>            Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area’s existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p><b>UDRP Comment:</b></p> <p><i>The floor space ratio complies. The Panel notes that the entry space and ground floor ‘open space’ do not count as floor space and are a benefit to the proponent’s residential yield. Recommendations in Built Form aim to better utilise the ground floor and improve open space on the site.</i></p> <p><i>The density is supported subject to improvements recommended in Built Form.</i></p> <p><b>Assessing Officer comment:</b></p> <p>The amended proposal complies with the floor space ratio and is generally compliant with the building envelope plan provided by Council.</p> <p>The proposal will provide sufficient amenity to future residents.</p>

**ITEM 1 (continued)**

SEPP 65 – Design Quality of Residential Flat Buildings	Comments
<p><b>Sustainability</b>            Good design combines positive environmental, social and economic outcomes.            Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p><b>UDRP Comment:</b></p> <p><i>Further information is required to demonstrate how the architectural resolution will resolve north facing aspect and natural ventilation for apartments and ameliorate busy road noise and pollution.</i></p> <p><i>The viability of landscape needs further resolution.</i></p> <p><b>Assessing Officer comment:</b></p> <p>A suitable BASIX Certificate has been supplied with the amended plans to demonstrate compliance with energy targets.</p> <p>Council's Urban Designer has assessed the amended plans and considers they are suitable in this regard.</p> <p>81% of the apartments allow for cross ventilation, however, given the position of the site adjacent to Victoria Road there will always be a conflict between ventilation and noise/pollution from the road.</p>
<p><b>Landscape</b>            Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p><b>UDRP Comment:</b></p> <p><i>The proponent's objective for landscape at different levels that spills over the building to soften the form and scale at the southern façade and at the rear of the site is supported. The Panel is not yet convinced that the objective is able to be achieved. A landscape architect is required to work with the architect to demonstrate how viable planting, that will have longevity and be easily maintained, can be achieved.</i></p> <p><i>The 1m planting strip at the rear boundary is questioned. Council's envelop requires a 3m deep soil zone. A detail section of this boundary interface through to the main entry forecourt is required to demonstrate how the landscape vision could be achieved. The Panel also recommend that the alignment and detail of the balustrade be reviewed to improve the visibility of landscape over built elements.</i></p> <p><i>Further information on fence locations and appearance is required along the rear boundary.</i></p> <p><b>Assessing Officer comment:</b></p> <p>The amended plans provided included a revised landscape strategy which has addressed the issues raised by the UDRP above.</p> <p>Sufficient deep soil areas have been provided to allow for adequate amenity for future residents/visitors. The corridors comply with the ADG requirements and are</p>



**ITEM 1 (continued)**

SEPP 65 – Design Quality of Residential Flat Buildings	Comments
	<p>considered acceptable. The entry to Apartment 7 has been amended to address the Panel's concern.</p>
<p><b>Amenity</b>            Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.            Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><b>UDRP Comment:</b></p> <p><i>An awning over the 'main forecourt entry' is desirable. While daylight to corridors is provided, deeply recessed and narrow openings constrain the amount and quality of light.</i></p> <p><i>The entry to Apartment 07 could be more generous.</i></p> <p><b>Assessing Officer comment:</b></p> <p>The proposed awning at the building entry has been assessed by Council's Urban Designer as being acceptable.</p> <p>The corridors comply with the ADG requirements and are considered acceptable. The entry to Apartment 7 has been amended to address the Panel's concerns.</p>

**ITEM 1 (continued)**

SEPP 65 – Design Quality of Residential Flat Buildings	Comments
<p><b>Safety</b> Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p><b>UDRP Comment:</b></p> <p><i>Refer to comments in built form for entry gate alignment and commercial tenancy access.</i></p> <p><b>Assessing Officer comment:</b></p> <p>As discussed above, the lobbies have been reconfigured on the ground floor to increase passive surveillance.</p>
<p><b>Housing Diversity and Social Interaction</b> Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><b>UDRP Comment:</b></p> <p><i>Acceptable</i></p> <p><b>Assessing Officer comment:</b></p> <p>The majority of the apartments are either studio or one bedroom apartments. Given the location of the site adjacent to Victoria Road, this mix is considered appropriate.</p> <p>Sufficient communal space has been provided for the development.</p>

**ITEM 1 (continued)**

SEPP 65 – Design Quality of Residential Flat Buildings	Comments
<p><b>Aesthetics</b>            Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.            The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p><b>UDRP Comment:</b></p> <p><i>Further information on materials and the resolution of ‘perforated ribbons’ is required, particularly to show how these elements meet the ground and interface with shop fronts.</i></p> <p><i>The vertical expression of the gate and balustrades dominate the ground floor and contrast the fluid lines of the ribbons. An alternative design that complements the ‘ribbons’ is recommended.</i></p> <p><b>Assessing Officer comment:</b></p> <p>The extent of the “ribbons” has been reduced to ensure the commercial tenancies maintain an active frontage.</p> <p>Furthermore, the gate at the ground floor has been deleted and no longer conflicts with the ribbons.</p> <p>As such, this issue has been resolved by the amended plans.</p>

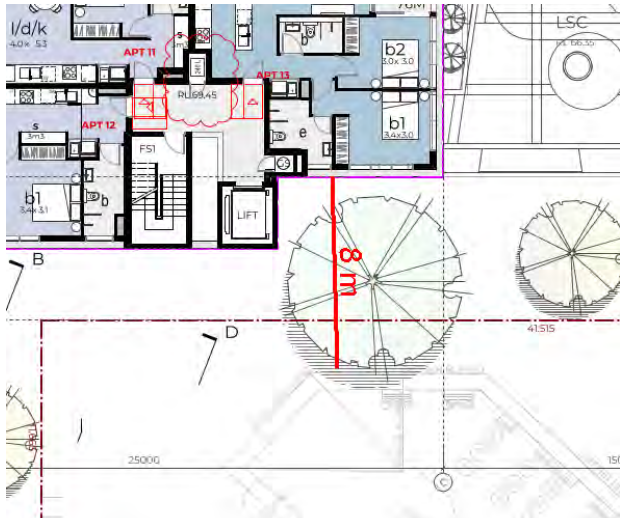
**Apartment Design Guide (ADG)**

The SEPP also requires the Consent Authority to take into consideration the requirements of the ADG with regard to the proposed residential apartment building.

The following table addresses the relevant matters.

Clause	Proposal	Compliance
<p><b>Part 2 - Development Controls</b>  <b>Note:</b> This part explains the application of building envelopes and primary controls including building height, floor space ratio, building depth, separation and setbacks. It provides tools to support the strategic planning process when preparing planning controls. It is used here only to ascertain degrees of compliance with the most applied controls under Parts 3 and 4 later in this table.</p>		
<p><b>2E - Building Depth</b></p> <p>Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line.</p>	<p>The development is wider than it is long, with an irregular configuration.</p> <p>The design incorporates a high degree of modulation and the proposed building depth ranges significantly from 11.5m on the western tower; to 22.314m on the eastern most extent of the eastern tower (Level 1) and 16.2m (Level 2 and above). This is also a design response to the dimensions and configuration of the site.</p> <p>Notwithstanding the proposed building depth exceedance on Level 1 of the eastern tower, the proposal provides for acceptable levels of cross ventilation (81% of units) and solar access (94%).</p>	<p><b>No.</b>            Variation acceptable.</p>

**ITEM 1 (continued)**

Clause	Proposal	Compliance
	<p>The proposed building depth allows for appropriately sized rooms with sufficient solar access and natural ventilation.</p> <p>Accordingly and given the UDRP have raised no concerns in this regard and the non-compliance is not considered significant, the proposed design is considered reasonable in the circumstances.</p>	
<p><b>2F - Building Separation</b></p> <p>Minimum separation distances for buildings between five to eight storeys should be:</p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies</li> <li>• 12m between habitable / balconies and non-habitable rooms</li> <li>• 9m between non-habitable rooms.</li> </ul>	<p>A minimum separation distance of 5.6m is proposed from the habitable rooms of the proposed development to the rear (south) boundary that adjoins with the residential flat buildings to the south. The residential flat building on No. 2-4 Eagle Street has a minimum setback to this boundary of approximately 2.4m, meaning the separation between the units and the proposed development is a minimum of 8m and does not comply with this control.</p>  <p><b>Figure 19: 8m separation distance between buildings</b></p> <p>However, there is a significant level difference between No. 2-4 Eagle Street and the subject site. The ridge level of the adjoining units being approximately RL 65, and the ground floor level of the proposed development being RL 63.3. The significant level difference is considered to negate potential visual and acoustic privacy impacts. It is further noted that proposed deep soil landscaping within the rear setback will assist in further mitigating any potential impact in this regard.</p> <p>The adjoining site to the east (No. 734-736 Victoria Road) contains a part 4/part 5 storey RFB. It is setback from the common boundary 0.25m, and the proposed development is setback 6.095m, resulting in building separation of 6.345m. The adjoining RFB</p>	<p><b>No</b> Variation acceptable.</p>

**ITEM 1 (continued)**

Clause	Proposal	Compliance
	<p>is four storeys in height at the interface between the subject site. The proposed development is also four storeys in height at the interface, with the exception of the rooftop communal open space on the fifth level.</p> <p>Based on the ADG controls for a 5 storey building, the development should provide an 18m separation distance. Applying half the minimum separation distance required by the ADG results in a required setback to the east boundary of 9m.</p> <p>It is noted that the RFB adjacent to the site at 734-736 was recently completed, all balcony openings on the north western elevation contain privacy louvres given the 0.25m setback to the common boundary.</p> <p>Furthermore, the only windows on the eastern elevation facing the adjoining RFB are bedroom windows, and are not considered to adversely impact the privacy of the adjoining units. Planter boxes/landscaping is also proposed on the edge of the communal open space, which will prevent overlooking into the adjoining property from this level.</p> <p>On the basis of the above, the proposed development is considered acceptable in terms of building separation.</p>	
<p><b>2G – Street Setbacks</b></p> <p>See discussion under the relevant Development Control Plan.</p> <p>Determine street setback controls relative to the desired streetscape and building forms, for example:</p> <ul style="list-style-type: none"> <li>• define a future streetscape with the front building line</li> <li>• match existing development</li> <li>• step back from special buildings</li> <li>• retain significant trees</li> <li>• in centres the street setback may need to be consistent to reinforce the street edge</li> <li>• consider articulation zones accommodating balconies, landscaping etc. within the street setback</li> <li>• use a setback range where the desired character is for variation within overall consistency, or where subdivision is at an angle</li> </ul>	<p>As discussed earlier in this report, specific controls apply with the site under Part 4.4 of the Ryde DCP 2014. Also discussed was the alternative building envelope design that was provided by Council for this site.</p> <p>The alternative building envelope requires a 2m setback for the development from the street boundary. A minimum 2m front setback has been provided.</p> <p>The proposal complies with the DCP which requires a 2m street setback.</p>	<p>Yes</p>

**ITEM 1 (continued)**

Clause	Proposal	Compliance
to the street • manage corner sites and secondary road frontages		
<b>Part 3 - Siting the Development</b> This part provides guidance on the design and configuration of apartment development at a site scale. Objectives, design criteria and design guidance outline how to relate to the immediate context, consider the interface to neighbours and the public domain, achieve quality open spaces and maximise residential amenity. It is to be used during the design process and in the preparation and assessment of development applications		
<b>3B Orientation</b>  Building types and layouts respond to the streetscape and site while optimising solar access and minimising overshadowing of neighbouring properties in winter.	The building layout has been orientated to predominantly face Victoria Road and is not out of character with the existing streetscape.  The configuration of the allotment restricts the configuration of the buildings within the site given the limited depth of the site and the expansive frontage to Victoria Road.  Achieving optimal solar access to living areas has been balanced against achieving overall improved amenity by locating the living areas of apartments on the southern side away from noise and disturbance of Victoria Road and which also provides attractive views.	Yes
<b>3C Public domain interface</b>  Transition between private & public domain is achieved without compromising safety and security and amenity of the public domain is retained and enhanced.	The building has well defined private and communal open spaces that transition adequately from the public domain.	Yes
<b>3D Communal &amp; public open space</b>  Provide communal open space to enhance amenity and opportunities for landscaping & communal activities.  1. Provide communal open space with an area equal to 25% of site; 2. Minimum 50% of usable area of communal open space to receive direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June.	The ADG requires that the site provide 446m <sup>2</sup> as communal open space. The proposed development provides a communal area of 248m <sup>2</sup> in the form of the rooftop terrace on the eastern building and a terrace on the Level 1 podium between the towers.  This results in a shortfall of communal open space of 198m <sup>2</sup> .  Configuration of the site and the building has limited the opportunities for communal open space that are not exposed to the noise/pollution of Victoria Road.  All balconies (subject to <b>deferred commencement condition No. 2</b> ) are of a useable size and comply with the ADG requirement.  It is also noted that open space is provided in the form of Wandoo Reserve on the opposite side of Eagle Street.  Therefore, this non-compliance is considered acceptable.	<b>No.</b> Variation Acceptable

**ITEM 1 (continued)**

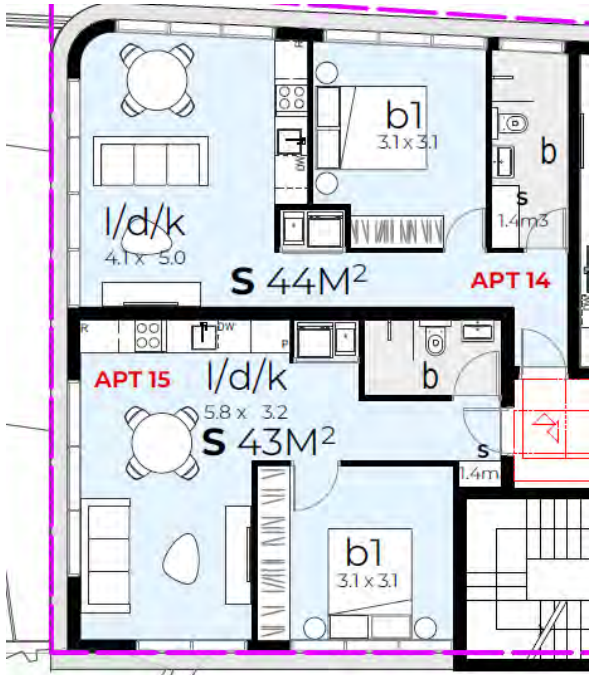
Clause	Proposal	Compliance												
	The communal area between the towers on level 1 (i.e. 171m <sup>2</sup> ) receives in excess of 2 hours sunlight between 9am and 3pm on 21 June.													
<p><b>3E Deep Soil Zone</b></p> <p>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</p> <p>1. Deep soil zones are to be provided equal to 7% of the site area and with min dimension of 3m – 6m. Minimum dimension of 6m required.</p>	<p>7% of the site is 124.9m<sup>2</sup>. The development has provided 152m<sup>2</sup> of deep soil zones within the rear setback areas. This DSA is 8.5%, however, minimum 6m dimensions are not provided for all areas of the DSA. This results from the site being wider than it is long. The limited depth of the site and the existing driveway access on the eastern side of the site limit the ability to provide 6m dimensions for the DSA on the site.</p> <p>This is considered an acceptable outcome in relation to DSA for the site.</p>	<p><b>No.</b> Variation acceptable</p>												
<p><b>3F Visual Privacy</b></p> <p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="256 1151 699 1487"> <thead> <tr> <th>Building Height</th> <th>Habitable rooms &amp; balconies</th> <th>Non habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m(4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	Building Height	Habitable rooms & balconies	Non habitable rooms	Up to 12m(4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>See discussion under Section 2F - Building Separation.</p> <p>The building separation between the two tower components is required to be 12m given the building is 4 storeys in height at the point of the tower separation. This section of the building is compliant as a 15m separation is provided.</p>	<p><b>No</b> Variation acceptable. (See full discussion under Building Separation)</p>
Building Height	Habitable rooms & balconies	Non habitable rooms												
Up to 12m(4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<p><b>3G Pedestrian Access &amp; entries</b></p> <p>Pedestrian access, entries and pathways are accessible and easy to identify.</p>	<p>The development proposes a pedestrian entry to the building from Victoria Road.</p> <p>The amended proposal has added a prominent building address above the front main entry. Whilst this enhances the identity of the building, it is of little help to first-time visitors to identify the vehicle entry. Wayfinding is particularly important for motorists visiting this site because once they have travelled pass the driveway on Victoria Road, it will take a significant detour to return to the site via Morrison Road and Gladstone Avenue.</p> <p>Therefore, a condition (<b>Condition 1b</b>) has been imposed that a building address sign is to be provided adjacent to the vehicle entry off Victoria</p>	<p>Yes (subject to condition)</p>												

**ITEM 1 (continued)**

Clause	Proposal	Compliance
	Road at the north-eastern corner of the building visible to motorists. The sign is to be integrated with the design of the garden bed or with the façade on the external wall.	
<b>3H Vehicle Access.</b>  Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	The site already contains a 6m wide access from Victoria Road that has a Right of Way benefiting the adjoining property to the east. The development provides a 5.5m wide driveway with a passing bay which narrows to a 3.4m wide ramp into the basement car park. The proposed development restricts entry only to this access.  An additional vehicle access point is provided from Eagle Street which facilitates both entry and exit.  These access points will provide for adequate sight distances and manoeuvring.	Yes
<b>3J Parking Provisions.</b>  <u>Car parking</u> For development on sites that are within 800m of a railway station, the minimum parking for residents and visitors to be as per RMS Guide to Traffic Generating Developments, or Council's car parking requirement, whichever is less.  <u>Bicycle Parking</u> Provide adequate motorbike, scooter and bicycle parking space (undercover).	The site is not located within 800m of a railway station.  Regardless, the NSW RMS Guide to Traffic Generating parking rates are the same as the RDCP 2014 car parking requirements.  See discussion under Part 9.3 of the RDCP 2014 later in this report.	Yes
<b>Part 4 - Designing the Building</b> This part addresses the design of apartment buildings in more detail. It focuses on building form, layout, functionality, landscape design, environmental performance and residential amenity. It is to be used during the design process and in the preparation and assessment of development applications		
<b>4A Solar &amp; daylight access</b>  Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.  No more than 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.  Design should incorporate shading and glare control, particularly for warmer months	30 (i.e. 94%) of the proposed units will receive the required 2 hours of direct sunlight between 9am and 3pm midwinter.  The BASIX Certificate is included with the application demonstrating that the proposal achieves required thermal comfort levels. Materials and finishes which incorporate shading and glare control measures including awnings are proposed.	Yes
<b>4B Natural Ventilation</b>  At least 60% of apartments are	81% of apartments are cross ventilated.	Yes



**ITEM 1 (continued)**

Clause	Proposal	Compliance
<p>naturally cross ventilated in the first nine storeys of the building.</p> <p>Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p>		
<p><b>4C Ceiling Heights</b></p> <p>Ceiling height achieves sufficient natural ventilation and daylight access. The development is required to provide 2.7m minimum ceiling heights.</p>	<p>All of the floors will have a floor to ceiling height of 3.05m, complying with this provision.</p>	<p>Yes</p>
<p><b>4D Apartment size and layout</b></p> <p>Apartments are required to have the following minimum internal areas with one bathroom:</p> <ul style="list-style-type: none"> <li>• Studio = 35m<sup>2</sup></li> <li>• 1 bedroom = 50m<sup>2</sup></li> <li>• 2 bedroom = 70m<sup>2</sup></li> <li>• 3 bedroom = 90m<sup>2</sup></li> <li>• 4 bedroom = 102m<sup>2</sup></li> </ul> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan where the living, dining and kitchen are combined, there is to be a maximum depth of 8m from a window.</p> <p>Master bedrooms – minimum area 10m<sup>2</sup> Excluding wardrobe spaces.</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul>	<ul style="list-style-type: none"> <li>• Studio units – range between 43m<sup>2</sup> and 44m<sup>2</sup></li> <li>• 1 bed units – range between 50m<sup>2</sup> and 56m<sup>2</sup></li> <li>• 2 bed units - range 76m<sup>2</sup> – 88m<sup>2</sup></li> <li>• 3 bed unit – 112m<sup>2</sup></li> <li>• 4 bed unit – 154m<sup>2</sup></li> </ul> <p>There are 7 studio apartments. All of these apartments are considered to be 1 bedroom apartments rather than a studio (see <b>Figure 20</b> below).</p>  <p><b>Figure 20: Nominated studio apartment types</b></p> <p>As these apartments have sizes of 43m<sup>2</sup>-44m<sup>2</sup>, these apartments do not meet the minimum 1 bedroom apartment sizes.</p>	<p>Yes (subject to condition)</p>

**ITEM 1 (continued)**

Clause	Proposal	Compliance																		
	<p>A deferred commencement condition has been imposed that the 7 nominated studio apartments are to be reconfigured to be studio apartments. As such, this non-compliance is resolved by the condition of consent.</p> <p>All habitable rooms have a window compliant with the rates.</p> <p>The master bedrooms, where proposed, have a minimum area of 10m<sup>2</sup>, excluding wardrobe space.</p> <p>Living rooms/combined living/dining area have a minimum 4m width for 2 and 3 bedrooms, respectively.</p>																			
<p><b>4E Private Open Space and balconies</b></p> <p>All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="261 996 699 1305"> <thead> <tr> <th>Dwelling type</th> <th>Min area</th> <th>Min depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>2</sup></td> <td>N/A</td> </tr> <tr> <td>1 bedroom</td> <td>8m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12m<sup>2</sup></td> <td>2.4m</td> </tr> <tr> <td>Ground or podium</td> <td>15m<sup>2</sup></td> <td>3m</td> </tr> </tbody> </table>	Dwelling type	Min area	Min depth	Studio apartments	4m <sup>2</sup>	N/A	1 bedroom	8m <sup>2</sup>	2m	2 bedroom	10m <sup>2</sup>	2m	3+ bedroom	12m <sup>2</sup>	2.4m	Ground or podium	15m <sup>2</sup>	3m	<ul style="list-style-type: none"> <li>• 1 bed units: 8m<sup>2</sup></li> <li>• 2 bed units: 10m<sup>2</sup> - 50m<sup>2</sup></li> <li>• 3 and 4 bed units: 77m<sup>2</sup> – 94m<sup>2</sup></li> </ul> <p>Balconies meet the minimum size requirements, with the exception of the nominated studio apartments, which do not provide balconies.</p> <p>A deferred commencement condition (<b>deferred commencement condition No. 2</b>) has been imposed that the studio apartments be reconfigured, and also provide balconies with a minimum size of 4m<sup>2</sup>.</p> <p>As such, this non-compliance is resolved by a condition of consent.</p>	Yes (subject to deferred commencement condition)
Dwelling type	Min area	Min depth																		
Studio apartments	4m <sup>2</sup>	N/A																		
1 bedroom	8m <sup>2</sup>	2m																		
2 bedroom	10m <sup>2</sup>	2m																		
3+ bedroom	12m <sup>2</sup>	2.4m																		
Ground or podium	15m <sup>2</sup>	3m																		
<p><b>4F Common circulation and spaces.</b></p> <p>The maximum number of apartments off a circulation core on a single level is 8.</p> <p>Daylight and natural ventilation should be provided to all common circulation space above ground. Windows should be provided at the end wall of the corridor.</p>	<p>The development proposes a maximum of five (5) apartments to be accessed from each circulation space on the respective towers.</p>	Yes																		
<p><b>4G Storage</b></p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided:</p> <table border="1" data-bbox="261 1892 699 2042"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m<sup>3</sup></td> </tr> <tr> <td>1 bedroom apt</td> <td>6m<sup>3</sup></td> </tr> <tr> <td>2 bedroom apt</td> <td>8m<sup>3</sup></td> </tr> </tbody> </table>	Dwelling type	Storage size volume	Studio	4m <sup>3</sup>	1 bedroom apt	6m <sup>3</sup>	2 bedroom apt	8m <sup>3</sup>	<p>Information provided by the project architect indicates that each apartment will have storage which meets these requirements with at least 50% of the required storage proposed within each apartment and the remainder provided within the basement.</p> <p>A condition of consent has been included that the storage is to be allocated in accordance with the minimum requirements of the ADG given the</p>	Yes										
Dwelling type	Storage size volume																			
Studio	4m <sup>3</sup>																			
1 bedroom apt	6m <sup>3</sup>																			
2 bedroom apt	8m <sup>3</sup>																			

**ITEM 1 (continued)**

Clause	Proposal	Compliance		
<table border="1" data-bbox="256 353 699 389"> <tr> <td data-bbox="256 353 491 389">3 + bedroom apt</td> <td data-bbox="491 353 699 389">10m<sup>3</sup></td> </tr> </table> <p data-bbox="256 421 699 479">At least 50% of the required storage is to be located within the apartment.</p>	3 + bedroom apt	10m <sup>3</sup>	<p data-bbox="719 353 1362 479">storage within the basement has not been allocated to individual units on the amended plans (see <b>Condition 109</b>)</p>	
3 + bedroom apt	10m <sup>3</sup>			
<p data-bbox="256 479 699 515"><b>4H Acoustic privacy</b></p> <p data-bbox="256 546 699 636">Noise transfer is minimised through the siting of buildings, building layout, and acoustic treatments.</p> <p data-bbox="256 667 699 757">Plant rooms, services and communal open space and the like to be located at least 3m away from the bedrooms.</p> <p data-bbox="256 788 699 938">Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</p>	<p data-bbox="719 479 1362 938">An Acoustic Report has been provided by the applicant to address the impact of the noise from Victoria Road on the amenity of future occupants. Council's Environmental Health Officer has reviewed this report and the associated recommendations, and has raised no issues.</p>	<p data-bbox="1367 479 1552 938">Yes</p>		
<p data-bbox="256 938 699 974"><b>4K Apartment mix</b></p> <p data-bbox="256 1005 699 1095">A range of apartment types with different number of bedrooms (1bed, 2 bed, 3 bed etc) should be provided.</p>	<p data-bbox="719 938 1362 1095">The development has incorporated 7 studio (21.9%), 18 one bedroom (56.3%), 5 two bedroom (15.6%), 1 three bedroom (3.1%) and 1 four bedroom (3.1%) apartments.</p> <p data-bbox="719 1104 1362 1151">The proposed development provides housing choice which meets the general market needs.</p>	<p data-bbox="1367 938 1552 1151">Yes</p>		
<p data-bbox="256 1151 699 1187"><b>4M Facades</b></p> <p data-bbox="256 1218 699 1341">Building facades to provide visual interest, respect the character of the local area and deliver amenity and safety for residents.</p> <p data-bbox="256 1373 699 1431">Building facades are expressed by the façade.</p>	<p data-bbox="719 1151 1362 1431">The facade composition and mix of materials is satisfactory and will respond sympathetically to be character of the surrounding area.</p>	<p data-bbox="1367 1151 1552 1431">Yes</p>		
<p data-bbox="256 1431 699 1467"><b>4N Roof design</b></p> <p data-bbox="256 1498 699 1588">Roof treatments are integrated into the building design and positively respond to the street.</p> <p data-bbox="256 1597 699 1686">Opportunities to use the roof space for residential accommodation and open space are maximised.</p> <p data-bbox="256 1695 699 1733">Roof design incorporates sustainability features.</p>	<p data-bbox="719 1431 1362 1733">The development has proposed a flat roof which is integrated with the overall development. The roof design incorporates communal open space and landscaping on the eastern tower that improves the amenity for future occupants of the building.</p>	<p data-bbox="1367 1431 1552 1733">Yes</p>		
<p data-bbox="256 1733 699 1769"><b>4O Landscape design</b></p> <p data-bbox="256 1800 699 1890">Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable</p>	<p data-bbox="719 1733 1362 1890">Landscaping is proposed within the rear setback areas as well as within the communal open space areas. Council's Landscape Architect has advised that the amended landscaping plan is satisfactory.</p>	<p data-bbox="1367 1733 1552 1890">Yes</p>		
<p data-bbox="256 1890 699 1926"><b>4P Planting on structures</b></p> <p data-bbox="256 1957 699 1993">Appropriate soil profiles are provided.</p>	<p data-bbox="719 1890 1362 2040">The development will comply with the minimum soil depth as specified in the ADG. No issues have been raised by Council's Landscape Architect with respect to the soil profiles for the planting within the level 1 podium or rooftop terrace.</p>	<p data-bbox="1367 1890 1552 2040">Yes</p>		

**ITEM 1 (continued)**

Clause	Proposal	Compliance
<b>4Q Universal design</b>  Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments with adaptable designs are to be provided.	Four (4) universal design “silver” units (Livable Housing Guidelines) <sup>*1</sup> are proposed, which provide flexible housing stock. The development complies with these requirements.	Yes
<b>4U Energy efficiency</b>  Development incorporates passive environmental design measures – solar design, natural ventilation etc.	The development complies with solar access and natural ventilation requirements.  A BASIX certificate is submitted with the application which indicates that the building will meet the energy and water use targets set by the BASIX SEPP.	Yes

\*1 Livable Housing Guidelines (LHD Guidelines) provides design guide lines to help make home more versatile, easier access and cost effective to better meet the changing needs of occupants over their lifetimes.

Three levels of performance are detailed in the LHD Guidelines, Silver Level, Gold Level and Platinum Level. The Silver Level provides for 7 core design elements which provide home occupants with the opportunity to reduce or avoid costs associated with retrofitting a home to improve access in future, should it be required.

**State Environmental Planning Policy (Building Sustainability Index: BASIX)**

The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building. As such, an amended BASIX Certificate has been submitted (No. 897579M\_04, dated 12 August 2020) which provides the development with a satisfactory target rating.

However, a revised BASIX Certificate will be required to assess the changes to the studio apartments conditioned in the deferred commencement condition. The requirement for an amended BASIX is included within the deferred commencement condition for the studio apartments.

Appropriate conditions have been imposed requiring compliance with the BASIX commitments. See **deferred commencement condition No. 2 and Conditions 3 & 183**.

**Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 is a deemed SEPP and applies to the subject site.

**ITEM 1 (continued)**

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above planning instrument. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of DCP 2014. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument.

**5.2 Ryde Local Environmental Plan 2014 (RLEP 2014)**

The following is an assessment of the proposed development against the applicable provisions from the RLEP 2014.

The site is zoned B6 Enterprise Corridor under the provisions of the RLEP 2014. The development is permitted in this zoning.

**Clause 2.3 – Zone Objectives**

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives for the B6 Enterprise Corridor zone are:

- *To promote businesses along main roads and to encourage a mix of compatible uses.*
- *To provide a range of employment uses (including business, office, retail and light industrial uses).*
- *To maintain the economic strength of centres by limiting retailing activity.*
- *To provide for residential uses, but only as part of a mixed use development.*
- *To promote sustainable development, including public transport use, living and working environments.*

The development complies with the above objectives. Residential and commercial uses are provided within the mixed use development. The development is consistent with the desired future character of the area by providing a mix of uses within close proximity to public transport and the Ryde Town Centre.

**Clause 4.3 Height of buildings**

The Height of Buildings Map specifies the maximum heights of any building on the site must not exceed 12.5m.

Building height is defined in this planning instrument as meaning “*the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*”

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### ITEM 1 (continued)

The original proposal as lodged read as a single building, which generally complied with the building height along Victoria Road but resulted in larger variations at the rear of the site due to topography. The building was non-compliant in building length under the ADG, and was an excessively bulky structure, resulting in overshadowing and heritage impacts. During the assessment of this development application, a request was made by Council that the applicant split the built form of the development so that a 15m gap be provided in the middle of the site to allow for views to and from St Anne's Church on the opposite side of Victoria Road towards the Parramatta River.

As such, it was agreed by Council that the floor space removed to facilitate this gap could be redistributed as floor space above the maximum building height of 12.5m. As such, the amended design results in an exceedance to the building height development standard of between 4.21m and 6.86m, representing a variation of between 33% and 55%.

