

- 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

**ITEM 1 (continued)**

<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

### ITEM 1 (continued)

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.

**ITEM 1 (continued)**

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

**ITEM 1 (continued)**



**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

**ITEM 1 (continued)**



**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

**ITEM 1 (continued)**

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**).

**ITEM 1 (continued)**



**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.



**ITEM 1 (continued)**



**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.

**ITEM 1 (continued)**



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



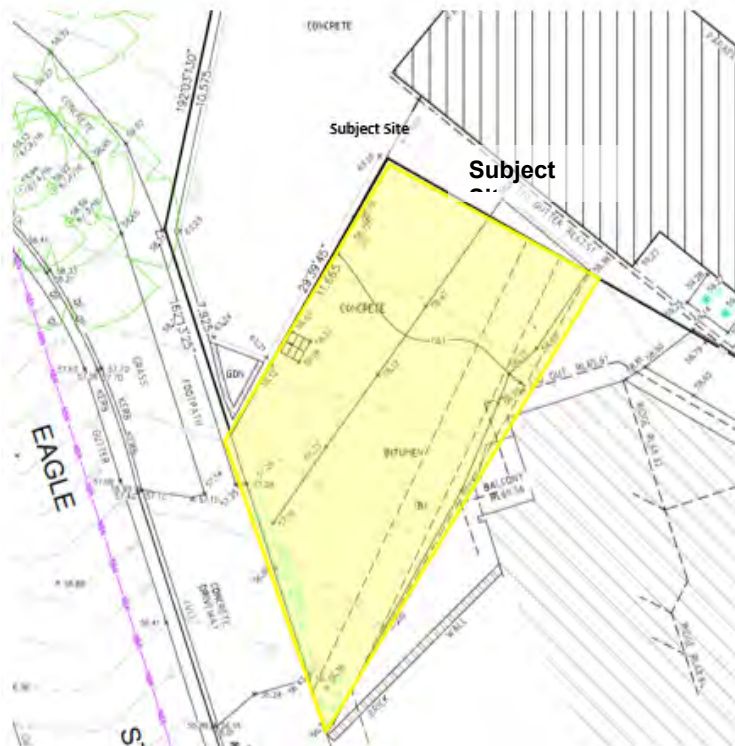
**Figure 12:** Residential development existing at No. 6 Eagle Street (as viewed from Eagle Street)

**ITEM 1 (continued)**

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

**ITEM 1 (continued)**

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).

**ITEM 1 (continued)**
**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

**ITEM 1 (continued)**

	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>

**ITEM 1 (continued)**

	<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;

**ITEM 1 (continued)**

- 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.

City of Ryde Local Planning Panel - 10 September 2020



**ITEM 1 (continued)**

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—*

**ITEM 1 (continued)**

- (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)

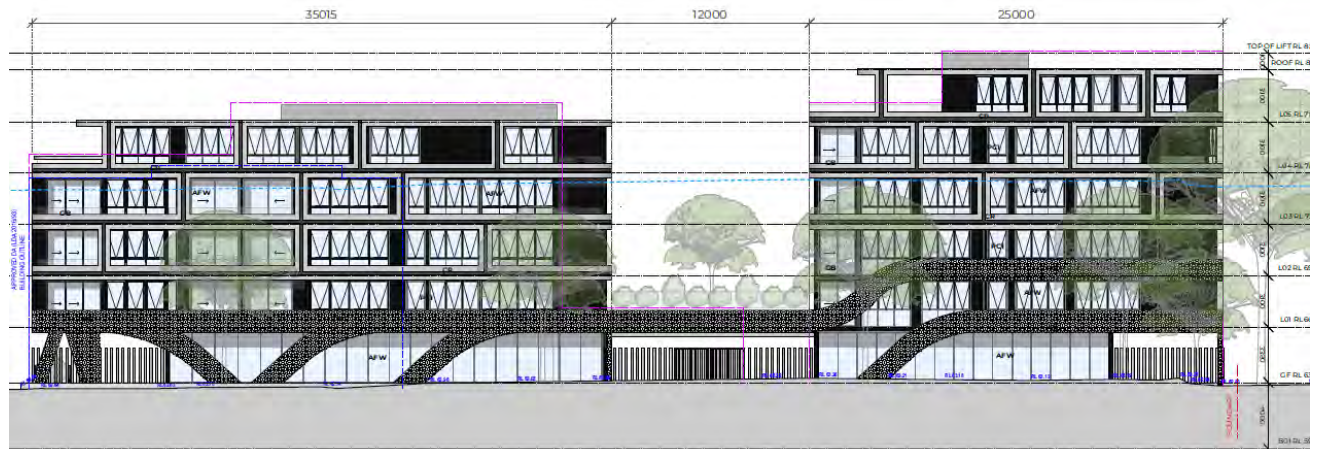
The proposal was most recently reviewed by the UDRP on 15 August 2019 after amended plans (#3) were received. The Panel had previously reviewed this application on a numerous occasions. The comments made by the Panel at the most recent meeting are included below.

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**:

**ITEM 1 (continued)**



**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.*

**ITEM 1 (continued)**

*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>

**ITEM 1 (continued)**

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>

**ITEM 1 (continued)**

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>  <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>

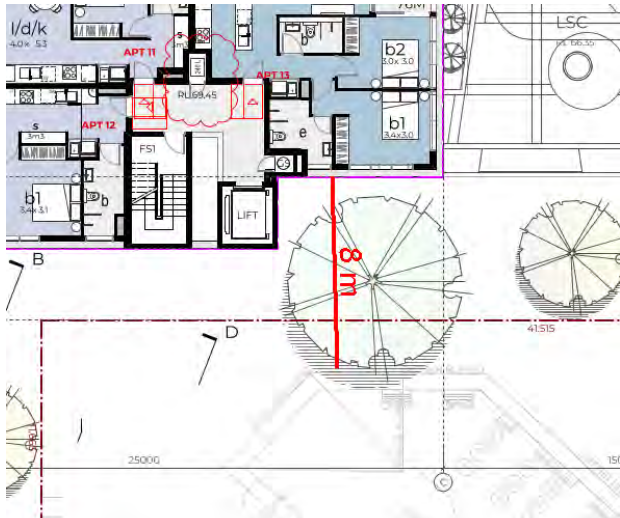
**Apartment Design Guide (ADG)**

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)**

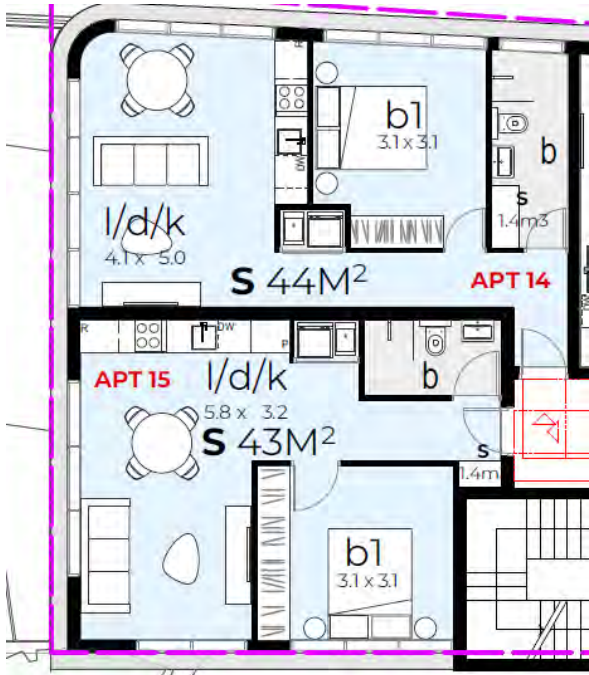
Clause	Proposal	Compliance												
	<p>The communal area between the towers on level 1 (i.e. 171m<sup>2</sup>) receives in excess of 2 hours sunlight between 9am and 3pm on 21 June.</p>													
<p><b>3E Deep Soil Zone</b></p> <p>Deep soil zones provide areas on the site that allow for and support 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="261 994 699 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 1890 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="256 353 699 387"> <tr> <td data-bbox="256 353 491 387">3 + bedroom apt</td> <td data-bbox="491 353 699 387">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="256 544 699 633">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="256 790 699 938">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>	Yes		
<p data-bbox="256 938 699 974"><b>4K Apartment mix</b></p> <p data-bbox="256 1003 699 1093">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 1093">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>	Yes		
<p data-bbox="256 1151 699 1187"><b>4M Facades</b></p> <p data-bbox="256 1216 699 1339">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 1240">The facade composition and mix of materials is satisfactory and will respond sympathetically to be character of the surrounding area.</p>	Yes		
<p data-bbox="256 1431 699 1467"><b>4N Roof design</b></p> <p data-bbox="256 1496 699 1585">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 1697 699 1733">Roof design incorporates sustainability features.</p>	<p data-bbox="719 1431 1362 1585">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>	Yes		
<p data-bbox="256 1733 699 1769"><b>4O Landscape design</b></p> <p data-bbox="256 1798 699 1888">Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable</p>	<p data-bbox="719 1733 1362 1868">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>	Yes		
<p data-bbox="256 1890 699 1926"><b>4P Planting on structures</b></p> <p data-bbox="256 1955 699 1991">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>	Yes		

**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.*”

City of Ryde Local Planning Panel - 10 September 2020

### 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.

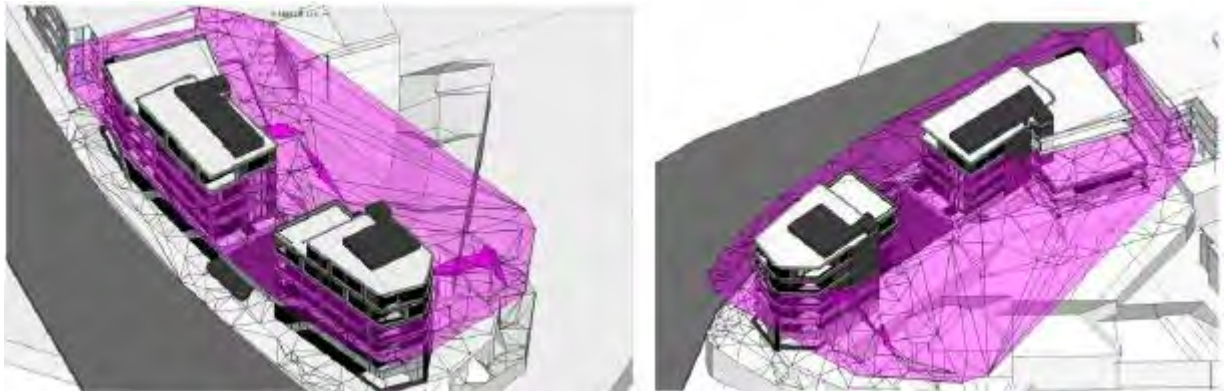


**Figure 21:** North elevation showing extent of building exceeding 12.5m building height



**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**

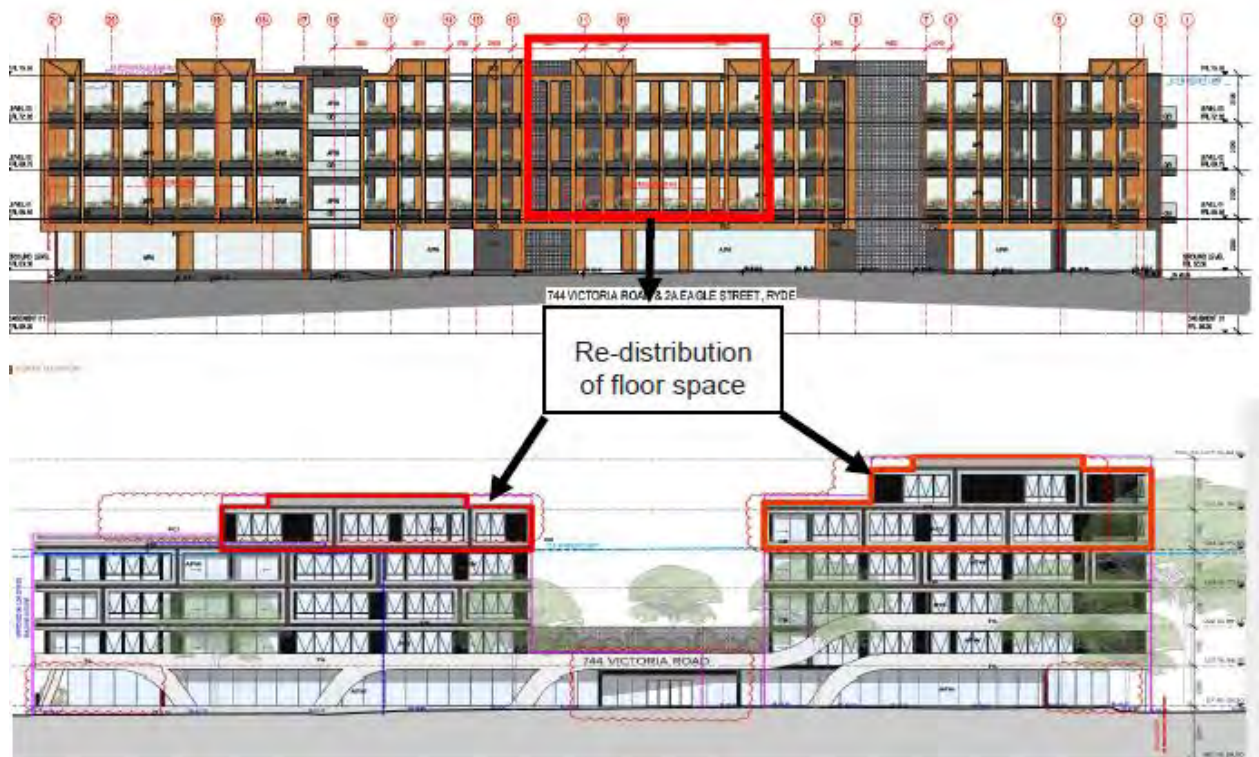
The applicant has stated that there are sufficient planning grounds to justify contravention of the development standard, as outlined below:

*“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:

City of Ryde Local Planning Panel - 10 September 2020

**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)**

Provision	Comment
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.

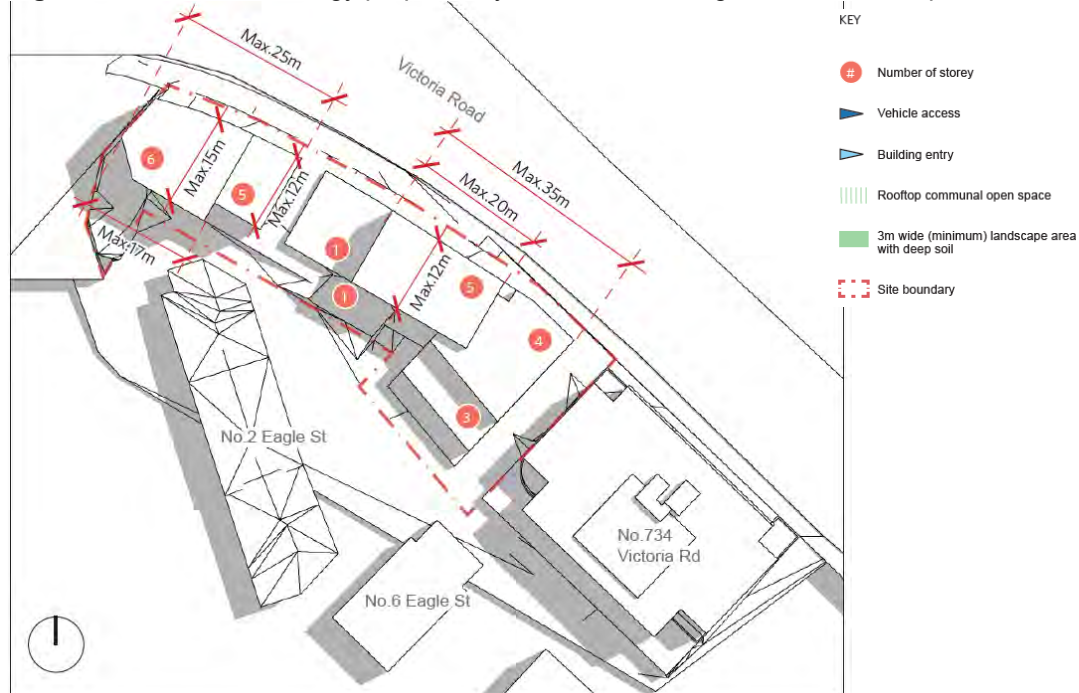
The key differences between the alternative building envelope plan and the controls within the DCP are summarised below:

**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.



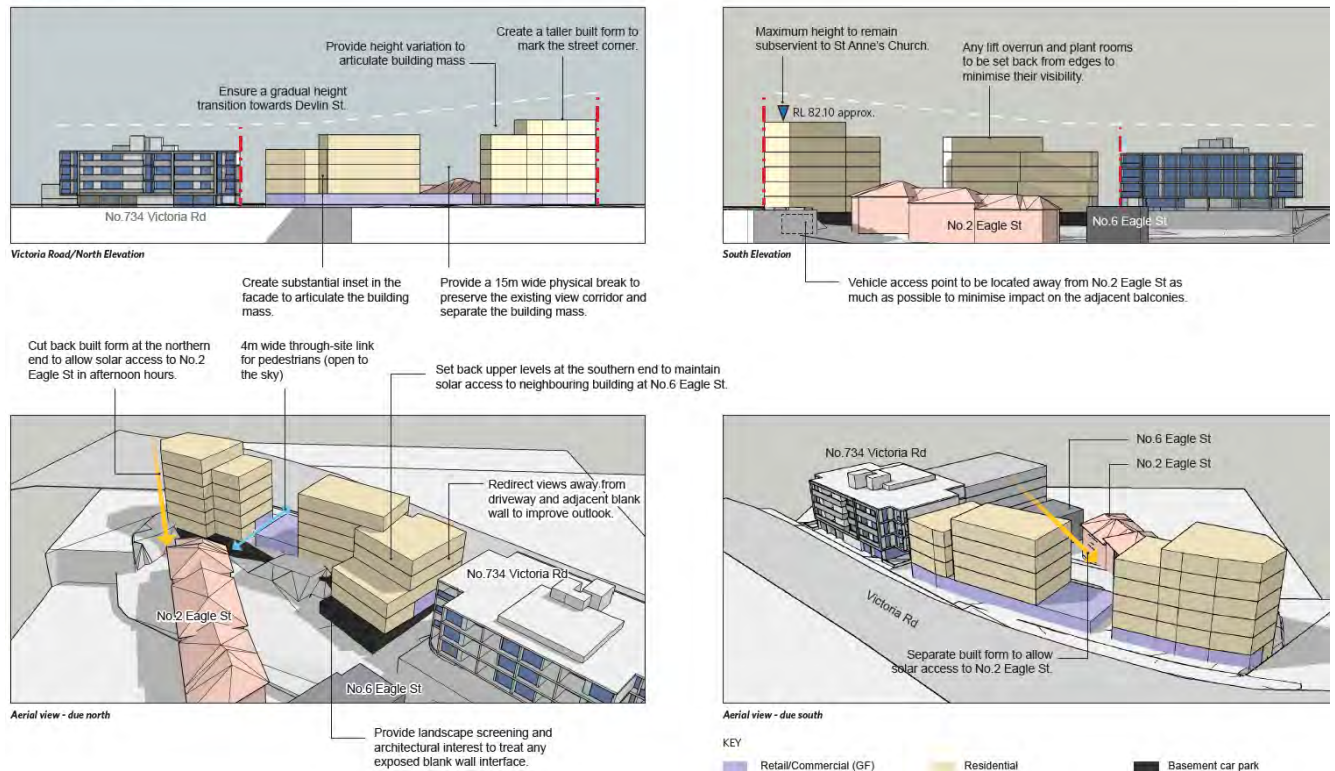
**Figure 27:** Built form strategy prepared by Council – Building setbacks and separation



**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*

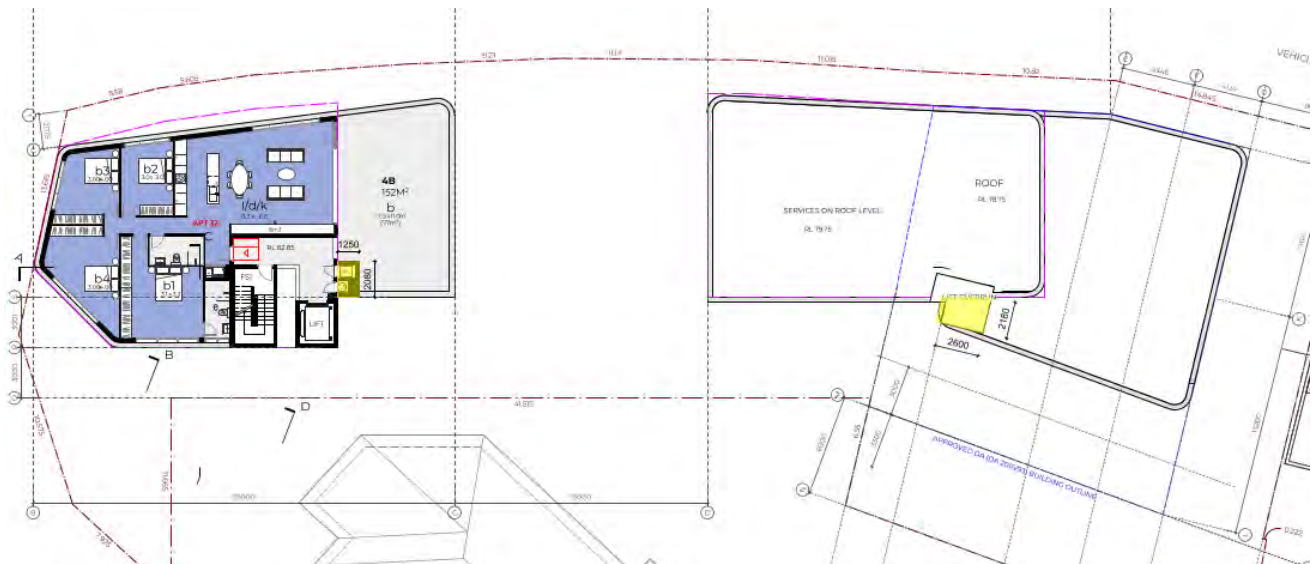
The proposal does not provide a gap at the ground floor that is open to the sky. Instead, the ground floor continues across the gap between the towers. This is considered acceptable for the following reasons:

### 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.

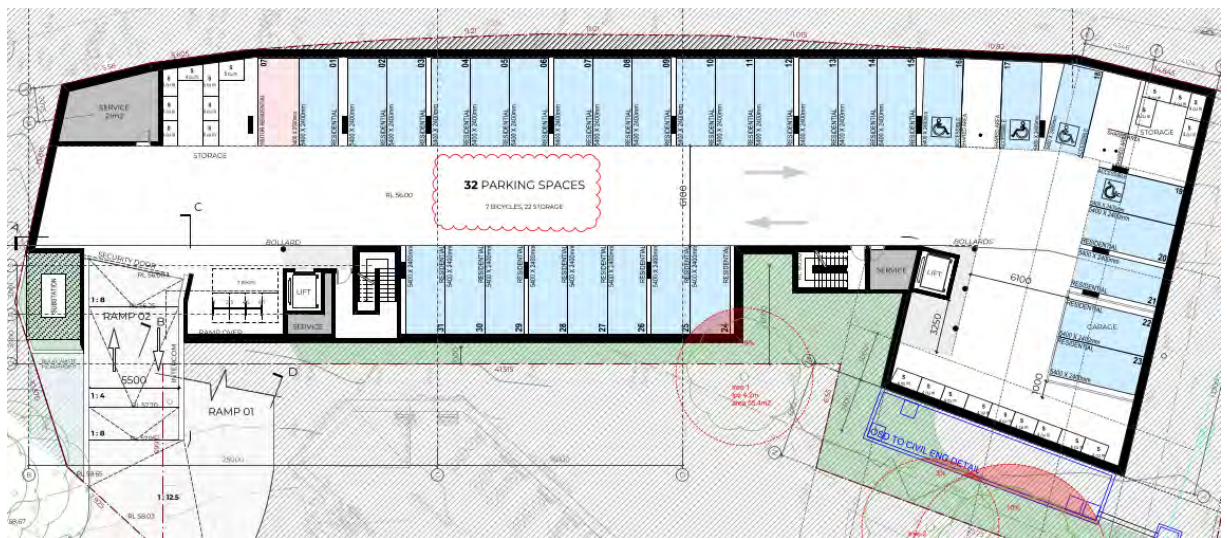
**ITEM 1 (continued)**  
**Part 9.3 – Parking Controls**

*Car Parking*

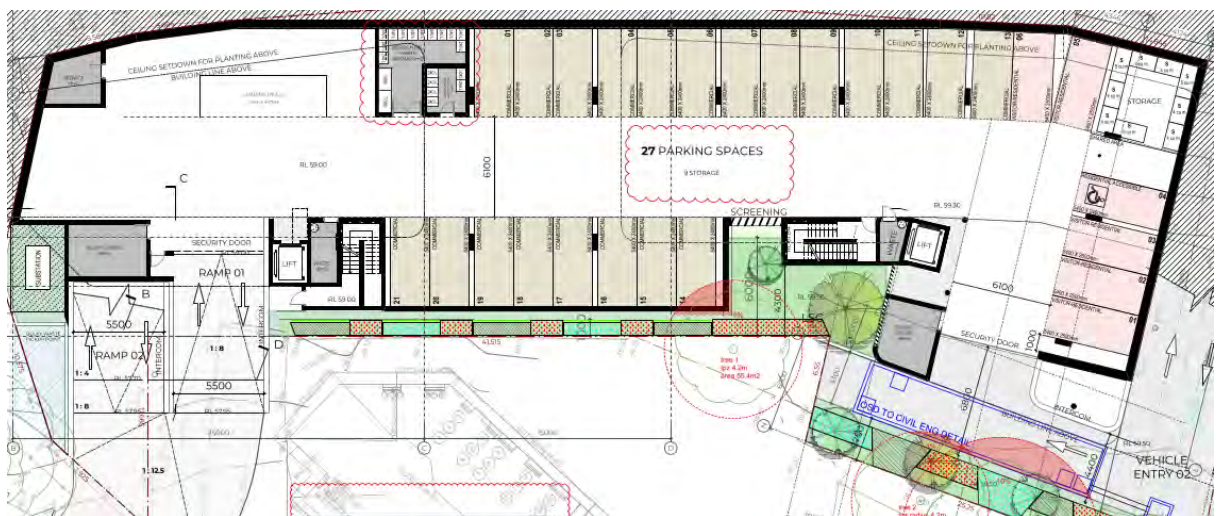
The following parking rates are applicable to residential development under the RDCP 2014.