**Figures 21, 22 and 23** below illustrate the 12.5m height plane and the extent of non-compliance.

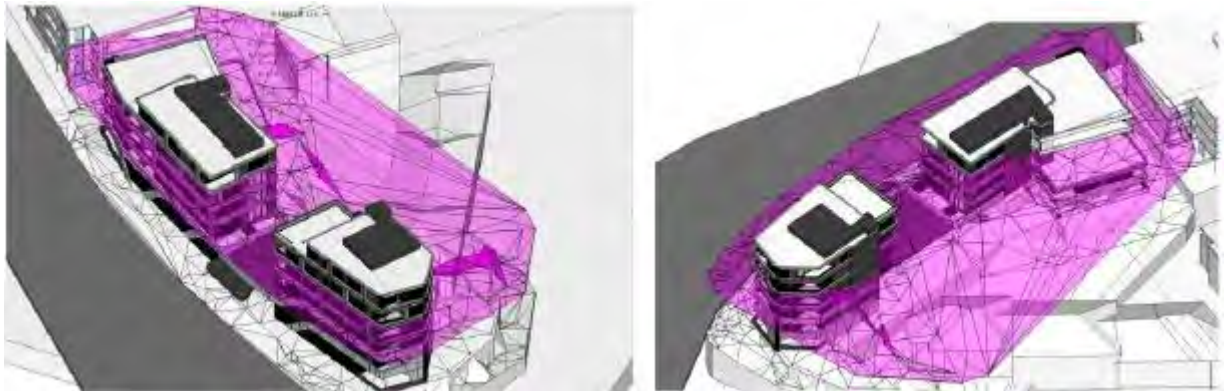


**Figure 21:** North elevation showing extent of building exceeding 12.5m building height



**Figure 22:** East (left) and west (right) elevations showing extent of building exceeding 12.5m building height

## ITEM 1 (continued)



**Figure 23:** View from north (left) and south (right) with 12.5m building height plane in purple

Accordingly, the applicant has submitted a written request seeking to justify the variation to the development standard contained in Clause 4.3. A Clause 4.6 statement accompanied the amended plans received in July 2020.

### Clause 4.6 Exceptions to development standards

Clause 4.6 of the RLEP 2014 provides flexibility in the application of planning controls by allowing Council to approve a development application that does not comply with a development standard where it can be demonstrated that flexibility in the particular circumstances achieve a better outcome for and from development.

Several key Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters are outlined in the following discussion.

The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure's Guidelines for varying development standards was formulated.

These principles for assessment and determination of applications to vary development standards are relevant and include:

- Is the planning control in question a development standard?
- What is the underlying object or purpose of the standard?
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case?; and

**ITEM 1 (continued)**

- Is the objection well founded?

The decision of Justice Preston in *Wehbe V Pittwater [2007] NSW LEC 827* expanded on the above and established the five part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions:

- Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives?
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard unnecessary?
- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable?
- Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable?
- Is the “*zoning of particular land*” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land? Consequently compliance with that development standard is unnecessary and unreasonable.

In the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, it was found that an application under clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

- Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP; and
- That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.

The applicant has submitted a written request to vary the height control. The applicant has advised that the written request has been set out in accordance with the relevant principles set out by the court, as follows:



**ITEM 1 (continued)****1. Compliance with the development standard is unreasonable or unnecessary in this particular case**

The applicant has stated that strict compliance with the building height development standard is unreasonable and unnecessary in this instance, as:

*“The objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

*The proposed height variation allows the skilful distribution of building mass on the site, which assists with ensuring that the development is in proportion and in keeping with the character of nearby development.*

*This skilful design creates a gradual height transition from the western end of the site, along Victoria Road, complementing the neighbouring 4-storey mixed use development at 734 Victoria Road.*

*The proposal complies with the relevant FSR and the height contravention does not result in any additional GFA or breach of the relevant standard.*

*The proposed design of the development ensures that overshadowing is minimised. A 6m physical separation to the building to the south, has been provided in the built form, to preserve solar access to the neighbouring properties at No.2 Eagle Street, which is located to the site's south.*

*No. 6 Eagle Street to the south has four (4) units with the two lower level units 1 & 2 having their primary living areas facing Eagle Street (South), and units 3 and 4 being split level design with the upper level secondary habitable living areas facing the subject site (North) and the primary living areas and balconies facing Eagle Street.*

*Due to the orientation of the living areas at No. 6 Eagle Street, the subject application only has an impact on the rear facing balconies of Units 3 & 4 on the upper level and the terraces off the bedrooms of those units.*

*The buildings step down away from the main corner and provide a large central gap which maintains view vistas through the site. This design improves the appearance of the area by having regard to the surrounding heritage buildings and ensuring the mass and bulk of the building is reduced. The end result is of 2 x towers, rather than a large bulk of building extending across the length of the site.*

*The proposed mixed-use building has been designed to emphasise and activate the Victoria Road frontage. The proposed built form is articulated and the substantial physical separation provided in the built form breaks up the perceived length of the proposed buildings when viewed from the public domain.*

*The concentration of the building height along the western end of the site also creates a marker at the intersection of Victoria Road and Devlin Street.*

## ITEM 1 (continued)

### Assessing Officer comment:

It is agreed that compliance with the development standard is unreasonable and unnecessary.

### **2. There are sufficient environmental planning grounds to justify contravening the development standard**

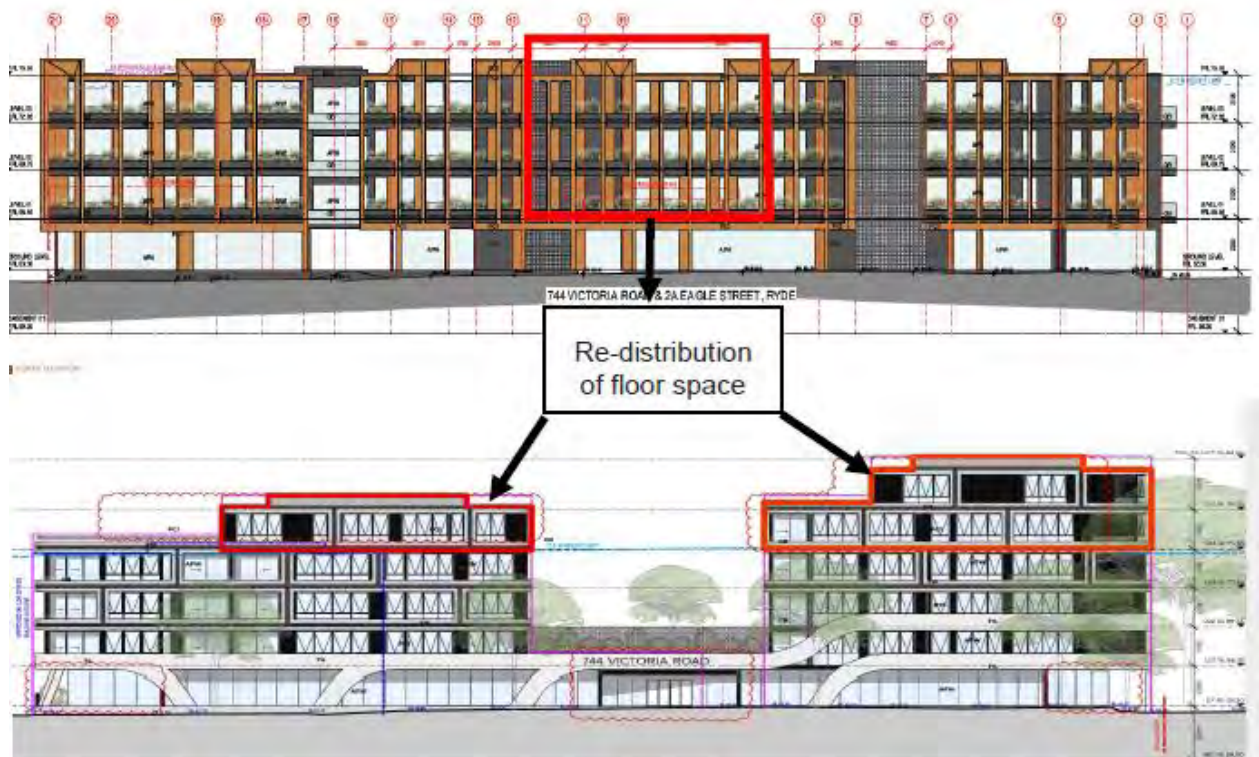
The applicant has stated that there are sufficient planning grounds to justify contravention of the development standard, as outlined below:

*“The element of the development which contravenes the “height of buildings” development standard is a result of the redistribution of floor space, not additional GFA or a breach of the FSR standard. As illustrated in **Figure 24**, the floor space originally located in the centre of the building, has been redistributed to the western and eastern elevations of the development, essentially creating two buildings on top of a common podium.*

*This amendment provides the following benefits:*

- *It does not impact any significant views from the adjacent heritage item located at 46 Church Street, but rather provides views through the site not envisaged by the controls.*
- *The proposed built form is articulated and the substantial physical separation provided in the built form breaks up the perceived length of the proposed buildings when viewed from the public domain.*
- *The additional height enables the creation of a focal point, as desired by Council's Urban Design referral, which identifies the site's potential to create a marker at the intersection of Victoria and Devlin Street.*
- *The proposed increased separation between buildings and setbacks from surrounding boundaries increases solar access to surrounding dwellings.*

**ITEM 1 (continued)**



**Figure 24:** North Elevation comparison. Original plans (top) and amended (bottom)

*The proposal would therefore result in a better planning outcome than if compliance were to be achieved, as it provides a development that meets the objective of the standard, while improving the amenity of surrounding dwellings and public domain, as desired by the Council's Urban Design referral."*

Assessing Officer comment:

The constraints of the site, including the site's proximity to St Anne's Church, topography and configuration of the site, have led to the need for an alternative building envelope plan to be issued to the applicant by Council's Urban Strategy department. It was considered that the breach in building height, subject to adherence to the alternative building envelope plan, resulted in a better design outcome.

As such, it is agreed that there are sufficient environmental planning grounds to vary the building height development standard.

**3. Clause 4.6 (4)(a)(i) – The consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)**

The applicant has stated that the proposal has satisfied the matters in Clause 4.6(3) of the RLEP 2014 by demonstrating the following:

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**ITEM 1 (continued)**

- *The objectives of the “height of buildings” development standard are achieved notwithstanding the proposed variation and the variation to the standard allows for a better planning outcome.*
- *In accordance with the decision in *Wehbe v Pittwater Council [2007] NSWLEC* and *Initial Action Pty Limited v Woollahra Municipal Council [2018]*, therefore, compliance with the “height of buildings” development standard is demonstrated to be unreasonable or unnecessary and the requirements of clause 4.6(3)(a) have been met on this way alone.*
- *The proposal would therefore result in a better planning outcome than if compliance were to be achieved, as it provides a development that meets the objective of the standard, while improving the amenity of surrounding dwellings and public domain, as desired by the Council's Urban Design referral.*

Assessing Officer comment:

It is agreed that the applicant has satisfied the matters in Clause 4.6(3) of the RLEP 2014.

**4. The proposed development is in the public interest**

The applicant has provided the following reasons as to why the development is in the public interest:

*“...the objectives of the development standard are achieved notwithstanding the variation of the development standard as required by Clause 4.6(4)(a)(ii).*

*The table below considers whether the proposal is also consistent with the objectives of the B6 zone.*

<b>Objective</b>	<b>Consistency</b>
<i>To promote businesses along main roads and to encourage a mix of compatible uses.</i>	<i>The proposal includes commercial tenancies, each fronting Victoria Road. These will facilitate a mix of businesses along the main road, compatible with the residential units above and adjoining properties.</i>
<i>To provide a range of employment uses (including business, office, retail and light industrial uses).</i>	<i>The end users of the proposed commercial tenancies will be subject to future DAs for the detailed fit out of these spaces. However, due to the variations in size and layout, it is anticipated that a range of employment uses will be provided.</i>

**ITEM 1 (continued)**

<i>To maintain the economic strength of centres by limiting retailing activity.</i>	<i>The end users of the proposed commercial tenancies will be subject to future DAs for the detailed fit out of these spaces. However, due to the variation in size and layout it is anticipated that a range of employment uses will be provided, in effect limiting the provision of retailing activity through the diversity of options for the use of these tenancies.</i>
<i>To provide for residential uses, but only as part of a mixed use development.</i>	<i>The mixed use development incorporates 32 residential units above commercial tenancies.</i>
<i>To promote sustainable development, including public transport use, living and working environments.</i>	<i>The proposal is conveniently located in close proximity to public transport which connects residents to employment centres and vice versa. Additionally, the proposed DA is accompanied by BASIX and Section J Assessments, providing a comprehensive assessment of environmental sustainability. For detail, reference should be made to these assessments.</i>

Assessing Officer comment:

The reasoning provided by the applicant demonstrates that the proposal is consistent with the B6 zone objectives. It is agreed that the development is in the public interest.

*Is the objection well founded?*

The proposed variation to the building height development standard is considered well founded as:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of the development;
- There are sufficient environmental planning grounds to justify the departure from the standards;
- The development meets the objectives of the standard to be varied (building height) and objectives of the B6 Business Enterprise Corridor zoning of the land;
- The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- The breach does not raise any matter of State or Regional Significance; and
- The development submitted aligns with the desired future character of the area.

**ITEM 1 (continued)**

*Would non-compliance raise any matter of significance for State or Regional planning?*

The departure is not a matter for regional or state environmental planning. The proposal achieves a good urban design outcome and the proposal is not considered to raise any matters of significance for State or Regional planning. Importantly this does not establish any precedents as the non-compliance has been considered acceptable in the merits of the specific circumstances of the site.

*Is there a public benefit of maintaining the Development Standard?*

There is no public benefit of strictly complying with the standard in this particular instance given the departure arises from the specific constraints of the site.

The strict compliance of the development standard would not improve the function of the development, its appearance and or visual impact when viewed from private and public domains.

Maintaining the development standard would not provide any additional public benefit than what is proposed by the development, being the provision of housing in a location close to transport, educational facilities and shops.

**Conclusion**

The proposal seeks to vary the Maximum Building Height permitted under the RLEP 2014 which is considered to be a development standard.

The written request is well founded and has demonstrated that compliance is unreasonable or unnecessary as the objectives of the development standard (the height objectives) and the objectives of the Act are achieved.

The design and layout of the proposal is a good planning outcome which fits in a very constrained site).

The proposed variation will not have adverse impact in regard to the local character. The variation to the development standard is not inconsistent with the intended character of the locality.

Overall, the development provides a better planning outcome for this particular site and also the surrounding area in terms of streetscape compatibility and overshadowing impacts on neighbouring properties.

The benefits described above also demonstrate that compliance with the development standard is unreasonable and unnecessary when considered in the context of the development surrounding the site.

**ITEM 1 (continued)**

Therefore, the development, despite the non-compliance with the development standard, is consistent with the planning and environmental objectives of the control and in this instance, numerical compliance would not contribute to an improved outcome. As such it is considered that a complying development is neither reasonable nor necessary in circumstances of the case.

Furthermore, the proposal does not have unreasonable impacts on surrounding properties for the reasons stated above. Accordingly, there are sufficient environmental planning grounds to justify the contravening the standard.

Clause 4.4 Floor Space Ratio

The FSR for the site is 1.5:1. The proposal will have a gross floor area of 2,693m<sup>2</sup> (FSR of 1.5:1) which complies with this control.

Clause 6.7 Ground floor development on land in Zone B6

Clause 6.7 of the states that:

*Development consent must not be granted for development on the ground floor of a building within Zone B6 Enterprise Corridor if the development would result in any part of the ground floor not being used for business or employment activities, other than any part of that floor used for the purposes of—*

- (a) lobbies for any commercial, residential, serviced apartment or hotel component of the development, or*
- (b) access for fire services, or*
- (c) vehicular access.*

The ground floor of the proposed development comprises of:

- 2 x commercial tenancies
- Access to the commercial tenancies
- Residential lobbies

As such, the ground floor only contains the uses for business activities and residential lobbies, and therefore complies with this clause.

**Other applicable RLEP 2014 provisions**

The table below considers other provisions relevant to the evaluation of this proposal:

**ITEM 1 (continued)**

<b>Provision</b>	<b>Comment</b>
Clause 2.7 Demolition	The proposal seeks demolition of all buildings and structures on site. The submission of this development application is compliant with this clause
Clause 6.2 Earthworks	The proposed development includes excavation for two (2) levels of basement car parking. Council's Senior Development Engineer has reviewed the submitted sediment and erosion control plan and it is considered satisfactory. <b>Conditions 87 &amp; 165</b> have been imposed requiring compliance with the measures proposed in the submitted plan.
Clause 6.4 Stormwater management	Council's Senior Development Engineer has raised no objections to the proposed stormwater management system for the site, subject to engineering conditions. See <b>Conditions 82, 83, 84, 92, 164, 193-195 &amp; 197</b> .
Clause 5.10	Clause 5.10(5) states in respect of development on land within the vicinity of a heritage item, that a consent authority may require a heritage management document to be prepared. In this regard Council's Heritage Advisor has stated that a Heritage Management Document is not required for the proposed development which is in proximity to St Anne's, however the View Analysis as submitted and Heritage Impact Assessment have addressed the potential impacts on the heritage item. In this regard the proposal is considered acceptable in consideration of the RLEP 2014 provisions. See Heritage Advisor referral comments later in this report.

### 5.3 Draft Environmental Planning Instruments

#### Draft Remediation of Land State Environmental Planning Policy

The Draft SEPP is a relevant matter for consideration as it is an environmental planning instrument that has been placed on exhibition. The explanation of Intended Effects accompanying the draft SEPP advises:

*As part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with Councils and industry. A key finding of this preliminary consultation was that although the provisions of SEPP 55 are generally effective, greater clarity is required on the circumstances when development consent is required for remediation work.*

The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of development applications. Refer to conclusions made in relation to SEPP 55.

#### Draft Environment State Environmental Planning Policy

The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways and urban bushland areas. Changes proposed include consolidating SEPPs, which include the following:



**ITEM 1 (continued)**

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site and the adjoining properties do not contain any remnant urban bushland, and as such, State Environmental Planning Policy No. 19 – Bushland in Urban Areas is not applicable to the proposal. Refer to conclusions made in relation to Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

**5.4 Development Control Plans****City of Ryde Development Control Plan 2014 (RDCP 2014)**

The development has been assessed with regard to the following parts of RDCP 2014:

- Part 4.4: Ryde Town Centre
- Part 8.1: Construction Activities.
- Part 8.2: Stormwater Floodplain Management.
- Part 8.3: Driveways.
- Part 9.2: Access for People with Disabilities.
- Part 9.3: Parking Controls.
- Part 9.5: Tree Preservation.

**Part 4.4 – Ryde Town Centre**

The site is located within “Precinct 12 – Commercial Edge South” of Part 4.4 of the Ryde DCP 2014.

***Objectives***

This section of the Ryde DCP 2014 contains a number of controls for the Ryde Town Centre in relation to regional role, sustainable planning and development, public domain, urban form and transport and access. The proposed development is consistent with the principles with particular regard to the following:

- It will enhance employment and residential opportunities within the Ryde Town Centre.
- The development demonstrates design quality and responds appropriately to its location.
- The development will provide a suitable transition between the Town Centre and adjoining residential areas.

The proposal is also considered to suitably satisfy the associated objectives for the Ryde Town Centre.

## ITEM 1 (continued)

### **Public Domain**

#### Pedestrian Access

This section of the DCP requires pedestrian access to be provided on the north western corner of the site. This has not been provided, as pedestrian access is already available through the land adjoining the site to the west (see **Figure 25** below).



**Figure 25:** Photograph of pedestrian access adjoining the site to the west

#### Environmental Management and the Public Domain

The development will not result in overshadowing of identified public domain areas. The building extends to 6 storeys and will be unlikely to generate adverse wind effects on public open space. The design allows for private open space areas to receive summer breezes where possible.

#### Active Frontage

This section of the DCP does not nominate the site as requiring an active frontage. Nevertheless, the proposal incorporates two commercial tenancies at ground level fronting Victoria Road. These will contribute towards activating the Victoria Road streetscape.

#### Public Art

Given the proposal has a Capital Investment Value in excess of \$5m, public art is required to be provided as part of the development.

**ITEM 1 (continued)**

Therefore, **Conditions 66 & 190** are recommended, requiring a Public Art Plan to be provided prior to the issue of the Construction Certificate.

***Residential Amenity***

The controls within this section of the DCP generally do not align with the requirements under the ADG, which have guided the design of the proposed development.

The proposed development has provided sufficient landscape planting and deep soil area to ensure an appropriate level of amenity for the future occupants.

As mentioned earlier in this report, an Acoustic report has been provided by the applicant and assessed by Council, demonstrating that an appropriate level of acoustic amenity can be provided to the occupants of the units, given the proximity to heavy traffic on Victoria Road.

The apartment mix has incorporated 7 studio (21.9%), 18 one bedroom (56.3%), 5 two bedroom (15.6%), 1 three bedroom (3.1%) and 1 four bedroom (3.1%) apartments.

It is noted that this section of the DCP suggests the house mix should sit within the following ranges:

- 3 bedroom – 5% to 35%
- 2 bedroom – 40% to 80%
- 1 bedroom/studio – 5 to 35%

The proposed development does not lie within the suggested ranges for one bedroom, two bedroom apartments. Combining the three and four bedroom apartments results in 6.2%, and therefore complies with this control.

The non-compliance for one and two bedroom units is considered acceptable, as it responds to the current market trends in the area, and is still considered to meet the objectives of both the ADG and the DCP controls.

***Precincts – Specific controls for the site***

Specific controls relating to the site are largely encompassed in **Figure 26** below. The controls also specify that the views must be maintained to and from St Anne's Church.

**ITEM 1 (continued)**



**Figure 26:** Extract of Precinct 12 controls within Part 4.4 of the DCP (red dash shows approximate boundaries of subject site)

As discussed earlier in this report, consideration was given to the specific site constraints in conjunction with the above controls, and the permissible FSR on the site under Ryde LEP 2014, and it was assessed that a superior design outcome could be achieved with alternative controls for the site.

As such, Council's Urban Strategy Department prepared an alternative building envelope that effectively achieve the objectives of the this section of the Ryde DCP 2014, as well as more effectively addressing the site constraints, which include but are not limited to:

- Proximity to the neighbouring residential flat buildings at No. 2-4 and 6 Eagle Street which exacerbates amenity impacts such as privacy, noise and overshadowing
- Sloping landform southwards which increases the potential overshadowing impact
- Noisy main road conditions to the north (Victoria Road)
- Proximity to St Anne's Church and Cemetery

The alternative building envelope plan is shown in **Figures 27, 28** and **29** below.

The key differences between the alternative building envelope plan and the controls within the DCP are summarised below:

**ITEM 1 (continued)**

- The building envelope plan allows for the height to increase to six storeys on the western side of the site and transition down to 5 storeys in the centre of the site to a 15m gap containing a ground floor commercial level only.
- A 4m gap is also required as a through-site link.
- Moving towards the eastern boundary, the building height increases to 5 storeys before transitioning back to 4m to be consistent with the adjoining development at 734-736 Victoria Road.



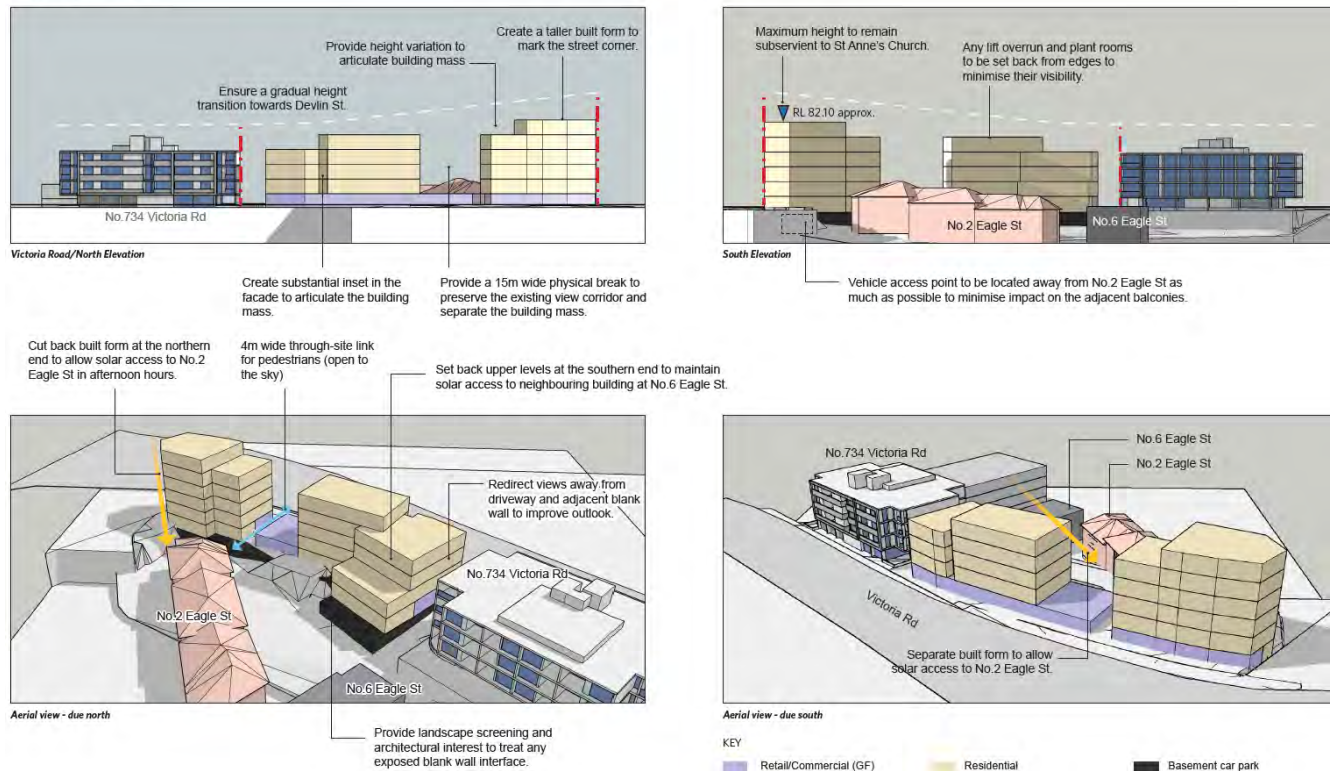
**Figure 27:** Built form strategy prepared by Council – Building setbacks and separation



**Figure 28:** Built form strategy prepared by Council – Building scale

## ITEM 1 (continued)

### Key Design Principles



**Figure 29:** Built form strategy prepared by Council – Key Design Principles

The alternative controls improve the design outcome as follows:

- Views to and from St Anne's Church are maintained given the 15m gap provided between the two towers.
- The variation in building height more effectively articulates building mass and ensures a gradual height transition towards Devlin Street.
- Improves outlook of future occupants.
- Building height remains subservient to St Anne's Church ensuring the heritage significance is maintained.
- Ensure overshadowing and privacy impact to adjoining properties is mitigated, with particular regard to No. 2-4 and No. 6 Eagle Street.

The proposed development (as amended) complies with the alternative building envelope plan with the following exceptions:

### *4m gap at the ground floor*

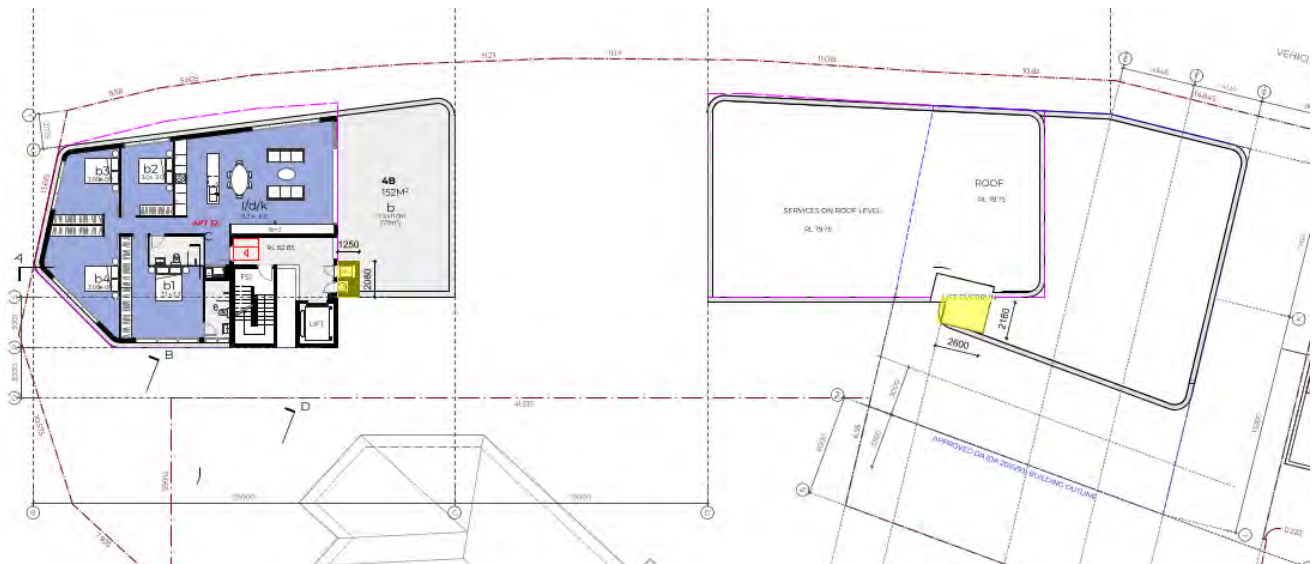
The proposal does not provide a gap at the ground floor that is open to the sky. Instead, the ground floor continues across the gap between the towers. This is considered acceptable for the following reasons:

### ITEM 1 (continued)

- The continuation allows for architectural flow.
- This section of the ground floor has glass fronting Victoria Road, and allows for views through to the rear of the site.
- The continuation at the ground level does not have any adverse impact on the view corridor or solar access to adjoining buildings.

### *Lift overrun exceeding building height*

There are two variations on the upper levels of the proposed development that result from the location of the core functions in the basement which cannot be relocated. These areas are shown in yellow in **Figure 30** below.



**Figure 30:** Variation to building envelope plan shown in yellow

The variation to Level 4 is for an area of 2.6m x 2.18m on the eastern tower for the lift well. This continues to Level 5 for the lift overrun. The lift cannot be relocated without having a major impact on the vehicular circulation space and fire stair in the basement levels.

The variation to the western tower on Level 5 is for an area of 2.08m x 1.25m for the waste garbage chutes. These too cannot be relocated without having a major impact on the lift, waste room and fire stair, due to the circulation space required for parking and the ramp access to the west of that tower.

These variations are acceptable for the following reasons:

- They do not result in any additional overshadowing to the adjoining properties to the south.
- They are “tucked behind” the main building elements, do not contribute significantly to overshadowing, and do not impede view corridors or adversely impact the streetscape.

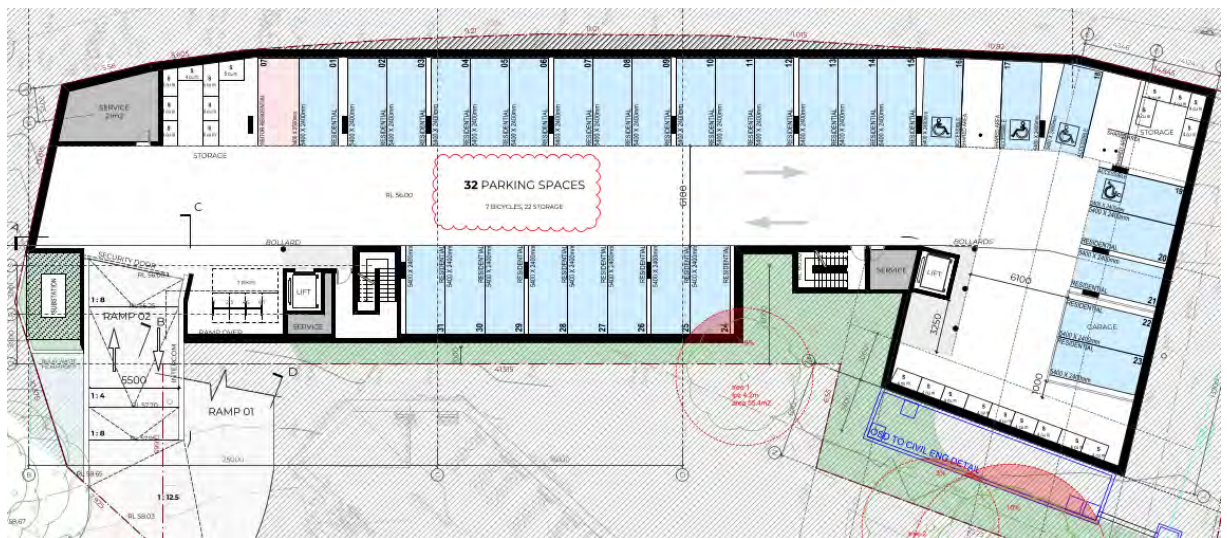
**ITEM 1 (continued)**  
**Part 9.3 – Parking Controls**

*Car Parking*

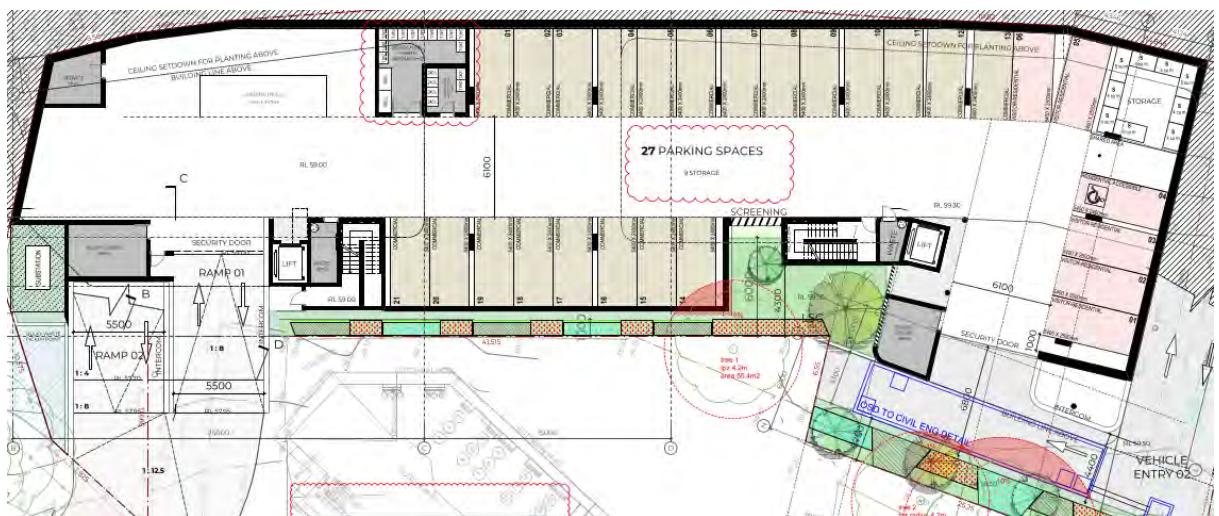
The following parking rates are applicable to residential development under the RDCP 2014.

- 0.6 to 1 space per one bedroom dwelling;
- 0.9 to 1.2 spaces per two bedroom dwelling;
- 1.4 to 1.6 spaces per three bedroom dwelling; and
- 1 visitor space per 5 dwellings.
- 1 space per 25m<sup>2</sup> commercial floor space

Figure 31 and 32 below shows the revised parking layout.



**Figure 31:** Parking layout within basement level 2



**Figure 32:** Parking layout within basement level 1



## ITEM 1 (continued)

An assessment of the above parking rates to the proposed development is below:

Apartment Type	Minimum	Max	Provided	Compliance
1 bedroom (25)*	15	25	31 spaces	Yes
2 bedroom (5)	4.5	6		
3 bedroom (2)*	2.8	3.2		
<b>Sub-total</b>	<b>22.3 (24)</b>	<b>34.2 (35)</b>	<b>31 spaces</b>	<b>Yes</b>
Commercial	1 space per 25m <sup>2</sup> = 19		<b>21 spaces</b>	<b>Yes</b>
Visitor	7 spaces		7 spaces	Yes
<b>Total</b>	<b>59 spaces</b>		<b>59 spaces</b>	<b>Yes</b>

\*The rate of a three bedroom unit is applied for the four bedroom unit in the absence of a specific parking rate in the RDCP 2014. The rate of a one bedroom unit is also applied in the absence of studio parking rate.

### Part 7.2 Waste Minimisation and Management

The development involves the demolition of existing structures and construction of a residential flat building, the applicant has submitted a Waste Management Plan (WMP). The WMP has been reviewed by Council's Waste Officer and is considered satisfactory.

Council's Officers have considered the collection of waste, with a garbage room in the basement.

## 5.5 Planning Agreements OR Draft Planning Agreements

There are no planning agreements or draft planning agreements for this development.

## 6. Section 7.11 Development Contributions Plan 2007 (Amendment 2010)

Council's current Section 7.11 Development Contributions Plan 2007 (Interim Update (2014) effective 1 May 2018 requires a contribution for the provision of various additional services required as a result of increased development density.

The contribution that would be payable (subject to approval) with respect to the increased floor area on the subject site (being for non-residential development outside the Macquarie Park Area) are as follows:

**ITEM 1 (continued)**

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$124,405.80
Open Space & Recreation Facilities	\$214,220.90
Traffic Management facilities	\$65,765.06
Plan Administration	\$6,065.79
<b>The total contribution is</b>	<b>\$410,457.55</b>

On 3 July 2020, the Department of Planning, Industry and Environment (DPIE) released a Planning Circular in accordance with a Ministerial Direction with respect to a deferral of payment for development contributions with a cost of development greater than \$10 million.

This deferral allows the relevant contributions to be paid prior to the issue of an occupation certificate, rather than needing to be paid prior to the issue of a Construction Certificate. However, a Construction Certificate must be issued prior to 22 September 2022 to take advantage of the deferred payment.

This is applicable to the proposed development, and has been applied by a condition of consent (see **Condition 65**)

## 7. The likely impacts of the development

Most of the impacts associated with the proposed development have already been addressed in the report. The additional impacts associated with the development or those requiring further consideration are discussed below.

### Built Form

The development is consistent with the built form objectives envisaged for the area, despite non-compliances with the controls within the Ryde DCP 2014. Through careful consideration, it provides a suitable bulk and scale for a development of this size, and provides a considerable contribution to additional housing in the area in a high-quality architectural design.

### Heritage

The proposed development does not diminish the heritage significance of St Anne's Church, as it remains subservient in height to the church, and still allows for views to and from the heritage item towards the Parramatta River.

### Access and Traffic

The existing access to the site from Victoria Road, which is shared with the adjoining property to the east, provides appropriate access (entry only) off Victoria Road to the basement parking. Suitable ingress/egress to this parking is also provided via Eagle Street.

**ITEM 1 (continued)**

Council's Traffic Engineer has advised the proposed development is anticipated to generate up to 20 peak hour vehicle trips to/from the site. This additional traffic represents one (1) vehicle movement every three (3) minutes. Such a level of traffic generation is not anticipated to alter the current level of service experienced by motorists within the adjoining local road network.

Accordingly, from a traffic perspective the development will not result in any unacceptable traffic implications to the road network.

**Visual Privacy**

Whilst the proposal does not comply with building separation in accordance with the ADG requirement, the proposal minimise overlooking by orientating main living room windows and balconies away from the eastern elevation.

Any windows orientated towards the east (No. 734-736 Victoria Road) are bedroom windows. The communal open space on the eastern tower rooftop does not permit overlooking, giving the planter boxes/landscaping on the edge of this area. The balcony of Apartment 30 does not pose views into the adjoining development at No. 734-736 Victoria Road, given the window placement of the adjoining development and the privacy screens provided on the balconies on the adjoining development.

As such, any views into either the adjoining residential properties are mitigated.

**8. Suitability of the site for the development**

The proposed development is considered to be a suitable development for the site, being permissible in the zone.

The proposed development ensures that the heritage significance of St Anne's Church is preserved through considered building design. The development is consistent with the existing and desired future character of the area.

It responds appropriately to the significant constraints applicable to the site, as detailed earlier in this report.

**9. The Public Interest**

The public interest is best served by the consistent application of the requirements of relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised. The proposal has been assessed against the relevant planning instruments and is considered to be acceptable. The proposal seeks variation to Clause 4.3 and has been supported by a satisfactory Clause 4.6 written variation. The proposal does not result in any adverse impacts upon adjoining properties or the streetscape. On this City of Ryde Local Planning Panel - 10 September 2020

**ITEM 1 (continued)**

basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

**Objects of EP&A Act**

Section 1.3 of the EP & A Act contains the following relevant objects:

1.3 Objects of Act (cf previous s 5)

- (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,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (g) to promote good design and amenity of the built environment,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

The proposal achieves the objectives. The proposed dwelling provides for an appropriate built form which is responsive to the site constraints and has been designed in response to the site's topography. The proposal is consistent with relevant Objects of the Act.

**10. Submissions**

The proposal has been amended several times since the application was lodged, and notified through three separate public notification periods, as outlined below.

In accordance with Council's Community Participation Plan, the most recently amended plans were not required to be renotified, given they reduce the impact on adjoining properties.

**Public Notification Period No. 1**

The application was advertised in the Northern District Times on 11 April 2018 and notified between the period of 9 April 2020 and 2 May 2018.

During this notification period, Council received eight (8) submissions (including one submission on behalf of the Strata Committee of No. 2 – 4 Eagle Street) objecting to the proposal and raised concern with respect to the following issues, which are addressed below:

- *Impact on character of St Anne's Church*

## ITEM 1 (continued)

### Assessing officer comment:

The original plans submitted did not provide a gap to allow for views to and from St Anne's Church, and the bulk of the building was assessed as competing with the heritage item.

The amended plans have improved the design to ensure the heritage significance of St Anne's is not diminished as a result of the proposal.

As such, the amended design has resolved this concern.

- *Impact on trees on adjoining land to west of site*

A concern was raised that the proposal would have an adverse impact on the trees adjoining the site to the west.

### Assessing officer comment:

An amended arborist report has been prepared with submission of the amended plans received on 14 July 2020 that addressed the trees within proximity of the proposed development. The location of the trees within the adjoining reserve are shown in **Figure 33** below.



**Figure 33:** Location of trees within adjoining reserve to west

**ITEM 1 (continued)**

These trees include lemon scented gum trees and Moreton Bay Fig trees. Subject to recommendations within the arborist report and conditions of consent (see **Conditions 61-63, 150-160 & 162**), these trees are capable of being retained.

- *Request for a dilapidation report for No. 2 Eagle Street*

Assessing Officer comment:

A condition of consent requiring a dilapidation report for the adjoining properties has been included in the recommended conditions of consent (see **Condition 86 & 188**).

- *Overshadowing of No. 2 Eagle Street*

Assessing officer comment:

The concerns raised with respect to the overshadowing of No. 2 Eagle Street were concurred with by Council in relation to the plans originally submitted. The amended plans provided on 14 July 2020 have improved solar access to both No. 2-4 Eagle Street and No. 6 Eagle Street. This is discussed further in the third public notification section below.

- *No owners consent provided for use of the driveway/right of way*

Assessing officer comment:

Given the proposed access from Eagle Street requires improvements and access through the existing right of way on No. 2-4 Eagle Street, owner's consent is required to issue development consent.

This consent has since been provided, resolving this issue.

- *Adverse amenity impact for No. 2-4 Eagle Street given close proximity of proposed building*

Assessing officer comment:

The proposed development has undergone significant redesign in order to mitigate the impact on the adjoining properties. This includes the following amendments:

- Increasing the rear setback
- Orientating balconies away from the adjoining units at No. 2-4 Eagle Street and No. 6 Eagle Street
- Providing landscape screening along the rear boundary to screen the basement
- Reducing the bulk of the building to mitigate overshadowing impact

**ITEM 1 (continued)**

- Increase in traffic generation for Eagle Street

Assessing officer comment:

Council’s Traffic Engineer has advised the proposed development is anticipated to generate up to 20 peak hour vehicle trips to/from the site. This additional traffic represents one (1) vehicle movement every three (3) minutes. Such a level of traffic generation is not anticipated to alter the current level of service experienced by motorists within the adjoining local road network.

Public Notification Period No. 2

Amended plans were received on 14 May 2019 and notified between 27 June 2019 and 15 July 2019.

One submission was received on behalf of the Strata Committee of No. 2 – 4 Eagle Street, and raised the following concerns which are addressed below:

- Deficiencies in documentation, including no shadow diagrams

Assessing officer comment:

This concern was concurred with, and additional information was requested during the course of the assessment of the proposal.

Sufficient information was provided with the amended plans received, and this issue has been resolved.

- Request for landscape screening at rear of site to improve amenity for No. 2-4 Eagle Street

Assessing officer comment:

Increased landscaping has been provided along the rear boundary in order to improve amenity for No. 2-4 Eagle Street, as shown in **Figure 34** below.



**Figure 34:** Extract from landscape plan showing screening along rear boundary

**ITEM 1 (continued)**

- *Basement ventilation and the impact of the position of these vents on No. 2-4 Eagle Street*

The applicant has removed the vents concerned in the amended plans, with the exception of one set of louvres on Basement Level 1. A mechanical engineer has provided written confirmation that this opening can be deleted, and ventilation can be provided as follows:

- Exhaust System: Mechanical Exhaust system to be discharged via a riser to roof to serve Basement 1 & 2
- Free Natural Intake: Free Intake to be via perforated roller doors. Roller doors are adequate to provide free intake to serve the Carpark Exhaust System for the 2 basements.

A condition of consent (see **Condition 1a**) has been imposed that the louvres/vent on Basement Level 1 be deleted.

Public Notification Period No. 3

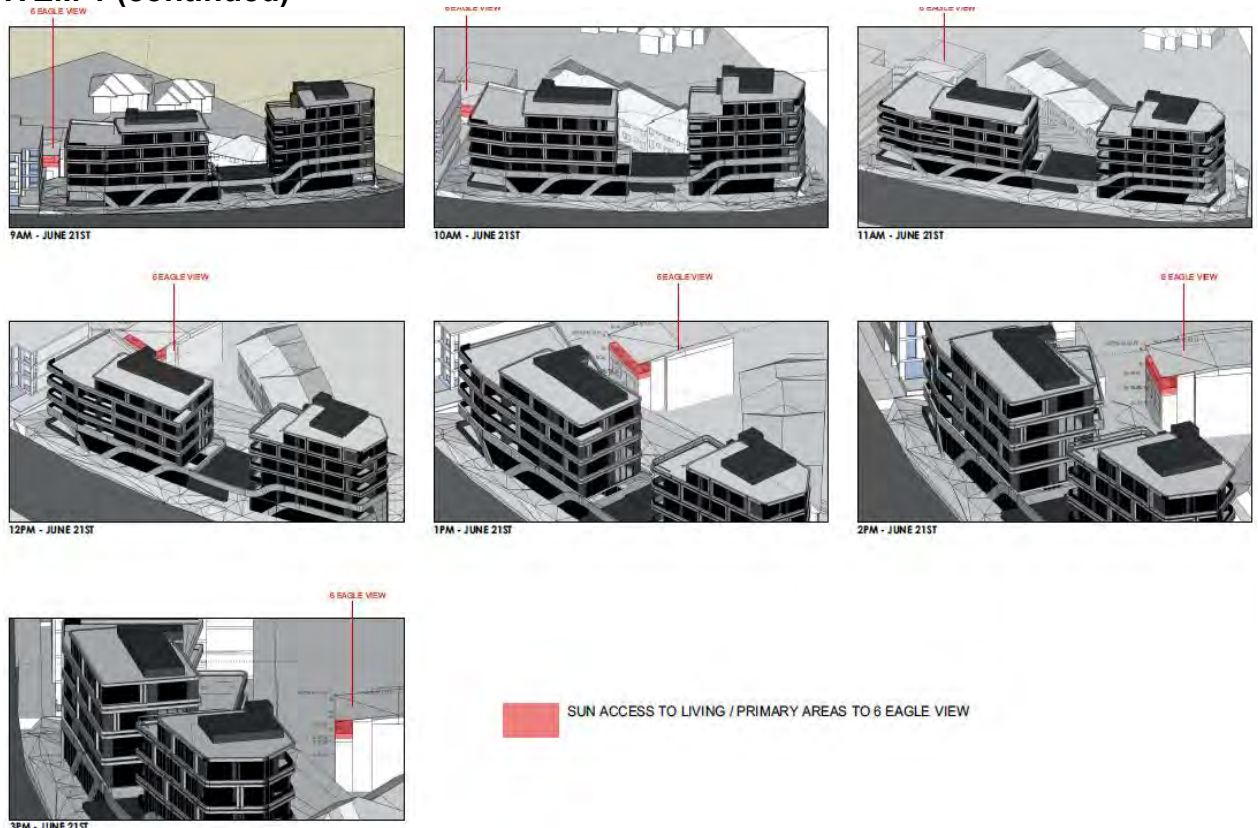
Amended plans were received on 7 February 2020 and notified between 25 February 2020 and 13 March 2020.

One submission was received in response to the amended plans and raised concerns with the overshadowing of No. 2-4 Eagle Street. No other concerns were raised in this submission.

The amended plans received on 14 July 2020 reduced the overshadowing to the adjoining property, which is now compliant with the ADG controls and considered to provide a sufficient amount of solar access to adjoining properties.



**ITEM 1 (continued)**



**Figure 35:** View from the sun diagram showing overshadowing to No. 2-4 and 6 Eagle Street

A minimum of 2 hours sunlight is provided to the living room and balconies of the adjoining properties at No. 2-4 and No. 6 Eagle Street.

Therefore, the amended proposal is considered to have responded to the concerns raised in the submissions received throughout the assessment of the application.

**11. Referrals**

**Note:** Given the extensive history of this application, only the most recent comments have been provided below:

**Transport for NSW (TfNSW):** The application was referred to TfNSW under the Infrastructure SEPP, and the following comments have been provided:

*Reference is made to Council's correspondence dated 19 July 2019, regarding the abovementioned Application which was referred to Roads and Maritime Services (Roads and Maritime) for comments in accordance with State Environmental Planning Policy (Infrastructure ) 2007.*

*Roads and Maritime has reviewed the submitted information and noted that exit from the basement car-park to the access easement towards Victoria Road would be restricted by security door and with a mechanism to enable*  
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**ITEM 1 (continued)**

*cars prevent to exit through this door. All exit from the site would be via Eagle Street which is a Local Road.*

TfNSW have imposed **Conditions 44, 45, 110-113, 145 & 146.**

**Urban Design**

As discussed earlier in this report, Council's Urban Designer has provided an amended building envelope plan and has reviewed the plans in lieu of an additional Urban Design Review Panel meeting.

The comments provided by Council's Urban Designer are below:

*The proposal has responded satisfactorily to most of the issues in relation to overshadowing, lobby and landscape design that were raised in the previous round of assessment. I only have some minor comments as follows:*

*The amended proposal has added a prominent building address above the front main entry. Whilst this enhances the identity of the building, it is of little help to first-time visitors to identify the vehicle entry. Wayfinding is particularly important for motorists visiting this site because once they have travelled pass the driveway on Victoria Road, it will take a significant detour to return to the site via Morrison Road and Gladstone Avenue. Therefore, it is recommended that additional signage be provided adjacent to the driveway to assist motorists in identifying the vehicle entry. They may be in the form of a low building sign in the garden bed.*

Council's Urban Designer has suggested this can be resolved by condition of consent that additional wayfinding signage is provided (see **Condition 1b**).

**Heritage Advisor**

Council's Heritage Advisor has reviewed the amended proposal and provided the following comments:

*Amended plans have been received, which involve various design amendments to address previous planning and heritage issues.*

*The design revisions essentially reduce the silhouette of the building so that it sits within the approved building envelope for the site, whereby having closer conformance to Council's established 'line in the sand' in terms of the acceptable scale of any future built form for the subject site.*

*The reduction in the silhouette of the building by removing floor area and height to the upper levels, will visually improve the backdrop to the St Anne's Church site, by reducing the overall sense of building height, bulk and scale.*

**ITEM 1 (continued)**

*However, the plans now detail the infill of the ground floor courtyard area that separates the two tower structures, which under the previous scheme, was open, allowing visual permeability through the site and contributing to maintaining sight-lines over and through the site to mitigate view loss impacts from the St Anne's Church site.*

*The infill of this space will eliminate the lower level views across the site and is not supported. As per the previous heritage referral response, the ground floor and lower levels of the building are the most critical in terms of ensuring the protection of significant views across the site.*

*Subject to conditions to return this space between the two tower structures to an open courtyard, and additional conditions to address other matters, the proposal can be supported on heritage grounds.*

**Assessing officer comment:**

It is noted that Council's Heritage Advisor has raised concern with the ground floor component between the two tower components of the building being enclosed. Council's Heritage Advisor recommended a condition of consent that the enclosure to this area be deleted.

This condition has not been adopted for the following reasons:

- The façade for this section of the building is glass, and will still have a level of visibility through to the rear of the site. This section of the ground floor is open at the rear.
- Views from St Anne's towards the Parramatta River are still maintained despite the enclosed section of the ground floor at the front of the site.

As such, the proposal is considered acceptable with respect to the heritage impact in its current form.

**Development Engineer**

A referral was made to Council's Senior Development Engineer, and the following comments have been made:

**Background**

*The following report is in consideration to the previous Development Engineering issues raised in the report dated 23 April 2020 and the subsequent information submitted in response from the applicant dated 9 July 2020.*

*The issues noted in the previous review are as follows (in red);*

**ITEM 1 (continued)**

- **Stormwater Management** – *The stormwater plan, completed by Sparks & Partners Pty Ltd, drawing number 17263 DA1.01, DA2.01, DA4.01, DA4.02, DA4.05, DA4.10, and DA4.11, dated 6<sup>th</sup> December 2019, have been reviewed and is found to not comply with the requirements of Part 8.2 of Council's DCP as insufficient information is shown on the submitted plans. The Applicant must submit revised plans in accordance with the requirements of Section 3 of Part 8.2: Stormwater Management Technical Manual of Council's DCP. In addition the following is noted;*
  - *The plans are essentially in regards to the OSD system. The stormwater plans must consider the whole site to ensure runoff is appropriately discharged.*
  - *Details concerning any basement pump system,*
  - *Pipe and pit sizes,*
  - *Pipe grades, and*
  - *Invert and surface levels of all pits.*

*The updated Civil Plans depict the surface drainage system (at ground level), pump-sump details and the onsite detention details.*

*A review of the system and architectural plans notes the majority of hardstand is directed to the onsite detention system. It is unclear if the downstream boundary is bunded (solid fence base) so as to direct overland flow to the detention storage, however this is a matter which can be conditioned.*

- **Access from Victoria Road** – *As requested within the first RFI, the history of the site entails a previously approved DA (LDA2016/93) and Right of Carriageway (ROC) benefiting the neighbouring lot. As a result the gradient at the bottom of the access ramp must match the existing levels. A longitudinal section(s) along the worst case outer edge of the access and parking facilities of the proposed development and the existing development at 734 Victoria Road, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the requirements of AS2890.1 and AS2890.2, in particular the ground clearance for all vehicles utilising the vehicular access. No information has been provided addressing this matter.*

*The driveway ramp grades are unfortunately fixed due to the presence of the neighbouring development at 734 Victoria Road. During the assessment of the neighbouring development application, it was identified that the proposed driveway grades were non-compliant with the Australian Standard. The driveway happens to be located on the property of 744 Victoria Road and therefore the applicant of 734 Victoria Road sought to obtain owners consent for modification of the driveway. The owner of 744 Victoria Road at the time denied this. Consequently, the applicant of 734 Victoria Road undertook a road safety audit prepared by an accredited Traffic Engineer which determined the driveway grades acceptable and the application was approved with the levels being maintained. Accordingly, there is no opportunity to alter the driveway levels as they are linked to the grades within 734 Victoria Road. Whilst the outcome is unfortunate, the proposed development seeks only to enter from Victoria Road and*

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**ITEM 1 (continued)**

*whilst not an ideal configuration, the entry manoeuvre poses significantly less risk with respect to traffic and pedestrian safety, will reduce the current level of vehicles exiting the site at this point and is therefore considered acceptable.*

- **Vehicular Separation** – *It is recommended that the commercial and residential parking spaces have some form of physical separation to prevent any misuse of the spaces. The architectural plans depict the commercial spaces in between the residential and residential visitor spaces which should be avoided*

*The revised plans have depicted the separation of spaces between the two levels and this matter has been addressed.*

Other Matters

*The provided swept path diagrams have analysed the service vehicle loading area utilising a 7.67m long truck. This is short of the MRV design vehicle specified by AS 2890.2 which is 8.80m long. Despite this, the consultant has utilised a 500 mm outer swept path clearance and therefore there is scope that a larger vehicle could adequately manoeuvre in the area. It would be prudent to clarify with Councils Waste section whether they are satisfied with the configuration and that the nominated truck size used in the swept path analysis correlates with the vehicle they intend using to service the site.*

*The development yields the following parking requirements;*

Apartment Type	Minimum	Max	Provided	Compliance
1 bedroom (25)*	15	25	31 spaces	Yes
2 bedroom (5)	4.5	6		
3 bedroom (2)*	2.8	3.2		
<b>Sub-total</b>	<b>22.3 (24)</b>	<b>34.2 (35)</b>	<b>31 spaces</b>	<b>Yes</b>
Commercial	1 space per 25m <sup>2</sup> = 19		<b>21 spaces</b>	<b>Yes</b>
Visitor	7 spaces		7 spaces	Yes
<b>Total</b>	<b>59 spaces</b>		<b>59 spaces</b>	<b>Yes</b>

Conditions of consent imposed by Council's Senior Development Engineer include **Conditions 15, 19, 23, 81-87, 164, 165, 193-195, 197, 228 & 229.**

A deferred commencement condition has also been imposed that the proposed Right of Access within No. 2-4 Eagle Street be registered prior to the activation of the consent.

**City Works (Stormwater and Catchments)**

**ITEM 1 (continued)**

No objections subject to conditions of consent (see **Conditions 88-94, 123-125, 167, 168, 200-206**).

**City Works (Waste)**

No objections subject to conditions of consent (see **Conditions 39-42, 107, 108, 134-137, 222, 224, 225, 226, 232-239**).

**City Works (Public Domain)**

No objections subject to conditions of consent (see **Conditions 29-31, 96-101, 169 & 212-221**).

**City Works (Traffic)**

A referral was made to Council's Traffic Engineer, and the following comments have been made. No objections have been raised subject to conditions of consent (see **Condition 24, 25, 131, 132, 133, 199, 207-211, 223 & 230**).

*Transport for NSW' (TfNSW) Guide to Traffic Generating Developments specifies the following peak hour traffic generation rates pertinent to the proposed land uses:*

*High Density Residential Development (Metropolitan Sub-Regional Centres)*

*Peak Hour Vehicle Trips = 0.29 trips per unit*

*Commercial/Office*

*Peak Hour Vehicle Trips = 2 trips per 100m<sup>2</sup> GFA*

*Based on the above traffic generation rates, the proposed development is anticipated to generate up to 20 peak hour vehicle trips to/from the site. This additional traffic represents one (1) vehicle movement every three (3) minutes. Such a level of traffic generation is not anticipated to alter the current level of service experienced by motorists within the adjoining local road network.*

***Service Arrangement***

*General waste collection for the proposed development is to be undertaken within the internal loading area within the first basement level, with the largest vehicle expected to be serviced on-site being Council's 7.86m long refuse collection vehicle. The swept path assessment prepared by TTPA demonstrated that Council's 7.86m long refuse collection vehicle is capable of entering, manoeuvring and exiting the site in a forward direction without any encroachment on adjoining public and private infrastructure.*

*Bulky waste collection will be undertaken by Council's 10.8m long refuse collection vehicle from the site's Eagle Street frontage due to the physical constraints of the site being incapable of supporting such vehicles internally. The swept path assessment prepared by TTPA indicated that the occupation of the kerb space adjacent to the site frontage by Council's garbage truck will reduce the available carriageway width within Eagle Street in the immediate vicinity of the site to support two-way traffic flow.*

**ITEM 1 (continued)**

*Further, the site is fronting a curved section of Eagle Street, which somewhat impedes the sightline of a vehicle approaching the curve from Wandoo Avenue. The parking along the southern side of Eagle Street and the tree within the southern Eagle Street road reserve have also been observed to affect the sightline of an approaching vehicle from Wandoo Avenue.*

*It is understood that an alternative location for bulky waste collection is not possible. In order to mitigate the risks associated with the traffic safety issues identified above in relation to the proposed bulky waste collection arrangement, a number of Consent Conditions have been recommended in the subsequent sections of this Assessment report.*

**Landscape Architect**

No issues have been raised by Council's Landscape Architect subject to conditions of consent (see **Conditions 61-63 & 150-160**).

**Environmental Health Officer**

A referral was made to Council's Environmental Health Officer. No issues have been raised subject to conditions of consent (see **Conditions 32-38, 43, 49, 76, 103-105, 177, 182, 186, & 231**).

**Tree Management Officer**

A referral was made to Council's Tree Management Officer to consider the impact of the development on the street trees on Eagle Street. No issues have been raised subject to conditions of consent (see **Conditions 162**).

**12. Conclusion**

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979, the development application is recommended for refusal 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.

**ITEM 1 (continued)**

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).

**13. Recommendation**

Pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, the following is recommended:

A. That the Local Planning Panel grant deferred development consent to the development application LDA2018/0117 for the demolition of existing structures and construction of an up to 6 storey mixed use and residential development at No. 744 Victoria Road and No. 2a Eagle Street, Ryde subject to conditions of consent in Attachment 1 of this report; and

B. Those that have made a submission be advised of the decision.

**ATTACHMENTS**

- 1 Draft Conditions of Consent
- 2 Clause 4.6 Variation Request
- 3 Alternative Building Envelope Plan
- 4 Amended A3 Plans - subject to copyright provisions

Report Prepared By:

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**Liz Coad**  
**Director - City Planning and Environment**



## **DEFERRED COMMENCEMENT**

The following are the Deferred Commencement condition(s) imposed pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979.

(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 4m<sup>2</sup>
  - 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 condition (A) (1) 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 condition (A) (1) above has been satisfied; and

Upon Council giving written notification to the Applicant that deferred commencement consent condition (A) (1) above has been satisfied, the development

consent will become operative from the date of that written notification, subject to the following conditions of consent:

The conditions in the following sections of this consent shall apply upon satisfactory compliance with the above requirements and receipt of appropriate written confirmation from Council.

## GENERAL

The following conditions of consent included in this Part identify the requirements, terms and limitations imposed on this development.