- 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

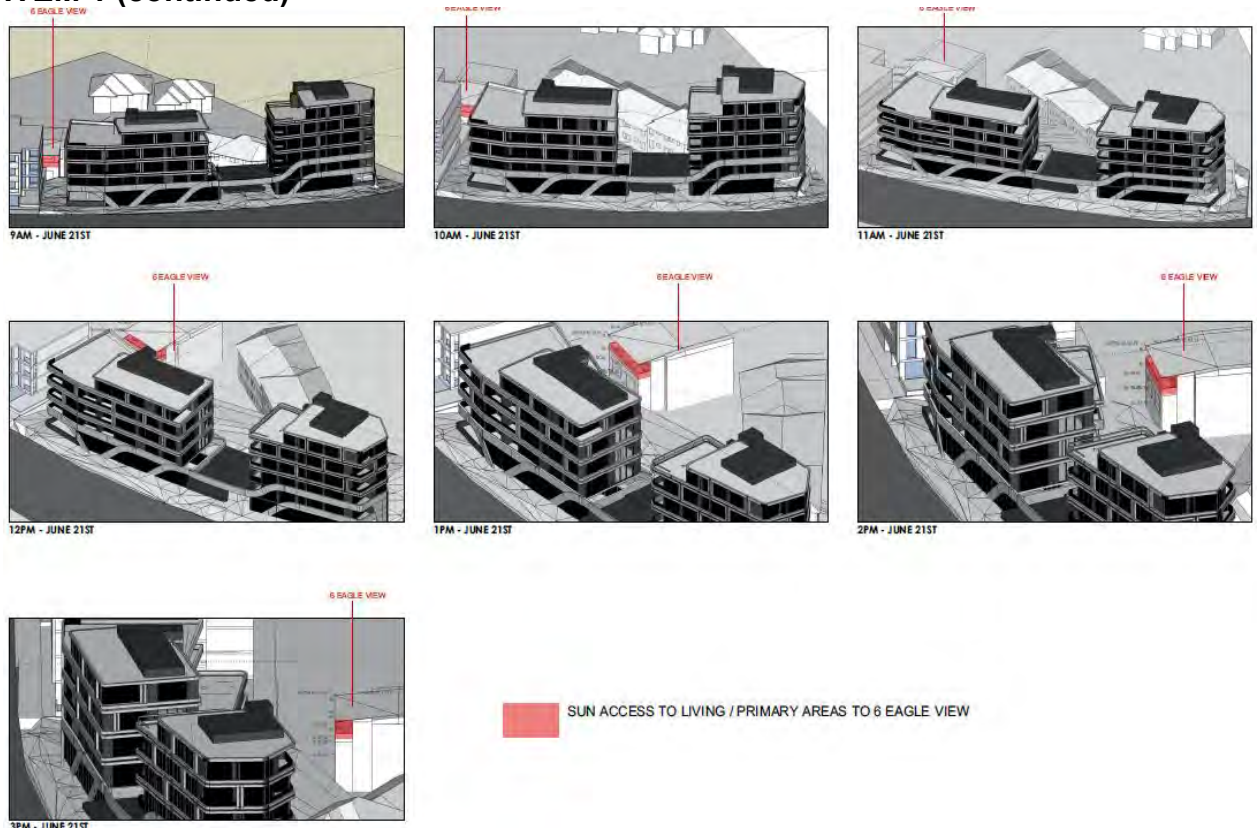
Amended plans were received on 7 February 2020 and notified between 25 February 2020 and 13 March 2020.

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*  
City of Ryde Local Planning Panel - 10 September 2020

**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*

City of Ryde Local Planning Panel - 10 September 2020

**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 docket – 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 docket – forward to PCA on demand.** The delivery docket 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. It features a dark blue diagonal band across the middle. Behind this band, there is a grey and white graphic of various 3D rectangular blocks of different heights and orientations, some with white outlines. In the upper right, a blurred city skyline with tall buildings is visible.

**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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## TABLE OF CONTENTS

1. Executive Summary .....	3
2. Introduction .....	4
3. Standard to be Varied .....	5
4. Extent of Variation.....	6
5. Unreasonable or Unnecessary .....	7
5.1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.....	7
6. Sufficient Environmental Planning Grounds .....	12
7. Public Interest.....	14
8. State or Regional Environmental Planning .....	15
9. Conclusion.....	16

## FIGURES

Figure 1: RLEP Height of Buildings Map Extract, site outlined in red (Source: NSW Legislation) .....	5
Figure 2: North Elevation (Source: Aleksandar Projects).....	6
Figure 3: East (left) and West (right) Elevations (Source: Aleksandar Projects) .....	6
Figure 4: View from North (left) and View from South (right) (Source: Aleksandar Projects) .....	6
Figure 5: Building scale (Source: Ryde City Council) .....	8
Figure 6: Street Elevation (Source: Aleksandar Projects).....	8
Figure 7: Nearby Development, subject site highlighted with red marker (Source: Google Maps) .....	9
Figure 8: Separation to 2 Eagle Street (Source: Aleksandar Architects) .....	9
Figure 9: Proposed View from the Sun diagram (Source: Aleksandar Architects) .....	10
Figure 10: Visual Massing, when viewed from "St Anne's Ryde Anglican Church and Cemetery" (Source: Richard Lamb & Associates). Orange = original built form. Red = 15m separation between buildings. Blue = 12m separation between buildings. ....	11
Figure 11: North Elevation Comparison. Original (top) and Proposed (bottom) (Source: Aleksandar Projects).....	12

## TABLES

Table 1: Achievement of Objectives of Clause number of LEP. ....	7
Table 2: Consistency with the B6 Zone Objectives. ....	14

## 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.

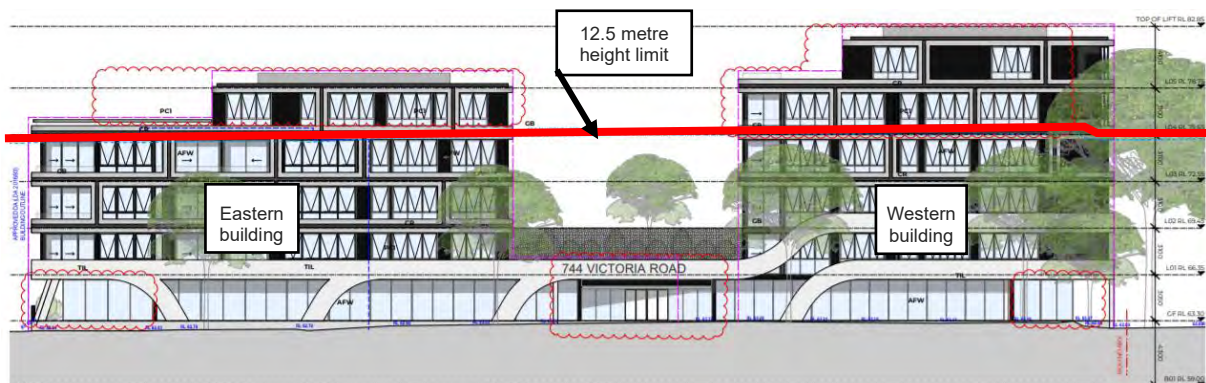


Figure 2: North Elevation (Source: Aleksandar Projects)



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

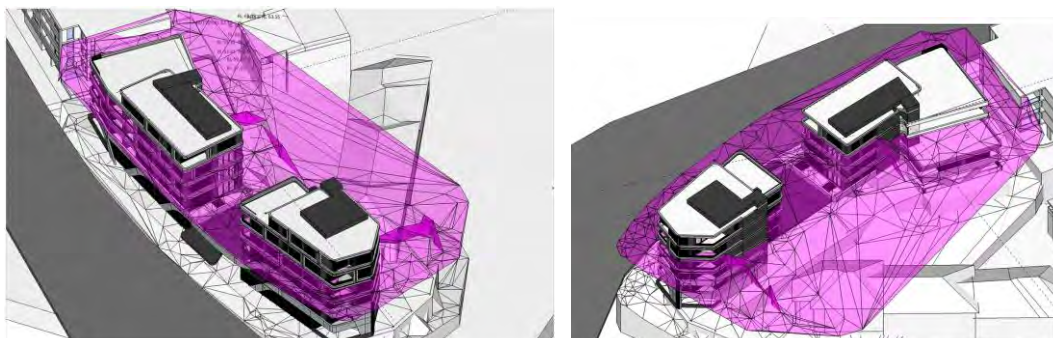


Figure 4: View from North (left) and View from South (right) (Source: Aleksandar Projects)



## 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
-----------	------------



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).

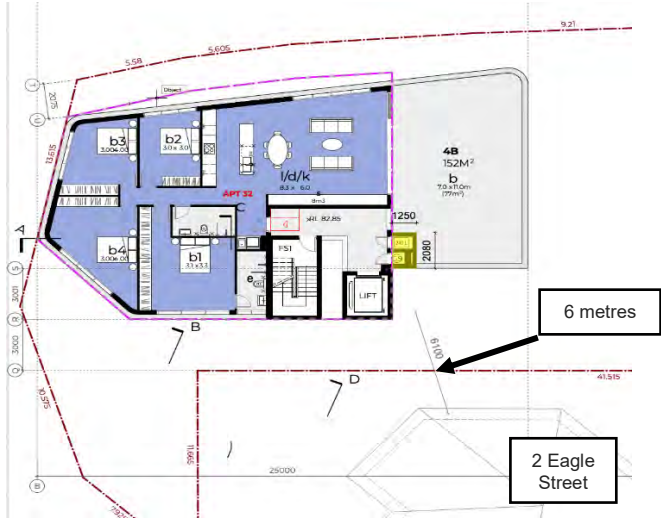
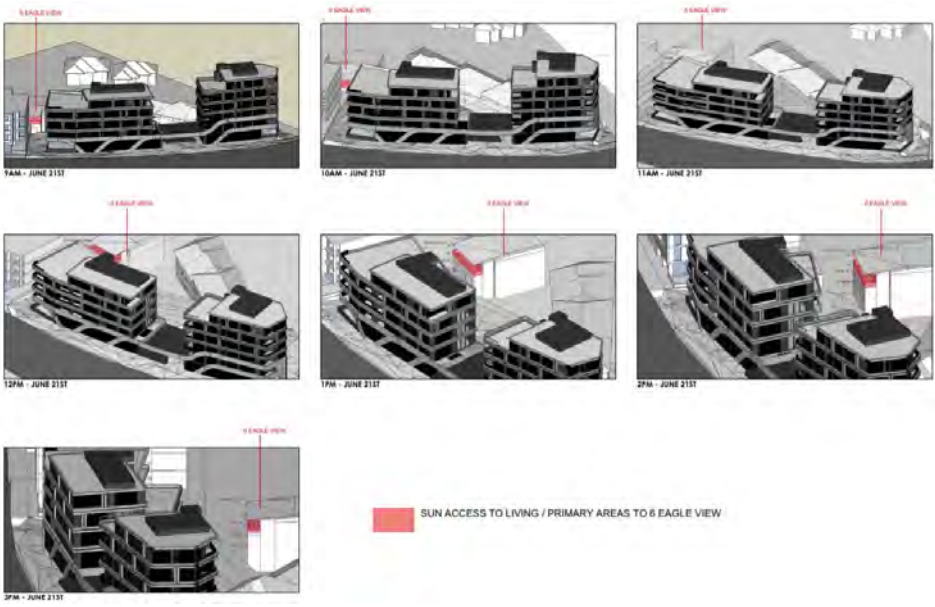



Figure 8: Separation to 2 Eagle Street (Source: Aleksandar Architects)

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

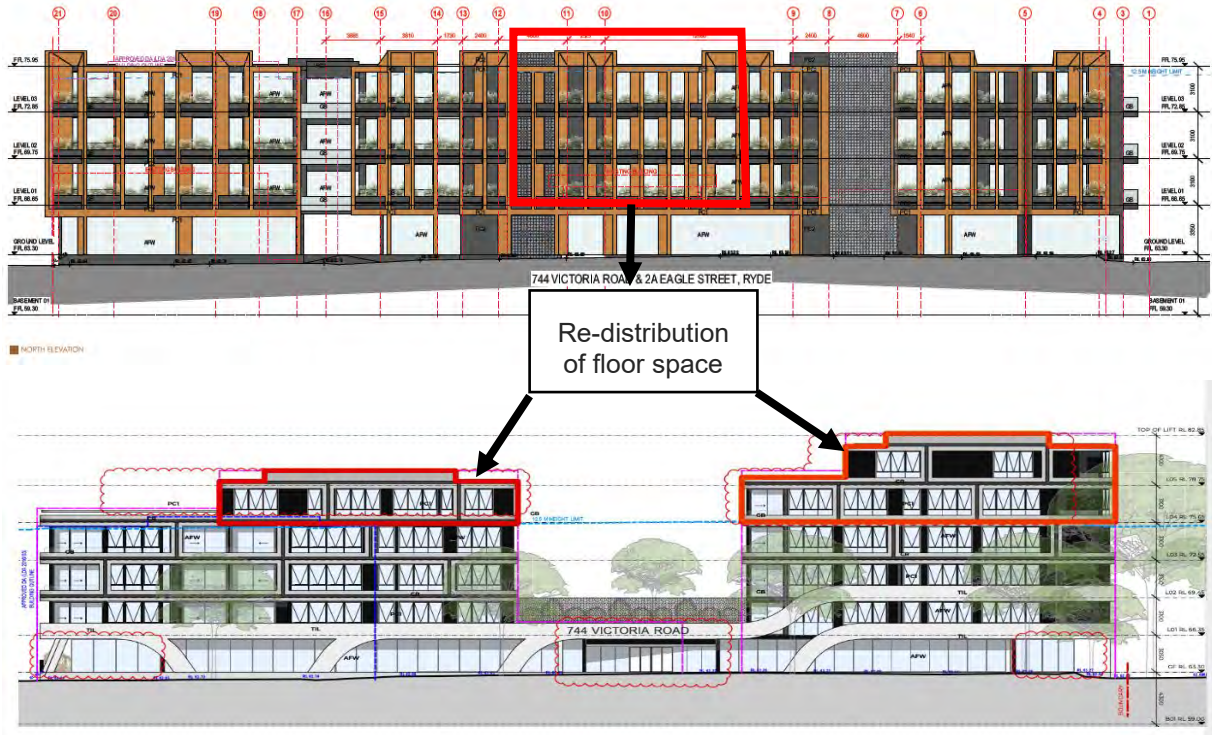
In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development 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.

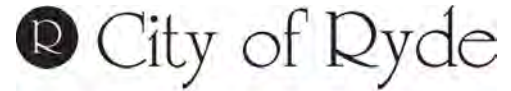
We note that the concurrence of the Secretary can be assumed in accordance with Planning Circular PS 18-003.

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:**

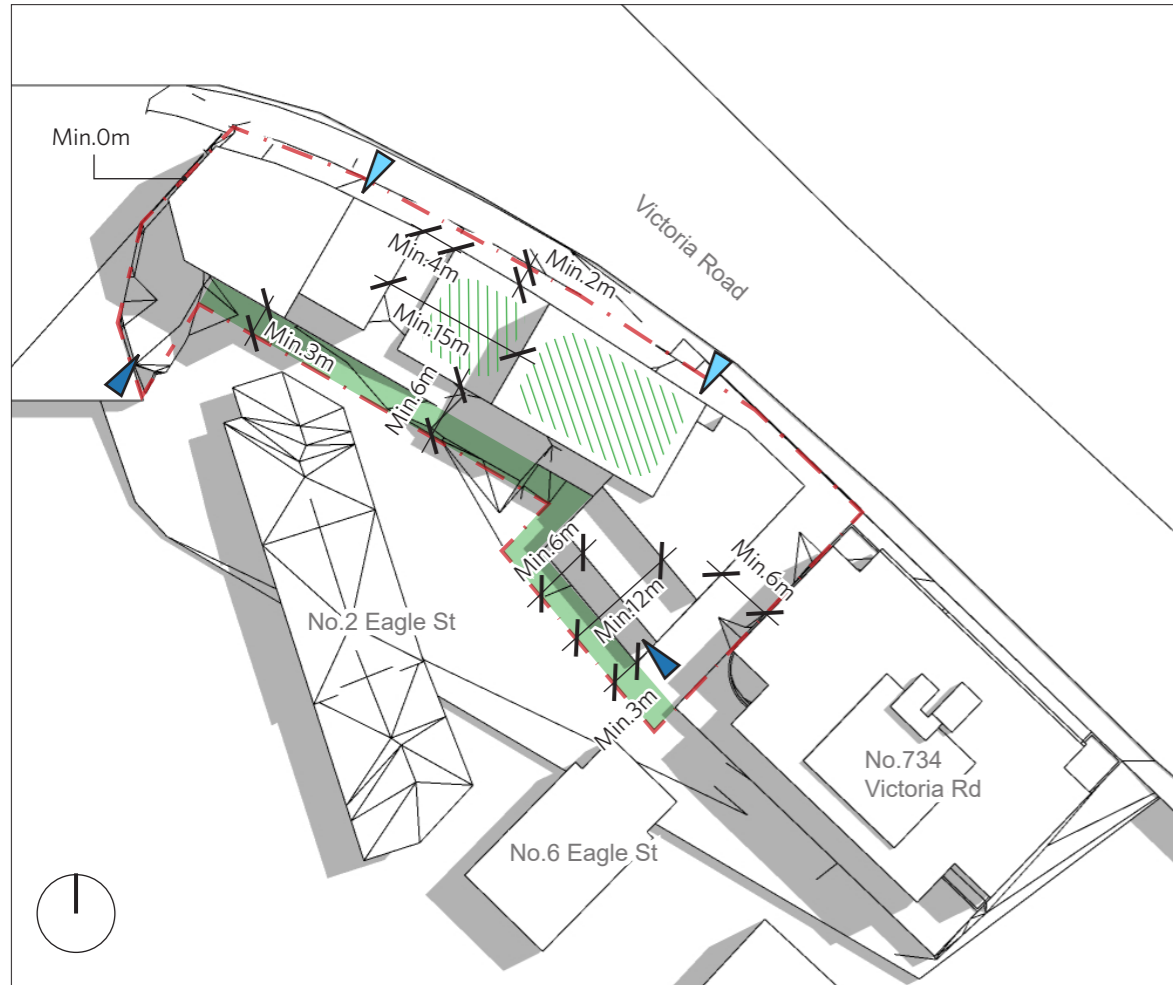
A view assessment should be provided to demonstrate how the proposal is able to preserve important public view elements from St Anne's Church site. The view assessment is to be undertaken from St Anne's Cemetery facing in a south and southwest position. Detailed and certified photo montages are required 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,

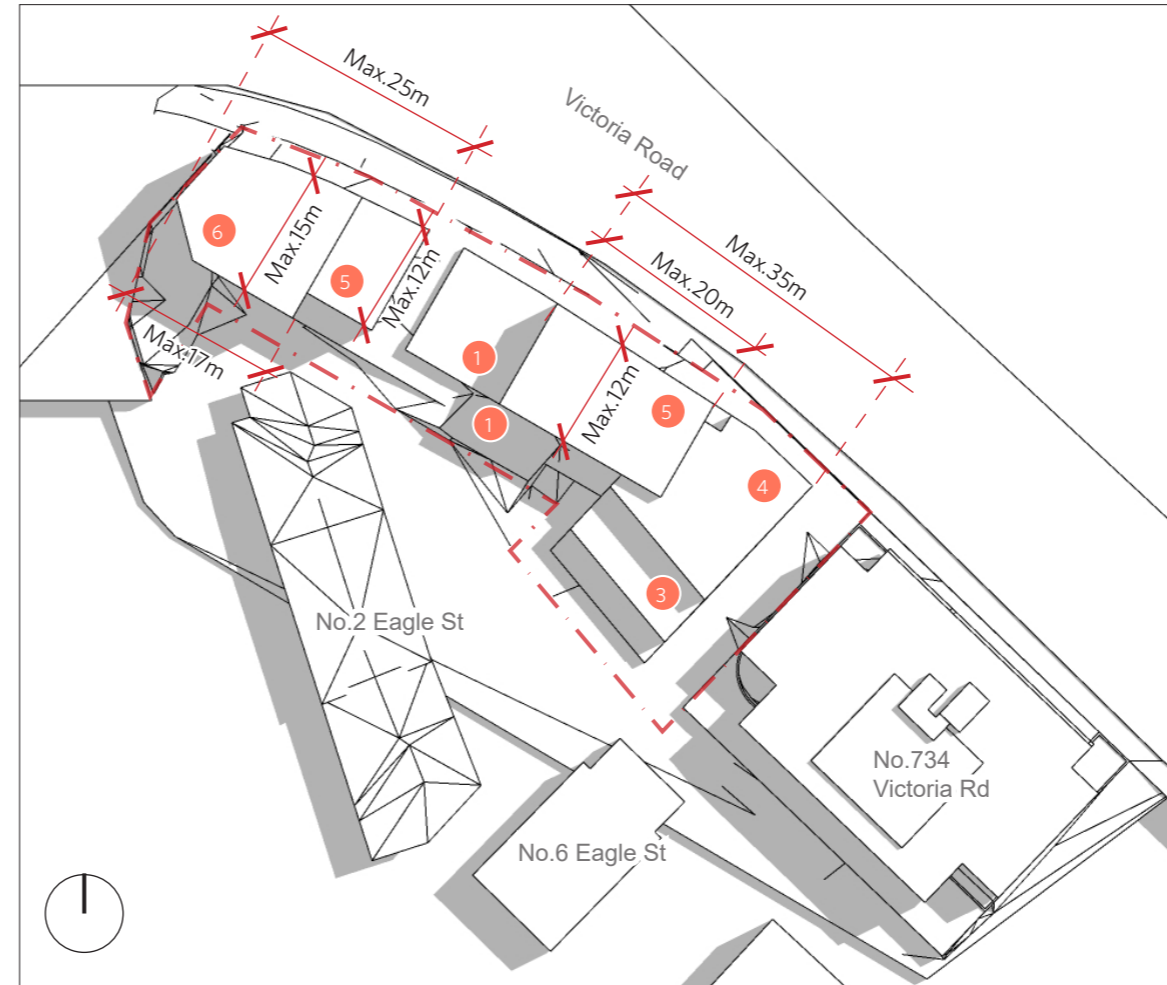
Paul Bu  
Urban Designer/Strategic Planner

## 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

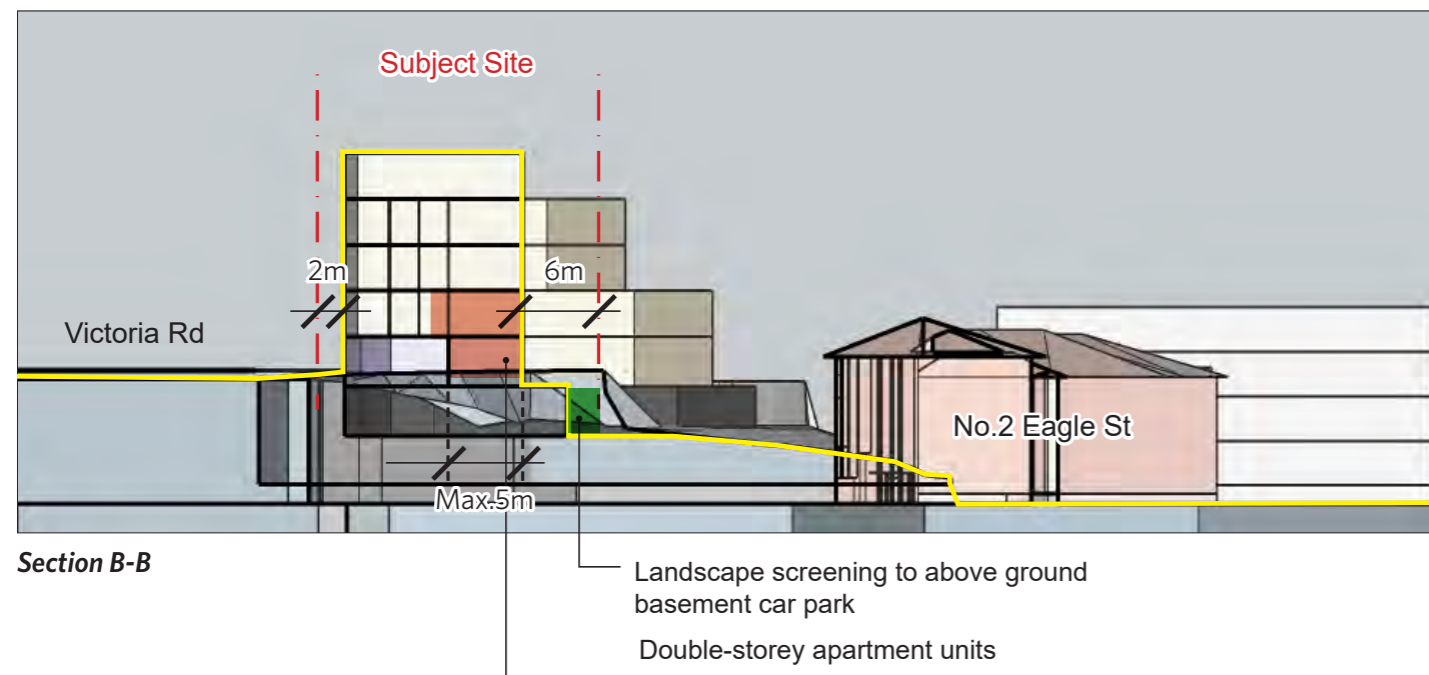
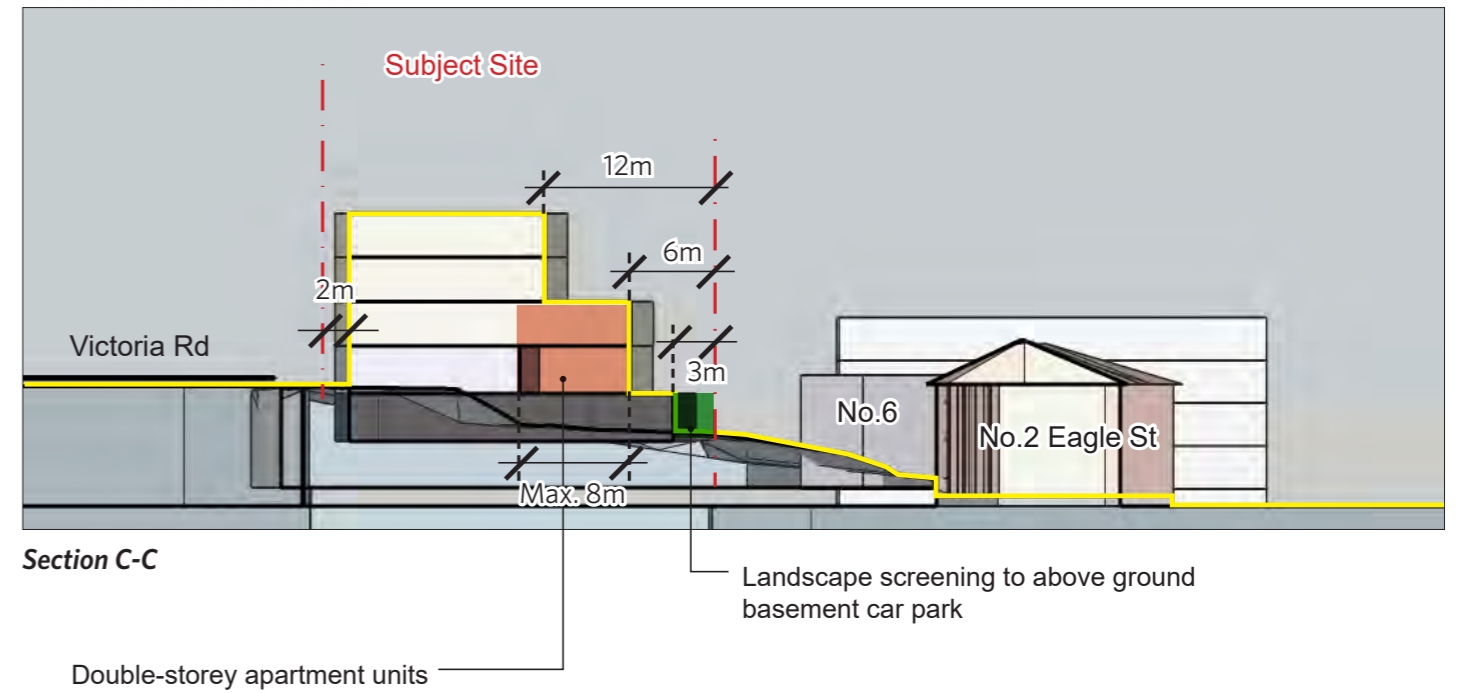
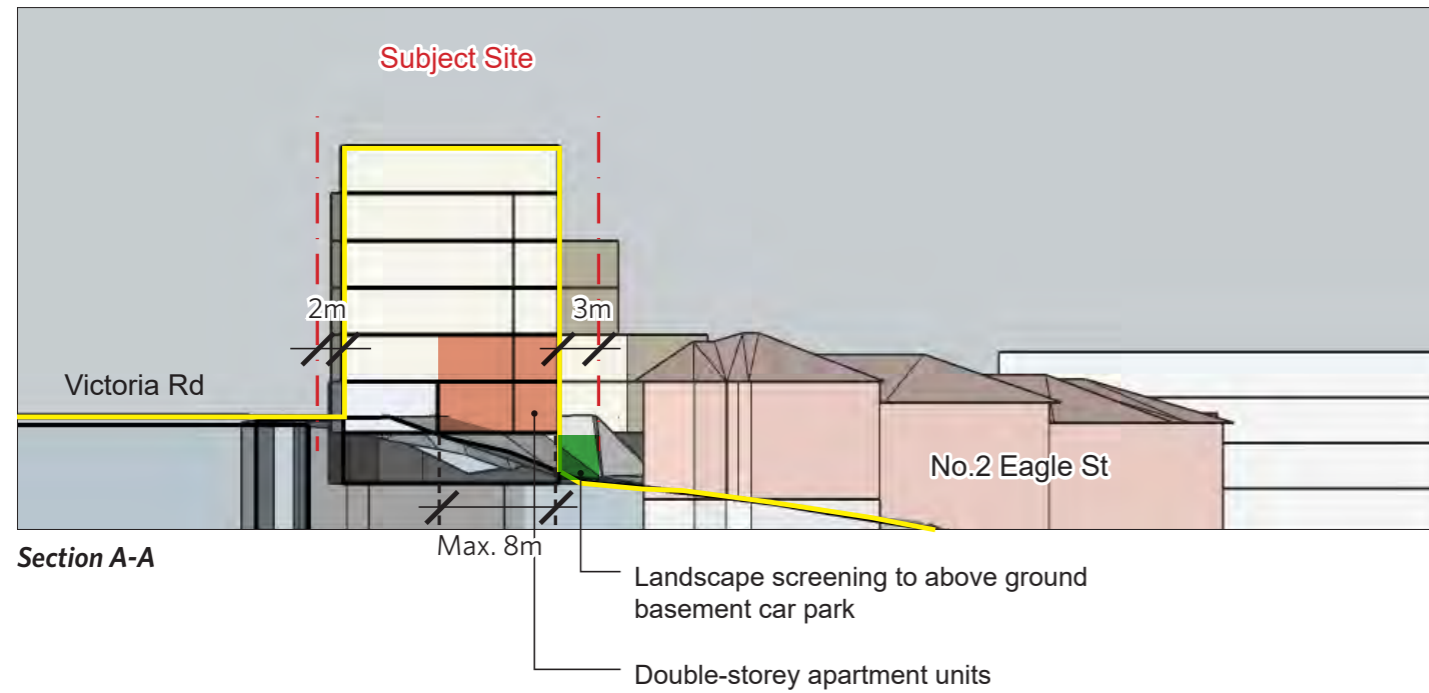
The recommended built form strategy in this document was developed and tested using the 3D architectural model submitted as part of the DA by the applicant.