1. **Approved Plans/Documents.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

Document Description	Date	Plan No/Reference
Site Plan/Roof Plan	20.08.2020	16095, DA100, Rev D
Basement Level 02	20.08.2020	16095, DA101, Rev D
Basement Level 01	20.08.2020	16095, DA102, Rev D
Ground Floor Plan	20.08.2020	16095, DA103, Rev D
Level 01	20.08.2020	16095, DA104, Rev D
Level 02	20.08.2020	16095, DA105, Rev D
Level 03	20.08.2020	16095, DA106, Rev D
Level 04	20.08.2020	16095, DA107, Rev D
Level 05	20.08.2020	16095, DA108, Rev D
Section AA	20.08.2020	16095, DA200, Rev D
Driveways Sections	20.08.2020	16095, DA200a, Rev D
North and Street Elevation	20.08.2020	16095, DA201, Rev D
East and West Elevation	20.08.2020	16095, DA202, Rev D
South Elevation	20.08.2020	16095, DA203, Rev D
Materials and Finishes	20.08.2020	16095, DA204, Rev D
Adaptable Apartment Plans	20.08.2020	16095, DA303, Rev D
Landscape Plan – 01	30.06.2020	DA-L101, Rev E
Landscape Plan – 02	30.06.2020	DA-L102, Rev E
Landscape Plan – 03	30.06.2020	DA-L103, Rev E
Landscape Public Domain Plan	30.06.2020	PD-101, Rev B
Waste Management Plan prepared by Dickens Solutions	June 2020	Version 4
Acoustic Report	06.11.2019	20191331.1, Rev 0
Detailed Site Investigation	22.01.2020	E24505.E02_ Rev 1
Arboricultural Impact Assessment	15.10.2019	-
Arboricultural Impact Assessment – Addendum	30.06.2020	-
Erosion and Sediment Control Plan	01.07.2020	17263, DA2.01, Rev 8
Stormwater Management Plan – Basement 1	03.07.2020	17263, DA4.01, Rev 10
Stormwater Management Plan – Basement 2	01.07.2020	17263, DA4.02, Rev 9
Stormwater Management Plan – Ground	01.07.2020	17263, DA4.03, Rev 1
Stormwater Catchment Plan	01.07.2020	17263, DA4.05, Rev 7
Stormwater Management Details	01.07.2020	17263, DA4.10 and DA4.11, Rev 7

Sitework Plan Eagle Street frontage	03.07.2020	17263, DA5.01, Rev 5
Siteworks Plan Victoria Road frontage	03.07.2020	17263, DA5.02, Rev 6
Sections	03.07.2020	17263, DA5.11, Rev 6

Prior to the issue of a **Construction Certificate**, the following amendments shall be made (as marked in red on the approved plans):

- (a) The louvre/vent on Basement Level 1 is to be deleted.
- (b) A building address sign is to be provided adjacent to the vehicle entry off Victoria Road at the north-eastern corner of the building visible to motorists. The sign is to be integrated with the design of the garden bed or with the façade on the external wall.

The Development must be carried out in accordance with the amended plans approved under this condition.

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) required under Deferred Commencement Condition 2.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - Protect and support the adjoining premises from possible damage from the excavation, and
  - Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Signage – not approved unless shown on plans.** This consent does not authorise the erection of any signs or advertising structures not indicated on the approved plans or within Condition 1(b). Separate approval must be obtained from Council for any additional signs, unless such signage is “exempt development”.
6. **Security Grilles.** This consent does not authorise the erection of any security grilles or barriers on the shopfront. Separate approval must be obtained for any such works.
7. **Site Maintenance.** For the period the site remains vacant of any development the subject of this consent, the site is to be regularly maintained in a tidy manner such that it does not become overgrown with weeds or become a repository for the leaving or dumping of waste.

8. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
9. **Hoardings.**
  - A hoarding or fence must be erected between the work site and any adjoining public place.
  - An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
  - Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
10. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
11. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
12. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
13. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
14. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.
15. **Stormwater disposal.** Stormwater runoff from all impervious areas of the site is to be collected and piped to the existing or new underground stormwater drainage system in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
16. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's 2014 DCP 2014 Part 8.5 (*Public Domain Works*), except otherwise as amended by conditions of this consent.

17. **Service Alterations.** All services or utilities required to be altered in order to complete the development works are to be undertaken in accordance with the requirements of the relevant service provider (eg Telstra, Jemena, Ausgrid, etc), with all costs associated with this alteration to be borne by the applicant.
18. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
19. **Road Opening Permit.** In accordance with the requirements of the Roads Act, the applicant must obtain consent (*Road opening Permit*) from Council prior to any excavation being undertaken in the road reserve (this includes verge and public footpath areas). No works shall be carried out in the road reserve without this permit being paid and a copy kept on the site.
20. **Design and Construction Standards.** All engineering detailed design plans and associated drainage works shall be carried out in accordance with the requirements of the relevant Australian Standards and Council's DCP Part 8.2. Detailed design of all proposed Council Infrastructure works or proposed modification to Council infrastructure which may be located inside the property boundary, must be approved by Council City Works Directorate and undertaken in accordance with Council's 2014 DCP Part 8.2 and relevant Australian Standards, except otherwise as amended by conditions of this consent.
21. **Public areas and restoration works.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council's standards and specifications, and DCP 2014 Part 8.5 Public Civil Works, to the satisfaction of Council.
22. **Utility Services.** The applicant shall undertake and bear all costs associated with the liaison, approval and relocation of any utility services. All correspondence and approvals between the Applicant and utility authorities shall be provided to the Council in conjunction with engineering documentation for the stormwater drainage works prior to commencement of construction.
23. **Traffic Management.** Traffic management procedures and systems must be in place and practised during the construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 - 2009 and City of Ryde, Development Control Plan 2014: - Part 8.1; Construction Activities.

24. **Construction Traffic & Pedestrian Management Plan.** A Construction Traffic & Pedestrian Management Plan (CTPMP) including Traffic Control Plan(s) shall be prepared to address impacts to the general traffic, pedestrians and other road users within the surrounding public road network associated with all construction works (including demolition) corresponding to the development. The CTPMP is to be prepared by a suitably qualified Traffic Engineer, which is to be submitted to Council's Transport Department for review and approval prior to the commencement of any construction work.

Any Traffic Control Plan (TCP) submitted to Council's Transport Department is required to be prepared by a TfNSW accredited person (with a "*Prepare a Work Zone Traffic Management Plan*" qualification) and in accordance with AS1742.3-2009 and TfNSW' *Traffic Control at Work Sites* Technical Manual. All fees and charges associated with the review of the CTPMP (including TCP(s)) is to be in accordance with Council's Schedule of Fees and Charges and are to be paid prior to the CTPMP is approved.

**NOTE:** This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The CTPMP is intended to minimise impact of demolition and construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent the site.

25. **Implementation of Construction Traffic & Pedestrian Management Plan.** The traffic management/control measures outlined in the approved Construction Traffic & Pedestrian Management Plan (CTPMP) and Traffic Control Plan(s) are to be maintained and adhered to, at all times. The approved traffic management/control measures must be carried out by person(s) having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTPMP/ Traffic Control Plan(s) be impacted by surrounding major development and/or should there be significant changes to traffic conditions in the immediate vicinity of the site not encompassed in the approved CTPMP/Traffic Control Plan(s), the measures and controls contained in these documents are to be revised accordingly and submitted to Council for approval. Approved copies of the CTPMP /Traffic Control Plan(s) are to be kept onsite at all times and made available to Council on request.
26. **Design and Construction Standards.** All engineering works shall be carried out in accordance with the requirements as outlined within Council's DCP 2014 Part 8.5 *Public Civil Works* and relevant Development Control Plans except as amended by the conditions herein.
27. **Public Utilities and Service Alterations.** All mains, services, poles, etc., which require alteration due to works associated with the development, shall be altered at the Applicant's expense. The Applicant shall comply with the requirements (including financial costs) of the relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council, etc) in relation to any connections, works, repairs, relocation, replacement and/or adjustments to public infrastructure or services affected by the development.

28. **Works on Public Roads.** Any works performed in, on or over a public road reserve pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under Sections 138 and 139 of the Roads Act 1993.
29. **Construction Staging.** For any staging of the public domain works, the applicant shall provide a detailed construction management and staging plan.
30. **Public areas and restoration works.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council's standards and specifications, and DCP 2014 Part 8.5 *Public Civil Works*, to the satisfaction of Council. Council's standards and specifications are available on the Council website.
31. **Boundary / Cadastral Survey.** If any design work is planned which relies on critical setbacks from boundaries and further subdivisions of the land, it is recommended a boundary / cadastral survey be undertaken **prior to design being finalised** & prior to the commencement of any works. The boundaries should be surveyed, marked &/or survey set-out marks placed prior to the commencement of any construction work.
32. **Connection by gravity flow.** All sanitary fixtures must be connected to the sewerage system by gravity flow.
33. **Road traffic noise criteria for sensitive developments.** The building(s) must be designed and constructed so that the road traffic noise levels inside the building(s) comply with the noise criteria specified in *Development Near Rail Corridors and Busy Roads – Interim Guideline* (Department of Planning, 2008).
34. **Mechanical ventilation of rooms.** If the airborne noise level with windows and doors open exceeds the above noise criteria by more than 10dBA, an approved system of mechanical ventilation must be provided so that the building occupants can leave the windows and doors closed.
35. **Fresh air intake vents.** All fresh air intake vents must be located in a position that is free from contamination and at least 6 metres from any exhaust air discharge vent or cooling tower discharge.
36. **Exhaust air discharge vents.** All exhaust air discharge vents must be designed and located so that no nuisance or danger to health will be created.
37. **Carpark exhaust vent** - The carpark exhaust vent must be located at least 3 metres above ground level or any pedestrian thoroughfare and:
  - a) at least 6 metres from any fresh air intake vent or natural ventilation opening; and



- b) at least 6 metres or, where the dimensions of the allotment make this impossible, the greatest possible distance from any neighbouring property boundary.
38. **Kitchen exhaust vent.** The kitchen exhaust vent must be located above roof level:
- a) at least 6 metres from any fresh air intake vent or natural ventilation opening;
  - b) at least 6 metres or, where the dimensions of the allotment make this impossible, the greatest possible distance from any neighbouring property boundary; and
  - c) at least 8 metres from any cooling tower.
39. **Storage of commercial wastes.** A separate garbage room must be provided in a convenient location on the premises for the storage of commercial wastes.
40. **Construction of garbage rooms.** All garbage rooms must be constructed in accordance with the following requirements:
- a) The room must be of adequate dimensions to accommodate all waste containers, and any compaction equipment installed, and allow easy access to the containers and equipment for users and servicing purposes;
  - b) The floor must be constructed of concrete finished to a smooth even surface, coved to a 25mm radius at the intersections with the walls and any exposed plinths, and graded to a floor waste connected to the sewerage system;
  - c) The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;
  - d) The walls must be constructed of brick, concrete blocks or similar solid material cement rendered to a smooth even surface and painted with a light coloured washable paint;
  - e) The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint;
  - f) The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material;
  - g) Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high;
  - h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation;
  - i) The room must be provided with adequate artificial lighting; and
  - j) A hose cock must be provided in or adjacent to the room to facilitate cleaning.
41. **Waste collection point for commercial waste.** The commercial waste must be collected from the loading dock located inside the building.
42. **Access for waste collection vehicles.** Safe easy access must be provided for waste collection vehicles to service the waste containers. The driveways and manoeuvring areas must be designed for maximum legal dimensions and

weights and allow collection vehicles to enter and leave the premises in a forward direction. Additional clearances must be provided for overhead and side loading where appropriate.

43. **Plumbing and drainage work.** All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation and the NSW Department of Fair Trading.
44. **Transport for NSW.** Roads and Maritime has previously resumed and dedicated a strip of land as road along the Victoria Road frontage of the subject property, as shown by grey colour on the attached Aerial – “X”. Therefore, all buildings or structures together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth) along Victoria Road boundary.
45. Council should ensure that proposed development should be designed such a way and appropriate mechanisms are in place which would prevent any potential vehicular exit from the basement carpark onto Victoria Road through the access easement with adjoining property.

## DEMOLITION CONDITIONS

The following conditions are imposed to ensure compliance with relevant legislation and Australian Standards, and to ensure that the amenity of the neighbourhood is protected.

A Construction Certificate is not required for Demolition.

46. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:
  - Council must be notified of the following particulars:
    - (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
    - (ii) The date the work is due to commence and the expected completion date
  - A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.
47. **Photographic Archival Recording.** Prior to the commencement of any works, including the dismantling of fabric or demolition, a Photographic Archival Recording shall be undertaken of the ‘Tibby Rose Auto Electrical Building’ at 744 Victoria Road, Ryde, and submitted to Council.

Written confirmation must also be obtained from Council’s Heritage Advisor, confirming that the Photographic Archival Recording is of an acceptable quality that satisfies the requirements of this condition.

The Photographic Archival Recording shall be prepared in accordance with the guidelines "*Archival Recording of Heritage Items Using Film or Digital Capture*" published by the Heritage Division of the Office of Environment and Heritage.

One complete copy of the Photographic Archival Recording shall be submitted to Council and shall contain (for digital projects):

- A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken. The report may also address the limitations of the photographic record and may make recommendations for future work;
- Plans of the building marked up to indicate where the photographs were taken and the direction of the photograph;
- The report should include all technical details including camera and lenses, image file size and format, technical metadata associated with the images, and colour information;
- Catalogue sheets, photographic plan, supplementary maps;
- Colour thumbnail image sheets (e.g. A4 page with six images by six images) showing images and reference numbers. The thumbnail sheets should be processed with archivally stable inks on archivally acceptable photographic paper and cross referenced to catalogue sheets;
- One full set of 10.5x14.8cm (A6) colour prints OR, if a large project, a representative set of selected images processed with archivally stable inks on archivally acceptable photographic paper.

Photographic images are to include:

- View to and from the site (possible from four compass points)
- Views showing relationships to other relevant structures, landscape features and moveable items
- All external elevations
- Views of all external and internal spaces (e.g. courtyards, rooms, roof spaces, etc)
- External and internal detail (e.g. joinery, construction joints, decorative features, paving types, etc)
- A CD or DVD containing electronic image files saved as TIFF and RAW files with associated metadata, and cross-referenced to catalogue sheets.

The report should be presented on archival quality paper in a suitable archival binder and slipcase, and all storage of individual components must be in archival quality packaging suitable for long term storage.

48. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
49. **Details of waste storage and handling facilities** - The details of the waste storage and handling facilities submitted with the development application do not meet the requirements of Section 7.2 of Council's *Development Control Plan 2014*.

Amended details must be submitted for Council's approval. The amended details must include:

- Details for the management of asbestos waste and other hazardous materials during demolition.

50. **Excavation**

(a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.

(b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with Safework NSW in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.

51. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by Safework NSW.

52. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.

53. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.

54. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.

55. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.

56. **Imported fill – validation.** All imported fill must be supported by a validation from a qualified environmental consultant that the fill constitutes Virgin Excavated Natural Material. Records of the validation must be provided upon request by the Council.

57. **Delivery dockets to be provided.** Each load of imported fill must be accompanied by a delivery docket from the supplier including the description and source of the fill.

58. **Waste.** Tip Dockets identifying the type and quantity of waste disposed/recycled during demolition are to be kept in accordance with the Site Waste Minimisation & Management Plan for spot inspections

59. **Delivery dockets – receipt and checking on site.** A responsible person must be on site to receive each load of imported fill and must examine the delivery docket and load to ensure that only Virgin Excavated Natural Material that has been validated for use on the site is accepted.
60. **Delivery dockets – forward to PCA on demand.** The delivery dockets must be forwarded to the Principal Certifying Authority within seven (7) days of receipt of the fill and must be produced to any authorised officer who demands to see them.
61. **Tree Protection.** All tree protection works including installation of any fencing is to be undertaken prior to any demolition or site clearing works on site.
62. **Tree Protection Fencing.** All protective fencing and signage around TPZs must be located in accordance with AS4970: Protection of trees on development sites. In this regard, any fencing required to be constructed around the TPZ is to be in accordance with AS4687 Temporary fencing and hoardings.
63. **Project Arborist.** A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on the subject site and neighbouring allotments in accordance with AS4970-2009 Protection of trees on development sites and the Arboricultural Impact Assessment prepared by Tree and Landscape Consultants dated 15.10.2019 and 30.06.2020. All trees are to be monitored to ensure adequate health throughout the construction period is maintained. Additionally, all work within the Tree Protection Zones is to be supervised by the Project Arborist throughout demolition and construction. Details of the Project Arborist are to be submitted to Council prior to the commencement of demolition.
64. **Burning of demolition waste** - The burning of demolition waste is prohibited under the Protection of the Environment Operations (Clean Air Regulation 2010).

## **PRIOR TO CONSTRUCTION CERTIFICATE**

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

65. **Section 7.11.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council as follows:

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$124,405.80
Open Space & Recreation Facilities	214,220.90
Transport Facilities	\$65,765.06
Plan Administration	\$6,065.79
<b>The total contribution is</b>	<b>\$410,457.55</b>

These are contributions under the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979 as specified in City of Ryde Section 7.11 Development Contributions Plan 2020, effective from 1 July 2020.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

**The monetary contribution must be paid prior to the issue of the first occupation certificate in respect of any building to which this consent relates. However, if no construction certificate in respect of the erection of any building to which this consent relates has been issued on or before 25 September 2022, the monetary contribution must be paid before the issue of the first construction certificate after that date for any such building. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the City of Ryde. Personal or company cheques will not be accepted.**

A copy of the Section 7.11 Development Contributions Plan may be inspected at the Ryde Customer Service Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

66. **Arts and Cultural Plan.** Prior to the issue of a Construction Certificate, a site specific Public Arts Plan is to be submitted for approval by Council. This plan will be required to address the following:
- Identify opportunities for the integration of public art in the proposed development;
  - Identify themes for public art;
  - Durability, robustness and longevity of the public art; and
  - Demonstrate how public art is incorporated in the site and built form design.

67. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
68. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
69. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation)
70. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
- Infrastructure Restoration and Administration Fee
  - Enforcement Levy
71. **Driveway Access Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific driveway access levels by Council prior to the issue of the **Construction Certificate**.
72. **Adaptable Units.** A total of four (3) adaptable apartments, each with an allocated disabled parking space, are to be provided within the development. These apartments are to comply with all of the spatial requirements as outlined in DCP 2010 Part 9.2 and AS4299. Details demonstrating compliance is to be provided on the Construction Certificate plans. Prior to the issue of the **Construction Certificate**, a suitably qualified access consultant is to certify that the development achieves the spatial requirements of DCP 2010 Part 9.2 and A54299.
73. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
74. **Storage.** Each residential unit is to be provided with the minimum internal storage area as required by the Residential Flat Design Code. Details of the location of the storage and dimensions of the storage areas are to be provided on the Construction Certificate plans. The architect is to verify in writing that the development complies prior to the issue of the Construction Certificate.
75. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to

determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin) to apply.

76. **Road and rail noise/vibration.** The development must be acoustically designed and constructed to meet the relevant provisions of Australian Standard AS 2107:2000 *Recommended design sound levels and reverberation times for building interiors*. Written endorsement of compliance with these requirements must be obtained from a suitably qualified person.
77. **Design verification.** Prior to a Construction Certificate being issued with respect to this development, the Principle Certifying Authority is to be provided with a written Design Verification from a registered architect that has overseen the design. This statement must include verification from the registered architect that the plans and specification achieve or improve the design quality of the development to which this consent relates, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*. This condition is imposed in accordance with Clause 143 of the *Environmental Planning and Assessment Regulation 2000*.
78. **Residential Apartment Noise attenuation.** A qualified acoustical engineer with membership of the Association of Australasian Acoustical Consultants must certify that the building has been designed to minimise the noise intrusion from any internal or external noise source and when constructed achieve a 5 star rating under the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic rating Version 1.0. Details of compliance are to be submitted with the plans for Construction Certificate.
79. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.
80. **Fibre-ready facilities and telecommunications infrastructure.** Prior to the issue of any Construction Certificate satisfactory evidence is to be provided to the Certifying Authority that arrangements have been made for:
  - (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Alternatively, demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.  
  
And
  - (ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate



development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in Section 372Q of the Telecommunications Act).

81. **Vehicle Access & Parking.** All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).

With respect to this, the following revision(s) / documentation must be provided with the plans submitted with the application for a Construction Certificate;

- a) To ensure the segregation and control of traffic flow at the access with Eagle Street and division into the two driveway ramps, the driveway area is to have centreline and giveaway linemarking implemented.
- b) Similar to above, the intercom system positioned at both the vehicle entries from Eagle Street would require a driver to stand in the opposing land. The temporary standing area must be linemarked and directional linemarking installed (dashed) to indicate to exiting vehicles the potential need to presence of a vehicle standing in this location.
- c) The intercom position on the Victoria Road access point must be located such that a standing in this location be located wholly off the adjoining Right of Way so as to not impose on through traffic accessing the neighbouring property.
- d) It is crucial that the development achieve a 3.5m headroom clearance to the internal service loading area. The structural plans to be submitted with the application for a Construction Certificate must produce a driveway profile showing the overhead clearance being no less than 3.5m from the entry and along the necessary service vehicle swept paths.

These amendment(s) must be clearly marked on the plans submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

82. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to the public drainage infrastructure generally in accordance with the plans by Sparks and Partners Consulting Engineers (Refer to Job No. 17263 Dwgs DA1.01, DA4.01 to DA4.05, DA4.10 & DA4.11 Issued on the 1 July 2020) subject to any variations marked in red on the approved plans or noted following;
- a) The plans must define an overland flowpath along the southern boundary perimeter, directing any overland flow to the onsite detention system and drainage easement. This may require bund along the rear boundary fence by provision of a small solid upright wall at the base of the fence.
  - b) As noted in the condition "*Stormwater Management – Pump System*", the pump storage must be of a volume to accommodate runoff in the event of pump failure. The calculations estimate this as 6.33m<sup>2</sup>.

- c) Connection to the public drainage infrastructure will require the approval of Council's City Works (Stormwater) Department. Any conditions associated with this approval must be noted on the plans.

The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and prepared by a suitably qualified Civil Engineer and comply with the following;

- a) The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
- b) The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
- c) The subsurface drainage system must be designed to preserve the pre-developed groundwater table so as to prevent constant, ongoing discharge of groundwater to the public drainage network, as well as avoid long term impacts related to the support of structures on neighbouring properties.

83. **Stormwater Management - Onsite Stormwater Detention.** In accordance with Council's community stormwater management policy, an onsite stormwater detention (OSD) system must be implemented in the stormwater management system of the development.

As a minimum, the OSD system must;

- a) provide site storage requirement (SSR) and permissible site discharge (PSD) design parameters complying with Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*).
- b) incorporate a sump and filter grate (trash rack) at the point of discharge from the OSD system to prevent gross pollutants blocking the system or entering the public drainage service,
- c) ensure the OSD storage has sufficient access for the purpose of ongoing maintenance of the system, and
- d) ensure the drainage system discharging to the OSD system is of sufficient capacity to accommodate the 100 year ARI 5 minute storm event.

Detailed engineering plans and certification demonstrating compliance with this condition & Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) are to be submitted with the application for a Construction Certificate.

84. **Stormwater Management - Pump System.** The basement pump system must be dual submersible and shall be sized and constructed in accordance with Section 9.3 of AS 3500.3.

The wet well must be designed and constructed in accordance with section 9.3 of AS 3500.3, except that the sump volume is to be designed to accommodate storage of runoff accumulating from the 100yr ARI 3 hour storm event, in the

event of pump failure as per the requirements of Council's DCP - Part 8.2 (*Stormwater and Floodplain Management*).

Direct connection of the pumps rising main to the kerb will not be permitted. The rising main must discharge to the sites drainage system, upstream of the onsite detention system (if one is provided) or any rainwater tank which is utilised for irrigation only.

Pump details and documentation demonstrating compliance with this condition are to be submitted in conjunction with the Stormwater Management Plan for the approval of the Certifying Authority, prior to the release of any Construction Certificate for construction of the basement level.

85. **Geotechnical Design, Certification and Monitoring Program.** The proposed development involves the construction of subsurface structures and excavation that has potential to adversely impact neighbouring property if undertaken in an inappropriate manner. To ensure there are no adverse impacts arising from such works, the applicant must engage a suitably qualified and practicing Engineer having experience in the geotechnical and hydrogeological fields, to design, certify and oversee the construction of all subsurface structures associated with the development.

This engineer is to prepare the following documentation;

- a) Certification that the civil and structural details of all subsurface structures are designed to;
  - provide appropriate support and retention to neighbouring property,
  - ensure there will be no ground settlement or movement during excavation or after construction (whether by the act of excavation or dewatering of the excavation) sufficient to cause an adverse impact to adjoining property or public infrastructure, and,
  - ensure that the treatment and drainage of groundwater will be undertaken in a manner which maintains the pre-developed groundwater regime, so as to avoid constant or ongoing seepage to the public drainage network and structural impacts that may arise from alteration of the pre-developed groundwater table.
  
- b) A Geotechnical Monitoring Program (GMP) to be implemented during construction that;
  - is based on a geotechnical investigation of the site and subsurface conditions, including groundwater,
  - details the location and type of monitoring systems to be utilised, including those that will detect the deflection of all shoring structures, settlement and excavation induced ground vibrations to the relevant Australian Standard;
  - details recommended hold points and trigger levels of any monitoring systems, to allow for the inspection and certification of geotechnical and hydro-geological measures by the professional engineer; and;
  - details action plan and contingency for the principal building contractor in the event these trigger levels are exceeded.

- Is in accordance with the recommendations of any approved Geotechnical Report.

The certification and the GMP is to be submitted for the approval of the Accredited Certifier prior to the issue of the Construction Certificate.

86. **Pre-commencement dilapidation report.** The submission of a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties namely:
- 2 to 4 Eagle Street;
  - 6 Eagle Street;
  - 734 Victoria Road; and
  - public infrastructure (including roads, gutters, footpaths, etc).

A copy of the report must be provided to the Accredited Certifier, Council, and any other owners of public infrastructure and the owners of the affected adjoining private properties, prior to the issue of the Construction Certificate.

87. **Erosion and Sediment Control Plan.** An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified consultant, detailing soil erosion control measures to be implemented during construction. The ESCP is to be submitted with the application for a Construction Certificate. The ESCP must be in accordance with the manual *“Managing Urban Stormwater: Soils and Construction”* by NSW Department – Office of Environment and Heritage and must contain the following information;
- Existing and final contours
  - The location of all earthworks, including roads, areas of cut and fill
  - Location of all impervious areas
  - Location and design criteria of erosion and sediment control structures,
  - Location and description of existing vegetation
  - Site access point/s and means of limiting material leaving the site
  - Location of proposed vegetated buffer strips
  - Location of critical areas (drainage lines, water bodies and unstable slopes)
  - Location of stockpiles
  - Means of diversion of uncontaminated upper catchment around disturbed areas
  - Procedures for maintenance of erosion and sediment controls
  - Details for any staging of works
  - Details and procedures for dust control.

The ESCP must be submitted with the application for a Construction Certificate. This condition is imposed to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

88. **Stormwater - Council Easements – Building Foundation Clearances Detailed Design** - The footings and foundations of all proposed structures adjacent to the existing Council pipeline must extend a minimum depth to the

angle of repose to the invert level of the existing stormwater pipe, to ensure that no additional load will be placed on the existing 600 mm diameter Council stormwater pipe.

The applicant shall submit detailed design drawings and certificates to Council for written acceptance, prior to the issue of a Construction Certificate. The Principal Certifying Authority shall be notified of Council's written acceptance. The submission shall address the following:

- a) Council's existing 600 mm diameter pipeline through the development site must be physically located via non-destructive method, surveyed by a registered surveyor and shown on the final construction drawings (including amended survey, architectural and civil design plans).
- b) A minimum horizontal clearance of 1.0 m is to be provided from the outside edges of the existing stormwater pipe to the proposed structures. All setbacks of the proposed structures including eaves of roof from Council's drainage lines shall be shown on the plans submitted.
- c) Detailed design drawings of the footings and foundations of the proposed structures shall be prepared by a suitably qualified Structural Engineer (registered on the NER of Engineers Australia), or equivalent.
- d) A Structural Engineer's design certificate shall be prepared confirming the building structure and its foundations are designed in such a way that no building loads are transmitted to the stormwater conduit and that the conduit can be repaired at any time without affecting the stability of the building structure or its foundations.

89. **Stormwater - Council Drainage - Reflux Valve** - A design certificate from a suitably qualified Chartered Civil Engineer (registered on the NER of Engineers Australia), or equivalent, shall be provided to the Principal Certifying Authority, prior to the issue of the Construction Certificate, confirming that the site drainage outlet pipe has been designed with a reflux valve in order to stop any backwater effect from Council's stormwater system for events up to the 1% AEP (100 year ARI).
90. **Stormwater - Council Drainage – Pit Connection Details** - The proposed site drainage connection to the existing Council pit shall be made via a uPVC pipe. The site drainage connection pipe shall be cut flush with the internal wall of the pit and should enter the pit perpendicular to the pit wall.

Amended stormwater plans complying with this condition shall be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate. The plans shall be prepared by a Chartered Civil Engineer (registered on the NER of Engineers Australia), or equivalent.

91. **Stormwater - Drainage Design Submission - Assessment Fee** – The applicant is to pay to Council fees for assessment of all relevant drainage design engineering plans, in accordance with Council's Schedule of Fees & Charges at the time of the issue of the plan approval, prior to such approval being granted by Council prior to the issue of the Construction Certificate.

**Note:** An invoice will be issued to the Applicant for the amount payable, which will be calculated based on the design plans for the Council drainage works and any additional reviews required.

92. **Stormwater - Drainage Design Submission** - Engineering drawings prepared by a Chartered Civil Engineer (registered on the NER of Engineers Australia) are to be submitted to, and approved by Council's City Works Directorate for the proposed drainage works in accordance with Council's DCP (2014) Part 8.2 Stormwater and Floodplain Management Technical Manual, prior to the issue of the Construction Certificate.

The design submission shall address the following:

- a) A drainage system layout plan and structural details shall be drawn at a scale of 1:100, 1:200 or 1:250 and shall show the location of drainage pits and pipe and any other information necessary for the design and construction of the drainage system (i.e. utility services).
- b) A drainage system longitudinal section shall be drawn at a scale of 1:100 or 1:200 horizontally and 1:10 or 1:20 vertically and shall show the underground channel and pipe size, class and type, pipe support type in accordance with AS 3725 or AS 2032 as appropriate, pipeline chainages, pipeline grade, hydraulic grade line and any other information necessary for the design and construction of the drainage system (i.e. utility services).
- c) The location and as-built information (including dimensions and invert levels) of the existing Council kerb inlet pit as shown on Stormwater Management Plans prepared by Sparks & Partners Consulting Engineers P/L Drawing No. DA4.01-DA4-11 (Project No. 17263, Revision 10, July 2020) is to be confirmed by a suitably qualified surveyor. This shall be incorporated into the drainage engineering drawings.
- d) Special details including non-standard pits, pit benching and transitions shall be provided on the drawings at scales appropriate to the type and complexity of the detail being shown.
- e) Any stormwater pit with a depth greater than 1.8 metres shall be designed and certified by a suitably qualified Structural Engineer and the certification shall be submitted with the drainage design drawings.
- f) The drainage system layout plan shall be documented on a detailed features survey plan that describes all existing structures, utility services, vegetation and other relevant features.
- g) New stormwater drainage pipes shall be located underneath the kerb & gutter alignment to facilitate future maintenance.

93. **Stormwater - Roof Drainage System** - A design certificate from a suitably qualified Chartered Civil Engineer (registered on the NER of Engineers Australia), or equivalent, shall be provided to the Principal Certifying Authority, prior to the issue of the Construction Certificate, certifying that the proposed roof drainage system for "Mixed Used Building" has been designed for the 1% AEP (100 year ARI) event so as to capture all runoff generated at the 1% AEP (100 year ARI) storm event in the proposed on-site detention basin for "Mixed Used Building".

94. **Stormwater - Council Drainage Works – Bond** - To ensure satisfactory performance of the excavation, laying of pipes, back filling, disposal of excess soil and restoration including new kerb and gutter works, a maintenance period of twelve (12) months shall apply to the trunk drainage works following completion of the development.
- The maintenance period shall commence from the date of issue by Council, of the Compliance Certificate for the Council Drainage Works. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' maintenance period. Any defects identified during the maintenance period shall be rectified at their cost within a period of thirty (30) days after notification from Council. The details of the defects and repairs shall be documented and certified by a suitably qualified Civil Engineer (registered on the NER of Engineers Australia), or equivalent.
- A bond in the form of a cash deposit or **Bank Guarantee of \$10,000.00** shall be lodged with the City of Ryde prior to the issue of a Construction Certificate to guarantee this requirement will be met.
- Council engineers from the City Works Directorate shall be notified in writing three (3) months prior to the expiry of the maintenance period for the inspection of the trunk drainage works and restored areas. Details and certifications of the defects and repairs shall be provided to Council's City Works Directorate at this notification. The inspection shall be jointly conducted between Council engineers and the applicant's site engineers.
- Notifications and inspections may be arranged by telephoning Council's Customer Service Section on 9952 8222 during office hours. A minimum of five (5) working days' notice shall be given to Council to inspect the works.
- The bond will only be refunded when the works are determined to be satisfactory to Council, in writing, after the expiry of the twelve (12) months maintenance period.
95. **Waste and Service Vehicle Access.** Access to the internal manoeuvring area including ramp grades, transitions and height clearances shall be designed to comply with the specifications of a 7.86m long waste vehicle. The height clearance required is 3.5m, measured from the floor level to the lowest point in the ceiling. Swept path diagrams and ground clearance plans based on Council's 7.86m long refuse collection vehicle shall be submitted to Council's Transport Department for review and approval prior to the issue of the Construction Certificate. These plans need to show the ramp grades, transitions and height clearances within all internal areas intended to accommodate heavy vehicles (e.g. access driveway, internal roadway and manoeuvring areas). Swept path diagrams also must include details of the road including, kerb line, line marking, signs, traffic devices, power poles, other structures and neighbouring driveways.
96. **Ground Anchors** - The installation of permanent ground anchors into public roadway is not permitted. The installation of temporary ground anchors may be considered subject to an application to Council's City Works Directorate, and approval obtained as per the provisions of Section 138 of the Roads Act, 1993. The application for consent must include detailed structural engineering plans prepared by a Chartered Structural Engineer (registered on the NER of

Engineers Australia), clearly nominating the number of proposed anchors, minimum depth below existing ground level at the boundary alignment and the angle of installation. The approval will be subject to:

- a. Advice being provided to the relevant Public Utility Authorities of the proposed anchoring, including confirmation that their requirements are being met.
- b. the payment of all fees in accordance with Council's Schedule of Fees & Charges at the time of the issue of the approval, and
- c. the provision of a copy of the Public Liability insurance cover of not less than \$20million with Council's interest noted on the policy. The policy shall remain valid until the de-commissioning of the ground anchors.

97. **Public domain improvements** - The public domain is to be upgraded in both Victoria Road and Eagle Street frontages of the development site in accordance with the City of Ryde Public Domain Technical Manual Chapter 7 - Top Ryde. The works shall include paving, light poles, street furniture and plantings, and must be completed to Council's satisfaction at no cost to Council.

A public domain plan for the following works shall be submitted to, and approved by Council's City Works Directorate, prior to the issue of the relevant Construction Certificate.

- (a) Footpath paving as specified in the condition of consent for public infrastructure works.
- (b) Street trees to be provided in accordance with the Top Ryde Tree Master Plan.

**Note:** In designing the street tree layout, the consultant shall check and ensure that all new street trees are positioned such that there are no conflicts with the proposed street lights, utilities and driveway accesses. The proposed street lights will have priority over the street trees. All costs associated with the removal of existing street trees, where required, will be borne by the Developer.

- (c) All telecommunication and utility services are to be placed underground along the Victoria Road and Eagle Street frontages. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of work. The public utility cover requirements shall be based on the approved Finished Surface Levels for the footpath, driveways and kerb ramps.

For the undergrounding of existing overhead electricity network, the requirements specified in the Ausgrid Network Standards NS130 and NS156 are to be met.



- (d) New street lighting using LED luminaires is to be designed and installed to Australian Standard AS1158:2010 Lighting for Roads and Public Spaces, with vehicular luminance category V3 and pedestrian luminance category P2 along the Victoria Road frontage. The street lighting will remain on the Ausgrid street lighting network.

The existing street lighting pole will need to be relocated near the site boundary. The luminaire will need an upgrade to LED. If the above level of illumination is not achieved, additional street lighting pole/s will be required. Concurrency from the TfNSW is also required.

Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant and submitted to, and approved by Council's City Works Directorate prior to lodgement of the scheme with Ausgrid for their approval.

98. **Public Infrastructure Works** – Public infrastructure works shall be designed and constructed as outlined in this condition of consent. The approved works must be completed to Council's satisfaction at no cost to Council.

Engineering drawings prepared by a Chartered Civil Engineer (registered on the NER of Engineers Australia) are to be submitted to, and approved by Council's City Works Directorate prior to the issue of the Construction Certificate. The works shall be in accordance with City of Ryde DCP 2014 Part 8.5 - Public Civil Works, and DCP 2014 Part 8.2 - Stormwater Management, where applicable.

The drawings shall include plans, sections, existing and finished surface levels, drainage pit configurations, kerb returns, existing and proposed signage and line-marking, and other relevant details for the new works. The drawings shall also demonstrate the smooth connection of the proposed road works into the remaining street scape.

The Applicant must submit, for approval by Council as the Road Authority, full design engineering plans and specifications for the following infrastructure works:

- a) The full reconstruction of half road width for the Eagle Street frontage of the development site in accordance with the City of Ryde DCP 2014 *Part 8.5 - Public Civil Works*, Clause 1.1.4 – *Constructing Half Road*.
- b) The removal of all redundant vehicular crossings and replacement with new kerb and gutter, and the adjacent road pavement reconstruction along both frontages: Victoria Road and Eagle Street. Along the Victoria Road frontage concurrence from TfNSW is required for compliance with their standards and specifications. Proposed kerb profiles are to be provided to ensure proper connections to existing kerb and gutter along Victoria Road and Eagle Street.
- c) The construction of new kerb and gutter along the Victoria Road and Eagle Street frontages of the development site.

- d) Re-construction of the existing pedestrian ramp at the Victoria Road frontage signalised pedestrian crossing.
- e) Construction of public footpath along the Victoria Road frontage as for a Secondary Street according to Fig.4.3.1 – Paving Principles, on page 41 of the City of Ryde Public Domain Technical Manual PDTM, Chapter 7 – Top Ryde. The pavement of the footway will be full width coloured concrete with Rosa granite banding.
- f) Construction of 1.2m wide concrete footpath with turfed nature strips on both sides along the Eagle Street frontage of the development site.
- g) Stormwater drainage installations in the public domain in accordance with the DA approved plans.
- h) Signage and line-marking details.
- i) Staging of the public civil works, if any, and transitions between the stages.
- j) The relocation/adjustment of all public utility services affected by the proposed works. Written approval from the applicable Public Authority shall be submitted to Council along with the public domain plans submission. All the requirements of the Public Authority shall be complied with.

**Notes:**

1. The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths, prior to setting the floor levels for the proposed building.
2. Depending on the complexity of the proposed public domain works, the Council's review of each submission of the plans may take a minimum of six (6) weeks.
3. Prior to submission to Council, the Applicant is advised to ensure that the drawings are prepared in accordance with the standards listed in the City of Ryde DCP 2014 Part 8.5 - *Public Civil Works*, Section 5 "*Standards Enforcement*". A checklist has also been prepared to provide guidance, and is available upon request to Council's City Works Directorate.
4. City of Ryde standard drawings for public domain infrastructure assets are available on the Council website. Details that are relevant may be replicated in the public domain design submissions; however Council's title block shall not be replicated.

99. **Vehicle Footpath Crossing and Gutter Crossover** – A new vehicle footpath crossing and associated gutter crossover shall be constructed at the approved vehicular access locations. Where there is an existing vehicle footpath crossing and gutter crossover, the reconstruction of this infrastructure may be required in order that it has a service life that is consistent with that of the development, and that it is also compliant with current Council's standards and specifications. The location, design and construction shall be in accordance with City of Ryde Development Control Plan 2014 Part 8.3 *Driveways* and Part 8.5 - *Public Civil Works* and Australian Standard AS2890.1 – 2004 *Offstreet Parking*.

Prior to the issue of the Construction Certificate, an application shall be made to Council for approval under Section 138 of the Roads Act, 1993, for the

construction of the vehicle footpath crossing and gutter crossover. The application shall include engineering design drawings of the proposed vehicle footpath crossing and gutter crossover.

The drawings shall be prepared by a suitably qualified Civil Engineer using the standard B85 vehicle profile. The drawings shall show the proposed vehicle footpath crossing width, alignment, and any elements impacting design such as service pits, underground utilities, power poles, signage and/or trees. In addition, a benchmark (to Australian Height Datum) that will not be impacted by the development works shall be included.

All grades and transitions shall comply with Australian Standard AS 2890.1-2004 *Offstreet Parking* and Council's specifications. The new crossings shall be constructed at right angle to the alignment of the kerb and gutter, and located no closer than 1m from any power pole and 3m from any street tree unless otherwise approved by Council.

Fees are payable at the time of the application, in accordance with Council's Schedule of Fees and Charges.

100. **Public Domain Works – Defects Security Bond** - To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works in the road reserve following completion of the development. The defects liability period shall commence from the date of issue by Council, of the Compliance Certificate for the External Works. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period. A bond in the form of a cash deposit or Bank Guarantee of **\$20,000** shall be lodged with the City of Ryde prior to the issue of a Construction Certificate to guarantee this requirement will be met. The bond will only be refunded when the works are determined to be satisfactory to Council after the expiry of the twelve (12) months defects liability period.
101. **Engineering plans assessment and works inspection fees** – The applicant is to pay to Council fees for assessment of all engineering and public domain plans and inspection of the completed works in the public domain, in accordance with Council's Schedule of Fees & Charges at the time of the issue of the plan approval, prior to such approval being granted by Council.

**Note:** An invoice will be issued to the Applicant for the amount payable, which will be calculated based on the design plans for the public domain works.

102. **Materials and colour finishes schedule.** A detailed sample board of materials and colour finishes shall be submitted to the satisfaction of Council's Heritage Advisor prior to the issue of any Construction Certificate. The selected materials and colour finishes shall incorporate a palette of materials and finishes that have a tactility, tone and hue that is complementary to the adjoining heritage items. The sample board shall include clear notations or be

accompanied by a reference plan to indicate how the proposed tactile materials and colour finishes relate to the various elements and fabric of the building.

103. **Remediation of land following detailed site investigation** - If required by the detailed site investigation report, the land must be remediated to the extent necessary for the proposed use and a copy of the site validation report must be submitted to Council for consideration. The site validation report must comply with the *Guidelines for Consultants Reporting on Contaminated Sites* (EPA, 1997) and demonstrate that the site is suitable for the proposed use.

**No Construction Certificate is to be issued for any building work on the land until Council has confirmed in writing that it is satisfied that the land is suitable for the proposed use, without the need for further remediation.**

104. **Notice of remediation work** - Before commencing remediation work written notice must be submitted to Council in accordance with clause 16 of *State Environmental Planning Policy No. 55 - Remediation of Land*.
105. **Remediation work** - All remediation work must be carried out in accordance with the requirements of:
- (a) *State Environmental Planning Policy No. 55 - Remediation of Land*;
  - (b) any relevant guidelines published by the NSW Environment Protection Authority; and
  - (c) any council policy or development control plan relating to the remediation of land.
106. **Council may require site audit of validation report** - If requested by Council, a site audit statement and a site audit summary report from an accredited site auditor under the *Contaminated Land Management Act 1997* must be submitted to Council verifying the information contained in the site validation report.
107. **Garbage storage details** - Details of the proposed garbage room or storage area must be submitted for approval with the application for the Construction Certificate. Such details must include:
- (a) the specifications and layout of all proposed waste storage and handling equipment; and
  - (b) the access to the collection point.
108. **Access details for waste collection vehicles** - Details of all driveways and manoeuvring areas for waste collection vehicles must be submitted for approval with the application for the Construction Certificate. Such details must include:
- (a) vehicle turning circles and swept paths; and
  - (b) overhead and side clearances (where appropriate) and
  - (c) AS2890.2.
109. **Storage**. Each residential unit is to be provided with the minimum internal storage area as required by the Apartment Design Guide. Details of the allocation of the storage areas are to be provided on the Construction

Certificate plans. The architect is to verify in writing that the development complies prior to the issue of the Construction Certificate.

110. **Transport for NSW.** The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Documents should be submitted to [Development.Sydney@rms.nsw.gov.au](mailto:Development.Sydney@rms.nsw.gov.au).

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

111. **Transport for NSW.** A Construction Traffic Management Plan (CTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.
112. **Transport for NSW.** All vehicles are to enter and leave the site in a forward direction and vehicles are to be wholly contained on site before being required to stop.
113. **Transport for NSW.** The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement. Any further inquiries in relation to this matter can be directed to Pahee Rathan, Senior Land Use Assessment Coordinator on 8849 2219 or by email at [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au).

## **PRIOR TO COMMENCEMENT OF CONSTRUCTION**

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

### **114. Site Sign**

- A sign must be erected in a prominent position on site, prior to the commencement of construction:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
  - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

- Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

115. **Residential building work – insurance.** In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

116. **Residential building work – provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier has given the Council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
  - (i) the name and licence number of the principal contractor; and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.
- (b) in the case of work to be done by an owner-builder:
  - (i) the name of the owner-builder; and
  - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If any of the above arrangements are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates has given the Council written notice of the updated information (if Council is not the Principal Certifier).

117. **Excavation adjacent to adjoining land**

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

118. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with Safework NSW requirements and be a minimum of 1.8m in height.

119. **Proposed Property Addressing.** Proposed addressing for the new development must have been lodged with Council, prior to the commencement of construction.
120. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Any doors/gates on the boundary must be installed so they do not open onto any footpath.
121. **Property above/below Footpath Level.** Where the ground level adjacent the property alignment is above/below the established verge and footpath level, adequate measures are to be taken (either by means of constructing approved retaining structures or batters entirely on the subject property) to support the subject land/footpath and prevent harm to the public / occupants of the site due to the abrupt level differences.
122. **Ground Anchors.** The installation of permanent ground anchors into public roadway is not permitted. The installation of temporary ground anchors may be considered subject to application for approval from Council's Public Works department, as per the provisions of Section 138 of the Roads Act. The application for consent must include detailed structural plans prepared by a chartered structural engineer, clearly nominating the number of proposed anchors, depth below existing ground level at the boundary alignment and the angle of installation. Approval is subject to the applicant paying all applicable fees in accordance with Council's Management Plan.
123. **Stormwater - Pre-Construction CCTV Report** - To ensure Council's stormwater infrastructures are adequately protected, a pre-construction CCTV report on the existing stormwater pipeline and the existing kerb lintel pit in the vicinity of the proposed development is to be submitted to Council prior to the commencement of any construction works.

An electronic closed circuit television report (track mounted CCTV camera footage) prepared by an accredited operator (with a certificate of attainment in NWP331A Perform Conduit Condition Evaluation) that assesses the condition of the existing drainage line adjacent to the site is required. This report shall include the date of CCTV inspection and shall be submitted to Council's City Works Directorate for approval prior to commencement of any works.

**Note:** The applicant shall contact Council's Stormwater and Catchments section to obtain a map of Council's existing Stormwater network in the vicinity prior to conducting the CCTV survey.

All fees and charges associated with the review of the report shall be in accordance with Council's Schedule of Fees and Charges, and shall be paid at the time that the report is submitted.

124. **Notice of Intention to Commence Council Drainage Connection Works –** Prior to commencement of the Council drainage connection works, Council's City Works Directorate shall be notified for written acceptance. This Notice shall include the name of the Contractor who will be responsible for the construction works, and the name of the Supervising Engineer who will be responsible for providing the certifications required at the hold points during construction, and also obtain all Road Activity Permits required for the works.
125. **Notification to adjacent properties – Council Drainage Connection Works** - The Applicant shall provide the adjoining owners and occupiers written notice of the proposed connection to Council drainage works a minimum two weeks prior to commencement of construction. The notice is to include a contact person name and number should adjoining owners and occupiers have any enquiries in relation to the construction works. All structures and surface areas affected by the drainage connection works must be reinstated at the completion of this activity, at no cost to the affected property owner.
126. **Work Zones and Permits.** Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with the construction site. Separate application is required with a Traffic Management/Control Plan for standing of construction vehicles in a trafficable lane. For State Roads, a Work Zone Permit shall be obtained from Transport for NSW.
127. **Notice of Intention to Commence Public Domain Works –** Prior to commencement of the public domain works, a *Notice of Intention to Commence Public Domain Works* shall be submitted to Council's City Works Directorate. This Notice shall include the name of the Contractor who will be responsible for the construction works, and the name of the Supervising Engineer who will be responsible for providing the certifications required at the hold points during construction, and also obtain all Road Activity Permits required for the works.  
**Note:** Copies of a number of documents are required to be lodged with the Notice; no fee is chargeable for the lodgement of the Notice.
128. **Notification of adjoining owners & occupiers – public domain works** - The Applicant shall provide the adjoining owners and occupiers written notice of the proposed public domain works a minimum two weeks prior to commencement of construction. The notice is to include a contact name and number should they have any enquiries in relation to the construction works. The duration of any interference to neighbouring driveways shall be minimised; and driveways shall be returned to the operational condition as they were prior to the commencement of works, at no cost to the owners.
129. **Pre-construction inspection** - A joint inspection shall be undertaken with Council's Engineer from City Works Directorate prior to commencement of any public domain works. A minimum 48 hours' notice will be required when booking for the joint inspection.



130. **Pre-Construction Dilapidation Report** - To ensure Council's infrastructures are adequately protected a pre-construction dilapidation report on the existing public infrastructure in the vicinity of the proposed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record (in colour) of any observable defects to the following infrastructure where applicable.
- (a) Road pavement,
  - (b) Kerb and gutter,
  - (c) Footpath,
  - (d) Drainage pits,
  - (e) Traffic signs, and
  - (f) Any other relevant infrastructure.

The report is to be dated and submitted to, and accepted by Council's City Works Directorate, prior to any work commencing.

All fees and charges associated with the review of this report shall be in accordance with Council's Schedule of Fees and Charges and shall be paid at the time that the Dilapidation Report is submitted.

131. **Road Activity Permits** - To carry out work in, on or over a public road, the Consent of Council is required as per the *Roads Act 1993*. Prior to the commencement of the relevant works and considering the lead times required for each application, permits for the following activities, as required and as specified in the form "*Road Activity Permits Checklist*" (available from Council's website) are to be obtained and copies submitted to Council with the *Notice of Intention to Commence Public Domain Works*.

- a) Road Use Permit - The applicant shall obtain a Road Use Permit where any area of the public road or footpath is to be occupied as construction workspace, other than activities covered by a Road Opening Permit or if a Work Zone Permit is not obtained. The permit does not grant exemption from parking regulations.
- b) Work Zone Permit - The applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. **A Roads and Maritime Services Road Occupancy Licence shall be obtained for State Roads.**
- c) Road Opening Permit - The applicant shall apply for a road-opening permit and pay the required fee where a new pipeline is to be constructed within or across the road pavement or footpath. Additional road opening permits and fees are required where there are connections to public utility services (e.g. telephone, telecommunications, electricity, sewer, water or gas) within the road reserve. No opening of the road or footpath surface shall be carried out without this permit being obtained and a copy kept on the site.

- d) Elevated Tower, Crane or Concrete Pump Permit - The applicant shall obtain an Elevated Tower, Crane or Concrete Pump Permit where any of these items of plant are placed on Council's roads or footpaths. This permit is in addition to either a Road Use Permit or a Work Zone Permit.
- e) Crane Airspace Permit - The applicant shall obtain a Crane Over Airspace Permit where a crane on private land is operating in the air space of a Council road or footpath. Approval from the Roads and Maritime Services for works on or near State Roads is required prior to lodgement of an application with Council. A separate application for a Work Zone Permit is required for any construction vehicles or plant on the adjoining road or footpath associated with use of the crane.
- f) Hoarding Permit - The applicant shall obtain a Hoarding Permit and pay the required fee where erection of protective hoarding along the street frontage of the property is required. The fee payable is for a minimum period of 6 months and should the period is extended an adjustment of the fee will be made on completion of the works. The site must be fenced to a minimum height of 1.8 metres prior to the commencement of construction and throughout demolition and/or excavation and must comply with WorkCover (New South Wales) requirements.
- g) Skip Bin on Nature Strip - The applicant shall obtain approval and pay the required fee to place a Skip Bin on the nature strip where it is not practical to locate the bin on private property. No permit will be issued to place skips.

132. **Temporary Footpath Crossing** - A temporary footpath crossing, if required, must be provided at the vehicular access points. It is to be 4 metres wide, made out of sections of hardwood with chamfered ends and strapped with hoop iron, and a temporary gutter crossing must be provided.

133. **Ryde Traffic Committee Approval** - A plan showing details of the proposed signage and line marking, and/or traffic devices including pedestrian refuge, pedestrian crossing or LATM measures, shall be submitted to the Council and approved by the Ryde Traffic Committee prior to the installation of any traffic devices, signage and line-marking.

134. Any changes to the Waste Management Plan dated June 2020 or Project No 16095 DA 102 - DA108 plans which were utilized to evaluate the waste collection by Council, have to be approved by the Waste Department at the City of Ryde Council before the issue of a Construction Certificate to ensure the waste collection is not affected.

135. All waste storage areas which have a doorway must be wide enough to allow the bins allocated to the property to fit through opening including the door.

- 660L Bins – width 1.3m, depth 0.8m, height 1.3m
- 240L Bins – width 600mm, depth 800mm, height 1100mm

136. Two separate receptacles must be provided inside each dwelling to store up to two days' worth of waste and recyclables awaiting transfer to the communal bin disposal areas to ensure source separation of recyclables.
137. All garbage and recycling rooms must be constructed in accordance with the following requirements:
- (a) The room must be of adequate dimensions to accommodate all waste containers, and any compaction equipment installed, and allow easy access to the containers and equipment for users and servicing purposes;
  - (b) The floor must be constructed of concrete finished to a smooth even surface, coved to a 25mm radius at the intersections with the walls and any exposed plinths, and graded to a floor waste connected to the sewerage system;
  - (c) The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;
  - (d) The walls must be constructed of brick, concrete blocks or similar solid material cement rendered to a smooth even surface and painted with a light coloured washable paint;
  - (e) The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint;
  - (f) The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material;
  - (g) Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high;
  - (h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation;
  - (i) The room must be provided with adequate artificial lighting; and
  - (j) a hose with a trigger nozzle must be provided in or adjacent to the room to facilitate cleaning

## DURING CONSTRUCTION

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

138. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
139. **Noise from construction and demolition work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from demolition and construction work.
140. **Noise management plan** - Where demolition or construction activities are likely to cause significant noise or vibration (eg. jackhammering ,rock breaking

or impact piling) a noise management plan must be prepared by a suitably qualified acoustical consultant and be submitted to the Principal Certifying Authority before the work commences. The plan must be prepared in accordance with the Interim Construction Noise Guideline (DECC, 2009) and include:

- (a) Identification of nearby affected residences or other sensitive receivers.
- (b) An assessment of the expected noise impacts.
- (c) Details of the work practices required to minimise noise impacts.
- (d) Noise monitoring procedures.
- (e) Procedures for notifying nearby affected residents.
- (f) Complaints management procedures.

141. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
142. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
143. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
  - Fill is allowed under this consent;
  - The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
  - the material is reused only to the extent that fill is allowed by the consent.
144. **Construction materials.** All materials associated with construction must be retained within the site.
145. **Transport for NSW.** All demolition and construction vehicles are to be contained wholly within the site and a construction zone will not be permitted on Victoria Road.
146. **Transport for NSW.** A Road Occupancy Licence should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Victoria Road during construction activities.
147. **Site Facilities**

The following facilities must be provided on the site:

  - (a) toilet facilities in accordance with Safework NSW requirements, at a ratio of one toilet per every 20 employees, and
  - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
148. **Site maintenance**

The applicant must ensure that:

  - approved sediment and erosion control measures are installed and maintained during the construction period;

- building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
  - the site is clear of waste and debris at the completion of the works.
149. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".
150. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or identified as approved for removal on the stamped plans.
151. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.
152. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.
153. **Tree works – arborist supervision.** A Consultant Arborist must be appointed to oversee all works, including demolition and construction, in relation to the trees identified for retention on the site.
154. **Tree works – provision of arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Consultant Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.
155. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.
156. **Stormwater Trench/Pit Locations.** The location of stormwater infrastructure located along the western side boundary is to be located as far away from existing trees to be retained as practical. Should the excavation for the stormwater pits and trenches conflict with any major structural roots (greater than >25 mm diameter) of existing trees, their location and alignment is to be modified in consultation with the Project Arborist to avoid impact. Under no circumstances should roots be severed or cut without prior approval from the Project Arborist.
157. **Underground Utilities.** Any utility services to be located underground within the TPZ are to be undertaken utilising excavation techniques that prevent or minimise damage to structural roots (roots greater than >25 mm diameter). To prevent soil compaction and root damage these works should be conducted with non-motorised hand tools or directional drilling.

158. **Fill Requirements.** All fill to be placed within the Tree Protection Zones of neighbouring trees is to be gap graded structural soils which allows for gaseous exchange and future root growth. The Project Arborist is to confirm suitability of the proposed material prior to installation.
159. **Excavation within TPZ.** Any excavation or grading/re-grading within the identified TPZs of trees to be retained shall be carried out by hand using manual hand tools. Roots greater than 25mm are not to be damaged or severed without the prior written approval of the Project Arborist.
160. **Soil Moisture within TPZ.** Soil moisture levels within all TPZs are to be regularly monitored by the Project Arborist. If temporary irrigation or watering is required within the TPZ, then any above-ground irrigation system is to be installed and maintained by a suitably qualified individual.
161. **Traffic Management.** Any traffic management procedures and systems must be in accordance with *AS 1742.3 1996* and City of Ryde, Development Control Plan 2014: - Part 8.1; Construction Activities. This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.
162. **Street Tree Requirement.** The following conditions must be adhered to with respect to the street trees on Eagle Street:
- a) All tree roots within the SRZ are to left in situ unaffected.
  - b) That all relevant legislation and WHS regulations be adhered to whilst undertaking these works
  - c) That a bond be placed upon the one (1) paper bark (*Melaleuca quinquenervia*) tree to be retained to the value of \$10,000. This bond is to be paid prior to the commencement of any construction or demolition works.
  - d) That the bond be redeemable no sooner that 12 months after the Occupation Certificate has been issued
  - e) That Councils Tree Management Officer inspects the tree prior to the bond being released
  - f) That the tree shall be in good health and vigour upon inspection
  - g) That if the tree is found to be in poor condition or vigour the bond shall not be released.
163. **Truck Shaker.** A truck shaker grid with a minimum length of 6 metres must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass them. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.
164. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by Sparks and Partners Consulting Engineers (Refer to Job No. 17263 Dwgs DA1.01,DA4.01 to DA4.05, DA4.10 & DA4.11 Issued on the 1 July 2020) submitted in compliance

to the condition labelled "Stormwater Management." and the requirements of Council in relation to the connection to the public drainage system.

165. **Erosion and Sediment Control Plan - Implementation.** The applicant shall install erosion and sediment control measures in accordance with the Construction Certificate approved Soil Erosion and Sediment Control (ESCP) plan at the commencement of works on the site. Erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.
166. **Geotechnical Monitoring Program - Implementation.** The construction and excavation works are to be undertaken in accordance with the Geotechnical Report and Monitoring Program (GMP) submitted with the Construction Certificate. All recommendations of the Geotechnical Engineer and GMP are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.
167. **Stormwater - Hold Points during construction – Council Drainage Connection Works –** Council requires inspections to be undertaken by a suitably qualified Chartered Civil Engineer (registered on the NER of Engineers Australia), or equivalent, for all Council stormwater drainage connection works. The Applicant shall submit to the Principal Certifying Authority, certification from the Engineer, at each stage of the inspection listed below, stating all civil and structural construction works have been executed as detailed in the stamped approved plans, and in accordance with the relevant Australian Standards, City of Ryde standards and specifications within 24 hours following completion of the relevant stage/s. The certificates shall contain photographs of the works in progress and a commentary of the inspected works, including any deficiencies and rectifications that were undertaken.
- a) Upon excavation of trenches shown on the approved drainage drawings.
  - b) Upon installation of pipes and other drainage structures prior to backfilling.
  - c) Upon backfilling of excavated areas and prior to the construction of the final pavement surface.
  - d) Upon connection to Council's existing pit.
  - e) Final inspection - upon the practical completion of all drainage and associated works (including road pavements, kerb & gutters, footpaths and driveways) with all disturbed areas satisfactorily restored.

Any stormwater pit with a depth greater than 1.8 metres shall be certified by a suitably qualified Structural Engineer.

168. **Stormwater - Council Drainage Connection Works - Council Construction Inspection —** Joint inspections shall be undertaken with Council's Engineer and the Site Engineer to confirm the construction for the stormwater drainage is to Council's satisfaction.
- The scope and number of inspections required shall be discussed and mutually agreed with Council's Engineer at the construction commencement stage.

Council shall be given a minimum 7 days' notice prior to the commencement of drainage Construction works.

Inspections shall typically occur at the following hold points:

- a) Upon installation of pipeline in the trench and installation of other drainage structures, prior to backfilling.
- b) Upon backfilling of excavated areas and prior to the construction of the final pavement surface.

Further work is not to proceed until the works are inspected and accepted by Council in writing.

**Note:** An inspection fee is applicable for each visit, and at least 48 hours' notice will be required for the inspections. Please contact Council's Customer Service Section on 9952 8222 to book an inspection subject to fees payable in accordance with Council's Schedule of Fees & Charges at the time.

169. **Hold Points during construction - Public Domain** – Council requires inspections to be undertaken by a Chartered Civil Engineer (registered on the NER of Engineers Australia), for the public domain, at the hold points shown below.

The Applicant shall submit to Council's City Works Directorate, certification from the Engineer, at each stage of the inspection listed below, within 24 hours following completion of the relevant stage/s. The certificates shall contain photographs of the works in progress and a commentary of the inspected works, including any deficiencies and rectifications that were undertaken.

- a) Prior to the commencement of construction and following the set-out on site of the position of the civil works to the levels shown on the approved civil drawings.
- b) Upon excavation, trimming and compaction to the subgrade level - to the line, grade, widths and depths, shown on the approved civil engineering drawings.
- c) Upon compaction of the applicable sub-base course.
- d) Upon compaction or construction of any base layers of pavement, prior to the construction of the final pavement surface (e.g. prior to laying any pavers or asphalt wearing course).
- e) Upon installation of any formwork and reinforcement for footpath concrete works.
- f) Final inspection - upon the practical completion of all civil works with all disturbed areas satisfactorily restored.

170. Tip Dockets identifying the type and quantity of waste disposed/recycled during construction are to be kept in accordance with the Site Waste Minimisation & Management Plan for spot inspections.

171. The area surrounding the construction site must be maintained to reduce the incidence of illegal dumping and management of litter from the site and workers associated with the site must be undertaken.



172. **Archaeology.** As required by the *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from Heritage NSW.

**Note:** The *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

173. **Excavation works.** All excavation works shall employ such techniques and equipment which minimises the amount of ground vibration. In this regard, excavation of the site by use of pneumatic drill for the breaking of rock or any other vibrating equipment for excavation, shall not be permitted.
174. **Discovery of Additional Information** - Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.
175. **Identification and removal of hazardous materials** - Prior to the demolition of any structures and the issue of a Construction Certificate for any Building Construction work, a suitably qualified and experienced Occupational Hygienist shall be engaged to undertake a Hazardous Materials Survey of all structures remaining on the subject site prior to any alteration or demolition and provide a demolition plan for the removal of such materials. The report identifying the hazardous materials, quantity and location along with the demolition management plan shall be submitted to Council prior to demolition of any structures.

An appropriately licensed contractor shall be engaged for the removal of friable asbestos or asbestos containing material greater than 10m<sup>2</sup> and Work Cover appropriately notified

Once all hazardous materials have been cleared from the site the Occupational Hygienist shall issue a Clearance Certificate which shall be submitted to Council. A waste management plan identifying the removal, transport and disposal of all contaminated waste shall be submitted where applicable along with a copy of all tipping dockets verifying the disposal of such waste shall be included along with the Clearance Certificate.