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

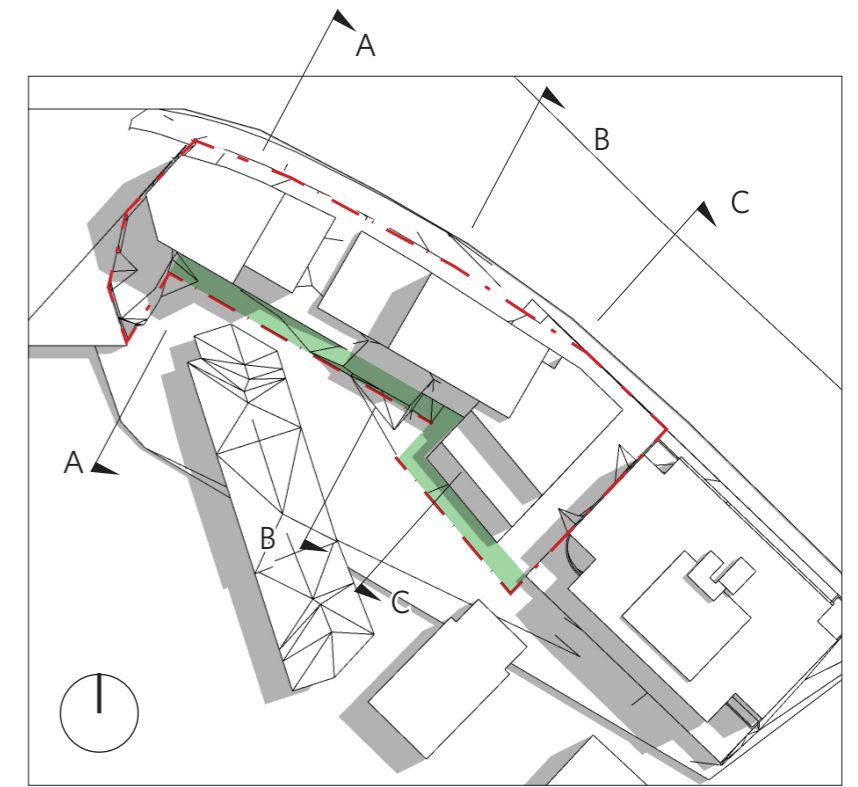
## Sections



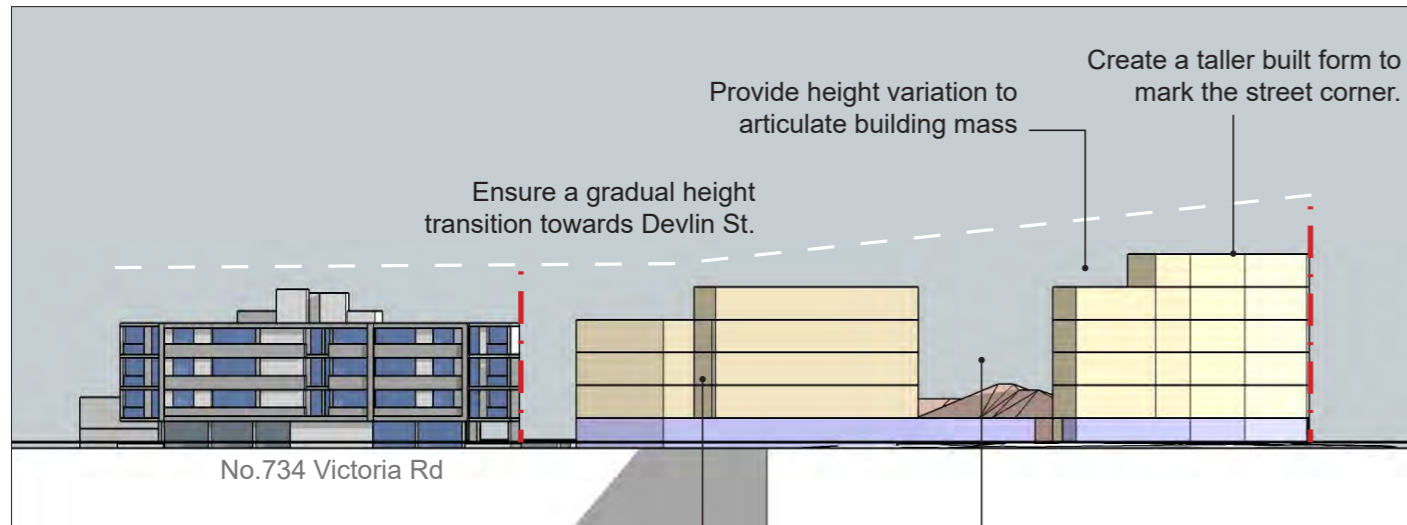
**Note:**

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.

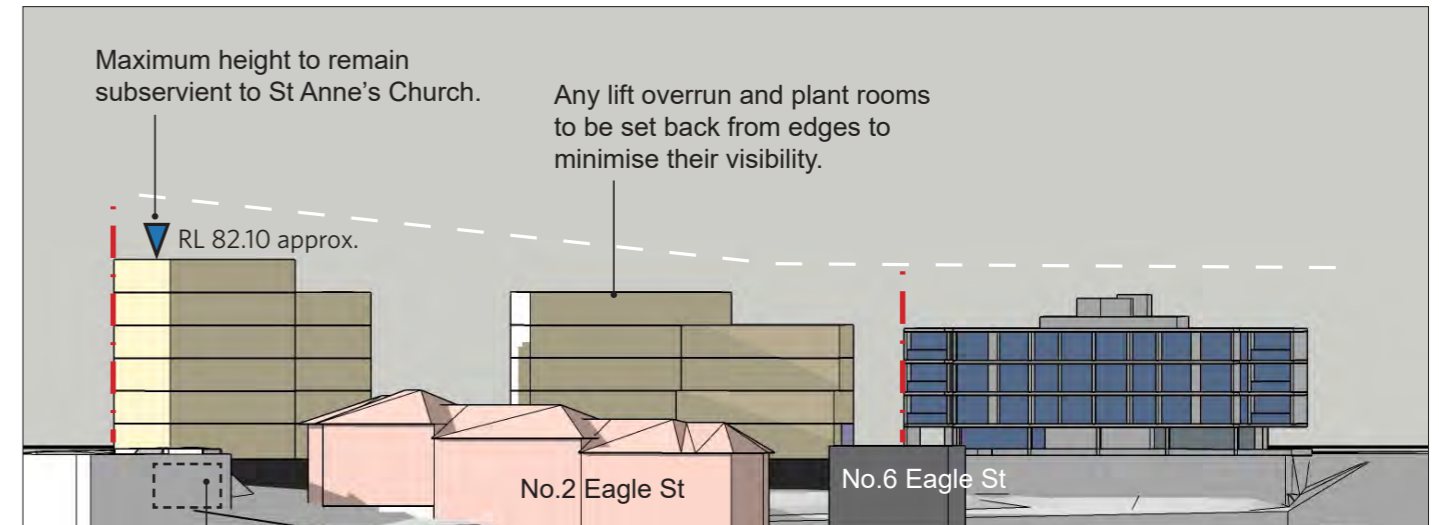
Mature tree planting must also be provided along the rear boundary in the 3m wide deep soil zone to soften the interface of any above ground basement car park.



## Key Design Principles



Victoria Road/North Elevation



South Elevation

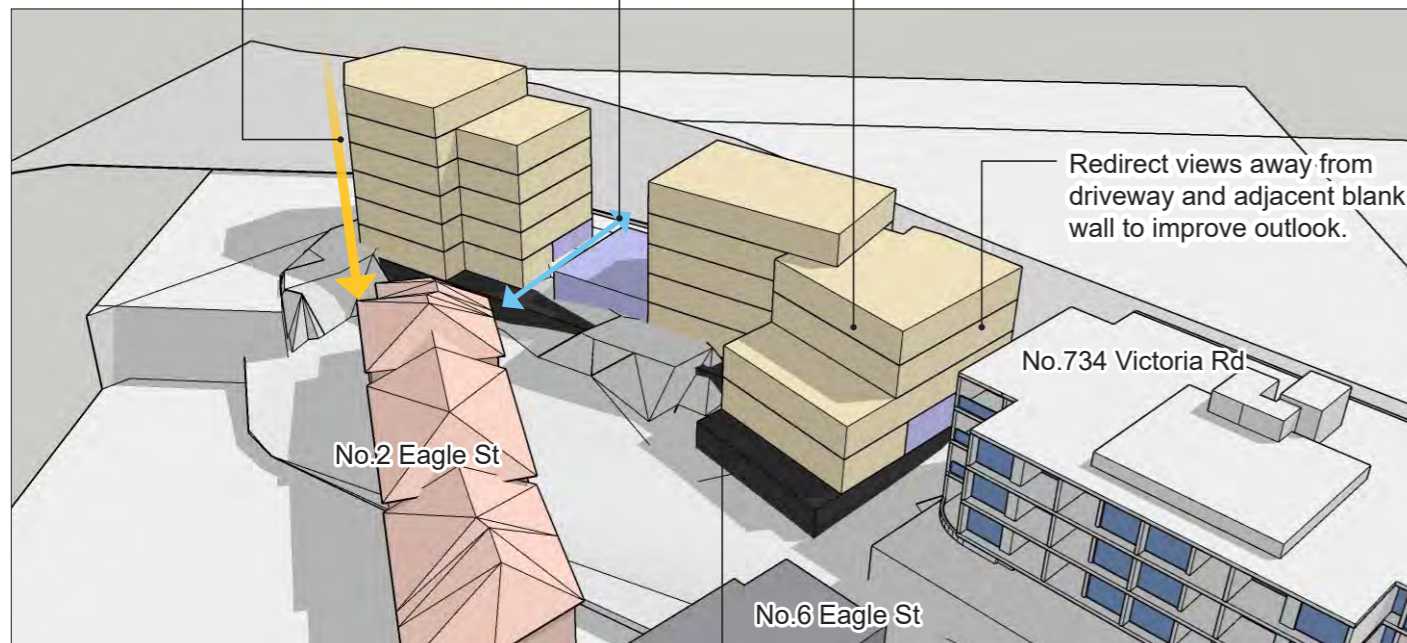
Create substantial inset in the facade to articulate the building mass.

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

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

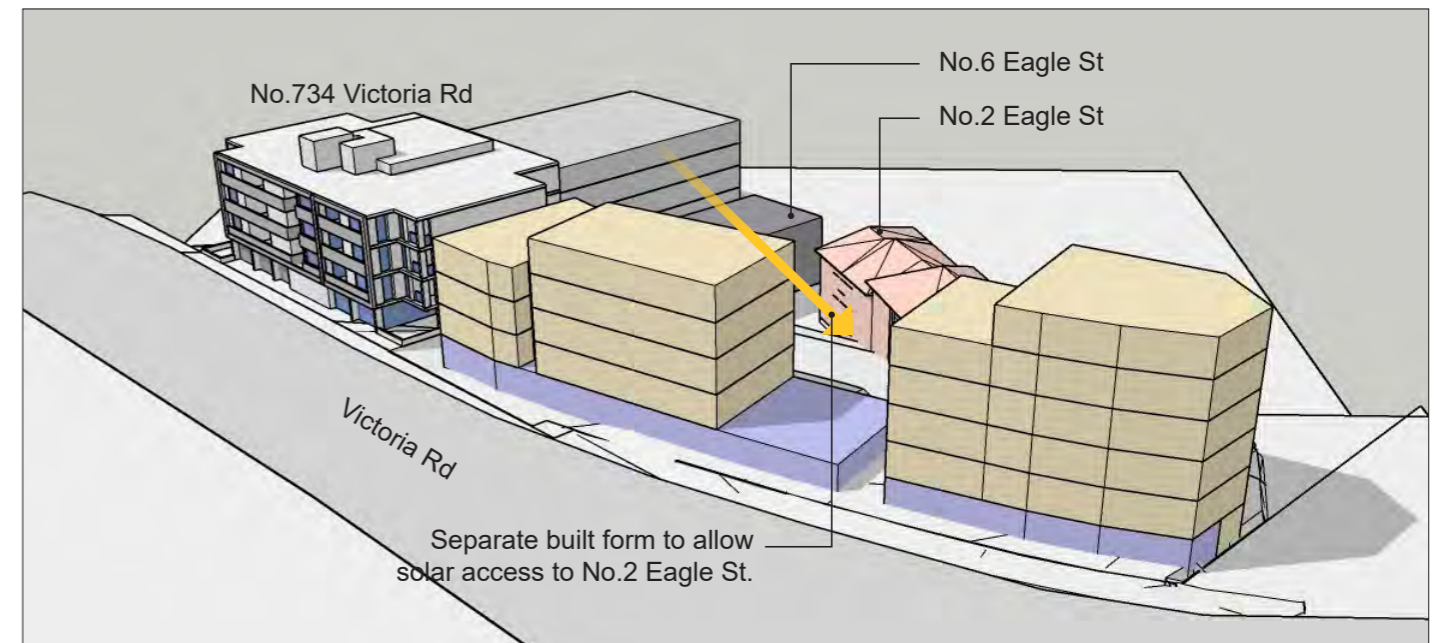
4m wide through-site link for pedestrians (open to the sky)

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



Aerial view - due north

Provide landscape screening and architectural interest to treat any exposed blank wall interface.



Aerial view - due south

KEY

■ Retail/Commercial (GF)

■ Residential

■ Basement car park

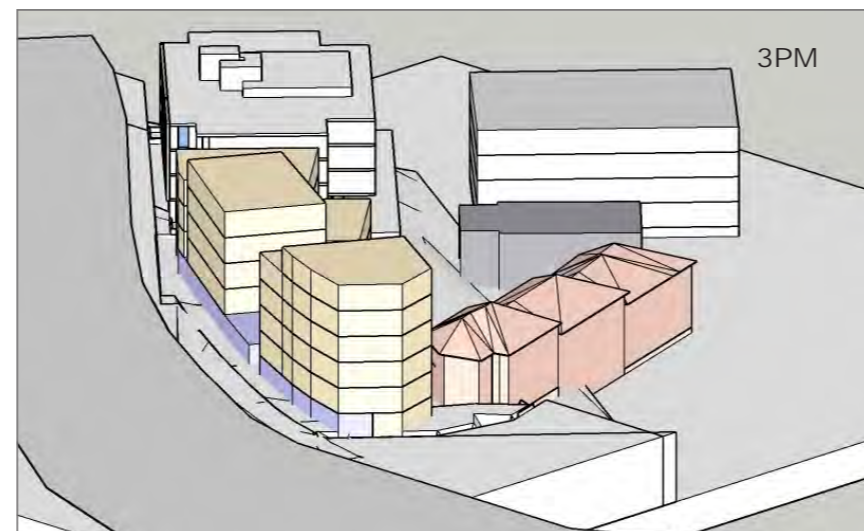
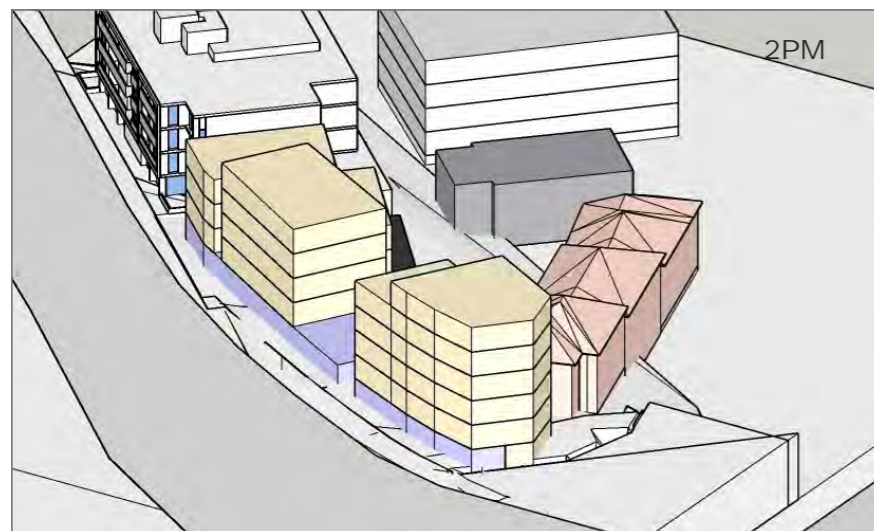
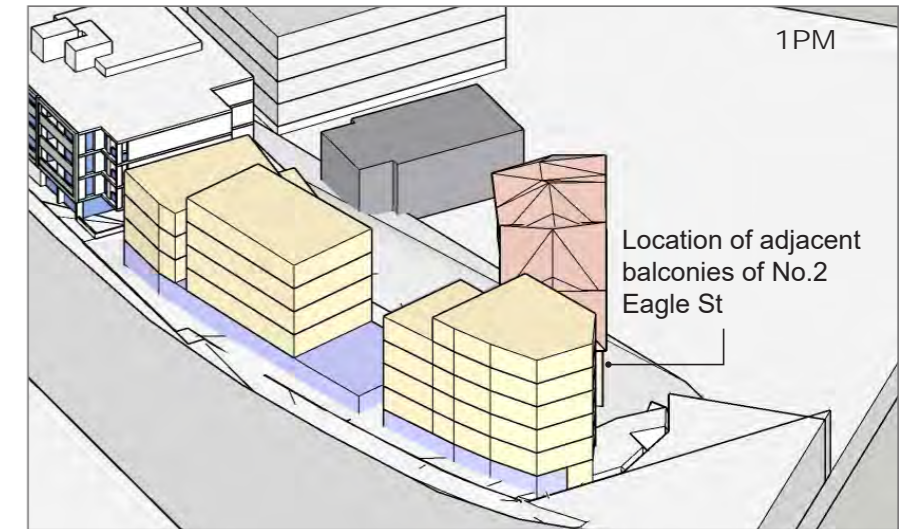
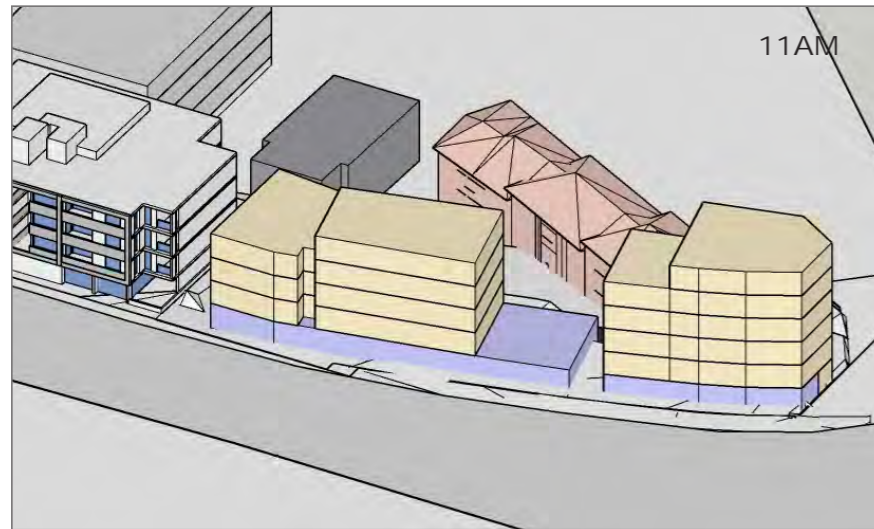
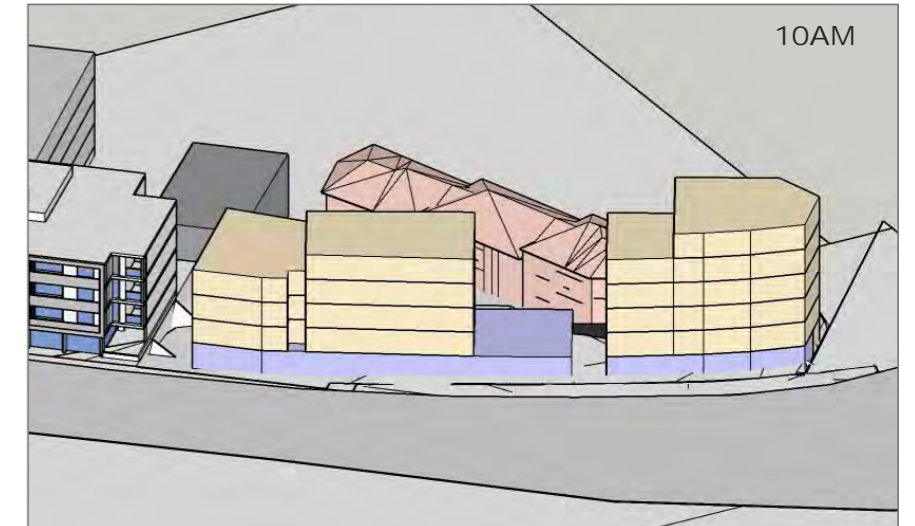
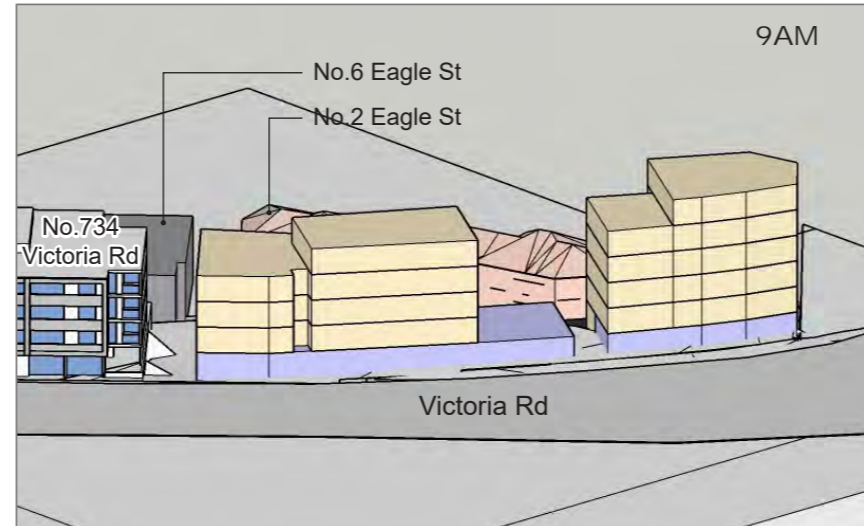


## Solar Access Analysis - Winter Solstice

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

**2 176 Quarry Road Ryde - Consolidation of two lots into one and construction of a two storey child care centre with basement car parking for 20 vehicles. The child care will operate between 7am and 6pm Monday to Friday and have a capacity for up to 100 children - LDA2019/0328**

**Report prepared by:** Creative Planning Solutions

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

**File Number:** GRP/09/6/12/1/2 - BP20/906

**City of Ryde  
 Local Planning Panel Report**

<b>DA Number</b>	LDA2019/0328
<b>Site Address &amp; Ward</b>	176 Quarry Road Ryde, NSW 2112 Lot 12 in Deposited Plan 239671 Lot 13 in Deposited Plan 239671 East Ward
<b>Zoning</b>	R2 Low Density Residential
<b>Proposal</b>	Consolidation of two lots into one and construction of a two storey child care centre with basement car parking for 20 vehicles. The child care will operate between 7am and 6pm Monday to Friday and have a capacity for up to 100 children.
<b>Amended Proposal</b>	Consolidation of two lots into one and construction of a two storey child care centre with basement car parking for 19 vehicles. The child care will operate between 7am and 6pm Monday to Friday and have a capacity of up to 95 children.
<b>Property Owners</b>	Antonio Salerno
<b>Applicant</b>	Designcorp Architects
<b>Report Author</b>	Ben Tesoriero, Consultant Planner
<b>Lodgement Date</b>	24 September 2019

**ITEM 0 (continued)**

<b>Notification 1 No. of Submissions</b>	Forty-two (42) submissions received: <ul style="list-style-type: none"> <li>• Thirty-nine (39) submissions objected to the proposed development.</li> <li>• Three (3) submissions received in support of the proposed development.</li> </ul>
<b>Notification 2 No. of submissions</b>	Fifteen (15) submissions received: <ul style="list-style-type: none"> <li>• Fourteen (14) submission objecting to the proposed development.</li> <li>• One (1) submission being a general enquiry.</li> </ul>
<b>Cost of Works</b>	\$1,958,759.76
<b>Reason for Referral to LPP</b>	<p><b>Contentious development</b> – (b) in any other case – is the subject of 10 or more unique submissions by way of objection.  <i>Schedule 1, Part 2 of Local Planning Panels Direction</i></p> <p><i>and</i></p> <p><b>Departure from development standards</b> – contravention of the floor space ratio development standard by more than 10% - <i>Schedule 1, Part 3 of Local Planning Panels Direction</i></p>
<b>Recommendation</b>	<b>Approval</b>
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Compliance table - <i>State Environmental Planning (Educational Establishments and Child Care Facilities) 2017</i> and Child Care Planning Guideline</li> <li>2. LEP and DCP Compliance Table</li> <li>3. Recommended conditions of consent</li> <li>4. Clause 4.6 written request to vary Clause 4.4(2) Floor Space Ratio</li> <li>5. Plans submitted with the development application</li> </ol>

**1. Executive Summary**

The proposal seeks consent for the demolition of structures, consolidation of two lots into one and the construction of a two storey child care centre with basement parking

**ITEM 0 (continued)**

for nineteen (19) vehicles. The child care centre is proposed to operate from 7:00am to 6:00pm Monday to Friday, will have a capacity of ninety-five (95) children and will employ fourteen (14) staff.

This development application (DA) is reported to the Ryde Local Planning Panel (RLPP) for determination in accordance with Section 9.1 (Directions by the Minister) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as it proposes a departure from a development standard in excess of 10%, and is contentious development, having received more than ten (10) submissions.

To satisfy clause 4.4(2) of *Ryde Local Environmental Plan 2014* (RLEP 2014), the floor space ratio (FSR) is not to exceed 0.5:1, which given the site area of 1,226m<sup>2</sup> equates to a maximum gross floor area (GFA) of 613.35m<sup>2</sup>. The GFA for the development is however calculated at 742.63m<sup>2</sup>, which equates to an FSR of 0.605:1 – being a 21%, or 129.28m<sup>2</sup>, variation to the development standard.

When having regard to the GFA definition contained within the Dictionary of the RLEP 2014, the variation to the development standard arises from the necessity to include the floor area of the outdoor play area given it is to be enclosed by walls greater than 1.4 metres in height.

A clause 4.6 written request to vary the FSR development standard has been submitted by the applicant. This assessment has found the applicant's written request satisfactorily addresses the jurisdictional prerequisites required to satisfy the consent authority. Accordingly, the proposed variation to the standard is considered satisfactory.

Other elements of the building otherwise comply with applicable development standards and controls governing building height, setbacks and landscaped area.

The DA was advertised from 9 October 2019 to 30 October 2019, and again for the amended plans from 3 April 2020 to 23 April 2020. In response to the first advertising period, forty-two (42) submissions were received, with thirty-nine (39) objecting and three (3) in support. In response to the second advertising period, fifteen (15) submissions were received, with fourteen (14) of those objecting to the subject application, and one (1) submission being a general enquiry.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the EP&A Act. The proposal does not result in any significant adverse impacts upon neighbouring properties or the streetscape. The planning assessment found that the proposal the site is suitable for the proposed development.

For the reasons outlined above, the subject DA is recommended for approval subject to conditions that are appended to this report.

**ITEM 0 (continued)**

**2. The Site and Locality**

The site is legally described as Lot 12 and Lot 13 in Deposited Plan 239671 and has a street address of 176 Quarry Road, Ryde. The site is irregularly-shaped and has a combined area of 1,226.7m<sup>2</sup> (title); the front boundary is 30.73 metres, the northwest and southeast side boundaries are 45.855 and 38.1 metres respectively and the stepped rear boundary has a total length of 33.15 metres. The frontage is oriented to the northeast and adjoins the road reserve. The majority of the site contains a small northwest to southeast (i.e. side to side) slope of approximately 900mm; a section at the front of the site around the existing driveway has an approximate 1.2 metre slope towards Quarry Road.



**Figure 1:** Aerial photograph of the site in context.

Source: Nearmap, 28 February 2020

Existing development on the site consists of a detached two-storey dwelling house with an attached double garage that is of brick construction with a tiled roof (**Figure 2**); the rear setback includes a small metal shed and paved areas. There are no significant trees on the site. Vehicular access is obtained via a driveway and crossover from Quarry Road.

**ITEM 0 (continued)**

The site is not mapped as being subject to any constraints, such as heritage, urban bushland, flooding or bushfire prone land.



**Figure 2:** The subject site, as viewed from the northeast within Quarry Road  
Source: Google, Number 2019

The subject site is located on the south-western side of Quarry Road. Adjoining the north-western side boundary is 180 Quarry Road, which contains a detached two-storey dwelling house (**Figure 3**). Adjoining the south-eastern side boundary is a public pathway (**Figure 4**), which provides a pedestrian link between Quarry Road and Readford Place to the southwest. Beyond the walkway is 174 Quarry Road, which contains a detached two-storey dwelling house with an integrated double garage (**Figure 5**).

Adjoining the south-western rear boundary are 5 and 6 Readford Place, which each contain a detached two-storey dwelling house (**Figure 6** and **Figure 7**). On the northeast side of Quarry Road opposite the subject site is 1 Lavarack Street, which contains a detached two-storey dwelling house and integrated garage (**Figure 8**).

Development within surrounding residential-zoned areas consists predominantly of low-density residential accommodation (i.e. detached dwelling houses with isolated dual occupancies and multi-dwelling housing developments). Notable non-residential development within areas to the north and northwest include two parks (Yamble Reserve and Henry Dunant Reserve), Smalls Road Public School and North Ryde Community Preschool.

**ITEM 0 (continued)**



**Figure 3:** 180 Quarry Road to the northwest of the subject site.  
Source: CPS Site Inspection, 28 October 2019



**Figure 4:** The pedestrian laneway adjoining the southeast boundary of the subject site (right) and 174 Quarry Road (left), as viewed from Quarry Road  
Source: Google, January 2019

**ITEM 0 (continued)**



**Figure 5:** 174 Quarry Road, as viewed from Quarry Road.  
Source: CPS Site Inspection, 28 October 2019



**Figure 6:** 5 Readford Place, as viewed from Readford Place.  
Source: CPS Site Inspection, 28 October 2019



**ITEM 0 (continued)**



**Figure 7:** 6 Readford Place, as viewed from Readford Place.  
Source: CPS Site Inspection, 28 October 2019



**Figure 8:** 1 Lavarack Street, as viewed from Lavarack Street  
Source: CPS Site Inspection, 28 October 2019

## ITEM 0 (continued)

### 3. The Proposal

The proposal includes the demolition of structures, consolidation of two lots and the construction of a child care centre consisting of a two storey building plus a basement level for parking and services. The childcare centre will cater for ninety-five (95) children; twelve (12) children will be aged from 0-2 years, fifteen (15) children will be aged 2-3 years and the remaining 68 children will be aged 3-6 years.

The centre will include fourteen (14) staff, and will operate from 7:00am to 6:00pm Monday to Friday.

Eight (8) trees are also proposed to be removed. The physical aspects of the proposed development are as follows:



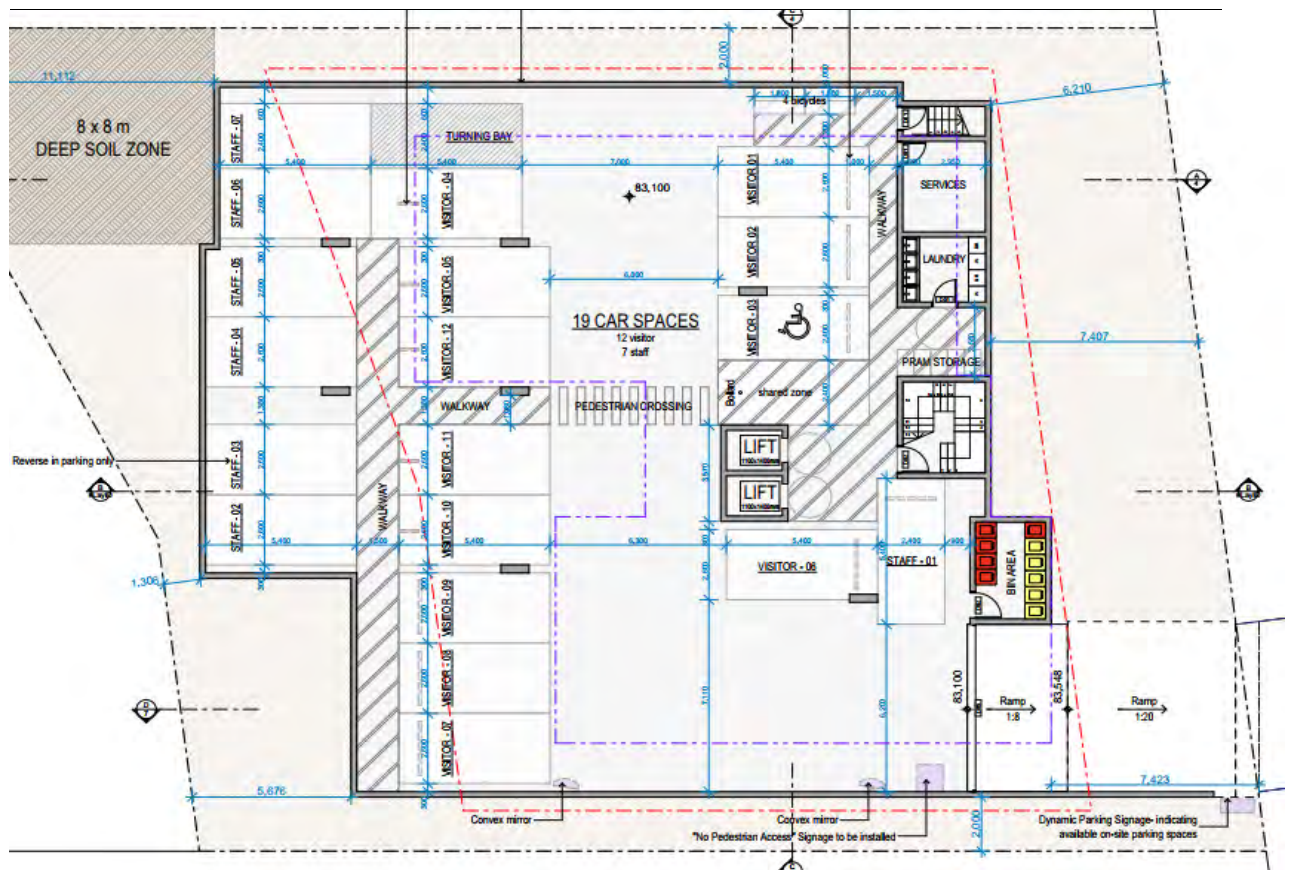
**Figure 9:** Proposed eastern elevation (Quarry Road).  
Source: Designcorp Architects, Issue N, dated: 25/06/2020

#### **Basement level (RL 83.1) (Figure 10):**

- The basement level will contain nineteen (19) car parking spaces to be allocated:
  - Seven (7) spaces for staff
  - Twelve (12) spaces for visitors
- Four (4) bicycle spaces are to be located at the northern end of this level.
- The northeast side of the basement will include a services room, laundry, pram storage, stairway to the ground floor and a bin storage area.
- Vehicular access to this level is obtained via a ramp (with 1:8 and 1:20 gradients) to be located on the northeast side of the site that will connect to the proposed driveway crossover and layback to Quarry Road.
- Pedestrian access to this level is obtained via two (2) elevators and two (2) stairways on the northeast side; the main stairway provides direct internal

**ITEM 0 (continued)**

access to the reception area on the ground floor and the other provides direct access to the front setback.



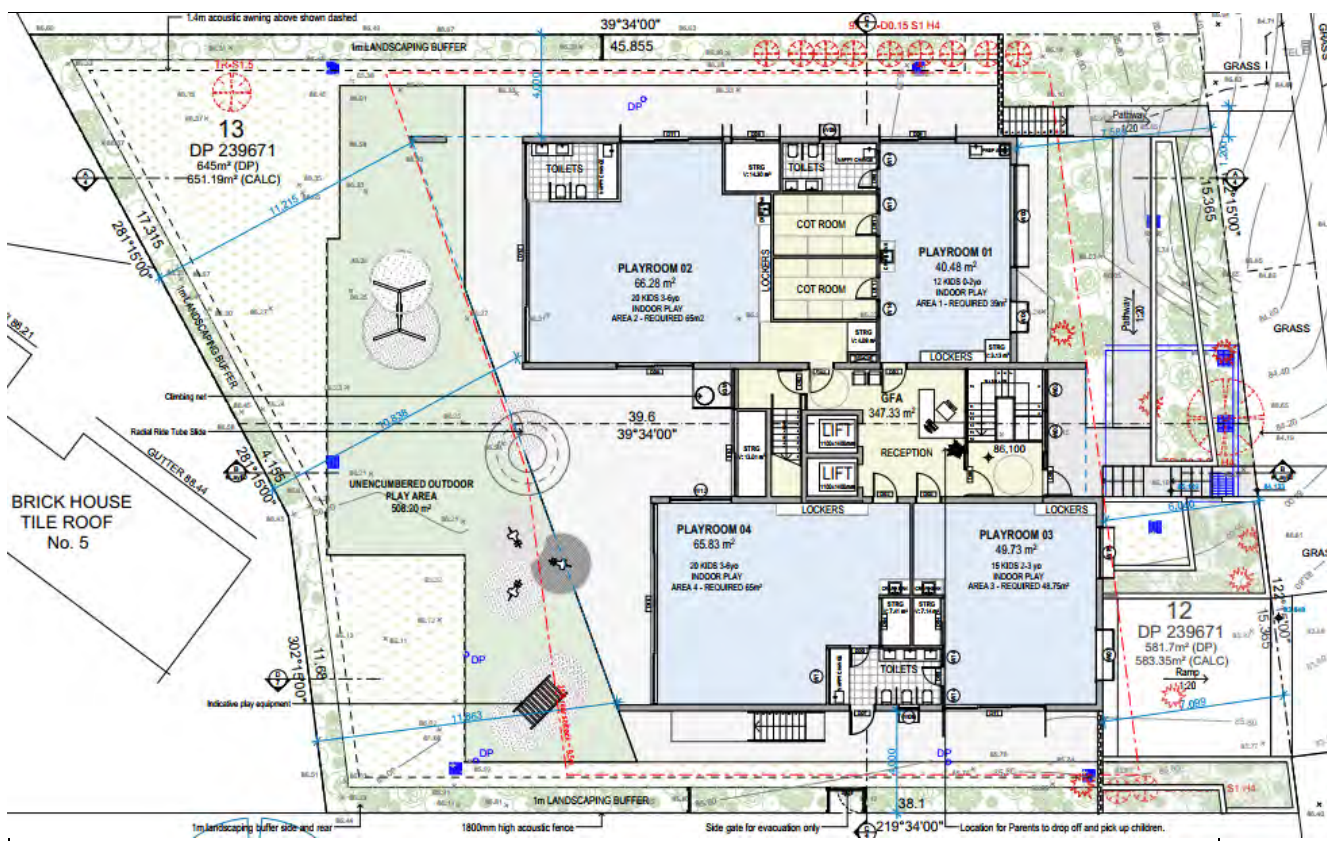
**Figure 10:** Extract of proposed basement plan.  
Source: Designcorp Architects, 25 June 2020

**Ground Floor (RL: 86.1) (Figure 11):**

- Pedestrian access is provided through a centrally-located access way on the building's northeast (i.e. front) elevation.
- A reception area is located in the centre of this level; all stairway and internal lift access from the basement level is also directed to this area. The reception area effectively splits the ground floor into two wings, herein referred to as the 'northwest' wing and 'southeast' wing. Towards the rear of this area is an internal stairway connecting the ground and first floors.
- The northwest wing contains two (2) playrooms, two (2) cot rooms, two (2) toilet rooms (with nappy change facilities) and storage areas.
  - Playroom 01 is oriented towards the front of the building, and is to accommodate all children in the 0-2 year age group.
  - Playroom 02 is oriented towards the rear of the building, and is to accommodate twenty (20) children in the 3-6 age year group.
- The southeast wing contains two (2) playrooms, one (1) toilet room (with nappy change facilities) and storage areas.

**ITEM 0 (continued)**

- Playroom 03 is oriented towards the front of the building, and is to accommodate all children in the 2-3 year age group.
- Playroom 04 is oriented towards the rear of the building, and is to accommodate twenty (20) children in the 3-6 year age group.
- The ground floor outdoor play space is located at the rear and sides of the building, and is accessed via doors from playrooms 02 and 04. This area is to be partly covered by the first floor outdoor play area above. Beyond the covered component is a large open turf area for outdoor play space, with some of that space sitting atop of the basement level. The outdoor play space contains a variety of fixed play equipment, an open turf area, sand pit with shade sail above, feature planters, timber deck, concrete bench seat and timber and stone stepping pads within the mulched garden areas.
- The outdoor play space on the ground floor will be surrounded by a 1.8m high solid acoustic fence with a 1.4m awning above; a one-metre wide landscaped buffer will be located between the acoustic fence and boundary fences.



**Figure 11:** Extract of proposed ground floor plan.  
Source: Designcorp Architects, 25 June 2020

**First Floor (RL: 89.1) (Figure 12):**

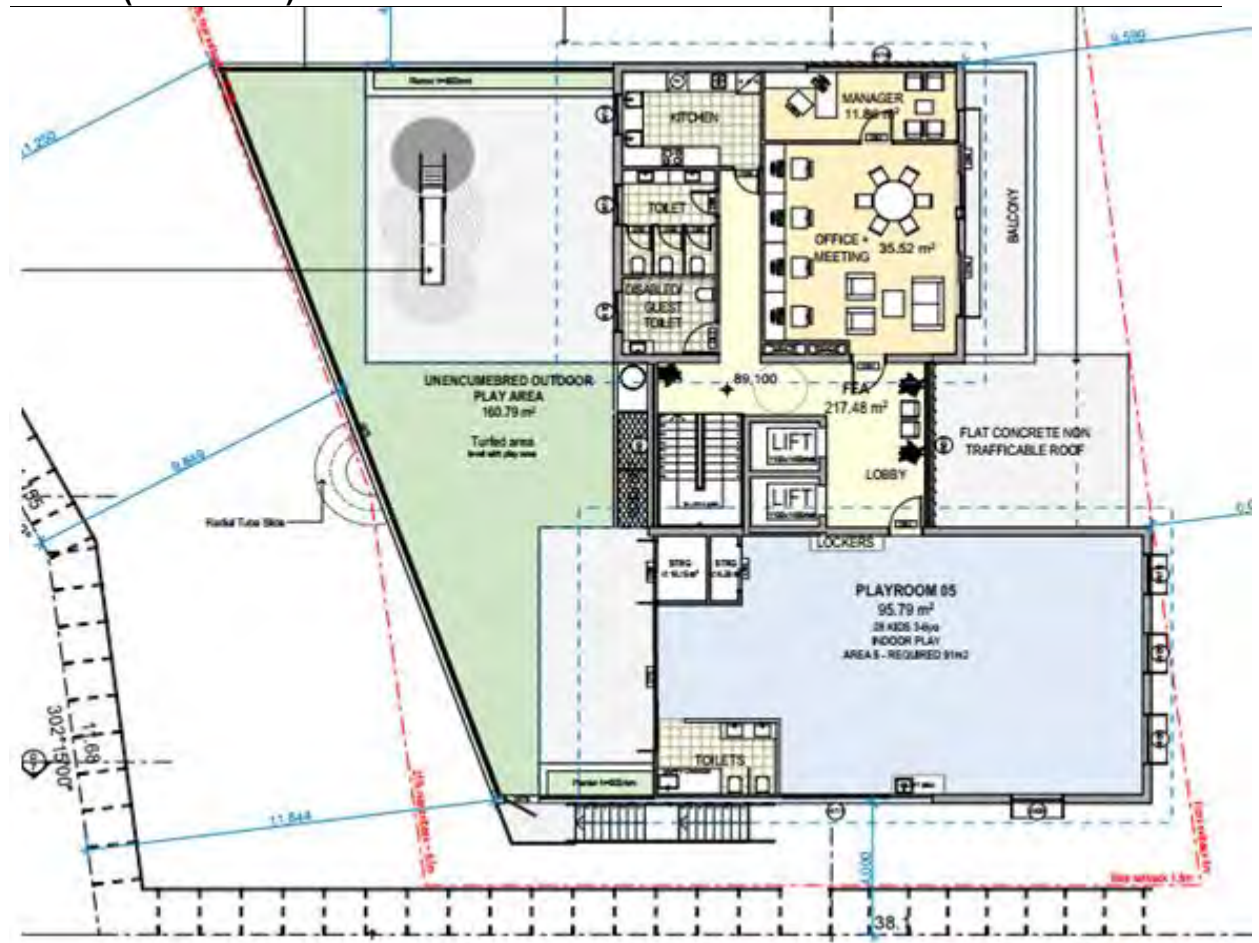
- The centre of the first floor contains a lobby area. Access to this level is provided via the two (2) lifts and a stairway to the rear of the lift core, which directly connects the lobby to the ground floor reception.

**ITEM 0 (continued)**

- The lobby area also effectively splits the ground floor into two wings.
- The northwest wing contains an office and meeting room, a manager's office, kitchen, and two (2) toilet rooms, one of which is for persons with disabilities.
- The southeast wing contains Playroom 05 (which will accommodate twenty-eight (28) children in the 3-6 age group), a toilet room with nappy change facilities and storage areas.
- The first-floor outdoor play space is located at the rear of the building, and is accessed via doors from Playroom 05 and a stairway that connects to the southeast side setback. The area immediately adjacent to the building would be covered by an eave, however the rear of this area is to be open. Landscaping within this area will include turfed areas and planter boxes, and will be enclosed by a 1.8 metre high barrier, consisting of 1 metre high solid balustrades topped by an 800mm high stained-glass screen.

It is noted the acoustic report recommends a minimum height of 1.6 metres for the acoustic walls, while the architectural plans show the acoustic walls having a height of 1.8 metres. As there are concerns that the 600mm high planters adjacent to the screens may create potential climbable surfaces adjacent to the balustrades, the 1.8 metre height on the architectural plans is supported, and to ensure lower walls are not installed, a condition of consent reflecting this has been recommended.

**ITEM 0 (continued)**



**Figure 12:** Extract of proposed first floor plan.  
Source: Designcorp Architects, 25 June 2020

**External**

Landscaping components of the front setback would include numerous tree and shrub plantings, groundcovers and boundary screen planting. The front setback will also include a series of stepped retaining walls containing landscaped areas and planters.

Pedestrian and vehicular entry to the site is to be segregated; the driveway is for vehicular traffic only while pedestrian access will be provided via two pathways (one stepped, the other ramped) from the street frontage; access to the site from the adjoining laneway is not proposed.

**4. Background**

24 September 2019	The subject DA was lodged.
First advertising period - 4 October 2019 to 30	The DA was advertised in the <i>Northern District Times</i> and notified to surrounding properties. In response, forty-two

**ITEM 0 (continued)**

October 2019.	(42) unique submissions were received; thirty-nine (39) of which objected to the proposed development, with three (3) in support of the proposal.
18 November 2019	<p>Council write to the applicant identifying the following issues with the proposal:</p> <ul style="list-style-type: none"> <li>• Inconsistencies with design quality principles within <i>State Environmental Planning Policy (educational Establishments and Child Care Facilities) 2017</i> that included a noncompliant floor space ratio (FSR), building design and character issues and inappropriate landscaping treatments,</li> <li>• Insufficient parking and issues associated with tandem parking arrangements,</li> <li>• Inconsistencies with the <i>Child Care Planning Guideline</i>,</li> <li>• No written request pursuant to clause 4.6 of <i>Ryde Local Environmental Plan 2014</i> for the FSR contravention,</li> <li>• Inconsistent information regarding staff numbers, and</li> <li>• Noncompliant setbacks and landscape design issues.</li> </ul>
12 December 2019	A meeting was held between Council and the applicant regarding the issues raised by Council's assessment of the DA. It was agreed the applicant would be afforded an opportunity to submitted amended plans responding to the issues identified.
22 January 2020	Following a peer review by an external Traffic Consultant, a further request for information (RFI) letter was sent to the applicant detailing concerns with the Traffic and Parking Impact Assessment submitted with the DA.
17 March 2020	The applicant submits amended plans and information.
Second advertising - 3 April 2020 to 23 April 2020.	The DA was advertised in the <i>Northern District Times</i> and notified to surrounding properties. In response, fifteen (15) unique submissions were received, fourteen (14) of which objected to the proposed development; the remaining submission was an enquiry relating to advertising that neither supported nor objected to the DA.
14 April 2020	A further request for additional information was sent to the applicant. Issues raised included a noncompliant FSR, design and character issues, a lack of information regarding solar access and operational details such as deliveries, staffing and risk assessment.
5 May 2020	The applicant submits amended plans and information.
19 June 2020	A meeting was held between Council and the applicant to discuss rectification of design issues.
2 and 7 July 2020	The applicant submitted amended architectural, landscape and stormwater plans. The amended plans were

**ITEM 0 (continued)**

	<p>accompanied by a revised clause 4.6 written request. An amended Traffic and Parking Impact Assessment Report, and Acoustic report was also submitted.</p> <p>The amended plans and documentation covers the following:</p> <ul style="list-style-type: none"> <li>• Reduction in the overall building height by 200mm.</li> <li>• Retaining walls within the front setback now incorporate planters along the driveway, to aid in softening visual bulk.</li> <li>• Deletion of the 1.8m boundary fence and relocation of the acoustic fence to the surrounds of the outdoor play area on the ground floor</li> <li>• Implementation of more glazing to the front façade</li> <li>• Updated 3D perspective drawings which reflect the latest revision of the plans.</li> <li>• Information provided within the revised SEE and Traffic Report which indicates deliveries to occur outside of drop off and pick up times in which Council are satisfied.</li> <li>• The outdoor play areas now include sufficient levels of natural planting and turfed areas, given the introduction of suspended slabs structures, above the basement within the outdoor play space on the ground floor and beneath the outdoor play space on the first floor.</li> <li>• Introduction of an additional lift to ease pedestrian congestion within the car park.</li> <li>• The revised 4.6 written request provided appropriate justifications and environmental planning grounds to support the contravention of the 0.5:1 Floor Space Ratio development standard.</li> </ul> <p>Given the amendments undertaken the proposal was not renotified.</p>
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**ITEM 0 (continued)**
**5. Planning Assessment**
**5.1 State Environmental Planning Instruments**

Instrument	Proposal	Compliance
<b>State Environmental Planning Policy No. 55 – Remediation of Land</b>		
<p>The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated.</p>	<p>The submitted Preliminary Site Investigation Report indicates there is a low potential for the development to cause land and/or groundwater contamination, and that the site is suitable for the proposed development, subject to recommendations. Further, the site has been historically used for residential purposes. As such, it is unlikely to contain contaminants and further investigation of the site is not warranted in this instance.</p>	<p>Yes</p>
<b>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</b>		
<p>The Vegetation SEPP commenced on 25 August 2017 and replaced clause 5.9 of RLEP 2014, which related to the preservation of trees and vegetation.</p> <p>The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.</p>	<p>The applicant proposes to remove eight (8) trees on the site to facilitate the development. The trees to be removed are not significant, and the site is not mapped</p>	<p>Yes</p>

**ITEM 0 (continued)**

	<p>as containing significant urban bushland on Council's Environmentally Sensitive Areas map. All of the trees to be removed have been classified as exempt under Part 9.5 of RDCP 2014 and can be removed without the need for obtaining consent.</p> <p>The proposal is also supported by a satisfactory arborist report and landscape plan. The proposal will not unduly impact upon any existing biodiversity, trees and/or vegetation on the site. The removal of the trees is considered acceptable by the consultant Landscape Architect/Arborist.</p>	
<p><b>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</b></p>		
<p>Clause 23 of the <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i> (SEPP) provides that:</p> <p><i>Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority</i></p>	<p>The <i>Child Care Planning Guideline</i> (herein simply referred to as 'the Guideline') establishes the assessment framework to deliver consistent</p>	<p>Yes</p>

**ITEM 0 (continued)**

<p><i>must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.</i></p>	<p>planning outcomes and design quality for centre-based childcare facilities in NSW.</p> <p>A detailed assessment of the proposal against provisions of the Guidelines is illustrated in the compliance table held in <b>Attachment 1</b>. This matter has also been discussed in greater detail following the table.</p>	
<p><b>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</b></p>		
<p>This Plan applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.</p>	<p>Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.</p>	<p>Yes</p>

**State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (ESEPP)**

**Clause 23 Centre-based child care – matters for consideration by consent authorities**

Clause 23 of the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (ESEPP)* provides that:

*Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.*

**ITEM 0 (continued)**

The *Child Care Planning Guideline* (CCPG) establishes the assessment framework to deliver consistent planning outcomes and design quality for centre-based childcare facilities in NSW.