176. **Storage and removal of wastes** - All demolition and construction wastes must be stored in an environmentally acceptable manner and be removed from the

site at frequent intervals to prevent any nuisance or danger to health, safety or the environment.

177. **Contaminated soil** - All potentially contaminated soil excavated during demolition or construction work must be stockpiled in a secure area and be assessed and classified in accordance with the *Waste Classification Guidelines Part 1: Classifying Waste* (EPA, 2014) before being transported from the site.
178. **Transportation of wastes** - All wastes must be transported in an environmentally safe manner to a facility or place that can lawfully be used as a waste facility for those wastes. Copies of the disposal dockets must be kept by the applicant for at least 3 years and be submitted to Council on request.
179. **Recyclable wastes** - All wastes intended for recycling must be transported to a facility where the wastes will be recycled or re-used.
180. **Disposal of asbestos wastes** - All asbestos wastes must be disposed of at a landfill facility licensed to receive asbestos waste.
181. **Surplus excavated material** - All surplus excavated material must be disposed of at a licensed landfill facility, unless Council approves an alternative disposal site.
182. **Imported fill** - All imported fill must be validated in accordance with the *Contaminated Sites Sampling Design Guidelines* (EPA, 1995) by an experienced environmental consultant, and a copy of the validation report must be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) before the fill is used.
183. **Construction requirements** - All acoustical treatments nominated in the acoustical assessment report and any related project documentation must be implemented during construction.

## PRIOR TO OCCUPATION CERTIFICATE

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

184. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in approved BASIX Certificate.
185. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.
186. **Residential Apartment Noise Attenuation.** A AAAC 5 Star Certificate must be submitted by a qualified member of the Association of Australasian Acoustical Consultants (AAAC) demonstrating that the construction of the building including internal walls and floors ensures that all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems as well as noise generated between residential units has sufficient acoustical attenuation. Details of compliance must be submitted to the Principal Certifying Authority before the issue of any **Occupation Certificate**.
187. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to [www.sydneywater.com.au/section73](http://www.sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

188. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the

affected adjoining and private properties, prior to the issue of any **Occupation Certificate**.

189. **Public domain – work-as-executed plan.** A works as executed plan for works carried out in the public domain must be provided to and endorsed by Council prior to the issue of any **Occupation Certificate**.
190. **Public Art and Cultural Plan.** Prior to the issue of the final Occupation Certificate, the approved works contained in the Art and Cultural Plan approved by condition 65 shall be implemented.
191. **Design Verification.** Prior to an **Occupation Certificate** being issued to authorise a person to commence occupation or use of a residential flat building, the Principal Certifying Authority (PCA) is to be provided with a Design Verification from a qualified designer. The statement must include verification from a qualified designer that the residential flat development achieves the design quality of the development shown on plans and specifications in respect to any Construction Certificate issued, having regard to the design quality principles set out in Schedule 1 of the State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development. This condition is imposed in accordance with Clause 154A of the *Environmental Planning and Assessment Regulations 2000*.
192. **Letterboxes and street/house numbering display.** All letterboxes are to be designed and constructed in accordance with Australia Post requirements and the house/unit numbering displayed shall be in accordance with the official property addressing allocated by Council's Land Information Section. The display of the street address shall be of a sufficient size and clarity to be easily visible from the street. Where a development contains multiple properties, signage is required to be clearly displayed on all unit door entrances. Directional signage is to be erected on site at driveway entry points and on buildings. Unit numbering signage is also required on stairway access doors and lobby entry doors. It is essential that all numbering signage throughout a development is clear to assist emergency service providers locate a destination with ease and speed, in the event of an emergency.
193. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.
194. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention, pump/ sump, and WSUD components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the

development, by the owner of the site(s). The terms of the instrument are to be in accordance with the Council's standard terms for such systems and to the satisfaction of Council. The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.

195. **Drainage System Maintenance Plan.** To ensure the approved onsite detention system and WSUD measures function as designed for the ongoing life of the development, a drainage system maintenance plan (DSMP) must be prepared for implementation for the ongoing life of the development.

The DSMP must contain the following;

- (a) All matters listed in Section 1.4.9 of the DCP Part 8.2 (Stormwater and Floodplain Management – Technical Manual).
- (b) The DSMP is to incorporate a master schedule and plan identifying the location of all stormwater components crucial to the efficient operation of the trunk drainage system on the development lot. This is to include (but not be limited to) pump/sump systems, WSUD components and all onsite detention systems. The master plan is also to contain the maintenance schedule for each component.
- (c) The DSMP is also to include safe work method statements relating to access and maintenance of each component in the maintenance schedule.
- (d) Signage is to be placed in vicinity of each component, identifying the component to as it is referred in the DSMP (eg. OSD – 1), the reference to the maintenance work method statement and maintenance routine schedule.
- (e) Designate areas inside the property in which the maintenance operation is to be undertaken for each component. Maintenance from the road reserve or public domain is not accepted. Areas are to be demarcated if required.
- (f) Locate a storage area for maintenance components / tools to be stored on site. The location is to be recorded in the DSMP.

The DSMP is to be prepared by a suitably qualified and practising drainage engineer in co-operation with a workplace safety officer (or similar qualified personal) and all signage / linemarkings are to be implemented prior to the issue of any Occupation Certificate.

196. **Positive Covenant - Onsite Waste Collection.** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), ensuring that future owners provide and maintain the access driveway and loading bay accommodating waste collection services undertaken by Council. The terms of the instrument are to be generally in accordance with Council's current standard terms (available from Council) and any amendments necessary drafted in accordance with the City of Ryde DCP 2014 - Part 8.4 (*Title Encumbrances*), to Council's satisfaction. The terms of the covenant are to be to the satisfaction of Council prior to endorsement and are to be registered on the title prior to the release of any Occupation Certificate. The application to Council for endorsement of the positive covenant must be accompanied by a Works-As-Executed plan of the service area ensuring there

is adequate swept path and height clearances so as to accommodate Council waste vehicles. A swept path analysis may also be required to clarify this.

197. **Engineering Compliance Certificates.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.
- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls).
  - b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
  - c) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
  - d) Confirming that the connection of the site drainage system to the trunk drainage system complies with Section 4.7 of AS 3500.3 - 2003 (National Plumbing and Drainage Code), the relevant sections of the Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures and any requirements of Council pending on site conditions.
  - e) Confirming that the footings adjacent to drainage easements are founded below the zone of influence of this infrastructure, in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
  - f) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).
  - g) Certification from a suitably qualified structural or geotechnical engineer confirming that any temporary soil/ rock anchors installed into public roadway, have been de-stressed and are no longer providing any structural support.
  - h) Certification from a suitably qualified geotechnical engineer confirming that the Geotechnical Monitoring Program (GMP) was implemented throughout the course of construction and that all structures supporting neighbouring property have been designed and constructed to provide appropriate support of the neighbouring property and with consideration to any temporary loading conditions that may occur on that site, in accordance with the relevant Australian Standard and building codes.

- i) Compliance certificate from Council confirming that all external works in the public road reserve and alteration to Council assets located in the property have been completed to Council's satisfaction.

198. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

199. **Parking Area Linemarking and Signage.** To ensure the safe and efficient circulation of traffic and access to parking, directional signage, traffic control linemarking and signs must be installed in the developments parking area. The location and specifications of these measures must be in accordance with AS 2890.1, must be based on Traffic Engineering principals and must be located under the guidance of a suitably qualified Traffic Engineer experienced in traffic safety. Certification that these measures have been implemented must be provided to the Accredited Certifier prior to the issue of an Occupation Certificate for any part of the development requiring use of the parking area.

200. **Positive Covenant - Stormwater Drainage** - A positive covenant pursuant to the relevant section of the Conveyancing Act must be created on the title of the property to prevent future modification or alteration without the written consent of Council, and to ensure suitable maintenance is carried out. The positive covenant shall detail the following items incorporated in the development:

- a) stormwater drainage system including pits and pipes in the private roads
- b) on-site stormwater detention system(s)

The wording of the Instrument shall be submitted to, and approved by Council's City Works Directorate prior to lodgement at NSW Land Registry. The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate/use of the building.

201. **Flooding – Engineering Compliance Certificate** – A certificate from a suitably qualified Chartered Civil Engineer (registered on the NER of Engineers Australia), or equivalent, shall be provided to the Principal Certifying Authority, prior to the issue of the Occupation Certificate, confirming that all requirements of condition "*Flooding - Flood and Overland Flow Protection*" have been satisfied.

The qualified and practising Chartered Civil Engineer shall have experience in the area respective of the certification unless stated otherwise.

202. **Stormwater - Council Drainage Connection Works – Post Construction Certifications** - Following completion of the final stage of the drainage and associated works and prior to the issue of the Occupation Certificate, the

applicant shall submit all certifications from the Supervising Engineer for each hold point inspection required for the drainage works, as outlined in the condition for “Stormwater - Hold Points during construction – Council Drainage Connection Works”, to Council’s City Works Directorate for written acceptance. The certificates shall contain photographs of the completed works and commentary of the inspected works, including any deficiencies and rectifications that were undertaken.

203. **Stormwater – Council Drainage Connection Works - Works-as-Executed Plans** - To ensure the public infrastructure works are completed in accordance with the approved plans and specifications, and that the assets to be handed over to Council are accounted for inclusion in Council's Assets Register, Works-as-Executed Plans (in both hard and soft copies - AutoCAD, CivilCAD, Civil 3D, 12D or any other commercially used program), certified by a Registered Surveyor shall be submitted to, and accepted by Council in writing, with any rectifications required by Council to be completed by the Developer prior to the issue of any Occupation Certificate.

The Works-as-Executed Plans are to note all departures clearly in red, on a copy of the approved Construction Certificate drawings, and certification from a suitably qualified Civil Engineer shall be submitted to support all variations from the approved plans.

204. **Stormwater - Post-Construction CCTV Report** - To ensure Council’s stormwater infrastructures are adequately protected, there are no damages and no protruding pipe inside Council’s pipeline due to proposed construction activities and property drainage connection, a post-construction CCTV report on the Council’s stormwater pipeline through the proposed development site and the existing kerb inlet pit in front of the property is to be submitted to Council.

An electronic closed circuit television report (track mounted CCTV camera footage) prepared by an accredited operator (with a certificate of attainment in NWP331A Perform Conduit Condition Evaluation) that assesses the condition of the existing drainage line adjacent to the site is required. The report is to be dated and submitted to, and accepted by Council’s City Works Directorate, prior to issue of the Occupation Certificate.

The report shall be used by Council to compare with the pre-construction CCTV footage report, and to assess whether any rectification works will be required to Council’s satisfaction at no cost to Council. The applicant shall obtain written approval from a Council Engineer prior to the issue of the Occupation Certificate.

Note: The applicant shall contact Council’s Stormwater and Catchments section to obtain a map of Council’s existing stormwater network in the vicinity prior to conducting the CCTV survey.

All fees and charges associated with the review of the report shall be in accordance with Council’s Schedule of Fees and Charges, and shall be paid at the time that the report is submitted.

205. **Compliance Certificate – Council Drainage Connection Works** – Prior to the issue of any Occupation Certificate, a compliance certificate shall be obtained from Council’s City Works Directorate confirming that all Council



drainage and associated restoration works have been completed to Council's satisfaction and in accordance with the Council approved drawings.

**Note:** The applicant shall be liable for the payment of the fee associated with the issuing of this Certificate in accordance with Council's Schedule of Fees and Charges at the time of issue of the Certificate.

206. **Stormwater - Council Easements - Creation of a Council Drainage Easement** – A 2.6 metres wide easement in favour of Council shall be created over the existing alignment of the 600 mm diameter pipeline and pits traversing the site. The easement must be centrally located over the pipeline. The wording of the dedication shall be submitted to, and approved by Council's City Works Directorate prior to lodgement at NSW Land Registry. The easement shall be registered and a registered copy of the document shall be submitted to and approved by Council prior to the issue of an Occupation Certificate/use of the building.
207. **Signage and Linemarking – External.** The development site access driveway is located to the immediate east of a bend within Wandoo Avenue/Eagle Street, which have been identified to have traffic safety implications associated with restricted sight distance. This is expected to be exacerbated by the additional traffic generated by the proposed development along this route as well as the site servicing requirements for the proposed development (in particular during on-street bulky waste collection periods, which will result in a reduced carriageway width within Eagle Street). The applicant is therefore required to submit a signage and linemarking plan illustrating appropriate traffic and parking control changes within Council's Public Domain to address the abovementioned traffic safety concerns. This Plan shall be prepared by a suitably qualified person and submitted to Council for referral to Ryde Traffic Committee and approval by Council's Transport Department, prior to the issue of any Occupation Certificate. **Note:** The applicant is advised that the plan will require approval by the Ryde Traffic Committee if the proposal requires changes in existing parking conditions and hence, adequate time should be allowed for this process.
208. **Signage and Linemarking – Implementation.** The applicant is to install all signage and linemarking, as per the plan approved by the Council's Transport Department. These works are to be undertaken prior to the issue of any Occupation Certificate.
209. **Temporary Traffic Management for On-Street Waste Collection.** The occupation of the kerb space adjacent to the site frontage by a 10.8m long garbage truck associated with bulky waste collection will reduce the carriageway width of Eagle Street to enable two vehicles to pass each other in a safe and efficient manner. The applicant is therefore required to provide a Traffic Control Plan (TCP) to Council, detailing appropriate temporary traffic and pedestrian management measures to minimise the impact to traffic flow/road safety within Eagle Street during on-street bulky waste collection.

Traffic Control Plan(s) are to be prepared by a TfNSW accredited person (with a "Prepare a Work Zone Traffic Management Plan" qualification) and comply with AS1742.3-2009 and TfNSW' *Traffic Control at Work Sites* Technical Manual. The TCP(s) are to be submitted to Council's Transport Department for review and approval prior to any Occupation Certificate.

210. **Vehicle Footpath Crossing and Gutter Crossover – Construction** - The proposed vehicle footpath crossing and gutter crossover shall be constructed prior to the issue of any Occupation Certificate at no cost to Council. Works may include the removal of any redundant vehicle footpath crossing and gutter crossover and reinstatement of kerb and gutter and restoration of road pavement.

Any adjustment or relocation of underground utilities as a result of the driveway construction must be carried out in accordance with the requirements of the utility authority. Minimum cover requirements of utility authorities must be maintained.

211. **Compliance Certificate – Vehicle Footpath Crossing and Gutter Crossover** - A Compliance Certificate shall be obtained from Council's City Works Directorate and a copy submitted to the Principal Certifier prior to the issue of any Occupation Certificate, confirming that the vehicle footpath crossing and gutter crossover have been constructed in accordance with the Council's standards and requirements. Fees are payable for the issue of the Compliance Certificate, in accordance with Council's Schedule of Fees and Charges.
212. **Public Domain Improvements and Infrastructure Works – Completion** – All public domain improvements and infrastructure works shall be completed to Council's satisfaction, in accordance with the approved public domain plans and at no cost to the Council, prior to the issue of any Occupation Certificate.
213. **Restoration – Supervising Engineer's Certificate** - Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council a certificate from the Supervising Engineer confirming that the final restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure and replacement of any redundant vehicular crossings as a result of the construction works associated with this development site, have been completed in accordance with the Council's standards and specifications, and DCP2014 Part 8.5 *Public Civil Works*, or the Roads and Maritime Services' standards and specifications, where applicable.
214. **Compliance Certificates – Street Lighting** – Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, a *Certificate of Compliance - Electrical Work (CCEW)* from the Electrical Contractor, and certification from a qualified Electrical Engineering consultant confirming that the street lighting in the public domain has been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications.
215. **Compliance Certificate – External Landscaping Works** – Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, certification

from a qualified Landscape Architect confirming that the public domain landscaping works have been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications.

216. **Public Domain Works-as-Executed Plans** – To ensure the public infrastructure works are completed in accordance with the approved plans and specifications, Works-as-Executed (WAE) Plans shall be submitted to Council for review and approval. The WAE Plans shall be prepared on a copy of the approved plans and shall be certified by a Registered Surveyor. All departures from the Council approved details shall be marked in red with proper notations. Any rectifications required by Council shall be completed by the Developer prior to the issue of any Occupation Certificate.

In addition to the WAE Plans, a list of all infrastructure assets (new and improved) that are to be handed over to Council shall be submitted in a form advised by Council. The list shall include all the relevant quantities in order to facilitate the registration of the assets in Council's Asset Registers.

217. **Supervising Engineer Final Certificate** – Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

218. **Post-Construction Dilapidation Report** – To ensure Council's infrastructures are adequately protected a post-construction dilapidation report on the existing public infrastructure in the vicinity of the completed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record of any observable defects to the following infrastructure where applicable.

- (a) Road pavement,
- (b) Kerb and gutter,
- (c) Footpath,
- (d) Drainage pits,
- (e) Traffic signs, and
- (f) Any other relevant infrastructure.

The report shall include summary statement/s comparing the pre and post construction conditions of the public infrastructure. The report is to be dated and submitted to, and accepted by Council's City Works Directorate, prior to issue of the Occupation Certificate. The report shall be used by Council to compare with the pre-construction dilapidation report, and to assess whether restoration works will be required prior to the issue of the Compliance Certificate for External Works and Public Infrastructure Restoration.

All fees and charges associated with the review of the report shall be in accordance with Council's Schedule of Fees and Charges, and shall be paid at the time that the Dilapidation Report is submitted.

219. **Decommissioning of Ground Anchors** – Prior to the issue of any Occupation Certificate, the Applicant shall provide Council a certificate from a suitably qualified Structural or Geotechnical Engineer confirming that all temporary soil/ground anchors installed into the public road reserve, have been decommissioned and are not transferring any structural loads into the road reserve stratum.
220. **Final Inspection – Assets Handover** - For the purpose of the handover of the public infrastructure assets to Council, a final inspection shall be conducted in conjunction with Council's Engineer from City Works Directorate following the completion of the external works. Defects found at such inspection shall be rectified by the Applicant prior to Council issuing the Compliance Certificate for the External Works. Additional inspections, if required, shall be subject to fees payable in accordance with Council's Schedule of Fees & Charges at the time.

A minimum 48 hours' notice will be required when booking for the final inspection.

221. **Compliance Certificate – External Works and Public Infrastructure Restoration** – Prior to the issue of any Occupation Certificate, a compliance certificate shall be obtained from Council's City Works Directorate confirming that all works in the road reserve including all public domain improvement works and restoration of infrastructure assets that have dilapidated as a result of the development works, have been completed to Council's satisfaction and in accordance with the Council approved drawings. The applicant shall be liable for the payment of the fee associated with the issuing of this Certificate in accordance with Council's Schedule of Fees and Charges at the time of issue of the Certificate.
222. **Waste Collection.** An authorised Council traffic engineer or waste officer is to ensure that the development can be accessed and serviced by the nominated waste collection vehicle in accordance with the Waste Management plan providing safe easy access to service the waste containers. Approval must be provided by City of Ryde Council prior to the issue of the Occupation Certificate.

The Waste Collection Vehicle will be required to back into the loading bay from the turning area. A mirror will be required to be provided to ensure the waste collection vehicle can safely reverse avoiding exiting vehicles.

Chevron lines are to be painted on the loading bay to ensure that cars do not park in this location, blocking access to the collection truck.

223. **Signage and Linemarking – Implementation.** The applicant is to install all signage and linemarking, as per the plan approved by the Ryde Traffic Committee to ensure the cleanup collection truck can pull up outside the

building. These works are to be undertaken prior to the issue of any Occupation Certificate.

224. **Waste Collection arrangement.** Suitable arrangements must be made with the City of Ryde Council for the provision of garbage services to the premises prior to the issue of any Occupation Certificate.
225. **Onsite Waste Collection – Positive Covenant.** Where it is necessary for waste collection vehicles to enter the property to service the waste containers, A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), ensuring that future owners provide and maintain the access driveway and loading bay accommodating waste collection services undertaken by Council. The terms of the instrument are to be generally in accordance with the standard terms (available from Council) and any amendments undertaken in accordance with the City of Ryde DCP 2014 - Part 8.4 (*Title Encumbrances*) - Section 7. The terms of the covenant are to be to the satisfaction of Council prior to endorsement and are to be registered on the title prior to the release of any Occupation Certificate. The application to Council for endorsement of the positive covenant must be accompanied by a Works-As-Executed plan of the service area ensuring there is adequate swept path and height clearances so as to accommodate Council waste vehicles. A swept path analysis may also be required to clarify this.
226. Where there is a lockable door to access a bin room or hardwaste storage room, the universal Council key should be installed so the contractor can access the room for servicing bins or collect the household cleanup items.
227. **Compliance report** - A report from a qualified acoustical consultant demonstrating compliance with the relevant noise criteria must be submitted to the Principal Certifying Authority before the issue of an Occupation Certificate.

## **OPERATIONAL CONDITIONS**

The conditions in this Part of the consent relate to the on-going operation of the development and shall be complied with at all times.

228. **Parking Allocation.** Both the owner and occupier of the development must provide and maintain the minimum parking allocation as follows;
- 31 residential spaces
  - 7 visitor spaces
  - 21 commercial spaces and,
  - 6 bicycle parking spaces.
229. **Stormwater Management – Implementation of maintenance program.** The stormwater management system components are to be maintained for the ongoing life of the development by the strata management/ owners corporation, as per the details in the approved drainage system maintenance plan (DSMP).
230. **Implementation and Review of the Temporary Traffic Control Plan – On-Street Waste Collection.**

- a) The measures outlined within the approved Traffic Control Plan(s) must be implemented by person(s) having appropriate TfNSW accreditation on the days nominated for Bulky Waste collection. All temporary traffic controls (e.g. advanced warning signage) must be in place prior to the arrival of Council's waste collection vehicle. These controls must be removed once the waste vehicle has departed.
  - b) The approved Traffic Control Plan(s) are to be regularly reviewed by the designer, prior to bulky waste collection (which occurs approximately 3 – 4 times a year) and if required, be updated, should the proposed measures have any undesirable impact to the surrounding development and traffic conditions within the adjoining road network.
  - c) Traffic Control Plan(s) associated with the on-street bulky waste collection are to be submitted to Council for approval on an annual basis or when an update is proposed to address altered traffic conditions.
231. **Offensive noise.** The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.
232. **Waste storage/disposal – hours of collection.** Waste and recyclable material generated by these premises must not be collected between the hours of 9pm and 8am on any day.
233. **Waste storage/disposal – method.** All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.
234. **Waste storage/disposal – containers.** An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.
235. **Waste storage/disposal – recycling.** Wastes for recycling should be the stored in separate bins or containers and transported to a facility where the wastes will be recycled or re-used.
236. **Delivery and loading/unloading – hours.** No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 7am on any day.
237. **Delivery and loading/unloading – location.** All loading and unloading in relation to the use of the premises shall take place wholly within the property.
238. **Loading areas.** Loading areas are to be used for the loading and unloading of goods, materials etc. only and no other purpose.
239. **Waste Arrangements.** The following conditions must be complied with:
- Council does not support the use of private contractors for the collection of domestic waste. All domestic waste will be collected by the Council waste collection contractor.

- Signs will be required to be placed within the bin area to encourage correct recycling and reduce contamination. City of Ryde will provide the required signage
- All waste storage areas must be maintained in a clean and tidy condition at all times
- All material in the bulky items/hard waste storage rooms is to be taken to the collection area stipulated by Council, by the staff or contractors. The material is to be placed in such a manner so that it will not impede the access to any bins from a side arm waste collection vehicle or pedestrian access
- Staff or contractors must be employed to take the recycling bins from the service cupboards on each level and the waste containers from garbage room to the container emptying point for servicing and to return the containers to the recycling and garbage rooms after servicing
- Unwanted household items must be stored onsite until the night prior to a Pre-booked household cleanup collection.

240. **Waste containers** - An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.

241. **Recyclable wastes** - Wastes for recycling must be stored in separate bins or containers and be transported to a facility where the wastes will be recycled or re-used.

242. **Disposal of liquid wastes** - All liquid wastes generated on the premises must be treated and discharged to the sewerage system in accordance with the requirements of Sydney Water Corporation or be transported to a liquid waste facility for recycling or disposal.

243. **Dust control** - Appropriate measures must be taken to control the generation of dust during demolition work:

- a) Any existing accumulations of dust (eg. in ceiling voids and wall cavities) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter.
- b) Any materials that are likely to generate dust during demolition or removal must be wetted down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system.
- c) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- d) Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site.

244. **Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:

- a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or

intermittent noise in accordance with the *New South Wales Industrial Noise Policy* (EPA, 2000).

- b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
- c) The transmission of vibration to any place of different occupancy.

245. **Clean water only to stormwater system** – No polluted water is permitted to enter Council's stormwater drainage system.

246. **Use - Separate DA Required.**


A separate development application for the fitout and use of the retail shop in Building 1 must be submitted to and approved by Council prior to that fitout or use commencing.

247. **Retail premises noise.** Retail premises must limit any spruiking and the playing of amplified music or messages so as not to disturb the amenity of other public and private places.



Attachment. Aerial referenced in Condition 44.



The background of the page is a composite image. On the right side, there is a grayscale photograph of a city skyline with several tall buildings. Overlaid on this and extending to the left is a graphic of numerous 3D wireframe rectangular blocks of varying heights and orientations, creating a sense of depth and architectural structure.

**Clause 4.6**  
**Variation Request**  
Height of Buildings  
(Clause 4.3) Ryde LEP 2014

744 Victoria Road and 2A Eagle Street, Ryde

Submitted to Ryde Council  
On Behalf of Cadence Constructions

JULY 2020

## REPORT REVISION HISTORY

Revision	Date Issued	Revision Description	
01	22/10/19	Final	
		<b>Prepared by</b>	<b>Verified by</b>
		Anthony Kazacos <i>Associate</i>	Susan E. Francis <i>Executive Director</i>
		Tina Christy <i>Associate Director</i>	
02	14/07/2020	Tina Christy <i>Associate Director</i>	Tina Christy <i>Associate Director</i>

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## APPENDICES

Appendix No	Document Title	Prepared by
1	Urban Design Referral Response	Ryde City Council

## 1. EXECUTIVE SUMMARY

This is a formal written request that has been prepared in accordance with clause 4.6 of the Ryde Local Environmental Plan 2014 (RLEP) to support modifications to the existing Development Application (DA) (LDA2018/0117), which has been submitted to Ryde City Council, in relation to 744 Victoria Road and 2A Eagle Street, Ryde (“the site”)

The proposal is for the demolition of structures and construction of a part five/ part six storey mixed use development comprising:

- Two ground floor commercial tenancies;
- 32 residential apartments across 5 floors located wholly above the ground floor commercial tenancies;
- 59 car parking spaces across two levels of basement car parking; and
- Open space on level 1 and on level four.

In 2018, a DA was lodged on the site for a 4 storey mixed use building, with a continuous frontage along Victoria Road. On 27 September 2018, Council issued an Urban Design referral response, recommending the built form be divided into two building elements with 15-metres separating both buildings. The referral also recommended incorporating additional height, up to 6 storeys, along the site’s western end, to create a marker at the intersection of Victoria and Devlin Street.

The architectural plans have been amended to incorporate Council’s recommendations. As a result of the amendments, the built form departs from the applicable 12.5 metre “height of buildings” standard by 6.86 metres. This is due to the redistribution of floorspace from centre of the site, to the eastern and western buildings, to accommodate the required separation distance. As outlined in this report, overall the modifications improve the amenity of surrounding dwellings, improve the streetscape by providing a “break” in the built form and improve views from surrounding heritage items.

This formal request demonstrates that compliance with the 12.5m height development standard would be unreasonable and unnecessary in the circumstances of this development, and there are sufficient environmental planning grounds to justify the variation. Further, the proposal is consistent with the objectives of the zone for the subject site.

## 2. INTRODUCTION

The key stated objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development.

As the following request demonstrates, a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the particular circumstances of this application.

This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (August 2011) and various relevant decisions in the New South Wales Land and Environment Court and New South Wales Court of Appeal (Court).

Clause 4.6 requires that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard (see *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130):

1. That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case [clause 4.6(3)(a)];
2. That the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard [clause 4.6(3)(b)];
3. That the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out [clause 4.6(4)]

This request also addresses the requirement for the concurrence of the Secretary as required by clause 4.6(4)(b).

### 3. STANDARD TO BE VARIED

The standard that is proposed to be varied is the “height of buildings” development standard which is set out in clause 4.3 of the Ryde Local Environmental Plan 2014 (RLEP) as follows:

**4.3 Height of buildings**

(1) *The objectives of this clause are as follows:*

- (a) *to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,*
- (b) *to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,*
- (c) *to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,*
- (d) *to minimise the impact of development on the amenity of surrounding properties,*
- (e) *to emphasise road frontages along road corridors.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The numerical value of the development standard applicable in this instance is 12.5 metres (refer to Figure 1). The development standard to be varied is not excluded from the operation of clause 4.6 of the LEP.



Figure 1: RLEP Height of Buildings Map Extract, site outlined in red (Source: NSW Legislation)

## 4. EXTENT OF VARIATION

Under the RLEP the subject site has a maximum building height standard of 12.5m. The proposal has a maximum building height, as measured from ground level 'existing', of:

- Eastern building: 16.71m (at 79.90 RL), to top of services representing a 4.21m or 33% variation.
- Western building: 19.36m (at 82.85 RL), to top of services representing a 6.86m or 55% variation.

The site slopes from west to east towards the rear of the site. The maximum height is measured to the top of the services, and lift overrun.

The extent of the height breach is shown in Figure 2 to Figure 4.

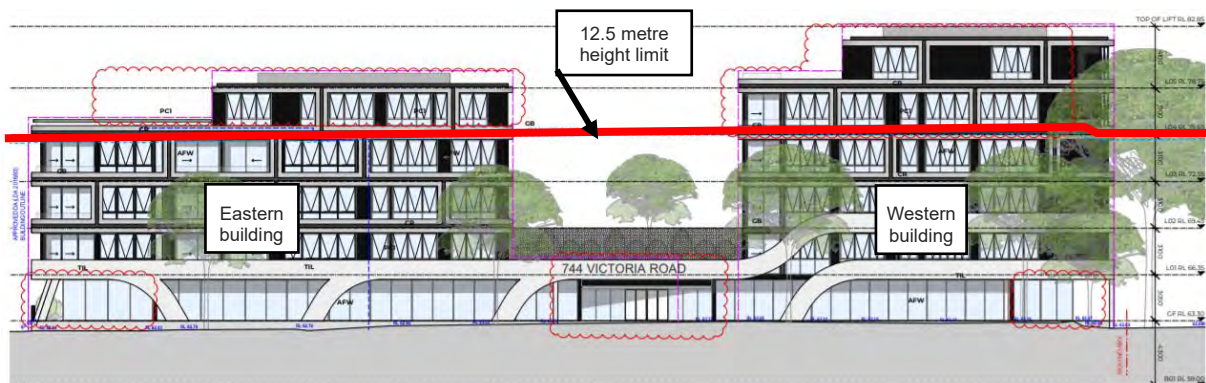


Figure 2: North Elevation (Source: Aleksandar Projects)



Figure 3: East (left) and West (right) Elevations (Source: Aleksandar Projects)

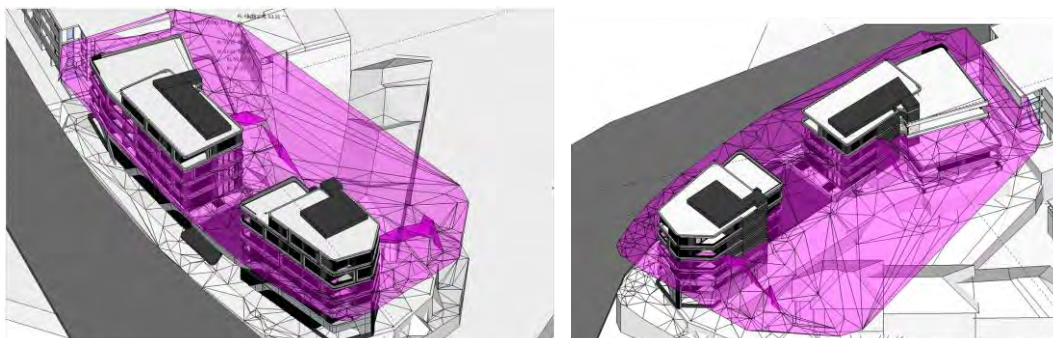


Figure 4: View from North (left) and View from South (right) (Source: Aleksandar Projects)



## 5. UNREASONABLE OR UNNECESSARY

The Court has held that there are at least five different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary and that it is sufficient to demonstrate only one of these ways to satisfy clause 4.6(3)(a) (Wehbe v Pittwater Council [2007] NSWLEC) and Initial Action Pty Limited v Woollahra Municipal Council [2018] NSWLEC 118).