A detailed assessment of the proposal against the provisions of the CCPG is contained within **Attachment 1** appended to this report, which finds the proposal to be consistent with the objectives and guidelines of the CCPG.

One area of potential concern however is the quality of information regarding emergency and evacuation procedures as required by Section 4.8 (Emergency and evacuation procedures) of the CCPG. The proposed marshalling point adjacent to the intersection of Quarry Road and Aeolus Avenue is considered inappropriate, due to the distance the children would need to walk adjacent to Quarry Road. The turning-head of the Readford Place cul-de-sac is considered to be a more appropriate evacuation marshalling point as there would be less traffic within this location. To shorten the route to this point and keep children away from Quarry Road during an evacuation, it is recommended that a condition be imposed that would require the following:

- Small changes to the site layout, southeast side boundary fence and landscaping to provide an additional gate towards the rear of the site to facilitate direct access to the adjoining laneway,
- Changes to the gate design to ensure that they are flush with the fence (as opposed to the 'indented' design of the current gate) to avoid adversely affecting the performance of the acoustic barrier. The gates are to also open inwards (as opposed to opening out into the laneway), are to be secured by internal locks and signposted to prevent attempted access from the laneway, and
- The emergency management plan is to be amended to nominate the Readford Place cul-de-sac as the emergency evacuation point. The site evacuation plans are to be amended accordingly.

The following is a brief response to the proposal's performance against the design quality principles contained within Part 2 of the CCPG:

1. The proposal responds well to the layout of the site, is consistent with streetscape character and is well located with regard to surrounding facilities and public transport.
2. Despite the FSR contravention, the design of the building largely complies with controls governing building form and presents positively to the streetscape.
3. The proposal includes large indoor and outdoor spaces that will provide purpose-built and accessible facilities with high levels of amenity capable of being used for a variety of activities.

**ITEM 0 (continued)**

4. The proposal will provide adequate cross ventilation, sunlight and passive thermal design.
5. The proposed development incorporates substantial and varied landscaped areas (particularly within the front and rear setbacks) that will positively contribute to the streetscape and local character.
6. A high level of internal and external amenity is proposed for users of the centre, with good solar access and natural ventilation to be provided to indoor and outdoor areas. The design of the development will not give rise to unacceptable impacts on adjoining property.
7. The layout and design of the centre will not create risks for children attending the site. All indoor and outdoor areas are capable of satisfactory active and casual surveillance.

**Attachment 1** also contains an assessment of the proposal's compliance against the non-discretionary development standards for centre based child care centres contained in the ESEPP.

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

The following outlines provisions of RLEP 2014 that are relevant to the proposal.

**Clause 2.3 - Zone Objectives and Land Use Table**

Under RLEP 2014, the subject site is zoned R2 Low Density Residential. 'Centre-based child care facilities' are permissible with consent within the R2 zone.

**Objectives for residential zones:**

The objectives of the R2 low density residential zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*
- *To provide for a variety of housing types.*

As no residential development is proposed, the first and third objectives of the zone would not directly apply to the proposal. The proposal is however a form of development that is consistent with the surrounding low-density residential environment in terms of height, number of storeys, relative bulk and scale (given the substantial size of the subject site) and landscaped area. The second objective will be satisfied as the proposed development would provide facilities and services to meet the day-to-day needs of local residents. The proposal satisfies the relevant objectives for non-residential developments.

**ITEM 0 (continued)**

The following table provides a summary of the key provisions that apply to the proposal:

Clause	Proposal	Compliance
<b>4.3(2) Height of Buildings</b>		
9.5m	Proposed building height <b>7.05m</b> .  <b>Note:</b> Height calculated from roof ridge to lowest ground RL beneath	Yes
<b>4.4(2) Floor Space Ratio</b>		
0.5:1 (613.35m <sup>2</sup> )	<b>Proposed GFA:</b> Basement: 6.98m <sup>2</sup> Ground Floor: 350.43m <sup>2</sup> First Floor: 392.2m <sup>2</sup> <b>Total GFA:</b> 742.63m <sup>2</sup>  Site Area: 1,226.7m <sup>2</sup> (Title)  <b>Proposed FSR:</b> 0.605:1	<b>No, cl.4.6 variation request submitted</b>
<b>4.6 Exceptions to development standards</b>		
(1) The objectives of this clause are as follows—  (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,  (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	Variation Sought to clause 4.4(2)	Yes
<b>6.2 Earthworks</b>		
(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	Submitted information (including a Geotechnical Investigation Report) indicates that, subject to conditions, the earthworks would not have a detrimental impact on the environment and surrounding sites. No objection has been raised by Council's Development Engineer.	Yes
<b>6.4 Stormwater Management</b>		
(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.	The plans depict sufficient permeable surfaces, OSD and discharge from the site. Council's Development Engineer is satisfied with the proposed drainage arrangement.	Yes

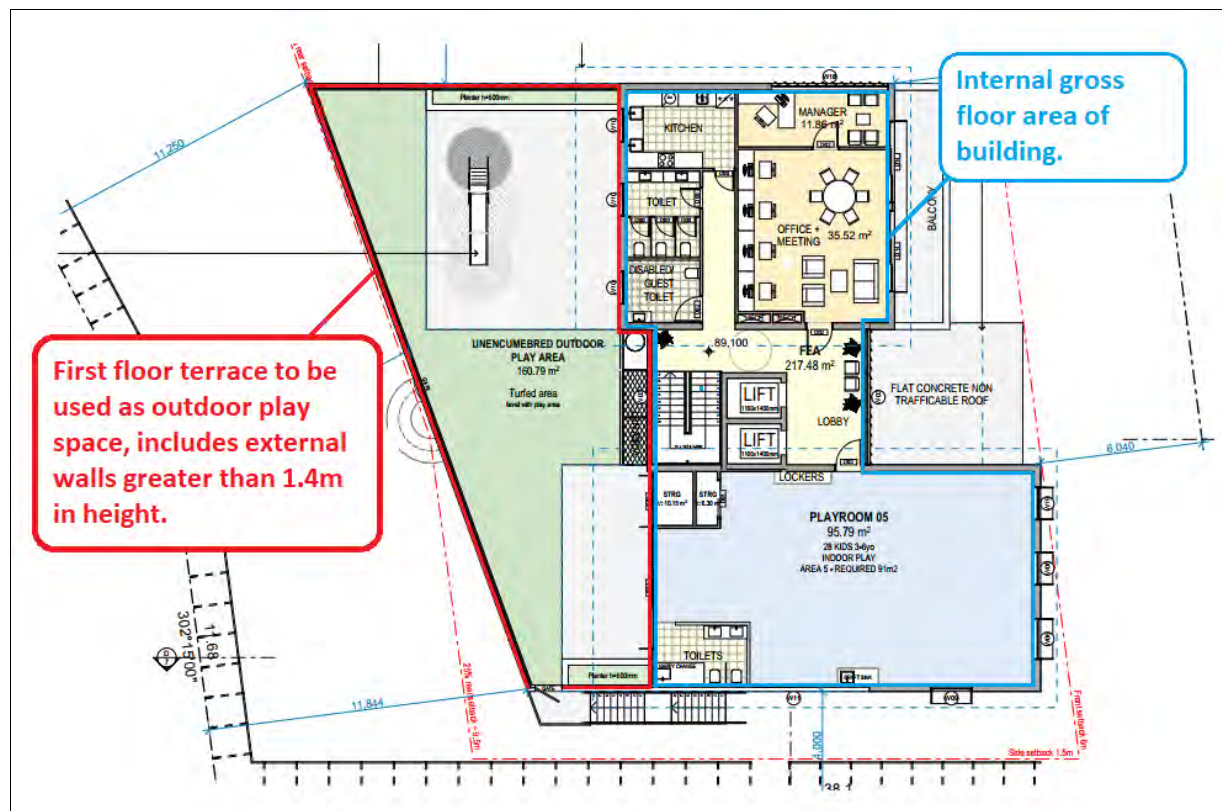
**ITEM 0 (continued)**

**Clause 4.6 – Exceptions to Development Standards.**

The development contravenes clause 4.4(2) of RLEP 2014, which prescribes a maximum FSR of 0.5:1 (i.e. GFA of 613.35m<sup>2</sup>, based on a site area of 1226.7m<sup>2</sup>). The proposal's GFA of 742.63m<sup>2</sup> equates to an FSR of 0.605:1, representing a 21% or 129.28m<sup>2</sup> contravention of the development standard.

The proposal has been supported by amended plans (dated 25 June 2020) and a clause 4.6 written request prepared by Planning Lab (dated 1 July 2020) to vary the development standard. This planning assessment has found however that the proposed GFA and FSR of the site are higher than that calculated by the applicant, which indicates that the GFA and FSR of the site respectively are 724.61m<sup>2</sup> and 0.587:1.

When having regard to the GFA definition contained within the Dictionary of the RLEP 2014, the variation to the development standard arises from the necessity to include the floor area of the outdoor play area given it is to be enclosed by walls greater than 1.4 metres in height. The areas at first floor included in the GFA calculation are shown in **Figure 13**.



**Figure 13:** Areas included in GFA at first floor plan.

Source: Designcorp Architects, 25 June 2020

**ITEM 0 (continued)**

An assessment of the relevant provisions of Clause 4.6 is as follows:

- Clause 4.6(3)(a) - Is compliance unreasonable or unnecessary in the circumstances of the case?
- Clause 4.6(3)(b) - Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

The written request provides the reasons why compliance with the standard is unreasonable and/or unnecessary, with selected excerpts shown below:

- *A reduction in the height of the fence or the use of a slatted balustrade around the Level 1 outdoor play area would exclude the areas from consideration as GFA, rendering the FSR numerically compliant. The proposed design represents an appropriate built form.*
- *Objectives of the development standard (Clause 4.4) are achieved notwithstanding non-compliance with the standard. This is primarily because the additional wall height is located at the rear of the block and will not be readily visible from the public domain. Therefore, in comparison to a compliant scheme with a 1.4m wall height, the proposal does not present as having greater bulk.*
- *The walls will have a negligible additional overshadowing effect on 174 Quarry Road from approximately 2pm. This will affect a very small portion of the rear private open space of 174 Quarry Road, the great majority of which will be unaffected.*
- *The proposed wall height of 1.8m lessens any potential privacy issues in comparison to a 1.4m wall. This is because the 1.8m tall wall will not readily permit views into the rear private open spaces of neighbouring dwellings.*
- *The 1.8m wall height provides a suitable acoustic barrier which will minimise the environmental impact of noise generated by the development having a positive impact on the amenity of the built environment.*
- *The additional wall height increases the safety of both staff and children.*
- *If the variation is not permitted, the building will be required to reduce its GFA by 107.34m<sup>2</sup>, which is equal to 17.4%. A corresponding decrease in childcare places would be a reduction of 16 child care places down to 79. A reduction in the provision of childcare spaces is an undesirable outcome for the landowner, future operator and the community.*

**Assessment Officer's Comments:**

It is agreed that the variation to the FSR development standard is attributable to the rear-facing first floor outdoor play area, which is bounded by the 1.8-metre-high acoustic barriers. It is also agreed that the acoustic barriers would serve to protect the acoustic amenity and visual privacy of surrounding residential allotments. Given that they would not significantly contribute to the proposed building's height, bulk and/or scale, the barriers will have a negligible impact on the overshadowing of



**ITEM 0 (continued)**

surrounding residential sites and will still enable plentiful solar access and amenity to the proposed outdoor play areas on both levels.

While the barriers technically increase the development's GFA, compared to enclosed habitable areas on the first floor, the relatively limited (i.e. 1.8 metre) height of the barriers will be well below the ceiling height of the first floor and as such will not contribute to the building's height, bulk and scale. There will be no visual impact on the Quarry Road streetscape, and the streetscape's existing and future character will therefore be retained.

It is therefore agreed that strict enforcement of the FSR development standard in this circumstance would be unreasonable, and there are sufficient environmental planning grounds to justify the contravention.

**Is the proposal in the public interest?**

Pursuant to clause 4.6(4)(ii), a development will be in the public's interest if it is consistent with the objectives of the development standard and also the zone objectives in which the particular development is carried out. A response on the proposal's consistency with the R2 zone objectives is as follows:

- *To provide of the housing needs of the community within a low density residential environment.*

The proposal does not include any housing. The design of the proposed development is however consistent with that of the surrounding low-density residential area; aside from the proposed variation to the FSR development standard, the development otherwise obtains a high level of compliance with other development standards and controls that govern building height, bulk and scale. The barriers that enclose the first-floor outdoor play area will not be visible from the street, and as such will the existing low-density residential environment of surrounding streetscapes will be unaffected.

- *To enable other land uses that provide facilities or services that meet the day to day needs of residents.*

The proposal will provide child care facilities and services to meet the day to day needs of residents. It is agreed with the applicant's written request that to refuse the FSR variation will significantly reduce the available floor space and therefore the number of child care places available to local residents.

- *To provide a variety of housing types.*

The proposal does not include any housing, however the proposal will not affect the capacity of surrounding sites to continue providing housing of varying types.

**ITEM 0 (continued)**

A response to each of the objectives of clause 4.4 (floor space ratio) of RLEP 2014 is as follows:

*(a) To provide effective control over the bulk of future development*

**Comment:** The proposed variation to the development standard is largely attributable to the partial enclosure of the rear-facing first-floor play area. The 1.8 metre high barriers are significantly lower than the building's habitable room areas, and in this instance do not contribute significantly to the bulk and scale of the building as a whole. The proposed development otherwise achieves a high level of compliance with the standards and controls that seek to limit building height, bulk and scale. As a result, the streetscape presentation of the building is consistent with the desired character for future development in the R2 zone.

*(b) To allow appropriate levels of development for specific areas.*

**Comment:** The design of the proposed development is appropriate for the site. FSR variation notwithstanding, the height, scale, materials and design of the building is consistent with applicable development standards and controls. The presentation of the development to surrounding sites and the public domain is also consistent with the existing and desired character of the area. Provided that the site is operated in accordance with recommended conditions, it will also not have unreasonable and inappropriate impacts on this specific area of Ryde.

*(c) In relation to land identified as a Centre on the Centres Map – to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

**Comment:** The objective is not relevant to the proposed development, as the subject site is not land identified as forming part of a Centre on the Centres Map within RLEP 2014.

### Summary

The applicant has adequately addressed why compliance with the development standard is unreasonable or unnecessary under Clause 4.6(3)(a) of RLEP 2014. The applicant has also demonstrated sufficient environmental planning ground to justify contravention of the floor space ratio development standard, as required by Clause 4.6(3)(b).

It has been demonstrated by this assessment that the proposed development is consistent with the objectives of both the development standard and the R2 zone. For these reasons, the development will be in the public interest.

**ITEM 0 (continued)**

The concurrence of the Planning Secretary is not required – refer clause 4.6(4)(b) of the RLEP 2014.

Accordingly, development consent may be granted to the proposal, despite the contravention of the FSR development standard.

**5.3 Draft Environmental Planning Instruments**

Instrument	Proposal	Compliance
<b>Draft Remediation of Land State Environmental Planning Policy</b>		
<p>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:</p> <p><i>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.</i></p>	<p>The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of DAs. As discussed within the SEPP 55 assessment above, the subject site has been used for residential purposes for an extended period of time, and is therefore unlikely to have been associated with land uses that will result in contamination of the site. This is supported by a preliminary site investigation report which also indicates there is a low potential for the development to cause land and/or groundwater contamination, and</p>	<p style="text-align: center;">Yes</p>

**ITEM 0 (continued)**

	that the site is suitable for the proposed development, subject to recommendations.	
<b>Draft Environment SEPP</b>		
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 a number of SEPPs, which include: <ul style="list-style-type: none"> <li>- State Environmental Planning Policy No. 19 – Bushland in Urban Areas</li> <li>- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> </ul>	The proposal is not inconsistent with the provisions of the draft SEPP.	Yes

#### 5.4 Development Control Plans

##### Ryde Development Control Plan 2014 (RDCP 2014)

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 3.2: Child Care Centres
- Part 3.3: Dwelling Houses and Dual Occupancy
- Part 7.2: Waste Minimisation and Management;
- Part 8.2: Stormwater & Floodplain Management;
- Part 8.3: Driveways;
- Part 9.3: Parking Controls

**Note:** Built form controls for dwelling houses and dual occupancy controls within Part 3.3 of RDCP 2014 apply to this proposal, in accordance with control 3.2(d) within Part 3.2 of the DCP.

Clause 26(1) of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* provides that a provision of a development control plan that specifies a requirement, standard or control in relation to any of the

**ITEM 0 (continued)**

following matters (including by reference to ages, age ratios, groupings, numbers of the like, of children) does not apply to development for the purpose of a centre-based child care facility:

- (a) *Operational or management plans or arrangements (including hours of operation),*
- (b) *Demonstrated need or demand for child care services,*
- (c) *Proximity of facility to other early education and care facilities,*
- (d) *Any matter relating to development for the purpose of a centre-based child care facility contained in:*
  - (i.) *The design principles set out in Part 2 of the Child Care Planning Guideline, or*
  - (ii.) *The matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that guideline (other than those concerning building height, side and rear setbacks or car parking rates).*

A detailed assessment of the proposal against the relevant provisions of RDCP 2014, Part 3.2 Child Care Centres is contained within **Attachment 2**. This assessment has concluded that the proposal is consistent with the aims and objectives of RDCP 2014. Where strict compliance has not been achieved, in accordance with Section 4.14(3A)(b) of the EP&A Act, flexibility has been sought to allow a reasonable alternative solution that achieves the objects of those controls. These matters are discussed below:

**Part 3.2: Child Care Centres****Section 2.0 - Size, Location and Site Selection**

Section 2.1.1 of Part 3.2 of RDCP 2014 provides for the criteria for sites where child-care centres should be located. The subject site's is consistent with such requirements, being on a large (i.e. 1, 226.7m<sup>2</sup>) and suitably orientated site, is mostly level and not in a cul-de-sac, on a battle-axe allotment and/or on an arterial/sub-arterial road. The RDCP 2014 does however seek for larger-scale centres in low density residential areas to be located:

- On street corners,
- Sites that share common boundaries with compatible non-residential uses, and
- Where child care centres can be co-located with compatible uses subject to acceptable traffic and parking requirements being met.

The subject site is not a preferred location for the proposed development as it will share common boundaries with three (3) residential properties, and is not necessarily co-located with compatible uses. Also, while not a corner allotment, the site does benefit from a south-eastern boundary adjoining a public pathway rather than another residential lot.

**ITEM 0 (continued)**

Despite not being in a preferred location, the site area is substantial, which provides sufficient space for compliant setbacks, landscape area and both indoor and outdoor play space. Further, the placement and design of the proposed development on the site is such that it will not adversely affect the visual privacy, acoustic amenity and solar access of surrounding sites. At 7.05 metres the building is also well below the 9.5 metres building height standard and would present to the streetscape in a manner that is envisioned by the RDCP 2014. This helps ensure a development outcome that is consistent with the existing and desired future character of the surrounding area.

Given the site is not located on a major road, the centre will not be adversely affected by noise, vibration or pollution, and the location of the driveway will allow for suitable vehicular and pedestrian entrance and egress. Further the minimal gradient across the site is conducive for a child care centre development and will enable reasonable solar access to outdoor play areas.

The location of the site will therefore satisfy the objects of Section 2.1.1.

**Section 5.0 – Car Parking, Traffic and Access**

Control Section 5.1(f) does not permit underground parking in low density residential areas.

The proposal is for a larger-scale child care centre and includes basement parking for visitors and staff. Whilst the provision of basement parking is contrary to control (f), the proposal is appropriate for the following reasons:

- The elevational difference between Quarry Road and the floor level of the basement carpark is not significant, the design of the driveway and basement access point will not dominate the streetscape and minimises paved areas within the front setback area,
- The relocation of the current driveway crossover to the lowest point of the site will mean the new driveway crossover is further away from the Quarry Road/Lavarack Street intersection,
- Aside from providing parking and facilities both undercover and in accordance with relevant standards, the provision of parking facilities within the basement and internal access between the basement and levels above will internalise noise associated with parking areas and associated activities; the provision of a basement will therefore further improve the acoustic amenity of surrounding sites,
- If at-grade parking were to be provided, the slope at the front of the site would require that carpark access be obtained from the northern point of the site adjacent to the Quarry Road/Lavarack Street intersection. Further, any provision of at-grade parking will dominate the streetscape, which is contrary to control 5.1(g) within Part 3.2 of RDCP 2014, and

**ITEM 0 (continued)**

- Council's Consultant Traffic Engineer and Senior Development Engineer have raised no objection to a basement parking layout.

Despite the non compliance, the proposed basement carpark location of the site will satisfy the objects of Section 5.1 of the RDCP 2014, and is therefore satisfactory.

**5.5 Planning Agreements or Draft Planning Agreements**

The DA is not the subject of any planning agreements or draft planning agreements.

**5.6 Section 7.12 Fixed Rate Development Levy Contributions Plan 2020**

Council's current Section 7.12 Fixed Rate Development Levy Contributions Plan 2020 became effective on 1 July 2020. The plan relates to development which has a cost of works in excess of \$350,000 and for non residential development which increases the floor space. The proposed use a child care involves a construction cost of \$1,958,759.76 and includes an increase in floor space. The proposed use being a child care centre is not identified in Section 2.5 of the Policy as being exempt from the contribution. The proposal is subject to a contribution of **\$19,837.87** and this is included in recommended conditions of consent (**Condition 42**).

**5.7 Any matters prescribed by the regulations**Environmental Planning and Assessment Regulation 2000

The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning, Industry and Environment and others. Standard conditions of consent requiring compliance with the BCA and relevant Australian Standards have been included in the commencement.

Education and Care Services National Regulations

These Regulations underpin the operational and specific design requirements for education and care providers. With regard to the DA, these Regulations govern physical environment design requirements for centre-based child care facilities, and form part of the design guidelines within the Child Care Planning Guideline. The proposal complies with such regulations; reference is made to the assessment in **Attachment 1** for further detail.

**ITEM 0 (continued)****6. The likely impacts of the development**

The assessment demonstrates that, subject to conditions, the proposal will not have any significant adverse nor unreasonable impacts upon adjoining properties or the environment in general. The development will not result in any significant or adverse visual privacy or overshadowing impacts on adjoining sites, and the visual appearance of the development with the public domain would be consistent with the existing and future character of the surrounding area. All relevant issues regarding environmental impacts of the development are discussed elsewhere within this report.

The proposal seeks to vary the FSR development standard within clause 4.4 of RLEP 2014. The contravention has been supported by a satisfactory clause 4.6 written request and demonstrates that the proposal is satisfactory, despite the FSR variation.

Approval of the proposed development is unlikely to establish a negative precedent that would be reflected elsewhere within the Ryde LGA. The development is therefore considered satisfactory in terms of environmental impact.

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

The subject site is located within the R2 Low Density Residential zone. 'Centre-based child care facilities' are permitted with consent in the R2 zone. While the proposal is identified as a non-preferred location for larger scale centres under the RDCP 2014, the earlier assessment in response to Section 2.1.1 of Part 3.2 of the RDCP 2014 has demonstrated that the site is suitable for the child care centre development as proposed.

**8. The Public Interest**

The public interest is best serviced by the consistent application of the requirements of the relevant environmental planning instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised.

Although the proposal seeks a variation to a development standard, the submitted clause 4.6 written request establishes satisfactory environmental planning grounds for the variation, and demonstrates why it is unreasonable to enforce strict compliance with the development standard.

Further, the proposal is consistent with other relevant planning provisions, will not significantly or unreasonably affect surrounding sites and the broader area and is consistent with the existing and future character of the area. The proposal would therefore be in the public interest.



**ITEM 0 (continued)****9. Submissions**

The DA was advertised in accordance with Council's Community Participation Plan (CPP). Owners of surrounding sites originally notified from 9 October 2019 to 30 October 2019. In response to the first advertising period, forty-two (42) unique submissions were received; thirty-nine (39) of these objected to the proposed development, with three (3) in support of the proposal.

Following plan amendments, the DA was advertised a second time from 3 April 2020 to 23 April 2020. In response, fifteen (15) unique submissions were received. Fourteen (14) of these submissions objected to the proposed development; one (1) submission enquired about reviewing information, but did not indicate whether the submission supported or objected to the proposal. Of the fifteen (15) submissions, six (6) were from parties who had not objected to the original proposal.

Further amended plans were submitted on 2 July 2020. The amended plans were not notified as the amendments do not increase the impact on adjoining or neighbouring land or cause material impact on the environment.

The objections raised in the submissions are summarised below, with a comment by the assessing planner:

- ***Impacts to local traffic, including the following specific concerns:***
  - ***The site's proximity to Denistone East, Kent Road, Smalls Road Primary School, Yamble Reserve, and the child care centres on Hancott Street and within Yamble Reserve.***
  - ***The site's proximity to Quarry Road intersections with Lavarack Street, Aelous Avenue, and Lane Cove Road.***
  - ***Increased traffic within Hancott Street and Readford Place, due to convenient pedestrian access to the site via the adjacent pedestrian laneway.***
  - ***Pedestrian safety, noting the location of the site at the top of the hill.***
  - ***No through traffic on Lavarack Street.***
  - ***Queuing and safety issues associated with Aelous Avenue / Quarry Road roundabout, and suggestions for no stopping signs.***
  - ***A 'U-shaped' driveway not provided as required by RDCP 2014.***
  - ***Disturbances during construction.***
  - ***Issues with access between the site and Quarry Road, with associated requests for left-in/left-out only.***

**Comment:** Information submitted with the DA demonstrates that the proposed development would provide a sufficient amount of onsite parking, and that the local road network could accommodate traffic volumes to be generated by the proposed development.

**ITEM 0 (continued)**

The concern held regarding parents parking within Hancott Street and Readfod Place and then walking to the child care centre is considered unlikely. Particularly given the availability of parking on site which provides for a more direct and convenient means off dropping children off to the centre.

The DA was referred to an independent traffic consultant (Bitzios Consulting Engineers) for peer review; comments from referral response indicate that the proposal does not result in any adverse impacts upon traffic. Further information was requested including the provision of further analysis of localised traffic impacts upon the local road network during peak periods.

In the supplementary traffic and parking assessment provided on 7 July 2020 further analysis was provided in regards to impacts upon Lovell Road/North Road/ Cecil Street / Quarry Road, Aeolus Avenue/Quarry Road, Smalls Road/Quarry Road and Quarry Road/Lane Cove Road/Goulding Road. The information provided was based on further surveys undertaken in regards to the local roads. The intersections were surveyed and a queue survey undertaken as part of the intersection surveys. It was concluded the intersections were not at capacity and represented low delays (with the exception of the Lane Cove Road/Quarry Road intersection) and has spare capacity. The proposal did not result in an unacceptable impact and considered satisfy by Council's Consultant Traffic Engineer.

Conditions of consent have been recommended requiring a construction and traffic management plan (**Condition 55**), work zone permit (**Condition 60**) and conditions relating to construction noise (**Condition 61**).

- **Concerns with submitted Traffic Report, including:**
  - **Failing to account for new Smalls Road Primary School.**
  - **No consideration of vehicles exiting existing properties near the Aeolus Avenue / Quarry Road roundabout.**
  - **Inadequate consideration to increased traffic flows associated with additional delays on the right turn from Aeolus Avenue to Quarry Road.**
  - **Comparison to other road intersections are not appropriate.**
  - **Impacts to pedestrian safety due to parents parking on-street.**

**Comment:** In the amended traffic and parking assessment submitted to Council on 7 July 2020, further surveys were undertaken at the request of Council regarding queuing and intersection surveys of local roads including the Aeolus Avenue and Quarry Road intersection. The applicant's traffic and parking reports was referred externally to the independent traffic consultant (Bitzios Consulting Engineers) for peer review; comments from in their referral response indicate that the proposal does not result in a significant or detrimental impact upon the efficiency of this intersection.

The proposal does not rely upon on street car parking. The proposed basement provides for the required number of parking spaces for a child care of this size.

**ITEM 0 (continued)**

- ***Impacts to on-street parking, including the following specific concerns:***
  - ***Requests for a dedicated drop off area,***
  - ***Quarry Road parking limited due to dividing lines and medians, and single lane.***

**Comment:** A dedicated drop off area is not proposed as off-street car parking facilities are provided as part of the proposed development and there is insufficient space within the Quarry Road corridor for the provision of such facilities. The proposal provides for a compliant number of parking spaces and as such, the development does not rely upon changes to Quarry Road to facilitate the development.

- ***Acoustic impacts from indoor and outdoor play spaces, and from mechanical ventilation equipment.***

**Comment:** Acoustic impacts have been assessed in a Noise Impact Assessment submitted with the DA. In accordance with this assessment and its recommendations, which include acoustic barriers around the outdoor play spaces, the operation of the site would not have an unacceptable impact on surrounding residences. Council's Environmental Health Officer has reviewed the DA and the acoustic assessment, and raises no objection to the proposal, subject to consent conditions.

The planning assessment has however recommended that a condition of consent be imposed for a validation assessment of the acoustic recommendations. This would require that a noise assessment be carried out within three (3) months of the commencement of operations to confirm that the recommendations actually satisfy the noise criteria.

- ***Visual privacy concerns***

**Comment:** The architectural plans demonstrate a 1.8m high acoustic fence to be included around the elevated open space areas, which would otherwise give rise to overlooking opportunities. The height of the acoustic fence will serve a dual purpose as a noise barrier, and also to limit overlooking potential. Accordingly, visual privacy will be satisfactorily maintained to adjoining property.

- ***Light pollution***

**Comment:** Conditions of consent will require that the development (including lighting) is constructed in accordance with applicable Australian Standards, *including Australian Standard 4282 – Control of the obtrusive effects of outdoor lighting.*

**ITEM 0 (continued)**

Regardless, it is considered unlikely that unacceptable light spill impacts will result from the operation of the centre given it proposes to close at 6pm.

- ***Impact on utility services***

**Comment:** There is no evidence that the development will adversely affect local utility services. In the event of approval, the development will be subject to consent conditions requiring that the developer obtain relevant certificates from Sydney Water to ensure that the development is adequately serviced by water infrastructure. The development would also be subject to conditions that would require any service and/or utility alterations to be undertaken in accordance with relevant service provider requirements.

- ***Development is contrary to CCPG and RDCP 2014***

**Comment:** The proposed development is satisfactorily compliant with the relevant provisions of the RLEP 2014, RDCP 2014 and the CCPG. Detailed assessments of the proposal against these provisions are contained within **Attachment 1** and **Attachment 2**. The provisions of the RLEP2014 and EP&A Act generally allow for certain variations of planning controls in circumstances where it can be demonstrated the objects of the controls are met nonetheless.

Where contraventions or non-compliances have been identified, this assessment report demonstrates why the variations should be supported in the circumstances of the case, and why the proposed development remains suitable for the subject site.

- ***Insufficient outdoor play space.***

**Comment:** The amended proposal achieves compliance with the minimum 7.0m<sup>2</sup> of unencumbered outdoor play space per child required by Regulation 108 of the *Education and Care Services National Regulations*. A detailed assessment is contained within the compliance assessments contained in the attachments to this report.

- ***Poor centre amenity, in relation to solar access afforded to unencumbered outdoor space.***

**Comment:** The proposal achieves compliance with the minimum 30% solar access requirement for outdoor play areas under the CCPG.

The amended plans demonstrate the outdoor play space contains a variety of fixed play equipment, an open turf area, sand pit with shade sail above, feature planters, timber deck, concrete bench seat and timber and stone stepping pads within the mulched garden areas.

**ITEM 0 (continued)**

The outdoor play space has been assessed by Council's consultant landscape architect, and they have advised that the proposal is satisfactory, subject to consent conditions.

- **Concern with evacuation plan, namely that the pedestrian pathway is not large enough to accommodate 120 people.**

**Comment:** The following condition of consent has been recommended to ensure the Emergency Evacuation Plan and the approved plans be modified to provide a shorter evacuation route to the off-site marshalling point within the Readford Place cul-de-sac. This includes the inclusion of an additional side gate providing emergency access only to the adjacent public pathway via the outdoor play space area. The recommended condition (**Condition 3**) to address this is as follows:

*The site layout and associated information is to be amended, so that the off-site evacuation marshalling point is located within the cul-de-sac turning head in Readford Place. To enable this, the following is to be undertaken:*

- *In addition to the gate shown on the approved plans, an additional gate is to be placed on the southeast boundary within the rear setback area to enable direct access to the public laneway addressing this boundary. The landscaped layout of the site is to be modified so as to provide unimpeded direct access to both gates.*
- *The two (2) gates are to be designed as follows:*
  - *Both gates are to be designed so that they are flush with the fence/acoustic barrier (i.e. they are not to provide an 'indent' in the fence).*
  - *Both gates are to open inwards to the site (i.e. they do not open out into the laneway), and can only be unlocked/opened from within the site.*
  - *Signage is to be installed on both sites of the gates, which clearly indicate that the gates are for emergency evacuation purposes only. Signage on the exterior (i.e. laneway) side of the gates are to direct persons to enter the site via the entry point at the front of the site.*
- *Evacuation plans and all emergency procedures and evacuation documents are to be amended to reflect the changes required by this condition prior to the issue of an occupation certificate.*
- **Streetscape design and character issues, in that the appearance of the development is akin to that of a commercial building**

**Comment:** The building presents to the public domain as a two-storey structure, with a height (7.05m) that is well below the 9.5m building height standard, and setbacks that are well in excess of minimum RDCP 2014 requirements, noting that low-density residential controls are to be used to establish building setbacks for child care centres. This assessment has found that the design of the building and its associated

**ITEM 0 (continued)**

height, bulk and scale is appropriate with regard to the existing and desired character of the local area as shown in **Figure 14** perspective.



**Figure 14:** Perspective of proposal as viewed from Quarry Road  
Source: Designcorp Architects, 25 June 2020

- ***Cut and fill***

**Comment:** The proposal necessitates cut and associated retaining walls within the front setback to facilitate the construction of the basement carpark and associated facilities. Information submitted with the DA and this assessment has found that, subject to conditions, that there is a low risk of any adverse impacts arising from such earthworks. The building footprint is to be located on a relatively level part of the site, with the ground floor level to be close to existing ground levels, with the exception of works within the eastern-most part of the site (i.e. the area with the greatest slope). The development will not present to the public domain as containing excessive cut and fill, particularly with the degree of landscape proposed that is supported by Council's Consultant Landscape Architect/Arborist.

- ***Development is not compatible with the R2 zoning***

**Comment:** The proposed development is permitted with consent in the R2 zone. Further, the proposal would satisfy the objectives of the R2 zone, in that it provides facilities and services for the day to day use of residents in a manner and scale that is compatible with a low-density residential environment.

**ITEM 0 (continued)**

- ***Air quality affected by increased traffic***

**Comment:** The subject site is not situated adjacent to a railway line or major road (i.e. sources of noise and air pollution). An Ambient Air Quality Assessment has been submitted with the DA. The assessment concludes that the subject site would be suitable for the proposed development. In addition, the proposal was referred to Council's Environmental Health Officer who raised no objection to the proposal.

- ***Trees and landscaping issues, including tree removal, inadequate tree plantings and insufficient landscaping for visual or acoustic screening.***

**Comment:** The proposed landscaping layout contains a variety of plantings that are suitable for the site and consistent with the surrounding area. The design and layout of the site will however provide visual privacy and acoustic amenity without reliance upon landscaping. The Consultant Landscape Architect/Arborsit raised no objection to the tree removal and landscaping arrangements in their referral response.

- ***Insufficient demand for centre, particularly of the size proposed***

**Comment:** Clause 26(1)(b) of the ESEPP indicates that any provision relating to the need or demand for child care services does not apply to the development. This precludes Council from giving considering this objection in the assessment.

- ***Construction Issues***

**Comment:** Construction issues (e.g. noise, traffic management, hours of works, sediment control, etc.) will be managed through standard conditions of consent. (**Conditions 48, 55, and 61**).

- ***Inadequate notification area and period***

**Comment:** The application was advertised in accordance with Council's CPP upon lodgement of the DA. The application was then advertised a second time in accordance with Council's CPP following the submission of additional information and amended plans.

- ***Inadequate setbacks***

**Comment:** The proposal satisfies relevant front, side and rear setback controls under the RDCP 2014 provisions. Reference is made to the detailed compliance assessments contained in the attachments of this report for further information.

**ITEM 0 (continued)**

- **Hazards associated with asbestos removal**

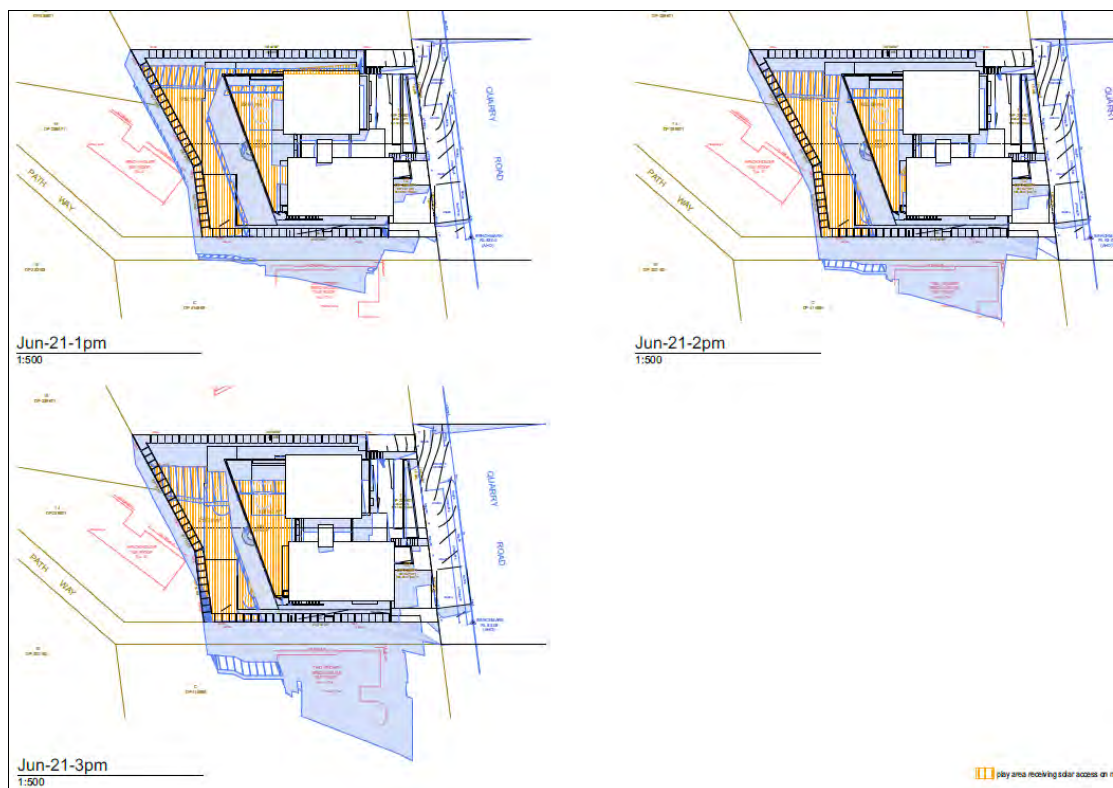
**Comment:** Demolition of existing structures and any associated removal of hazardous materials (e.g. asbestos) will be subject to standard conditions of consent (**Conditions 33 and 34**).

- **Impacts to property values**

**Comment:** Impacts to the property values are not a matter for consideration under Section 4.15 of the *Environmental Planning and Assessment Act No.1979*.

- **Overshadowing, including to 5 Readford Place**

**Comment:** The proposal complies with relevant controls relating to solar access of adjoining sites, meaning that at least 3 hours solar access is maintained to the private open space areas and living room windows of adjoining property between 9am and 3pm at the winter solstice. Reference is made to **Attachment 2** for further details on compliance with the solar access controls. The submitted shadow diagrams are shown in **Figure 15**.



**Figure 15:** Shadow diagrams of proposed development  
Source: Designcorp Architects, 25 June 2020



**ITEM 0 (continued)****10. Referrals****INTERNAL REFERRALS****Traffic**

**Council engaged Bitzios Consulting Traffic Engineers to undertake an independent peer review of the submitted Traffic and Parking Impact Assessment (TPIA) prepared by McLaren Traffic Engineering (MTE) dated 28 June 2019. Bitzios identified concern with regard to trip generation rates, trip distribution patterns and the SIDRA models. Subsequently, Council issued an RFI to the applicant on 22 January 2020, outlining the issues identified by Bitzios.**

On 17 March 2020, the applicant submitted supplementary information, including an itemised response, prepared by McLaren Traffic Engineering (MTE). The updated TPIA was also referred to Bitzios for peer review. In their peer review of the revised TPIA, Bitzios identified that - although some of the issues had been resolved, numerous issues, previously raised had remained outstanding (i.e. trip generation rates, trip distribution rates and SIDRA Models).

On 7 July 2020, amended plans and documentation were submitted which included a revised TPIA Report, dated 2 July 2020, prepared by MTE. This was again considered by Council's Consulting Traffic Engineers. In their referral response issued on 17 August 2020, Bitzios were satisfied with the amendments and further survey information provided to demonstrate the impact upon the local road network and specifically local road intersections.

**Senior Development Engineer**

Further to the Senior Development Engineer's previous review dated 28 May, amended architectural, landscape, traffic report and stormwater Plans were received 2 July and are considered below.

**Stormwater Management**

*A review of the recent plans notes;*

- The consultant has assumed all softplay areas are hardstand. This is considered reasonable given such areas are over the basement level and would have very little ability for absorption. This is considered accepted.*
- The outline of the OSD tank does not correlate with the architectural and landscape plans. It would look feasible that the tank be relocated under the front access path and this can be addressed by condition.*
- The failure mode from the OSD tank is provided for and is directed back to Quarry Road.*

**ITEM 0 (continued)****Vehicle Access and Parking**

*Based on the revised capacity of 95 children and 13 staff, the development will warrant 12 parent pickup/ dropoff spaces and 7 staff parking spaces. The proposed parking configuration has provided this level of parking capacity.*

*A review of the parking configuration notes there has not been any considerable changes to the previous set of plans other than the basement level be reduced by 200mm. This has slightly increased the grade of the driveway ramp though not to a degree that would be of concern.*

**Recommendation**

*There are no objections to the proposed development with respect to the engineering components, subject to the application of the following conditions being applied to any development consent being issued for the proposed development.*

**Environmental Health Officer**

The proposal was referred to Council's Environmental Health Officer for comment. In their latest referral response dated 24 April 2020, no objection to the proposal was raised, subject to conditions.

**Consultant Landscape Architect/Arborist**

The proposal was referred to Council's Consultant Landscape Architect and Arborist for comment. The summary of the referral comments is as follows:

*All existing trees located on the site and nominated for removal are classified as exempt under Part 9.5 of RDCP 2014 and are capable of being removed without the need for obtaining consent. In this regard, no issues are raised with the proposed tree removal to take place to facilitate construction. Furthermore, no neighbouring trees or street trees are to be affected by the proposal. Some concern has been raised in relation to the lack of canopy tree planting proposed within the outdoor play spaces however this is recommended to be dealt with via imposition of conditions.*

*With regard to the proposed landscape plans, landscape design and overall layout of open space and play space areas, the proposal is considered to be satisfactory. The proposal achieves compliance with the key provisions of both Part 3.2 of the RDCP 2014 as well as State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. This includes a complaint levels of outdoor play space provided, landscape plans prepared by a qualified landscape architect, and well-designed outdoor play spaces that meet the specific outcomes and objectives of landscaping and outdoor play space requirements. As such, the proposal is supported from a landscape perspective in its current form.*

**ITEM 0 (continued)**

*Some concern has been raised in relation to the proposed acoustic fence design and the suitability of the proposed planting species below with regard to mature heights and receiving appropriate levels of natural rainfall to enable the planting to establish. Furthermore, concern has been raised in relation to the planting within the raised terrace not being provided any irrigation. The proposal also fails to provide sufficient shade to the play space areas. Despite the above, it is considered however that these issues can be dealt with via conditions.*

**Conditions 49 – 52, 75 and 76** addressing the above issues by the Landscape Architect/Arborist have been included in the draft consent.

**11. Conclusion**

After consideration of the development against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the relevant statutory and policy provisions, the proposal is suitable for the site and is not contrary to the public interest.

It is therefore recommended that the subject application be approved (subject to recommended conditions) for the following reasons:

1. The proposed consolidation of two lots into one and construction of a two storey child care centre with basement car parking is consistent with the objectives of the relevant provisions of the ESEPP, RLEP 2014 and RDCP 2014, with minimal environmental impacts.
2. The proposal has been supported by a satisfactory clause 4.6 written request which demonstrates that compliance with the clause 4.4(2) floor space ratio development standard is unreasonable in the circumstances of this specific proposal. The clause 4.6 written request also demonstrates that there are sufficient environmental planning grounds to justify contravention of the development standard.
3. The submissions received in response to this DA have been considered and addressed in this report. None of the issues raised warrant the refusal of the subject DA.
4. The proposed development is consistent with the existing and desired future character of the local area and will have no unacceptable impacts on adjoining properties.
5. The site is suitable for the proposed development, which is also in the public interest.

**ITEM 0 (continued)****12. Recommendation**

That the Ryde Local Planning Panel, as the consent authority, grant consent to LDA2019/0328 for consolidation of two lots into one and construction of a two storey child care centre with basement car parking at 176 Quarry Road Ryde (Lot 12 and Lot 13, Deposited Plan 239671) subject to recommended conditions within **Attachment 4** of this report.

**ATTACHMENTS**

- 1 Child Care Planning Guideline
- 2 LEP & DCP Compliance Table
- 3 Draft Conditions of Consent
- 4 Clause 4.6 request to vary C4.4(2) FSR
- 5 Amended A3 Plans - subject to copyright provisions

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## Attachment 1 - State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Relevant clauses	Compliance with standard/provision	Compliance
22 Centre-based child care—concurrency of Regulatory Authority required for certain development	The clause does not apply as the amended proposal complies with requirements for outdoor play areas. As such, the concurrence of the Regulatory Authority is not required.	N/A
23 Centre-based child care—matters for consideration by consent authorities	The Child Care Planning Guidelines have been considered within the assessment.	Refer to table below
24. Centre-based child care facility in Zone IN1 or IN2 – additional matters for consideration by consent authorities.	The subject site is located within an R2 Low Density Residential Zone.	N/A
25. Centre-based child care—non-discretionary development standards	Assessment of the clause is as follows: (a) Noted (b) (i.) 318.1m <sup>2</sup> of indoor space provided, complying with regulation 107 (ii.) 669.3m <sup>2</sup> of outdoor space provided, which complies with regulation 108 (c) Noted (d) Noted. Heritage provisions do not apply. The proposal complies with the standards.	Yes
26. Centre-based child care—development control plans	Noted.	Noted.

## Child Care Planning Guideline August 2017

Guideline	Compliance with standard/provision
<b>Part 2 Design Quality Principles</b>	
<p><b>Principle 1. Context</b>            Good design responds and contributes to its context, including 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. Well-designed child care facilities respond to and enhance the qualities and identity of the area including adjacent sites, streetscapes and neighbourhood. Well-designed child care facilities take advantage of its context by optimising nearby transport, public facilities and centres, respecting local heritage, and being responsive to the demographic, cultural and socio-economic makeup of the facility users and surrounding communities.</p>	<p>The design of the proposed development responds to the dimensions and slope of the site is consistent with existing and desired future streetscape character. The layout of the site is such that the setbacks, landscaped areas and treatments, building height, articulation and design are consistent with both surrounding sites and the locality more broadly. Further, the site is well located, being close to other educative and community facilities (such as parks) and public transport facilities.</p>
<p><b>Principle 2. Built Form</b>            Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the surrounding area. Good design 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. Good design also uses a variety of materials, colours and textures. 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. Contemporary facility design can be distinctive and unique to support innovative approaches to teaching and learning, while still achieving a visual appearance that is aesthetically pleasing, complements the surrounding areas, and contributes positively to the public realm.</p>	<p>Despite incorporating a contemporary design, the proposed design incorporates appropriate building height, bulk and scale that contributes positively to the streetscape and is consistent with the existing and desired future character of the area. A variation to the FSR development standard is proposed, which this planning assessment has found to be acceptable; a high degree of compliance with controls governing height, setbacks, bulk, scale, building articulation and landscaping is otherwise proposed.</p>
<p><b>Principle 3. Adaptive learning spaces</b>            Good facility design delivers high quality learning spaces and achieves a high level of amenity for children and staff, resulting in buildings and associated infrastructure that are fit-for-purpose, enjoyable and easy to use. This is achieved through site layout, building design, and learning spaces fit-out. Good design achieves a mix of inclusive learning spaces to cater for all students and different modes of learning. This includes appropriately designed physical spaces offering a variety of</p>	<p>The submitted information proposes large indoor and outdoor spaces that will provide purpose-built and accessible facilities with high levels of amenity capable of being used for a variety of activities.</p>

Guideline	Compliance with standard/provision
settings, technology and opportunities for interaction.	
<p><b>Principle 4. Sustainability</b>  Combines positive environmental, social and economic outcomes. This includes use of natural cross ventilation, sunlight and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and re-use of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>The proposed centre based childcare facility will provide adequate cross ventilation, sunlight and passive thermal design.</p>
<p><b>Principle 5. Landscape</b>  Landscape and buildings should operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Well-designed landscapes make outdoor spaces assets for learning. This includes designing for diversity in function and use, age-appropriateness and amenity. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p>	<p>The proposed development incorporates substantial and varied landscaped areas (particularly within the front and rear setbacks) that will positively contribute to the streetscape and local character. Aside from the carpark entry, the finished levels of the site would retain the overall topography of the site.</p>
<p><b>Principle 6. Amenity</b>  Good design positively influences internal and external amenity for children, staff and neighbours. Achieving good amenity contributes to positive learning environments and the well-being of students and staff. Good amenity combines appropriate and efficient indoor and outdoor learning spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, service areas and ease of access for all age groups and degrees of mobility. Well-designed child care facilities provide comfortable, diverse and attractive spaces to learn, play and socialise.</p>	<p>A high level of internal and external amenity is proposed for users of the proposed development, with high levels of solar access and natural ventilation to be provided to indoor and outdoor areas. The design of the development will not have significant adverse impacts on surrounding sites, with solar access, visual privacy and acoustic amenity being afforded to surrounding sites.</p>
<p><b>Principle 7 - Safety</b>  Well-designed child care facilities optimise the use of the built and natural environment for learning and play, while utilising equipment, vegetation and landscaping that has a low</p>	<p>The layout and design of the centre will not create risks for children attending the site. All indoor and outdoor areas are capable of active and casual surveillance.</p>

Guideline	Compliance with standard/provision
<p>health and safety risk, and can be checked and maintained efficiently and appropriately.</p> <p>Well-designed child care facilities incorporate passive surveillance and Crime Prevention Through Environmental Design (CPTED).</p>	
<b>Part 3 Matters for Consideration</b>	
<p><b>C1. For proposed developments in or adjacent to a residential zone, consider:</b></p> <ul style="list-style-type: none"> <li>• the acoustic and privacy impacts of the proposed development on the residential properties</li>   <li>• the setbacks and siting of buildings within the residential context</li>   <li>• traffic and parking impacts of the proposal on residential amenity.</li> </ul> <p>For proposed developments in commercial and industrial zones, consider:</p> <ul style="list-style-type: none"> <li>• potential impacts on the health, safety and wellbeing of children, staff and</li> </ul>	<p>An acoustic report has been submitted with the proposed development application by Rodney Stevens Acoustics, dated 3 June 2019. The acoustic report concludes that the proposed childcare centre will not cause “offensive noise” levels to neighbouring residences, provided the noise measures recommended are implemented. The findings of the report are supported by Council’s Environmental Health Officer.</p> <p>The proposed centre based child-care facility has minimum front setback of 6m to the front building line.</p> <p>The following setbacks have been provided to the side and rear boundaries from the ground floor:</p> <ul style="list-style-type: none"> <li>• Northern side boundary – 4m</li> <li>• Southern side boundary – 4m.</li> <li>• Western rear boundary – 9.56m</li> </ul> <p>The following setbacks have been provided to the side and rear boundaries from the first floor:</p> <ul style="list-style-type: none"> <li>• Northern side boundary – 4m</li> <li>• Southern side boundary – 4m</li> <li>• Western rear boundary – 9.949m.</li> </ul> <p>These setbacks are generally satisfactory.</p> <p>A traffic report has been submitted with the proposed development application by McLaren Traffic Engineering and Road Safety Consultants, dated 28 June 2019, which considers the parking impacts on residential amenity.</p> <p>The proposed development is located within the R2 Low Density Residential zone and therefore this is largely not applicable. However, an air quality assessment has</p>



Guideline	Compliance with standard/provision
<p>visitors with regard to local environmental or amenity issues such as air or noise pollution and local traffic conditions</p> <ul style="list-style-type: none"> <li>the potential impact of the facility on the viability of existing commercial or industrial uses.</li> </ul>	<p>been submitted with the DA indicating the proposal is satisfactory.</p> <p>Refer above.</p>
<p><b>C2</b> When selecting a site, ensure that:</p> <ul style="list-style-type: none"> <li>the location and surrounding uses are compatible with the proposed development or use.</li> <li>the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards.</li> <li>there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed.</li> <li>the characteristics of the site are suitable for the scale and type of development proposed having regard to: - size of street frontage, lot configuration, dimensions and overall size - number of shared boundaries with residential properties - the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas.</li> <li>where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use.</li> <li>there are suitable drop off and pick up areas, and off and on street parking.</li> <li>the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use</li> <li>it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.</li> </ul>	<p>The subject site contains a large and relatively level area that is suitable for a building of the size being proposed. The dimensions and orientation of the site support the building design, in that the development will not adversely affect surrounding sites.</p> <p>The site contains no significant environmental and/or planning affectations or constraints (e.g. bushfire, flooding, landslip, etc.), and information submitted with the application demonstrates that the site is not contaminated.</p> <p>The location of the site is on a local 'collector' road, and is not situated in a cul-de-sac. Sufficient off-street parking facilities will be provided.</p>
<p><b>C3.</b> A child care facility should be located:</p> <ul style="list-style-type: none"> <li>near compatible social uses such as schools and other educational establishments, parks and other public</li> </ul>	<p>The proposed centre-based child care facility is located within 450m of Smalls Road Primary School which has been recently</p>