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate

This Clause 4.6 variation relies on satisfying the objectives of the standard.

### 5.1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

In the following table we have considered whether the objectives of the development standard are achieved notwithstanding the proposed variation.

Table 1: Achievement of Objectives of Clause number of LEP.

Objective	Discussion
(a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,	The site and its immediate surrounds are subject to a maximum building height of 12.5m. Opposite the site across Victoria Road, the maximum building height is 14m, and immediately south of the site buildings up to 15.5m are permitted with consent. As recommended in the Urban Design Referral Response (refer Appendix 1 and Figure 5 for an extract), the built form has been amended to concentrate the bulk of the proposed development at both the eastern and western ends of the site, to create a marker at the intersection of Victoria and Devlin Street and to improve amenity to the existing surrounding dwellings, in particular along Eagle Street.



Figure 5: Building scale (Source: Ryde City Council)

The proposed height variation allows the skilful distribution of building mass on the site, which assists with ensuring that the development is in proportion and in keeping with the character of nearby development. This skilful design creates a gradual height transition from the western end of the site, along Victoria Road, complementing the neighbouring 4-storey mixed use development at 734 Victoria Road. This gradual transition is visible in Figure 6.

The proposal complies with the relevant FSR and the height contravention does not result in any additional GFA or breach of the relevant standard.



Figure 6: Street Elevation (Source: Aleksandar Projects)

Further, the proposed development is in character with nearby development located within 200m of the subject site, including (refer to Figure 7 for each location):

1. A 5-8 storey mixed use development at 29 Devlin Street (approved pursuant to DA 2011/0521);
2. A 5-9 storey mixed use development at 39-41 Develin Street (approved pursuant to DA 2016/0359);
3. A 3-6 storey mixed use development at 723-731 Victoria Road (approved pursuant to DA 2015/0654); and
4. An existing 5 storey residential flat building located at 719 Victoria Road.

Accordingly, the street frontage of the proposed development is in proportion with and in keeping with the character of nearby development and the proposed variation does not affect the consistency or achievement of this objective.

Objective	Discussion
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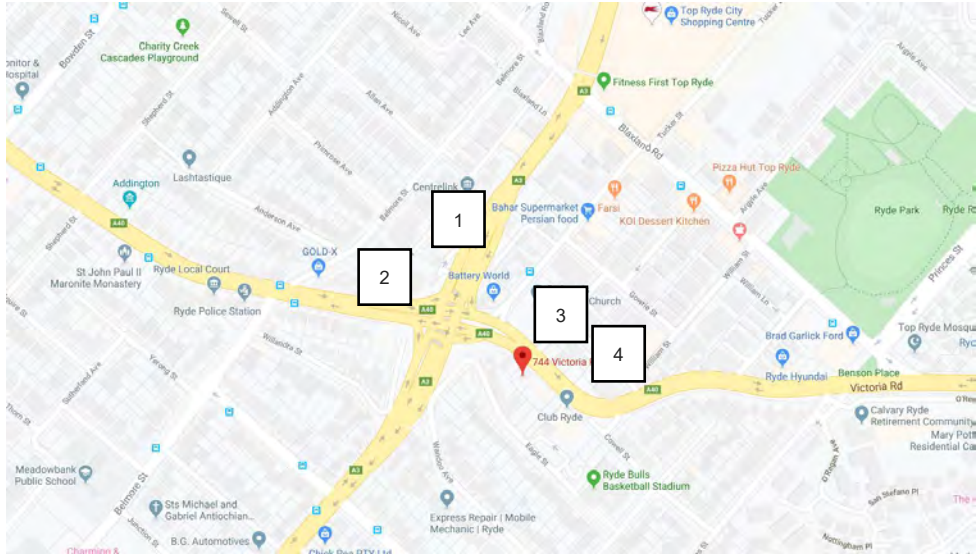


Figure 7: Nearby Development, subject site highlighted with red marker (Source: Google Maps)

(b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,

The proposed design of the development ensures that overshadowing is minimised. A 6m physical separation to the building to the south, has been provided in the built form, to preserve solar access to the neighbouring properties at No.2 Eagle Street, which is located to the site's south (refer to Figure 8).

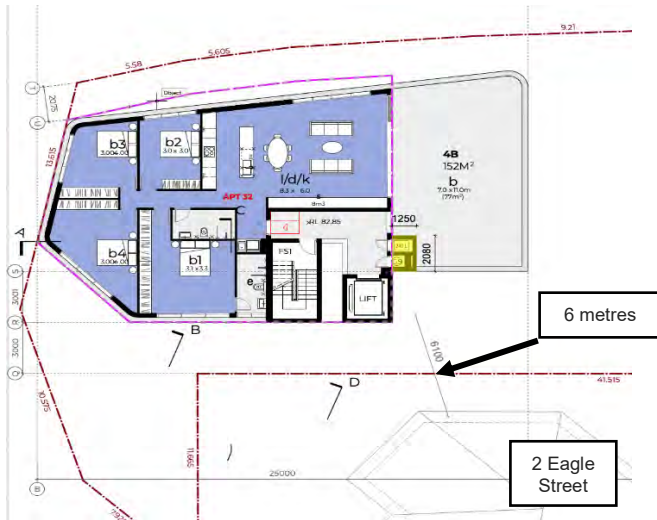
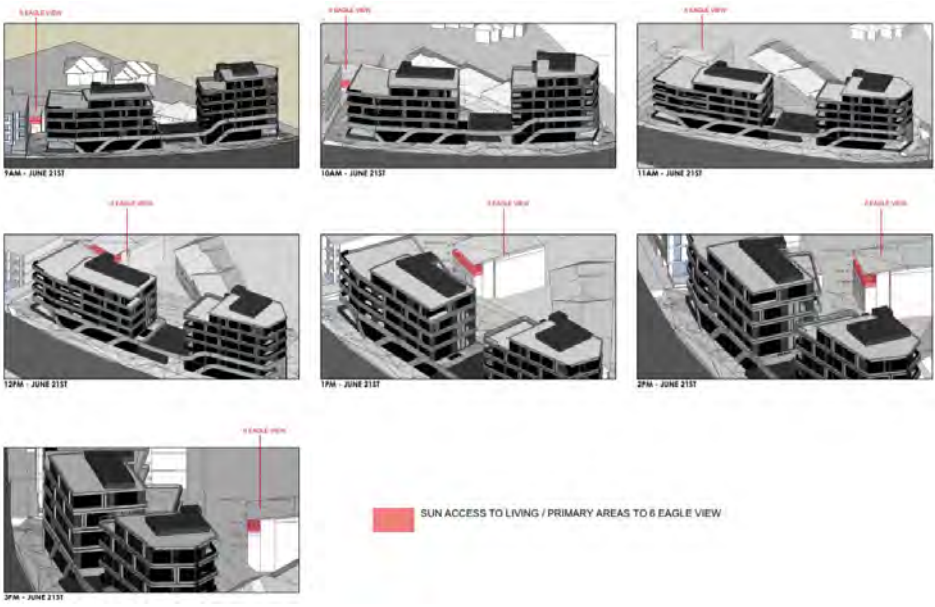


Figure 8: Separation to 2 Eagle Street (Source: Aleksandar Architects)

No. 6 Eagle Street to the south has four (4) units with the two lower level units 1 & 2 having their primary living areas facing Eagle Street (South), and units 3 and 4 being split level design with the upper level secondary habitable living areas facing the subject site (North) and the primary living areas and balconies facing Eagle Street.

Due to the orientation of the living areas at No. 6 Eagle Street, the subject application only has an impact on the rear facing balconies of Units 3 & 4 on the upper level and the terraces off the bedrooms of those units.

Figure 9 below demonstrates that those unit achieve greater than 2 hours solar access in mid-winter. This is in accordance with the objectives of the Apartment

Objective	Discussion
	<p>Design Guide criteria and is considered to satisfy this objective by minimising overshadowing.</p>  <p><i>Figure 9: Proposed View from the Sun diagram (Source: Aleksandar Architects)</i></p> <p>The buildings step down away from the main corner and provide a large central gap which maintains view vistas through the site. (Refer to Figure 6 above.) This design improves the appearance of the area by having regard to the surrounding heritage buildings and ensuring the mass and bulk of the building is reduced. The end result is of 2 x towers, rather than a large bulk of building extending across the length of the site.</p> <p>As such the proposed variation maintains consistency with this objective.</p>
<p>(c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,</p>	<p>The proposal consolidates the existing two lots on the site to facilitate the development of a 4-6 storey mixed use building. Similar consolidation patterns have taken place along Victoria Road to enable the transition of existing sites into larger scale mixed use developments.</p> <p>The site is highly accessible by public transport being in close proximity to bus stops and nearby train stations. A number of bus stops are located along Victoria Road which provide frequent services to the City, Parramatta and Macquarie University. West Ryde Train Station is located to the north west of the site along Victoria Road. The site is therefore located in an accessible location and facilitates sustainable integrated land use.</p> <p>The proposed development consolidates two site's fronting Victoria Rd and allows for residential and employment generating uses within close proximity of public transport. As such, the proposed variation to the height standard does not affect consistency with this objective.</p>
<p>(d) to minimise the impact of development on the amenity of surrounding properties,</p>	<p>As outlined in row (b) of this table, due to the redistribution of floorspace and the creation of two buildings, the proposed amendments improve the amenity to the residential flat building at 2 Eagle Street, by increasing the quantum of solar access received.</p> <p>The proposed amendments will also improve and minimise any view impacts from "St Anne's Ryde Anglican Church and Cemetery", to the site's north, which is a heritage item of local significance. As outlined in the View Analysis Report</p>

Objective	Discussion
	<p>prepared by Richard Lamb &amp; Associate, the Church is located on top of a local highpoint and is slightly elevated in relation to the proposed development. The report states that the maintenance of the visual connection and the preservation of outward views via the proposed setbacks and separation distances provides "an acceptable outcome in terms of public domain view sharing and satisfies heritage view objectives included in the LEP" (refer to Figure 10).</p>  <p><i>Figure 10: Visual Massing, when viewed from "St Anne's Ryde Anglican Church and Cemetery" (Source: Richard Lamb &amp; Associates). Orange = original built form. Red = 15m separation between buildings. Blue = 12m separation between buildings.</i></p> <p>The proposed development will also improve the amenity of the surrounding streetscape. The subject site has a significant frontage along Victoria Road. The design has been amended to break up the façade, by providing two building envelopes, increasing the sense of openness when viewed from Victoria Road and the surrounding locality and reduce the mass frontage along Victoria Road.</p>
(e) to emphasise road frontages along road corridors.	<p>The proposed mixed-use building has been designed to emphasise and activate the Victoria Road frontage. The proposed built form is articulated and the substantial physical separation provided in the built form breaks up the perceived length of the proposed buildings when viewed from the public domain.</p> <p>The concentration of the building height along the western end of the site also creates a marker at the intersection of Victoria Road and Devlin Street.</p>

As demonstrated in Table 1 above, the objectives of the "height of buildings" development standard are achieved notwithstanding the proposed variation and the variation to the standard allows for a better planning outcome.

In accordance with the decision in *Wehbe v Pittwater Council* [2007] NSWLEC and *Initial Action Pty Limited v Woollahra Municipal Council* [2018], therefore, compliance with the "height of buildings" development standard is demonstrated to be unreasonable or unnecessary and the requirements of clause 4.6(3)(a) have been met on this way alone.

## 6. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

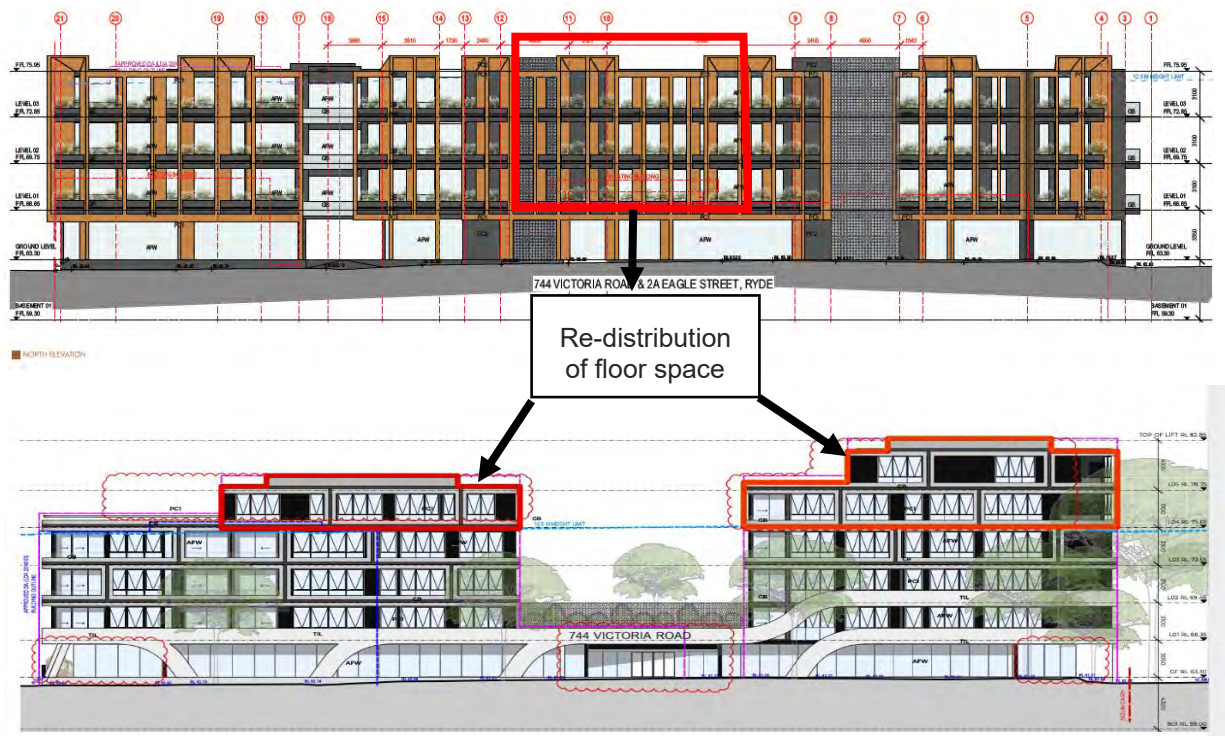
In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

The element of the development which contravenes the “height of buildings” development standard is a result of the redistribution of floorspace, not additional GFA or a breach of the FSR standard. As illustrated in Figure 11, the floorspace originally located in the centre of the building, has been redistributed to the western and eastern elevations of the development, essentially creating two buildings on top of a common podium.

This amendment provides the following benefits:

- It does not impact any significant views from the adjacent heritage item located at 46 Church Street, but rather provides views through the site not envisaged by the controls.
- The proposed built form is articulated and the substantial physical separation provided in the built form breaks up the perceived length of the proposed buildings when viewed from the public domain.
- The additional height enables the creation of a focal point, as desired by Council's Urban Design referral, which identifies the site's potential to create a marker at the intersection of Victoria and Devlin Street.
- The proposed increased separation between buildings and setbacks from surrounding boundaries increases solar access to surrounding dwellings.



\*There is no increase in GFA or breach of the FSR standard

Figure 11: North Elevation Comparison. Original (top) and Proposed (bottom) (Source: Aleksandar Projects)

The proposal would therefore result in a better planning outcome than if compliance were to be achieved, as it provides a development that meets the objective of the standard, while improving the amenity of surrounding dwellings and public domain, as desired by the Council's Urban Design referral.

In terms of the objects (Section 1.3) of the Environmental Planning & Assessment Act, the provision of active ground floor frontages, improved public domain and a diverse housing mix in an accessible location is highly desirable. It promotes the orderly and economic use and development of land (s.1.3(c)) and good design and amenity of the built environment (s.1.3(g)). The environmental benefits of the focal design and height of the building greatly outweighs the negligible environmental impact resulting from the variation. In this regard we submit that there are sufficient environmental planning grounds to justify contravening the "height of buildings" development standard to the extent proposed in this application.

## 7. PUBLIC INTEREST

In section 5 it was demonstrated that the objectives of the development standard are achieved notwithstanding the variation of the development standard as required by Clause 4.6(4)(a)(ii).

The table below considers whether the proposal is also consistent with the objectives of the B6 zone.

Table 2: Consistency with the B6 Zone Objectives.

Objectives of Zone – B6 Enterprise Corridor	Discussion
To promote businesses along main roads and to encourage a mix of compatible uses.	The proposal includes commercial tenancies, each fronting Victoria Road. These will facilitate a mix of businesses along the main road, compatible with the residential units above and adjoining properties.
To provide a range of employment uses (including business, office, retail and light industrial uses).	The end users of the proposed commercial tenancies will be subject to future DAs for the detailed fit out of these spaces. However, due to the variations in size and layout, it is anticipated that a range of employment uses will be provided.
To maintain the economic strength of centres by limiting retailing activity.	The end users of the proposed commercial tenancies will be subject to future DAs for the detailed fit out of these spaces. However, due to the variation in size and layout it is anticipated that a range of employment uses will be provided, in effect limiting the provision of retailing activity through the diversity of options for the use of these tenancies.
To provide for residential uses, but only as part of a mixed use development.	The mixed use development incorporates 32 residential units above commercial tenancies.
To promote sustainable development, including public transport use, living and working environments.	The proposal is conveniently located in close proximity to public transport which connects residents to employment centres and vice versa.  Additionally, the proposed DA is accompanied by BASIX and Section J Assessments, providing a comprehensive assessment of environmental sustainability. For detail, reference should be made to these assessments.

As demonstrated in Table 2, the proposal is consistent with the objectives of the zone and in Section 5 it was demonstrated that the proposal is consistent with the objectives of the development standard, despite the variation in height. According to clause 4.6(4)(a)(ii), therefore, the proposal is in the public interest.



## **8. STATE OR REGIONAL ENVIRONMENTAL PLANNING**

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard as proposed by this application.

As demonstrated already, the proposal is consistent with the objectives of the zone and the objectives of the development standard and in our opinion, there are no additional matters which would indicate there is any public benefit of maintaining the development standard in the circumstances of this application.

Finally, we are not aware of any other matters required to be taken into consideration by the Secretary before granting concurrence.

## 9. CONCLUSION

This submission requests a variation, under clause 4.6 of the Ryde *Local Environmental Plan* 2014, to the “height of buildings” development standard and demonstrates that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development; and
- There are sufficient environmental planning grounds to justify the contravention.

We submit that the consent authority can be satisfied to the above and that the development achieves the objectives of the development standard and is consistent with the objectives of B6 Enterprise Corridor Zone notwithstanding non-compliance with the “height of buildings” standard and is therefore in the public interest.

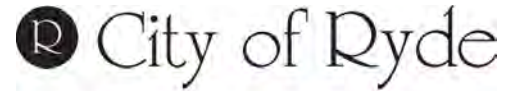
We note that the concurrence of the Secretary can be assumed in accordance with Planning Circular PS 18-003.

On this basis, therefore, it is appropriate to exercise the flexibility provided by clause 4.6 in the circumstances of this application.

# **APPENDIX 1**

## Urban Design Referral - Ryde City Council

# Urban Design Referral Response



Lifestyle and opportunity @ your doorstep

To: Rebecca Lockart  
From: Paul Bu  
Application No.: LDA2018/0117  
Date: 27 September 2018  
Address: 744-748 Victoria Road & 2A Eagle Street, Ryde

---

Hi Rebecca,

Thank you for the opportunity to review the DA proposal for the mixed-use development located at 744 Victoria Road Ryde. In preparing this response, the following documentation has been reviewed:

- DA drawing set by Aleksandar Design Group, Revision A dated 09 August 2018
- Section drawings by Aleksandar Design Group, Revision C dated 20 August 2018
- 3D architectural model by Aleksandar Design Group
- SEPP65 and the Apartment Design Guide
- Heritage Referral Response by City of Ryde, dated 27 April 2018
- City of Ryde DCP 2014 Part 4.4 Ryde Town Centre

## Consideration of the proposal:

The development proposal seeks Council's approval for the demolition of the existing building on the site, excavation for basement level car parking, followed by the construction of a multi-storey residential flat building.

Our review focuses on the urban design outcome of the proposal. The comments are to be read in conjunction with the recommended built form strategy attached.

## Reasons for Urban Design referral:

It is understood that the site is susceptible to a number of environmental constraints, including:

- Proximity to the neighbouring residential flat buildings at No.2 and No.6 Eagle Street which exacerbates amenity impacts such as privacy, noise and overshadowing
- A sloping landform southwards which increases its potential overshadowing impact
- Noisy main road conditions to the north
- Proximity to existing built form with heritage significance such as:
  - 'St Anne's Church and Cemetery' 46 Church Street, Ryde
  - 'Willandra' 770-772 Victoria Road, Ryde
  - 'Former Court House' 42 Church Street, Ryde

The applicant argues that existing constraints have impeded a compliant scheme on the site from reaching its full development potential permissible under RLEP 2014. The Urban Strategy team was consulted to explore alternative built form approaches for the site while maintaining a satisfactory design outcome.

## Urban Design Comments:

- The proposed basement carpark is built to the common boundary and has protruded above the ground level by over 4 metres, resulting in a poor interface with No.2 Eagle Street. This is highly insensitive to the adjoining properties as it will reduce daylight access and result in a poor outlook for the neighbouring units and therefore cannot be supported. A minimum setback of 3m from the common boundary is recommended. Any exposed blank wall of the basement car park should be mitigated through landscape and architectural measures.
- Scenic views to Parramatta River and the horizon line are currently available to the public from St Anne's Church, St Anne's Cemetery and Church Street. It is critical that the proposal is designed to maintain the visual relationship from these vantage points to Parramatta River and the 'Willandra' building located at No.770-772 Victoria Road. This can be achieved by preserving an existing view corridor or creating a new view corridor on the site.
- A substantial physical separation is to be provided in the built form to preserve daylight access to the neighbouring properties at No. 2 Eagle Street.
- An increase in the building height may be acceptable to allow building mass to be distributed skilfully on the site and hence assist in achieving the above outcomes.
- Any increase in building height should be concentrated at the western end of the site to create a marker at the intersection of Victoria Road and Devlin Street and a gradual height transition should be provided.
- In spite of the potential height increase, the height and scale of the proposal must remain subservient to St Anne's Church to maintain the prominence and significance of the heritage building in the locality. The maximum height acceptable on the site is 6 storeys or approximately 19 metres.
- The north and south elevations of the proposal need to be articulated with deep insets to break up the perceived length of the building when viewed from the public domain and the neighbouring private properties. A maximum building length acceptable without an indentation is 25m.
- The currently proposed location for a vehicle entry ramp is not supported from a design point of view. The driveway is only 2 metres from the neighbour's balcony at No.2 Eagle Street and will cause detrimental amenity impacts such as noise, poor outlook and air pollution on the neighbouring properties. It is recommended to move the vehicle entry away from the neighbouring building as much as possible, ideally via the site's Eagle Street frontage rather than relying on the adjoining property site to provide vehicle access.
- It is recommended to provide communal open space on the podium and/or roof to maximise its solar access.
- Narrow and deep balconies should be avoided as they significantly reduce daylight access to the living area of the units.

The above design principles are illustrated in the built form strategy attached for reference.

### **Additional information required:**

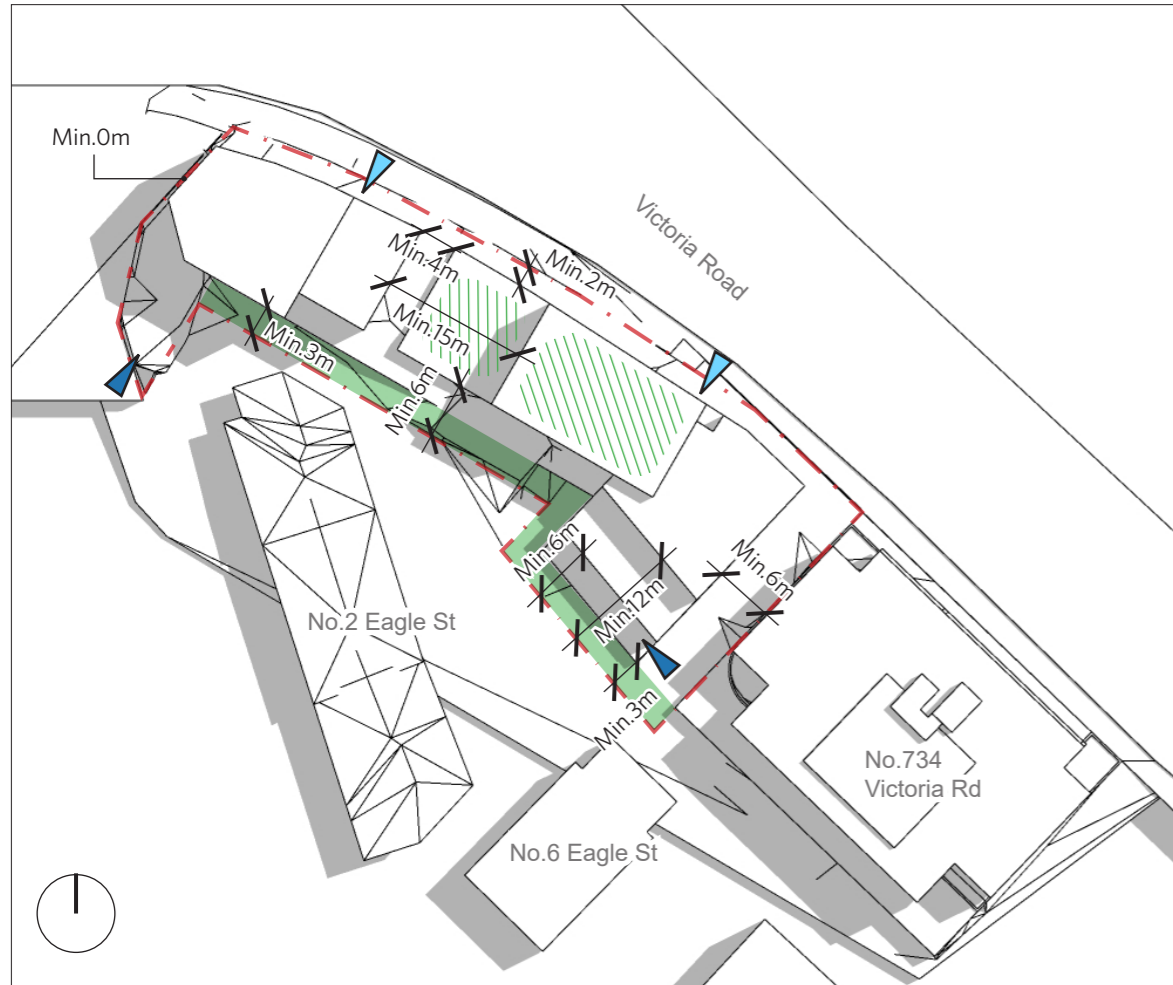
A view assessment should be provided to demonstrate how the proposal is able to preserve important public view elements from St Anne's Church site. The view assessment is to be undertaken from St Anne's Cemetery facing in a south and southwest position. Detailed and certified photo montages are required to be prepared and submitted, providing a graphical representation of the proposed built form when viewed from St Anne's church, St Anne's Cemetery and Church Street.