Guideline	Compliance with standard/provision
<p>open space, community facilities, places of public worship</p> <ul style="list-style-type: none"> <li>• near or within employment areas, town centres, business centres, shops</li> <li>• with access to public transport including rail, buses, ferries</li> <li>• in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.</li> </ul>	<p>constructed.</p> <p>The subject site is located within 1.3km of North Ryde Town Centre precinct.</p> <p>The subject site is located within 50m walking distance of Bus Stop (ID: 2112160) providing further pedestrian connectivity.</p> <p>The subject site is located within range of numerous community facilities including Yamble Reserve and Henry Dunant Reserve to the north. The subject site is also located within 650m of Northcross Christian Church.</p>
<p><b>C4</b> A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from: proximity to: - heavy or hazardous industry, waste transfer depots or landfill sites - LPG tanks or service stations - water cooling and water warming systems - odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses.</p>	<p>The proposed development is located within an established low density residential area and as such, staff visitors and children will not be exposed to any heavy or hazardous industries, or service stations. Although the subject site is located on a collector road, and within 330m of a State arterial road (Lane Cove Road) air quality and acoustic impact assessments have been carried out to demonstrate site suitability.</p>
<b>3.2 Local Character, streetscape and the public domain interface</b>	
<p><b>C5</b> The proposed development should:</p> <ul style="list-style-type: none"> <li>• contribute to the local area by being designed in character with the locality and existing streetscape</li> <li>• reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> <li>• recognise predominant streetscape qualities, such as building form, scale, materials and colours</li> <li>• include design and architectural treatments that respond to and integrate with the existing streetscape</li> <li>• use landscaping to positively contribute to the streetscape and neighbouring amenity</li> <li>• integrate car parking into the building and site landscaping design in residential areas.</li> </ul>	<p>Refer to assessment of Design Quality Principles.</p>
<p><b>C6</b> Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> <li>• fencing to ensure safety for children entering and leaving the facility</li> </ul>	<p>Fencing has been designed to ensure the safety of children entering and leaving the</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> <li>• windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community</li> <li>• integrating existing and proposed landscaping with fencing.</li> </ul>	<p>facility.</p> <p>Windows have been provided on the eastern front elevation which provides passive surveillance of Quarry Road adding an element of safety to the proposed development.</p> <p>Landscaping and fencing have been integrated with the proposed development.</p>
<p><b>C7</b> On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	<p>A single building is proposed. All entry points have been designed for legibility and access by visitors.</p>
<p><b>C8</b> Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> <li>• clearly defined street access, pedestrian paths and building entries</li> <li>• low fences and planting which delineate communal/ private open space from adjoining public open space</li> <li>• minimal use of blank walls and high fences.</li> </ul>	<p>The development does not adjoin public parks, open space or bushland.</p>
<p><b>C9</b> Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.</p>	<p>Front fencing is not proposed; the separation of public and private domain is delineated by retaining walls and landscaping treatments.</p>
<p><b>C10</b> High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary</p>	<p>Not applicable.</p>
<p><b>3.3 Building orientation, envelope and design</b></p>	
<p><b>C11</b> Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> <li>• ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: - facing doors and windows</li> </ul>	<p>The are no undue visual privacy or overlooking impacts anticipated from the proposed development, given the 1.8m high</p>

Guideline	Compliance with standard/provision
<p>away from private open space, living rooms and bedrooms in adjoining residential properties - placing play equipment away from common boundaries with residential properties - locating outdoor play areas away from residential dwellings and other sensitive uses</p> <ul style="list-style-type: none"> <li>• optimise solar access to internal and external play areas</li> <li>• avoid overshadowing of adjoining residential properties</li> <li>• minimise cut and fill</li> </ul> <ul style="list-style-type: none"> <li>• ensure buildings along the street frontage define the street by facing it</li> <li>• ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other</li> </ul>	<p>solid acoustic balustrade surrounding the private outdoor space on the first floor. In addition, the 2.2m high acoustic barrier with 45-degree rafters and clear polycarbonate awning surrounding the outdoor play space within the rear setback will prevent any overlooking or visual privacy impacts to adjoining properties.</p> <p>A review of the submitted shadow diagrams indicates the proposed development optimises solar access to the external play area on the ground floor.</p> <p>A review of the submitted shadow diagrams indicates that the adjoining properties at 174 Quarry Road, 5 Readford Place and 6 Readford Place will receive at least 3 hours of sunlight to their property between the hours of 9am and 3pm on June 21.</p> <p>The maximum cut within the building footprint is 3.29m within the southern area of the basement garage. This has been calculated from the finished floor level of the basement garage: RL 83.30 and the existing ground level RL:86.59.</p> <p>Upon entry to the access ramp within the front setback, 1.202m of cut is proposed. This has been calculated between the finished level of the entry pathway upon access to the ramp at RL:84.978 and existing ground level directly beneath at RL:86.18m.</p> <p>Upon entry to the stairs case leading up to the entry porch of the proposed development, 1.907m of cut has been proposed. This has been calculated between the finished floor level of RL:84.133 and existing ground level directly beneath at RL:86.04.</p> <p>There is no fill proposed inside or outside the building footprint.</p> <p>The proposed centre-based childcare facility faces Quarry Road.</p> <p>Outdoor play areas located above ground level are protected from wind and other climatic conditions.</p>

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climatic conditions.	
<p><b>C12</b> The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> <li>• building height should be consistent with other buildings in the locality</li> <li>• building height should respond to the scale and character of the street</li> <li>• setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility</li> <li>• setbacks should provide adequate access for building maintenance</li> <li>• setbacks to the street should be consistent with the existing character.</li> </ul>	<p>The maximum building height of the proposed development is 7.05m. This has been calculated at the roof ridge RL:92.950 and an interpreted existing ground level directly below at EGL RL:85.90.</p> <p>The proposed building height of 7.05m is compliant with the maximum height control of 9.5 specified within RLEP 2014. The proposed building height is considered to be consistent with the broader streetscape.</p> <p>The proposed centre-based childcare facility has a setback on its northern and southern side boundaries of 4m to both the ground floor and first floor which is considered to provide adequate privacy for the neighbours.</p> <p>The side setbacks would provide adequate access for building maintenance.</p> <p>The proposed centre based child-care facility has a front setback of between 6m to the outside face of the front façade.</p>
<p><b>C13</b> Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres.</p> <p>On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p>	<p>The subject site is not located on a classified road.</p> <p>As above.</p>
<p><b>C14</b> On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p>The side and rear setbacks of the proposed development are considered to be consistent with the broader streetscape.</p>
<p><b>C15</b> The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> <li>• respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage</li> </ul>	<p>Refer to discussion of Design Quality Principles.</p>

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<ul style="list-style-type: none"> <li>• retains and reinforces existing built form and vegetation where significant</li> <li>• considers heritage within the local neighbourhood including identified heritage items and conservation areas</li> <li>• responds to its natural environment including local landscape setting and climate</li> <li>• contributes to the identity of place</li> </ul>	
<p><b>C16</b> Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> <li>• located to allow ease of access, particularly for pedestrians</li> <li>• directly accessible from the street where possible</li> <li>• directly visible from the street frontage</li> <li>• easily monitored through natural or camera surveillance</li> <li>• not accessed through an outdoor play area.</li> <li>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ul>	<p>The entry point to the proposed development allows for ease of access with a 1 in 20 and 1:8 grade access ramp.</p> <p>The entry to the proposed development is directly accessible from the street via the pedestrian pathway stairs and access ramp.</p> <p>The front entry of the proposed centre is clearly visible from Quarry Road.</p> <p>The front entry allows for natural surveillance.</p> <p>The front entry provides access to the internal foyer/entry and reception area.</p> <p>The proposal is not for mixed-use development.</p>
<p><b>C17</b> Accessible design can be achieved by:</p> <ul style="list-style-type: none"> <li>• providing accessibility to and within the building in accordance with all relevant legislation</li> <li>• linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry</li> <li>• providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible</li> <li>• minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</li> </ul>	<p>The development is expected to be able to comply with relevant standards.</p> <p>The design of the proposed development is considered accessible with disabled access provided to the entrance of the site in the form of an access ramp.</p> <p>A continuous path of travel is provided throughout the building.</p> <p>The ground floor is located well above the footpath level, creating the need for substantial ramping.</p>

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<b>3.4 Landscaping</b>	
<p><b>C18</b> Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space.</p>	<p>A 1m boundary screen planting buffer has been provided adjacent to the 1.8m acoustic fence surrounding the ground floor outdoor play area.</p>
<p><b>C19</b> Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> <li>• planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</li> <li>• taking into account streetscape, local character and context when siting car parking areas within the front setback</li> </ul>	<p>Not applicable as basement car parking proposed.</p> <p>No car parking would be located within the front setback.</p>
<b>3.5 Visual and acoustic privacy</b>	
<p><b>C20</b> Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</p>	<p>The proposed development is not a mixed-use development.</p>
<p><b>C21</b> Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitably locating pathways, windows and doors</li> <li>• permanent screening and landscape design.</li> </ul>	<p>Indoor and outdoor play spaces have been suitably located to minimise overlooking to indoor and outdoor play spaces from the public domain.</p> <p>Pathways, windows and doors suitably located.</p> <p>Screen planting is proposed.</p>
<p><b>C22</b> Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitable location of pathways, windows and doors</li> <li>• landscape design and screening.</li> </ul>	<p>Appropriate site and building layout and generous side setbacks prevent overlooking into the adjoining dwellings.</p> <p>Pathways, windows and doors are not considered to be suitably located.</p> <p>Landscaping design treatments have been used to provide screening and prevent overlooking into adjoining dwellings.</p>
<p><b>C23</b> A new development, or development that includes alterations to more than 50 per cent of</p>	

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<p>the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> <li>• provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence).</li> </ul>	<p>At ground level, the proposal includes a 1.8m high solid barrier with an added 45 degree cantilever awning extending 1.4m in length as recommended by the acoustic report. The first floor play area will be encompassed by a 1.8m high acoustic barrier.</p>
<p><b>3.6 Noise and Air Pollution</b></p>	
<p><b>C25</b> Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> <li>• creating physical separation between buildings and the noise source</li> <li>• using landscaping to reduce the perception of noise</li> <li>• limiting the number and size of openings facing noise sources</li> <li>• locating cot rooms, sleeping areas and play areas away from external noise sources.</li> </ul>	<p>The proposed development provides 4m side setbacks maintaining an adequate building separation between the adjoining residential properties.</p> <p>Refer to earlier comments in relation to screening planting.</p> <p>Complies.</p> <p>Play areas are located away from external noise sources. The cot room is located towards the rear of the proposed development.</p>
<p><b>C26</b> An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"> <li>• on industrial zoned land</li> <li>• where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000</li> <li>• along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li> <li>• on a major or busy road</li> <li>• other land that is impacted by substantial external noise</li> </ul>	<p>The subject site is located within the R2 Low Density Residential Zone and is not located within an ANEF contour.</p> <p>The submitted acoustic report has considered noise that will be generated to non-play areas, such as the cot rooms from Quarry Road, and has concluded that traffic noise intrusion generated from Quarry Road to the indoor areas of the childcare centre will not exceed the noise criteria.</p>
<p><b>C27</b> Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p>	<p>The proposed centre-based childcare facility is located within an established low density residential zone. However, the subject site is located on a Collector Road and within 330m of Lane Cover Road, which is a state arterial road.</p> <p>Refer below.</p>



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<p><b>C28</b> A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> <li>• creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution</li> <li>• using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway incorporating ventilation design into the design of the facility</li> </ul>	<p>An Ambient Quality assessment report has been submitted, which concludes that the development is expected to be subject to negligible amounts of motor vehicle emissions. Notably the outdoor play spaces have been orientated towards the rear of the site to create separation distance from noise pollutants potentially generated by vehicles on Quarry Road. Landscape plantings have been proposed arounds the side and rear boundaries of the rear outdoor play space to aid in filtering air pollution.</p>
<b>3.7 Hours of Operation</b>	
<p><b>C29</b> Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p>	<p>As per the submitted Statement of Environmental Effects, the proposed hours of operation are 7:00am to 6:00pm Monday to Friday, which is compatible with adjoining residential land uses.</p>
<p><b>C30</b> Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.</p>	<p>The subject site is located within the R2 zone; there is no surrounding commercial development.</p>
<b>3.8 Traffic, parking and pedestrian circulation</b>	
<p><b>C31.</b> Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.</p> <p>Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates: Within 400 metres of a metropolitan train station:</p> <ul style="list-style-type: none"> <li>• 1 space per 10 children</li> <li>• 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space.</li> </ul>	<p>Off street parking complies. Refer below.</p> <p>In accordance with Section 5.1 of Part 3.2 of DCP2014, 1 space per 8 children is to be provided and 1 space per 2 staff is to be provided including an accessible car parking space.</p> <p>The proposal seeks 95 children and 14 staff members.</p>

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<p>In other areas: 1 space per 4 children.</p> <p>A reduction in car parking rates may be considered where:</p> <ul style="list-style-type: none"> <li>• the proposal is an adaptive re-use of a heritage item</li> <li>• the site is in a B8 Metropolitan Zone or other high-density business or residential zone</li> <li>• the site is in proximity to high frequency and well connected public transport</li> <li>• the site is co-located or in proximity to other uses where parking is appropriately provided (for example business centres, schools, public open space, car parks)</li> <li>• there is sufficient on street parking available at appropriate times within proximity of the site.</li> </ul>	<p>As such a total of 12 spaces is required for the children and a total of 7 car parking spaces is required for staff, plus an additional accessible car parking space.</p> <p>The submitted basement plan indicates 7 parking spaces allocated for staff members and 12 spaces allocated to visitors, including an accessible car parking space. In addition, four (4) bicycle spaces have been provided.</p>
<p><b>C32</b></p> <p>In commercial or industrial zones and mixed-use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.</p>	<p>Not applicable – R2 zoned site.</p>
<p><b>C33</b></p> <p>A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> <li>• the amenity of the surrounding area will not be affected</li> <li>• there will be no impacts on the safe operation of the surrounding road network.</li> </ul>	<p>A Traffic and Parking Impact Assessment (prepared by McLaren Traffic Engineering) in addition to an acoustic impact assessment, which addresses impacts on the road network and amenity.</p> <p>Refer to referral comments within the planning report for further commentary on the assessment by Council’s Environmental Health Officer and external traffic consultant.</p>
<p><b>C34.</b></p> <p>Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"> <li>• a classified road</li> <li>• roads which carry freight traffic or transport dangerous goods or hazardous materials.</li> </ul> <p>The alternate access must have regard to:</p> <ul style="list-style-type: none"> <li>• the prevailing traffic conditions</li> <li>• pedestrian and vehicle safety including bicycle movements</li> <li>• the likely impact of the development on traffic.</li> </ul>	<p>The subject site fronts a collector road being Quarry Road. The subject site is located within 330m of a state arterial road being Lane Cove Road. The updated traffic report prepared by McLaren Engineering and Road Safety Consultants, dated 12 March 2020 concludes that the proposal will have no detrimental impact to the performance of the intersections or on residential amenity surrounding the subject site as a result of the generated traffic.</p> <p>A peer review conducted by Bitzios has been undertaken; refer to the main</p>

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	assessment report for comments by the external traffic consultant.
<p><b>C35.</b> Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	The subject site is located within Quarry Road which provides adequate access to and from the site in the event of an emergency.
<p><b>C36.</b> The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> <li>• separate pedestrian access from the car park to the facility</li> <li>• defined pedestrian crossings included within large car parking areas</li> <li>• separate pedestrian and vehicle entries from the street for parents, children and visitors</li> <li>• pedestrian paths that enable two prams to pass each other</li> <li>• delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</li> <li>• in commercial or industrial zones and mixed-use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas</li> <li>• vehicles can enter and leave the site in a forward direction.</li> </ul>	<p>A separate pedestrian access path has been provided from the car park to the facility within the basement.</p> <p>Pedestrian pathways have not been marked on the submitted plans within the basement car park.</p> <p>Separate pedestrian and vehicle entries have been provided from Quarry Road.</p> <p>Pedestrian pathways are not of a sufficient width to allow prams to pass each other within the north-eastern component of the basement car park.</p> <p>Delivery and loading areas have not been clearly designated on the submitted plans.</p> <p>The proposed development is not located in a commercial or industrial zone; therefore this control is not applicable.</p> <p>Complies.</p>
<p><b>C37.</b> Mixed use developments should include:</p> <ul style="list-style-type: none"> <li>• driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks</li> <li>• drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same</li> </ul>	Not applicable, as the site development is not for a mixed use.

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<p>floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site</p> <ul style="list-style-type: none"> <li>parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</li> </ul>	
<p><b>C38.</b> Car parking design should:</p> <ul style="list-style-type: none"> <li>include a child safe fence to separate car parking areas from the building entrance and play areas</li> <li>provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards</li> <li>include wheelchair and pram accessible parking.</li> </ul>	<p>Complies.</p> <p>Clearly marked accessible parking has been provided within the basement.</p> <p>Disabled parking has been provided within the basement.</p>
<p><b>Part 4 Applying the National Regulations to development proposal</b></p>	
<p><b>4.1 Indoor Space Requirements</b></p>	
<p><b>Regulation 107 Education and Care Services National Regulations</b> Every child being educated and cared for within a facility must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space.</p> <p>All unencumbered indoor spaces must be provided as a secure area for children. The design of these spaces should consider the safe supervision of children.</p> <p>Applicants should also note that regulation 81 requires that the needs for sleep and rest of children at the service be met, having regard to their ages, development stages and individual needs. Development applications should indicate how these needs will be accommodated.</p> <p><b>Storage</b> It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> <li>a minimum of 0.3m<sup>3</sup> per child of external storage space</li> <li>a minimum of 0.2m<sup>3</sup> per child of internal</li> </ul>	<p>The proposed centre-based child care facility provides 318.1m<sup>2</sup> of unencumbered indoor space for 95 children. This equates to 3.35m<sup>2</sup> of unencumbered indoor space for each child which is compliant with the Education and Care Services National Regulation.</p> <p>All unencumbered indoor spaces within the proposed development are secure and allow for safe supervision.</p> <p>The submitted development application indicates that two (2) internal cot/sleeping rooms will be provided adjacent to the babies room, for children aged between 0-2 years.</p> <p>The proposed childcare centre provides 37.46m<sup>3</sup> of external storage area. With 95 children proposed, this equates to 0.39m<sup>3</sup> of external storage space per child.</p>

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storage space.	The proposed centre-based child centre provides 28.33m <sup>3</sup> of internal storage space. With 95 Children proposed, this equates to 0.29m <sup>3</sup> of internal storage space per child.
<p><b>4.2 Laundry and hygiene facilities</b></p> <p><b>Regulation 106 Education and Care Services National Regulations</b></p> <p>There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering.</p> <p><b>On site laundry</b></p> <p>On site laundry facilities should contain:</p> <ul style="list-style-type: none"> <li>• a washer or washers capable of dealing with the heavy requirements of the facility</li> <li>• a dryer</li> <li>• laundry sinks</li> <li>• adequate storage for soiled items prior to cleaning</li> <li>• an on site laundry cannot be calculated as usable unencumbered play space for children (refer to Figure 2)</li> </ul> <p><b>External laundry service</b></p> <p>A facility that does not contain on site laundry facilities must make external laundering arrangements. Any external laundry facility providing services to the facility needs to comply with any relevant Australian Standards.</p>	<p>Laundry facilities have been included on the basement level and therefore the proposed development is compliant with Regulation 106 (Education and Care Services National Regulations).</p> <p>Refer above.</p> <p>The proposed laundry is large enough to accommodate appliances and storage.</p> <p>Internal laundry facilities have been provided, therefore the proposed centre-based childcare facility does not require external laundry facilities.</p>
<p><b>4.3 Toilet and hygiene facilities</b></p> <p><b>Regulation 109 Education and Care Services National Regulations</b></p> <p>A service must ensure that adequate, developmentally and age appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children. Child care facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code.</p> <p>Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants (refer to Figure 3). Design considerations could include:</p> <ul style="list-style-type: none"> <li>• junior toilet pans, low level sinks and hand</li> </ul>	<p>The toilet/nappy change facilities have been appropriately located for safe and convenient use with washing and drying facilities. It is considered age appropriate toilets have been provided.</p> <p>Junior toilet pans, low level sinks and hand drying facilities have been included.</p> <p>Low level sinks and handwashing facilities</p>

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<p>drying facilities for children</p> <ul style="list-style-type: none"> <li>• a sink and handwashing facilities in all bathrooms for adults</li> <li>• direct access from both activity rooms and outdoor play areas</li> <li>• windows into bathrooms and cubicles without doors to allow supervision by staff</li> <li>• external windows in locations that prevent observation from neighbouring properties or from side boundaries</li> </ul>	<p>have been included within the bathrooms.</p> <p>Sink and handwashing facilities provided in all bathrooms.</p> <p>Direct access from activity rooms provided. Toilet facilities are accessible via the indoor and outdoor play space.</p> <p>Windows have been provided to bathrooms and cubicles.</p> <p>Location of external windows, combined with a generous 4m setback to the side boundaries prevents observation from neighbouring dwellings into the centre-based child care facility.</p>
<p><b>4.4 Ventilation and natural light</b>  <b>Regulation 110 Education and Care Services National Regulations</b> Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the National Construction Code. Ceiling height requirements may be affected by the capacity of the facility.</p> <p><b>Ventilation</b>  To achieve adequate natural ventilation, the design of the child care facilities must address the orientation of the building, the configuration of rooms and the external building envelope, with natural air flow generally reducing the deeper a building becomes. It is recommended that child care facilities ensure natural ventilation is available to each indoor activity room.</p> <p><b>Natural Light</b>  Solar and daylight access reduces reliance on artificial lighting and heating, improves energy efficiency and creates comfortable learning environments through pleasant conditions. Natural light contributes to a sense of well-being, is important to the development of children and improves service outcomes. Daylight and solar access changes with the time of day, seasons and weather conditions. When designing child care facilities consideration should be given to:</p>	<p>Windows to all four sides of the development have been provided to maximise cross ventilation.</p> <p>The proposed facility maximises cross ventilation with windows and sliding door openings to the indoor play areas. However, it is noted that compliance with the acoustic requirements is based on the indoor play area doors and glazing to remain closed during loud group activities.</p>

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<ul style="list-style-type: none"> <li>• providing windows facing different orientations</li> <li>• using skylights as appropriate</li> <li>• ceiling heights. It is recommended that ceiling heights be proportional to the room size, which can be achieved using raked ceilings and exposed trusses, creating a sense of space and visual interest.</li> </ul>	<p>Windows have been provided to all four sides of the building.</p> <p>No skylights proposed.</p> <p>2.7m floor to ceiling heights on the ground floor. 2.4-3.55m floor to ceiling heights on the first floor</p>
<p><b>4.5 Administrative Space</b> <b>Regulation 111 Education and Care Services National Regulations</b> A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.</p>	<p>Internal administration/reception is provided within the entry lobby on the ground floor. An office meeting area and managers office has been provided on the first floor.</p>
<p><b>4.6 Nappy change facilities</b> <b>Regulation 112 Education and Care Services National Regulations</b> Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children. Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.</p> <p>In circumstances where nappy change facilities must be provided, design considerations could include:</p> <ul style="list-style-type: none"> <li>• properly constructed nappy changing bench or benches</li> <li>• a bench type baby bath within one metre from the nappy change bench</li> <li>• the provision of hand cleansing facilities for adults in the immediate vicinity of the nappy change area</li> <li>• positioning to enable supervision of the activity and play areas.</li> </ul>	<p>The proposal provides suitably located nappy change facilities.</p> <p>Nappy changing benches have been provided.</p> <p>Bench type baby baths have been included on the submitted plans.</p> <p>Hand cleansing facilities are considered to be provided within the nappy change room. However, information has not been provided on the submitted plans.</p> <p>Positioned adjacent to indoor play spaces to allow for supervision.</p>

Guideline	Compliance with standard/provision
<p><b>4.7 Premises designed to facilitate supervision</b></p> <p><b>Regulation 115 Education and Care Services National Regulations</b></p> <p>A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity. Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the National Construction Code.</p> <p>Design considerations should include:</p> <ul style="list-style-type: none"> <li>• solid walls in children’s toilet cubicles (but no doors) to provide dignity whilst enabling supervision</li> <li>• locating windows into bathrooms or nappy change areas away from view of visitors to the facility, the public or neighbouring properties</li> <li>• avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children</li> <li>• avoiding multi-level rooms which compromise, or require additional staffing, to ensure proper supervision. If multilevel spaces are proposed, consideration should be given to providing areas that can be closed off and used only under supervision for controlled activities.</li> </ul>	<p>The toilets facilities for children aged between 3-6 years do not include glass walls to allow for maximum supervision at all times.</p> <p>Glass walls would be provided to the toilet facilities within Playroom 2 and Playroom 5.</p> <p>Solid walls would be provided between cubicles.</p> <p>All areas of the proposed development allow for maximum supervision.</p> <p>Multi-level rooms are not proposed.</p>
<p><b>4.8 Emergency and evacuation procedures</b></p> <p>Regulations 97 and 168 Education and Care Services National Regulations Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including:</p> <ul style="list-style-type: none"> <li>• instructions for what must be done in the event of an emergency</li> <li>• an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit</li> </ul>	<p>An emergency evacuation plan has been submitted. This document is also subject to recommended conditions that must be satisfied prior to the issue of an occupation certificate.</p> <p>Emergency and evacuation procedures have been submitted..</p> <p>Emergency and evacuation floor plan have been submitted.</p>



Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> <li>• a risk assessment to identify potential emergencies that are relevant to the service</li> </ul> <p>Facility design and features should provide for the safe and managed evacuation of children and staff from the facility in the event of a fire or other emergency. Multi-storey buildings with proposed child care facilities above ground level may consider providing additional measures to protect staff and children. For example:</p> <ul style="list-style-type: none"> <li>• independent emergency escape routes from the facility to the ground level that would separate children from other building users to address child protection concerns during evacuations</li> <li>• a safe haven or separate emergency area where children and staff can muster during the initial stages of a fire alert or other emergency. This would enable staff to account for all children prior to evacuation. An emergency and evaluation plan should be submitted with a DA and should consider: <ul style="list-style-type: none"> <li>• the mobility of children and how this is to be accommodated during an evacuation</li> <li>• the location of a safe congregation/assembly point, away from the evacuated building, busy roads and other hazards, and away from evacuation points used by other occupants or tenants of the same building or of surrounding buildings</li> </ul> </li> <li>• how children will be supervised during the evacuation and at the congregation/assembly point, relative to the capacity of the facility and governing child-to-staff ratios.</li> </ul>	<p>Risk assessment submitted.</p> <p>An emergency evacuation plan has been submitted details evacuation routes and muster points. Such documentation and the site layout will however require modification prior to the issue of an occupation certificate, and is the subject of recommended consent conditions.</p>
<p><b>4.9 Outdoor Space requirements</b></p> <p><b>Regulation 108 Education and Care Services National Regulations</b></p> <p>An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m<sup>2</sup> of unencumbered outdoor space.</p> <p><b>Verandahs as outdoor space</b></p>	<p>The proposed centre-based childcare facility provides 669.3m<sup>2</sup> of unencumbered outdoor space. This equates to 7.05m<sup>2</sup> of unencumbered outdoor space which is compliant with the minimum 7.0m<sup>2</sup> specified within the Childcare Planning Guideline.</p>