Regards,

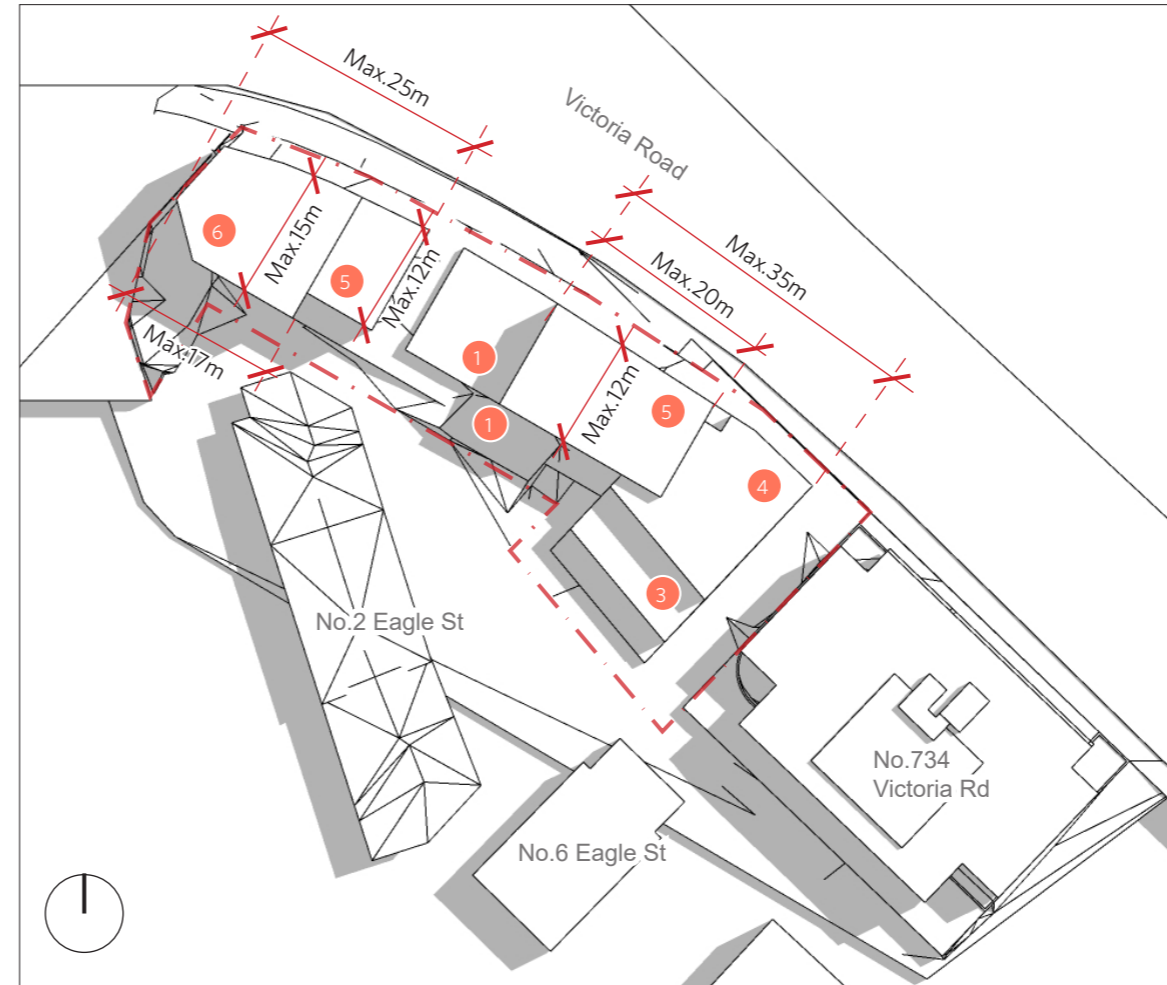
Paul Bu  
Urban Designer/Strategic Planner

## Built Form Strategy

### Building Setbacks & Separation



### Building scale



#### KEY

- # Number of storey
- ▶ Vehicle access
- ▶ Building entry
- ||||| Rooftop communal open space
- 3m wide (minimum) landscape area with deep soil
- - - Site boundary

Height of Building: 4 to 6 storeys  
Indicative FSR: 1.5:1

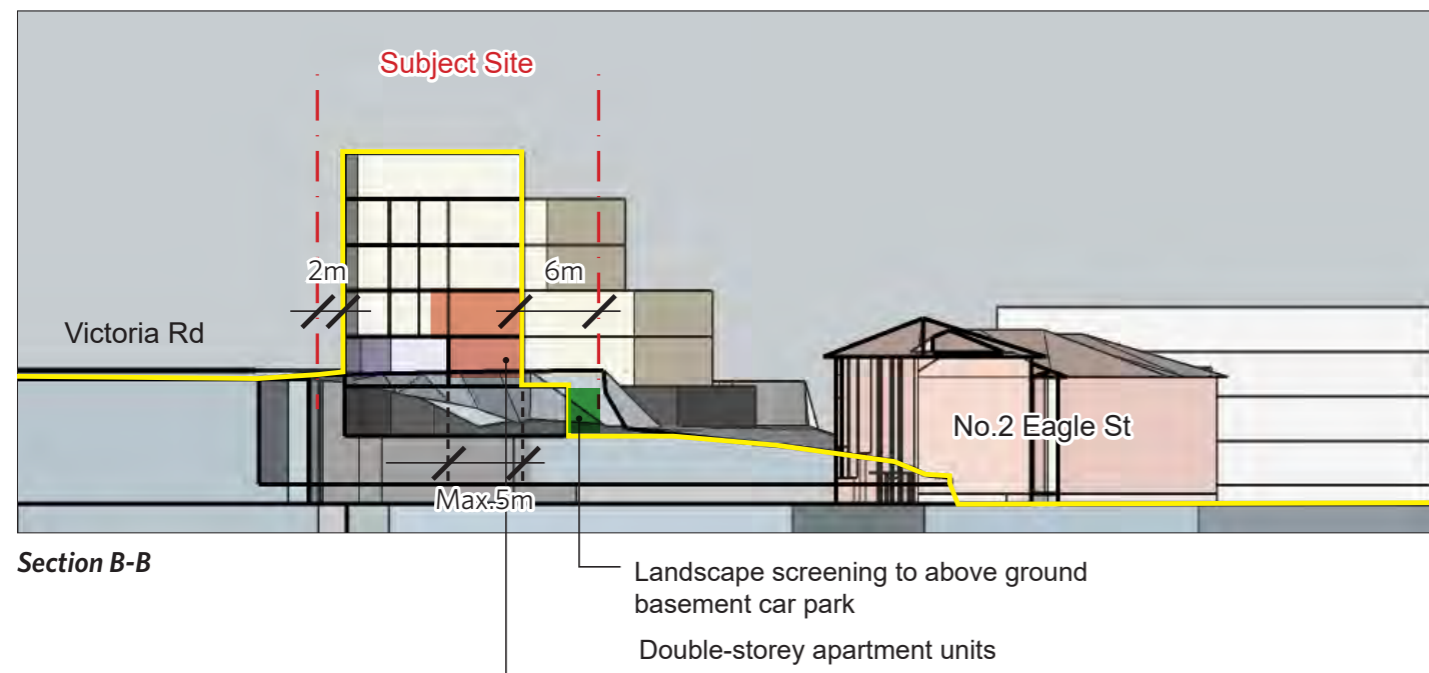
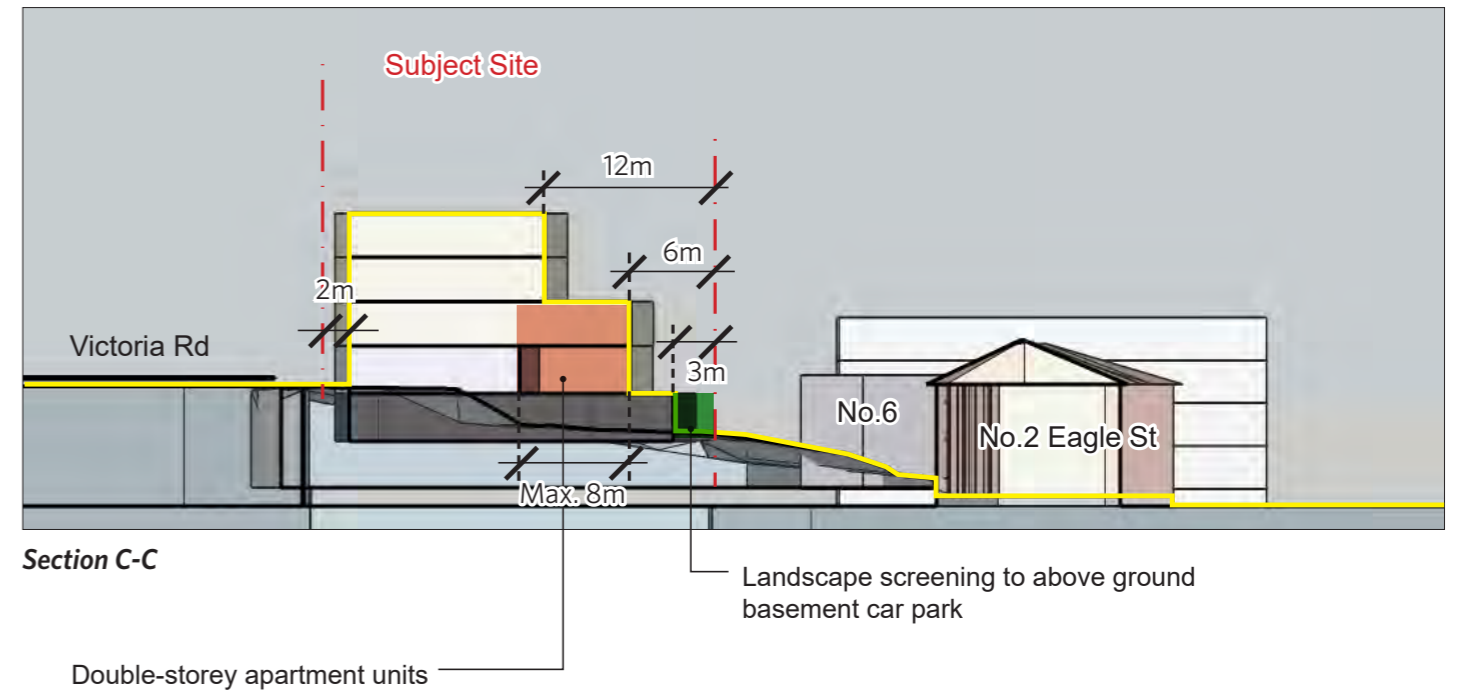
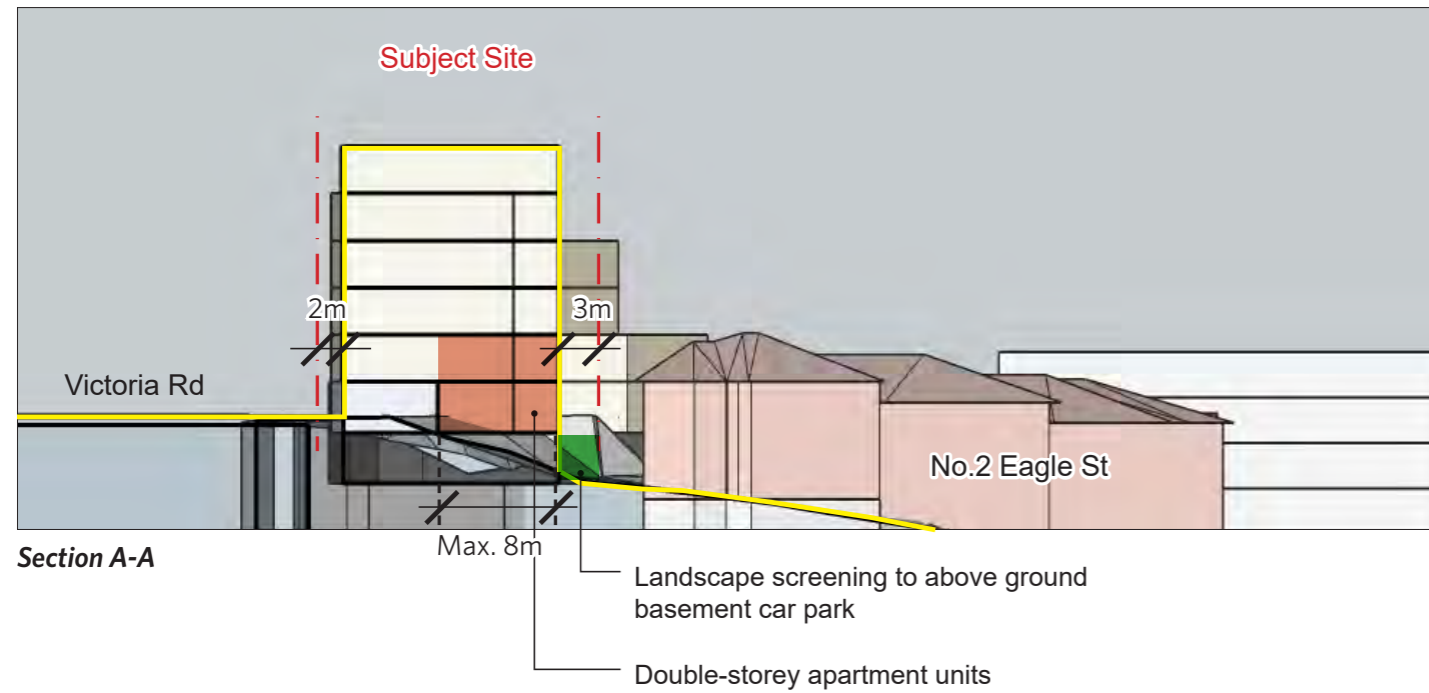
The recommended built form strategy in this document was developed and tested using the 3D architectural model submitted as part of the DA by the applicant.

The calculation of the FSR is based on the following assumptions:

- The commercial Gross Floor space and common corridors but excluding the driveway ramp, circulation cores, loading and servicing areas.  
Building Area.
- The Gross Floor Area of residential apartments was calculated including common corridors  
Gross Building Area.

## Built Form Strategy

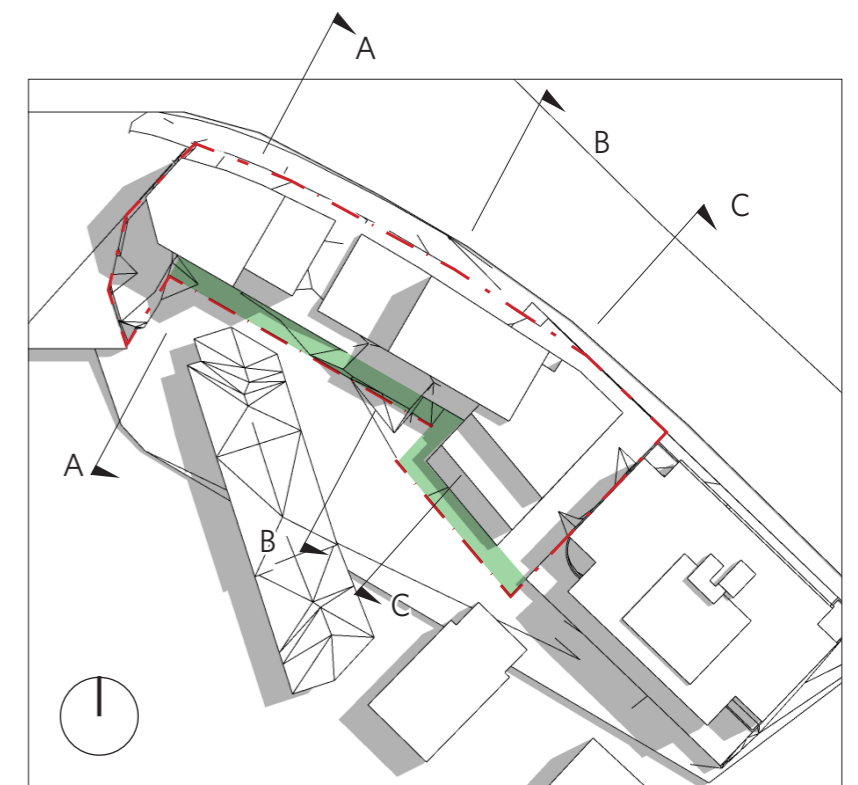
### Sections



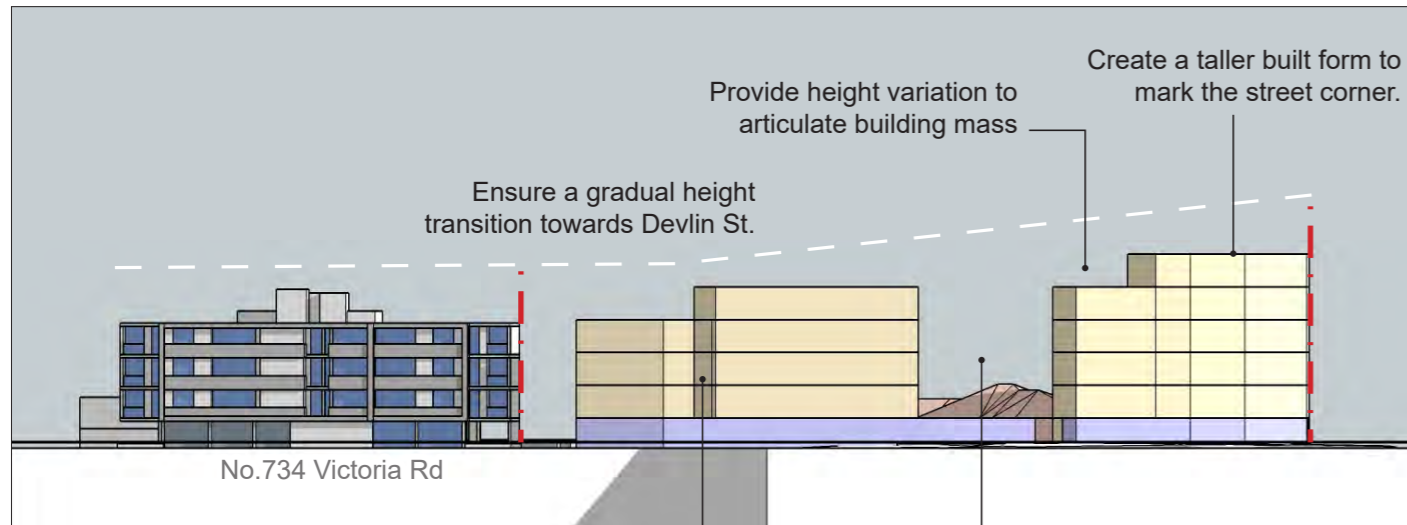
#### Note:

The rear elevation of commercial level (GF) is to be sleeved by double-storey apartment units to avoid exposing extensive blank wall interface towards the neighbours.

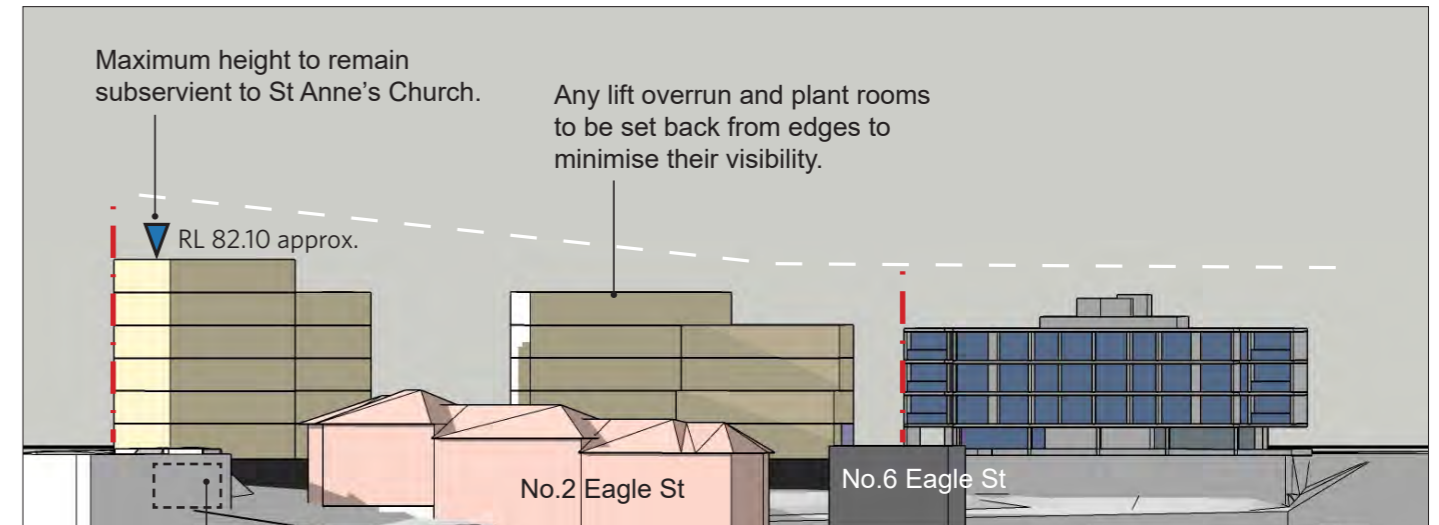
Mature tree planting must also be provided along the rear boundary in the 3m wide deep soil zone to soften the interface of any above ground basement car park.



## Key Design Principles



Victoria Road/North Elevation



South Elevation

Create substantial inset in the facade to articulate the building mass.

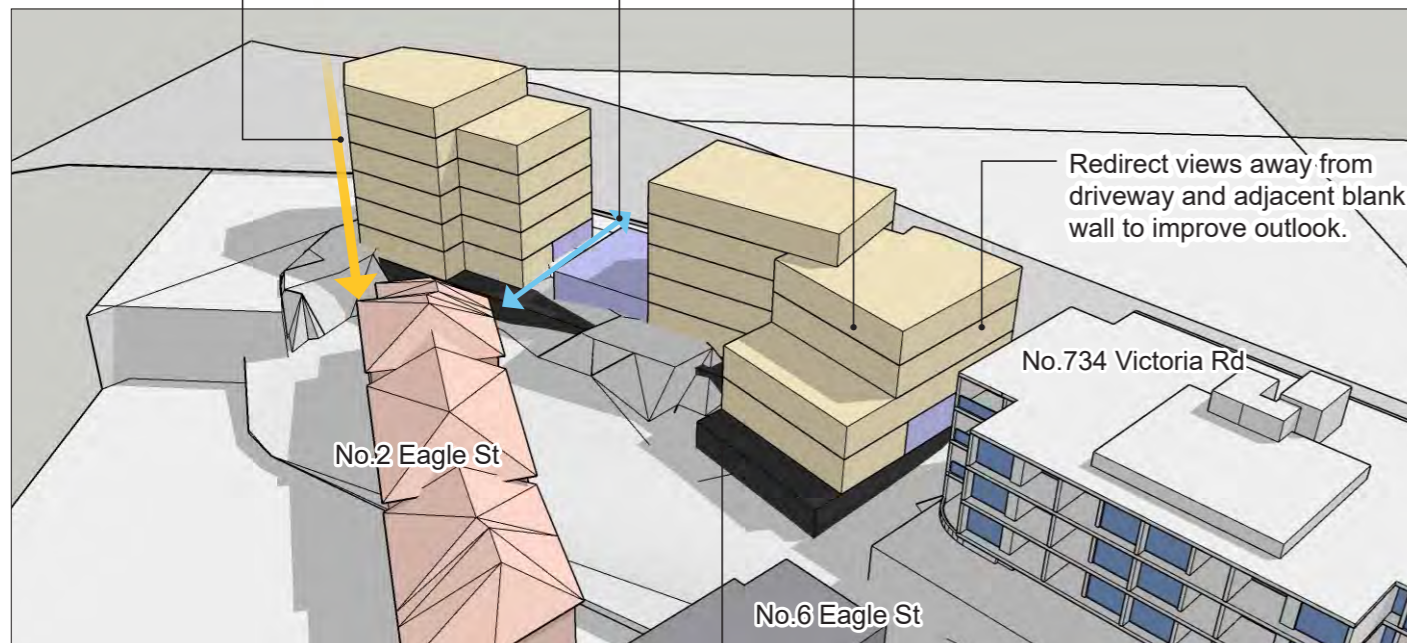
Provide a 15m wide physical break to preserve the existing view corridor and separate the building mass.

Vehicle access point to be located away from No.2 Eagle St as much as possible to minimise impact on the adjacent balconies.

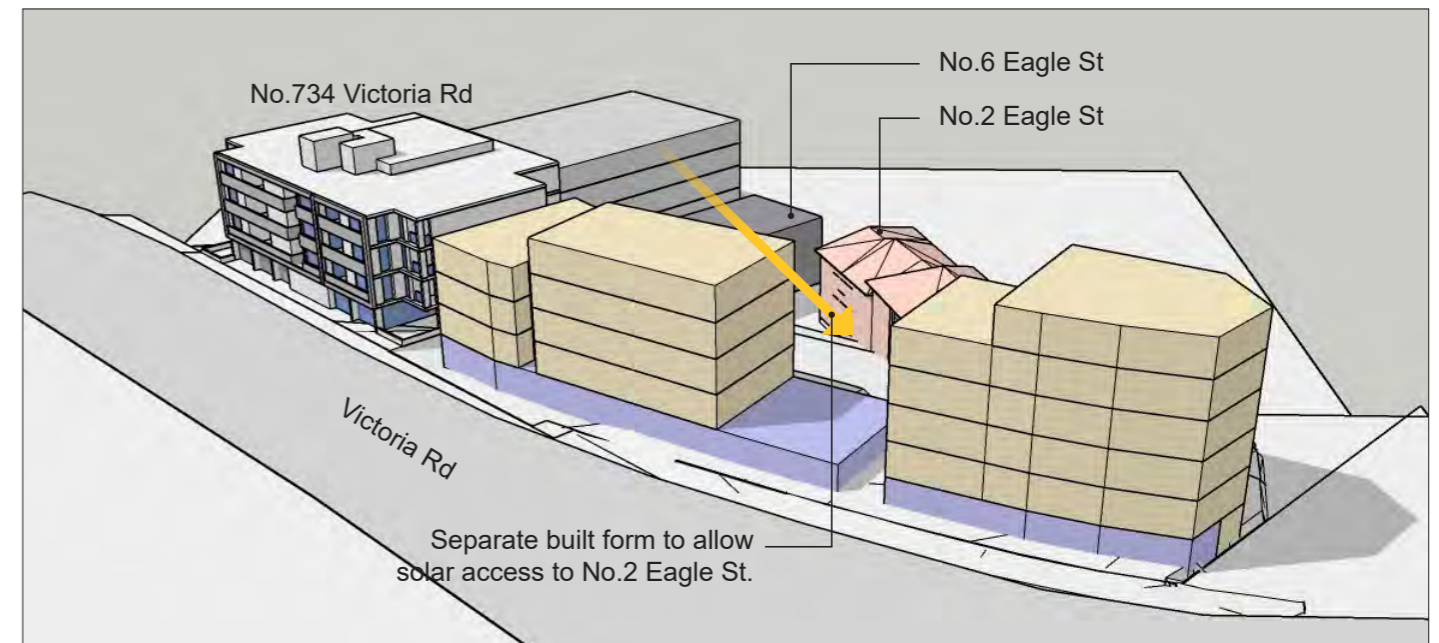
Cut back built form at the northern end to allow solar access to No.2 Eagle St in afternoon hours.

4m wide through-site link for pedestrians (open to the sky)

Set back upper levels at the southern end to maintain solar access to neighbouring building at No.6 Eagle St.



Aerial view - due north



Aerial view - due south

KEY

■ Retail/Commercial (GF)

■ Residential

■ Basement car park

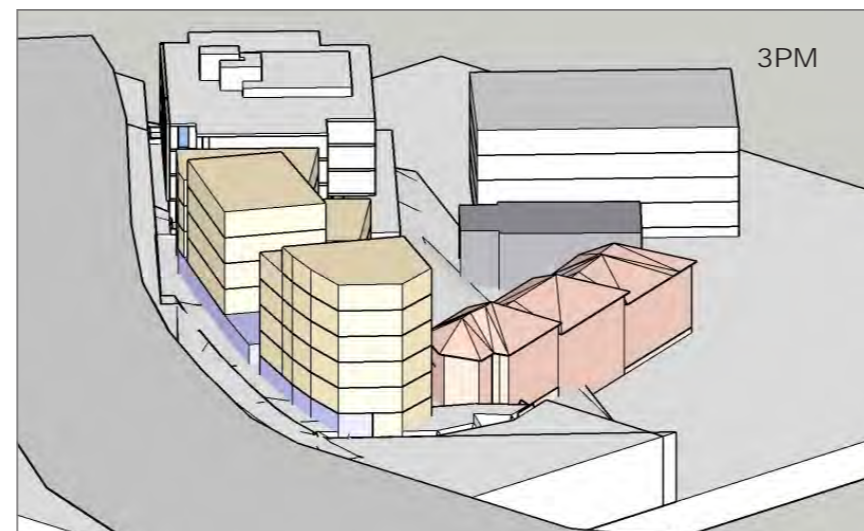
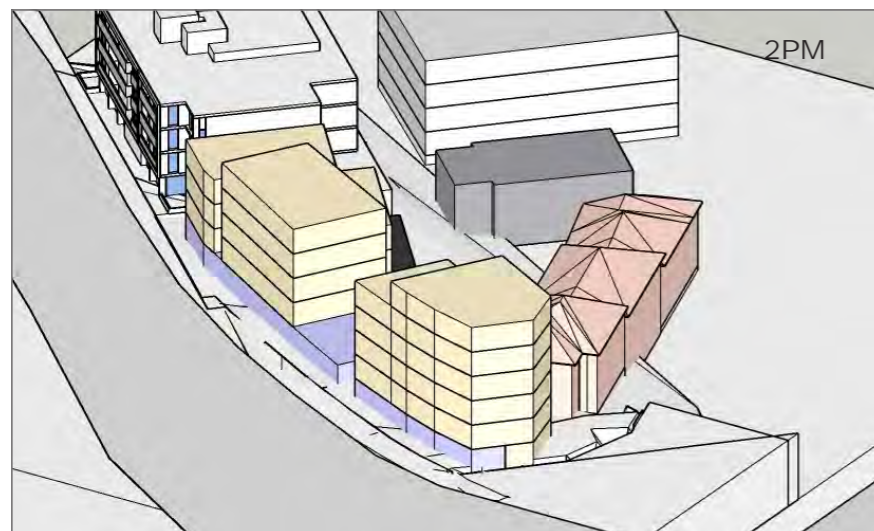
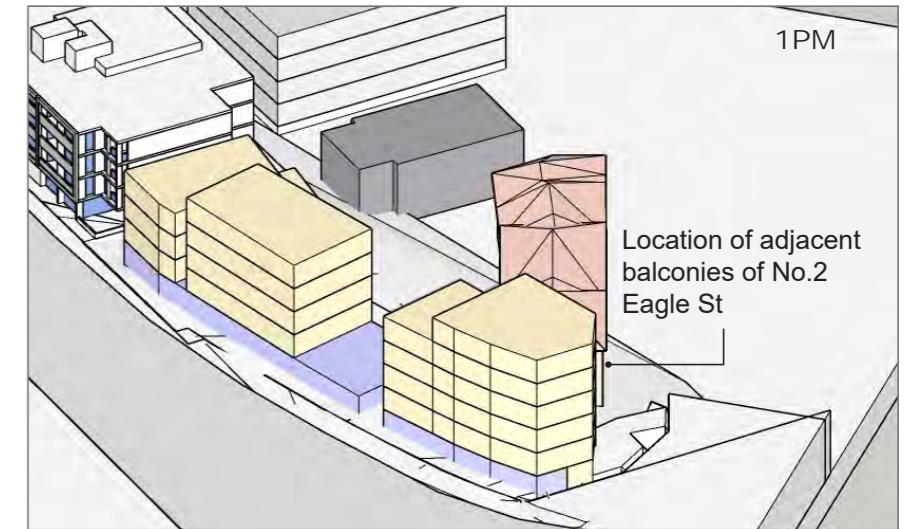
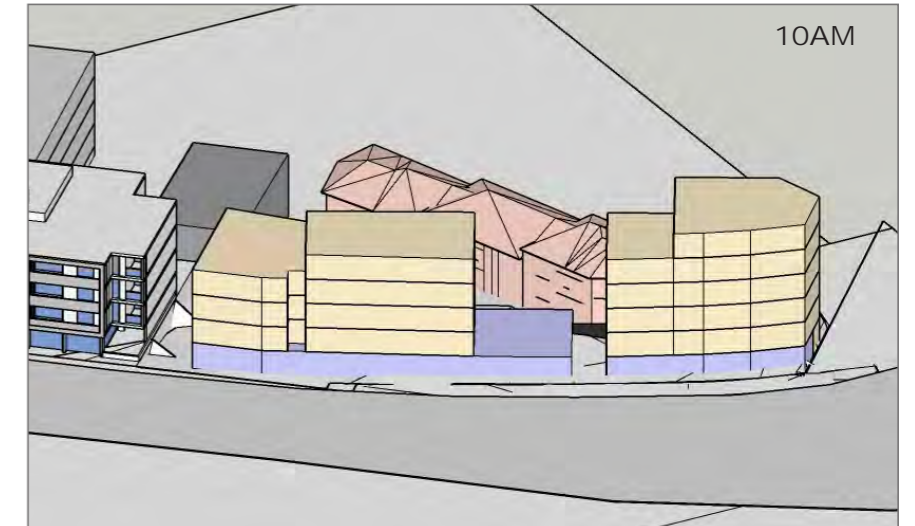
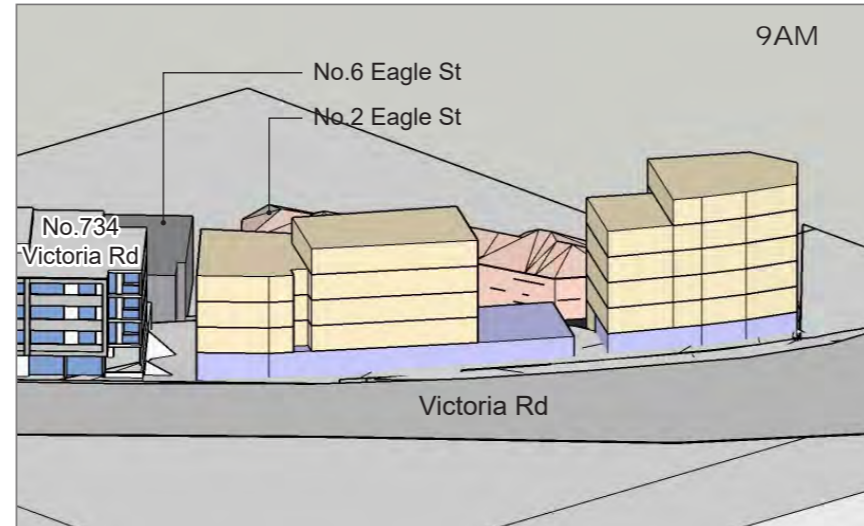


## Solar Access Analysis - Winter Solstice

The views on this page were captured from the angle of the sun from 9am to 3pm on 21 June.

The recommended built form demonstrates improved design outcomes in the following areas:

- From 9am to 12pm, it allows solar access to neighbouring units at the northern end of No.2 Eagle Street. These units are unable to receive any direct sunlight in the applicant's proposed scheme.
- building at No.6 Eagle Street is able to receive direct sunlight.
- From 1pm onwards, it enables solar access to the balcony of the neighbouring units at the northern end of No.2 Eagle Street.



- KEY
- Retail/Commercial (GF)
  - Residential
  - Basement car park