Guideline	Compliance with standard/provision
<p>Where a covered space such as a verandah is to be included in outdoor space it should:</p> <ul style="list-style-type: none"> <li>• be open on at least one third of its perimeter</li> <li>• have a clear height of 2.1 metres</li> <li>• have a wall height of less than 1.4 metres where a wall with an opening forms the perimeter</li> <li>• have adequate flooring and roofing be designed to provide adequate protection from the</li> </ul> <p><b>Simulated outdoor environments should include:</b></p> <ul style="list-style-type: none"> <li>• more access to natural light and ventilation than required for an internal space through large windows, glass doors and panels to enable views of trees, views of the sky and clouds and movement outside the facility</li> <li>• skylights to give a sense of the external climate</li> <li>• a combination of different floor types and textures, including wooden decking, pebbles, mounds, ridges, grass, bark and artificial grass, to mimic the uneven surfaces of an outdoor environment</li> <li>• sand pits and water play areas</li> <li>• dense indoor planting and green vegetated walls</li> <li>• climbing frames, walking and/or bike tracks</li> <li>• vegetable gardens and gardening tubs.</li> </ul>	<p>Covered outdoor space areas comply with these requirements.</p> <p>No simulated outdoor environments nominated.</p>
<p><b>4.10 Natural Environment</b>  <b>Regulation 113 Education and Care Services National Regulations</b>  The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.</p> <p>Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space. Shrubs and trees selected for the play space must be safe for children. Avoid plant species that risk the health, safety and welfare of the facility's occupants, such as those which:</p> <ul style="list-style-type: none"> <li>• are known to be poisonous, produce toxins or have toxic leaves or berries</li> <li>• have seed pods or stone fruit, attract bees,</li> </ul>	<p>Trees, sand and natural vegetation have been included within the rear outdoor play space.</p> <p>No proposed toxic berries or plantings are proposed.</p>

Guideline	Compliance with standard/provision
<p>have thorns, spikes or prickly foliage or drop branches.</p> <p>The outdoor space should be designed to:</p> <ul style="list-style-type: none"> <li>provide a variety of experiences that facilitate the development of cognitive and physical skills, provide opportunities for social interaction and appreciation of the natural environment</li> <li>assist supervision and minimise opportunities for bullying and antisocial behaviour</li> <li>enhance outdoor learning, socialisation and recreation by positioning outdoor urban furniture and play equipment in configurations that facilitate interaction.</li> </ul>	<p>The proposed outdoor open play area provides a variety of experiences through leisurely activities within the sand pit and fixed play equipment which creates social interaction amongst the children.</p> <p>The layout of the outdoor play space has been designed to allow for maximum supervision.</p> <p>The layout of the rear open play space is considered to enhance social interaction through a range of leisure activities and seating areas.</p> <p>Concern is held regarding the extent of artificial turf and lack of natural plantings and trees providing shade.</p>
<p><b>4.11 Shade</b></p> <p><b>Regulation 114 Education and Care Services National Regulations</b></p> <p>The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p> <p><b>Solar access</b></p> <p>Outdoor play areas should:</p> <ul style="list-style-type: none"> <li>have year-round solar access to at least 30 per cent of the ground area, with no more than 60 per cent of the outdoor space covered.</li> <li>provide shade in the form of trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area</li> </ul> <p><b>Natural Shade</b></p> <p>Planting for shade and solar access is enhanced by:</p> <ul style="list-style-type: none"> <li>placing appropriately scaled trees near the eastern and western elevations</li> <li>providing a balance of evergreen and deciduous trees to give shade in summer and sunlight access in winter.</li> </ul> <p><b>Built shade structures</b></p> <p>Built structures providing effective shade include:</p> <ul style="list-style-type: none"> <li>permanent structures (pergolas, sails and verandahs)</li> </ul>	<p>Shade is to be provided by sails, the overhanging first floor play area and eaves.</p> <p>A review of the amended shadow diagrams has revealed that at least 30% of the ground area of the rear outdoor play space year-round will receive solar access.</p> <p>Shade sails are also proposed to provide children with protection from ultraviolet radiation. Trees have also been included to provide shade around the sand pit area.</p> <p>Sufficient tree planting will be provided for natural shading, subject to conditions.</p> <p>Shade sails proposed.</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> <li>• demountable shade (marquees and tents)</li> <li>• adjustable systems (awnings)</li> <li>• shade sails.</li> </ul>	
<p><b>4.12 Fencing</b>  <b>Regulation 104 Education and Care Services National Regulations</b>  Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including a family day care venue where all children are over preschool age. Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the National Construction Code.</p> <p>In general, fencing around outdoor spaces should:</p> <ul style="list-style-type: none"> <li>• prevent children climbing over, under or through fences</li> <li>• prevent people outside the facility from gaining access by climbing over, under or through the fence</li> <li>• Design considerations for side and rear boundary fences could include:</li> <li>• being made from solid prefinished metal, timber or masonry</li> <li>• having a minimum height of 1.8 metres</li> <li>• having no rails or elements for climbing higher than 150mm from the ground.</li> </ul> <p>Fencing and gates should be designed to ensure adequate sightlines for vehicles and pedestrian safety in accordance with Australian Standards and Roads and Maritime Services Traffic Management Guidelines. Gates should be designed to prevent children leaving/entering unsupervised by use of childproof locking systems (refer to Figure 11).</p>	<p>The proposal includes a 1.8m high solid acoustic barrier fence with a 45-degree timber rafter and clear polycarbonate awning extending 1.4m to the surrounds of the outdoor play space.</p> <p>The outdoor play space on the first floor proposes a 1.8m solid acoustic barrier comprising of one metre high brick balustrades topped by 800mm high glass screening.</p> <p>These structures are to be of solid construction with no gaps to satisfy the acoustic engineer recommendations.</p>
<p><b>4.13 Soil Assessment</b>  Regulation 25 Education and Care Services National Regulations Subclause (d) of regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required:</p>	<p>A Preliminary Site Investigation has been submitted, which has found that the site is not contaminated and is suitable for the proposed development. This document will form part of the recommended conditions of consent, and will cover matters that include (but is not limited to) unexpected finds.</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> <li>• a soil assessment for the site of the proposed education and care service premises</li> </ul>	N/A
<ul style="list-style-type: none"> <li>• if a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken</li> </ul>	N/A
<ul style="list-style-type: none"> <li>• a statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.</li> </ul>	Statement/comment provided with the submitted statement of environmental effects that the development site has never in the past been used for anything other than residential purposes.

## Attachment 2 – LEP and DCP Compliance Assessment

RYDE LEP 2014	PROPOSAL	COMPLIANCE
<b>4.3(2) Height</b> <ul style="list-style-type: none"> <li>• 9.5m</li> </ul>	7.05m Top of ridge RL 92.950 EGL – 85.90	Yes
<b>4.4(2) &amp; 4.4A(1) FSR</b> <ul style="list-style-type: none"> <li>• 0.5:1</li> </ul>	Basement/Laundry – 6.98m <sup>2</sup> Ground Floor – 350.43m <sup>2</sup> First Floor – 392.2m <sup>2</sup> Site Area (1,226.7m <sup>2</sup> – Survey Plan (title)) GFA = 742.63m <sup>2</sup> <b>FSR = 0.605:1</b>	No
<b>4.6 Exceptions to development standards</b>	A clause 4.6 written request was received in response to the first set of amended plans (Issue N).  Refer to Assessment report for response to written request.	Yes
<b>5.10 Heritage Conservation</b>	The subject site does not contain a heritage item and is not located within a heritage conservation area.	N/A
<b>6.1 Acid sulfate soils</b>	The subject site is not affected by any class of acid sulphate soils.	N/A
<b>6.2 Earthworks</b>	A geotechnical report has been submitted, prepared by Geotechnical Consulting Engineers, dated 30 April 2019. The geotechnical report concludes that site may be suitable for the level of earthworks being proposed. Council's development engineer has no objection to the development, subject to conditions.	Yes
<b>6.3 Flood Planning</b>	The subject site is not affected by flooding.	N/A

<b>6.4 Stormwater Management</b>	The proposed stormwater management system is supported by Council's Senior Development Engineer.	Yes
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<b>RYDE DCP 2014</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
<b>Part 3.2 – Child Care Centres</b>		
<b>Child Care Centre Design</b>		
A child care centre development is to be designed and drawn by a person who is an architect or who is accredited by the Building Designers Association of NSW Inc.	A review of the submitted documentation shows that the proposed development has been designed and drawn by Designcorp Architects, under the supervision of Joe El-Sabbagh, being the nominated registered architect (registration no. 8707).	Yes
The landscape plan must be designed and specified by a landscape architect with demonstrated experience in designing external spaces for child care centres due to the particular nature of the requirements (refer in particular the requirements in section 6 Landscaping and Play Spaces under this Part)	The Landscape plan has been designed and drawn by Victor Jonathan Barakat of TGS Landscape Architects.	Yes
Child care centre development applications are required to be accompanied by a signed undertaking by the applicant, licensee or proposed licensee that demonstrates that the proposal has been designed to comply with respect to the Children's Services Regulation 2004 or DoCS requirements as relevant at the time of application	Education and Care Services National Regulations considered in the assessment and this undertaking is therefore not required.	N/A
<b>Technical Assessment Requirements</b>		
Technical assessments may also be required to be prepared and submitted with the development application, or while the development application is under assessment, to demonstrate support for the proposal and compliance with this DCP.	The submitted documents include technical assessments as required.	Yes
<b>Suitability of Location and Site for Child Care Preferred Locations</b>		

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- Single use developments street frontage and width &gt;20m. Corner allotments &gt; 17m</li> <li>- Single use – minimum site area of 800m<sup>2</sup> – regular in shape</li> </ul>	<p>The proposed child care centre is not located on a corner allotment. Total street frontage = 30.73m<sup>2</sup></p> <p>Lot 12 in DP239671(581.7m<sup>2</sup>) Lot 13 in DP239671(645m<sup>2</sup>)</p> <p>Total Site Area = 1,226.7m<sup>2</sup></p>	<p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> <li>- Not located on arterial or sub-arterial roads, refer Schedule 2</li> </ul>	<p>The proposed child care centre is not located on an arterial or sub-arterial road as detailed in schedule 2 of Part 3.2 of Ryde DCP 2014. The subject site is however located on a collector road in accordance with Schedule 2 within Part 3.2 of DCP 2014.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Within mixed use developments on arterial and sub-arterial roads, located distant and facing away from road</li> </ul>	<p>Not within a mixed use development</p>	<p>N/A</p>
<ul style="list-style-type: none"> <li>- No battle-axe allotments</li> </ul>	<p>Not a battle axe allotment.</p>	<p>N/A</p>
<ul style="list-style-type: none"> <li>- Cul-de-sac not preferred. Applications for centres in CDS must demonstrate appropriate traffic management is provided</li> </ul>	<p>Quarry Road is not a cul-de-sac.</p>	<p>N/A</p>
<ul style="list-style-type: none"> <li>- Not located in proximity to a brothel (Part 3.1 Brothels under DCP 2006)</li> </ul>	<p>The subject site is not located within close proximity to a brothel.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Site flat or gently sloping and well drained             <ul style="list-style-type: none"> <li>i. Assist design of useable indoor and outdoor areas at same grade</li> <li>ii. Provide accessibility to all areas</li> <li>iii. Assist drainage after rain</li> </ul> </li> </ul>	<p>The subject site is relatively flat. However, the very front of the site experiences a steep fall of approximately 1.2m. This occurs over a distance of 6.87m, calculated between a contour RL:86.20 within the front setback and a contour RL:85.00 along the front property boundary.</p> <p>The slope down from the rear will provide for effective drainage.</p>	<p>Yes</p>



RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- Aspect permits maximum solar access and natural ventilation</li> </ul>	<p>The site and proposed building faces east and is consistent with the existing building alignments along Quarry Road. It is considered that the proposed building permits maximum solar access and ventilation within the building.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Located on land not affected by adverse overshadowing by existing or future development, undue heat loads from reflective surfaces of existing or future approved buildings on neighbouring sites</li> </ul>	<p>Given the zoning and height limitations within the surrounding area, it is unlikely that the child care centre would be significantly overshadowed by existing or future development on surrounding sites.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Site not subject to undue overlooking from existing or future adjoining development</li> </ul>	<p>As above, the surrounding development is predominantly residential. It is not considered that the site is subject to undue overlooking from existing or future adjoining development.</p>	<p>Yes</p>
<p>Preferred locations for larger centres in residential areas:</p> <ul style="list-style-type: none"> <li>- Sites located on street corners</li> <li>- Sites share common boundaries with compatible non-residential uses</li> <li>- Compatible land uses subject to acceptable traffic and parking</li> </ul>	<p>The proposal is considered to be a larger centre based on proposed capacity. The site is not preferred for the proposed development as it is not a corner allotment and shares boundaries with residential uses. The proposal is however acceptable due to the area and dimensions of the site, the proposed layout of the development and that it is not located on a major road. Refer to the main planning assessment for further discussion.</p>	<p>No</p>
<ul style="list-style-type: none"> <li>- In low density residential zones, larger scale development (2 or more allotments, up to 90 children) share common boundaries with no more than 3 residential properties.</li> </ul>	<p>Site shares boundaries with three properties; however, a fourth property is separated only by a pedestrian footpath.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Work based centres in mixed use developments adjacent to non-commercial/non-residential components to protect privacy and amenity of centre and neighbouring workers/residents.</li> </ul>	<p>As above the site is not located in a mixed use centre</p>	<p>N/A</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<b>Assessing Child Care Needs and Size of Facility</b>		
<p>All development applications for child care centres are required to identify:</p> <p>i. Proposed total number of child care places.</p> <p>ii. Proposed number of children by age group;</p> <p>iii. Proposed number of staff including all full time and part time staff, and role of each staff member</p>	<p>The proposal seeks to accommodate 95 childcare places.</p> <p>The proposed age group breakdown for the child care centre is as follows</p> <p>0-2 years – twelve (12)  2-3 years – fifteen (15)  3-6 years – sixty-eight (68)</p> <p>Total – 95 Children</p> <p><i>The number of educators to children ratios is regulated by the Education and Care Services National Regulations.</i></p> <p><i>The ratios were updated on 1 January 2016. The ratios are provided as follows.</i></p> <p><i>1:4 (birth to 24 months)</i>  <i>1:5 (24-36 months)</i>  <i>1:10 (Older than 36 months)</i></p> <p>Proposed</p> <p>Playroom 1 – (0-2 years) – 12 children – 3 educators.</p> <p>Playroom 2 – (3-6 years) – 20 children – 2 educators.</p> <p>Playroom 3 – (2-3 years) – 15 children – 3 educators.  Required – 3 provided.</p> <p>Playroom 4 – (3-6 years) – 20 children – 2 educators.</p> <p>Playroom 5 – (3-6 years) – 28 children – 3 educators.</p> <p>Total Staff required is 13.  Proposed 14.</p>	<p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<b>Site Analysis</b>		
<ul style="list-style-type: none"> <li>- A site analysis to be submitted for new child care centre developments including developments that involve the conversions of existing dwellings/other buildings</li> </ul>	A site analysis plan has been submitted by Design Corp Architects.	Yes
<ul style="list-style-type: none"> <li>- A site analysis drawing must be based on a survey drawing produced by a qualified surveyor and contain a reference number and date. All levels are to be provided to AHD</li> </ul>	Site analysis is based on the Survey Plan provided by CC Surveying.	Yes
<b>Design and Character</b>		
<ul style="list-style-type: none"> <li>• <b>All Child Care Centres</b></li> <li>- Designed in accordance with CPTED</li>   <li>- orientated for year round natural light and ventilation and comfort in indoor spaces and outdoor spaces</li>   <li>- design to take advantage of natural lighting and opportunities to maximize solar access and natural ventilation</li>   <li>- avoid the proximity to and use of</li> </ul>	<p><i>Surveillance</i> It is considered that the proposed child care centre will provide opportunities for effective casual surveillance. The proposed building entry fronts Quarry Road and provides clear sightlines from internal areas and public spaces.</p> <p>Clear sightlines are also provided from the internal areas to the rear outdoor play areas.</p> <p>The proposed building and outdoor spaces are orientated according to the existing street pattern to the western side of Quarry Road. The proposed indoor and outdoor play spaces are orientated to the south.</p> <p>The proposed centre-based childcare facility is considered to have been designed to take advantage of natural lighting and ventilation. Large openable windows and sliding doors are provided to all indoor play spaces on the ground floor. The windows are orientated to promote cross flow ventilation.</p> <p>The proposal is not located in</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>large expanses of UV reflective surfaces</p> <ul style="list-style-type: none"> <li>- maximize energy efficiency and sustainability and compliance with Part 7.1 Energy Smart, Water Wise under this DCP</li> <li>- building materials, appliances, utilities and fuel sources should be made with consideration for minimising energy requirements</li> <li>- appliances to be used/installed in the centre should have a minimum 3.5 star rating</li> <li>- designed to reflect desired/expected character of buildings in the area</li> <li>- frontages and entries are to be designed to be readily apparent from the street frontage</li> </ul>	<p>proximity to large expanses of UV reflective surfaces.</p> <p>An Energy Efficiency Report has been submitted with the subject development application that addresses compliance with Section J of the Building Code of Australia – Energy Efficiency.</p> <p>Refer above.</p> <p>Refer above.</p> <p>The submitted plans show that the proposed building materials will comprise of a predominant face brick finish which is considered to be inconsistent with the broader streetscape.</p> <p>The submitted plans show that the frontage and building entry is readily apparent from Quarry Road.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> <li>- where fill is proposed to be used, clean fill must be used.</li> </ul>	<p>No fill proposed.</p>	<p>Yes</p>
<p><b>Setbacks</b></p>		
<ul style="list-style-type: none"> <li>• <b>Side</b></li> <li>○ <b>Single storey dwelling</b> <ul style="list-style-type: none"> <li>- 900mm to wall, includes balconies etc.</li> </ul> </li> <li>○ <b>First floor addition</b> <ul style="list-style-type: none"> <li>- 1500mm to wall, includes balconies etc.</li> </ul> </li> <li>○ <b>Two storey dwelling</b> <ul style="list-style-type: none"> <li>- 1500mm to wall, includes balconies</li> </ul> </li> </ul>	<p>The proposed centre-based childcare facility has been setback 4m from the northern and southern side boundaries; a stairway on the southeast side elevation will be set back 2.78 metres.</p> <p>The proposal is not for any form of additions, but rather a new build for a childcare facility.</p> <p>The proposed centre-based</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>etc.</p> <ul style="list-style-type: none"> <li>○ Side setback to <b>secondary frontage</b> (cnr allotments): 2m to façade and garage/carports</li> <li>● <b>Front</b> <ul style="list-style-type: none"> <li>- 6m to façade (generally)</li> <li>- 2m to secondary street frontage</li> <li>- Garage setback 1m from the dwelling façade</li> <li>- Wall above is to align with outside face of garage below.</li> <li>- Front setback free of ancillary elements e.g. RWT,A/C</li> </ul> </li> <li>● <b>Rear</b> <ul style="list-style-type: none"> <li>- 8m to rear of dwelling <b>OR</b> 25% of the length of the site, whichever is greater. <b>Note: 12.5m is 25% of site length (50m average length)</b></li> </ul> </li> <li>● <b>Sites wider than they are long</b> <ul style="list-style-type: none"> <li>- One side setback of 8m or 20% of allotment width, whichever is greater. NB: Side setback on irregular allotments can be measured at the centre line of the site (must have 8x8 DSA).</li> </ul> </li> <li>- Rear setback 4m min (in addition to 8m side setback)</li> </ul>	<p>childcare facility is two storey and has been set back 4m from the northern and southern side boundaries; a stairway on the southeast side elevation will be set back 2.78 metres.</p> <p>The subject site is not located on a corner allotment and therefore does not have a secondary street frontage.</p> <p>Minimum 6m front setback proposed. No secondary street frontage.</p> <p>Basement garage proposed; entrance will be set back 2.97m behind the ground floor level above. Basement garage proposed.</p> <p>Front setback free of ancillary elements. The OSD tanks are located below ground in the front setback.</p> <p>Maximum site depth: 45.855m 20% of maximum site depth: 9.171m</p> <p>Proposed rear setback: Min. 9.5m (measured to first floor play area)</p> <p>The subject site is not wider than it is long.</p> <p>Refer above</p>	<p>N/A</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>
<b>Privacy</b>		
<b>Acoustic Privacy – for children in the centre</b>		
- Sites affected by heavy traffic or	Cot rooms have been	Yes

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>other external noises are to be designed so as to locate sleep rooms and play areas away from the noise source. Noise amelioration incorporated into design</p>	<p>appropriately located. The submitted acoustic report indicates glazing for all windows to play areas and cot rooms.</p>	
<b>Acoustic Privacy – for adjoining residents</b>		
<p>- Noise impacts on neighbouring properties are to be minimised by design measures including:</p> <ul style="list-style-type: none"> <li>i. Orientating the facility having regard to neighbouring property layout</li> <li>ii. Orientating playgrounds/outdoor play areas away from private open space areas, bedrooms and living areas</li> <li>iii. Using laminated or double glazing where necessary;</li> <li>iv. Designing fencing which minimises noise transmission and loss of privacy</li> </ul>	<p>An acoustic report has been submitted with the proposed development application by Rodney Stevens Acoustics, dated 26 June 2019. The Acoustic Report concludes the following:</p> <ul style="list-style-type: none"> <li>• Traffic noise intrusion into the indoor areas has been assessed not to exceed the noise criteria.</li> <li>• Noise emissions from the indoor play activities to the nearest residential receivers complies with the noise criteria, provided the recommendations set out are put in place.</li> <li>• Noise emissions from the outdoor play area activities to the nearest residential receivers have been calculated to comply with the noise criterion where a 2.2m solid barrier with awning is erected around the perimeter of the outdoor play area to minimise the noise impact.</li> <li>• Noise emissions from the carpark to the nearest residential receivers comply with the noise criterion.</li> </ul> <p>The acoustic report concludes that the proposed childcare centre will not cause “offensive noise” levels to neighbouring residences, provided the noise measures recommended are implemented.</p>	<p>Yes</p>
<p>- child care centres in residential</p>	<p>As noted previously the</p>	<p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>areas with a side boundary set back of less than 3 metres, noise buffering measures should be considered</p> <p>- Acoustic report submitted including recommendations for noise attenuation measures and specifies pre and post development noise levels.</p>	<p>proposed side setbacks are 4m to the northern and southern side boundaries from the both the ground floor and first floor, with a 2.78m setback for a side stairway. Noise buffering treatments are provided.</p> <p>An acoustic report has been submitted which provides recommendations for noise attenuation measures,</p>	<p>Yes</p>
<b>Visual Privacy – for children in the centre</b>		
<p>- Indoor areas adjacent to public areas shall be screened to prevent direct sight lines.</p> <p>- Direct overlooking of indoor amenities and outdoor play spaces from public areas should be minimised through design features including:-</p> <ol style="list-style-type: none"> <li>i. Appropriate site and building layout;</li> <li>ii. Suitable location of pathways, windows and doors;</li> <li>iii. Permanent screening and landscaping.</li> </ol> <p>- Windows and doors in the proposed centre are to be sited in locations which maximise security for children attending the centre.</p>	<p>Indoor play areas not located adjacent to any public areas.</p> <p>The indoor and outdoor play spaces are located towards the rear of the proposed centre-based childcare facility minimising any overlooking from the Quarry Road public domain.</p> <p>The proposed windows of the indoor play areas allow for this opportunity whilst being appropriately set back from the front boundary to maximise security.</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p>
<b>Visual Privacy – for adjoining residents</b>		
<p>- Direct overlooking of adjoining main internal living areas and private open spaces should be minimised through:-</p> <ol style="list-style-type: none"> <li>i. Appropriate site and building layout;</li> <li>ii. Suitable location of pathways, windows and doors;</li> <li>iii. Landscaping and screening.</li> </ol>	<p>No overlooking impacts are anticipated. Significant side setbacks, landscape treatments, window placement and the level of the ground floor will prevent overlooking of adjoining sites from that level. Overlooking opportunities of first floor areas will be prevented through window design/placement and a 1.8m barrier around the first-floor</p>	<p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>Windows and doors in the proposed centre are to be sited in locations which minimise loss of privacy to adjoining residences</li> </ul>	<p>play area. Windows and doors to the proposed centre are considered to be sited in locations which minimise privacy to adjoining properties.</p>	Yes
<b>5.0 Car Parking, Traffic and Access</b>		
<b>Car Parking</b>		
<ul style="list-style-type: none"> <li>All on-site parking areas are to be designed in accordance with Australian Standard AS 2890.1 and AS 2890.2.</li> </ul>	<p>A Traffic and Parking Report has been submitted with the application demonstrating that all on-site parking is to be designed in accordance with the relevant Australian Standards.</p>	Yes
<ul style="list-style-type: none"> <li>Off-street parking is to be provided at the rate of 1 space per 8 children, and 1 space per 2 staff. Stack parking for staff only and max 2 spaces</li> </ul>	<p>In accordance with Section 5.1 of Part 3.2 of DCP2014, 1 space per 8 children is to be provided and 1 space per 2 staff is to be provided with an additional accessible car parking space.</p> <p>The proposal seeks 95 children and 14 staff members.</p> <p>As such a total of 12 spaces are required for the children and a total of 7 car parking spaces is required for staff, including an accessible car parking space.</p> <p>The submitted basement plan indicates 7 parking spaces allocated for staff members and 12 spaces allocated to visitors. Notably an accessible car parking space has been provided. In addition, four (4) bicycle spaces have been provided.</p>	Yes
<ul style="list-style-type: none"> <li>Parking requirement to be rounded up to nearest whole number</li> </ul>	Refer above	Yes
<ul style="list-style-type: none"> <li>1 accessible space located close to the continuous path of travel and where a minimum height clearance</li> </ul>	An accessible parking has been provided within the basement garage.	Yes





RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>and exit driveway access at a minimum safe distance from each other</p> <ul style="list-style-type: none"> <li>- ii. To enable vehicles to leave the site in a forward gear;</li> <li>- iii. To enable vehicles using the entrances and exits to not endanger persons and vehicles using those accesses;</li> <li>- iv. To ensure the front setback is not given over to traffic circulation and parking requirements which may unduly impact on streetscape and impact on the opportunity for landscaping to meet the requirements of Section 6 of this Part.</li> </ul> <ul style="list-style-type: none"> <li>- Separation - Not &lt; 9m on turning circle of 15m and a</li> <li>- Separation - Minimum width of 12m between driveway laybacks.</li> <li>- Vehicle's not to encroach on pedestrian access ways. Barriers etc. do not block accessible paths of travel</li> <li>- Separate pavement treatment to distinguish driveway from parking spaces</li> </ul>	<p>The internal layout of the carpark would enable vehicles to turn around within the basement in accordance with relevant Australian Standards and enable vehicular entrance and egress in a forward direction. No objection has been raised by Council's development engineer to such a layout.</p> <p>Turning circle is not proposed.</p> <p>The proposal includes one driveway and crossover to the basement garage.</p> <p>The pedestrian pathways have been separated from the vehicle access ways.</p> <p>Car parking located within a basement.</p>	<p>N/A</p> <p>N/A</p> <p>Yes</p> <p>N/A</p>
<b>Impact on Traffic Flow</b>		
<ul style="list-style-type: none"> <li>- Vehicles enter and leave the site in a forward direction. Drop off/pick up area designed separate to manoeuvring area</li> <li>- SEE addresses likely impacts on amenity of existing streets.</li> <li>- No to be located on high volume roads, centres located on high</li> </ul>	<p>Forward vehicular entrance and egress is proposed. Internal manoeuvrability to facilitate vehicles entering and existing the site is in a forward direction.</p> <p>Council's Development Engineer raised no objection to the proposal, subject to conditions.</p> <p>The SEE submitted addresses the likely impacts on amenity that the proposed development will have on the existing street.</p> <p>The proposed development is located on a collector road, and</p>	<p>Yes</p> <p>Yes</p> <p>No</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>volume roads incorporate measures to alleviate associated traffic problems.</p> <p>- Road Safety Audit required for applications on collector roads where volume exceeds 5000(AADT)</p>	<p>issues have been identified with the submitted traffic assessment.</p> <p>Road safety audit has been submitted.</p>	<p>Yes</p>
<b>Pedestrian Safety</b>		
<p>- Segregated from vehicle access with clearly defined paths</p> <p>- Drop off/pick up points provided no more than 30m from main entrance, well lit, allows safe movement,</p> <p>- Vehicle movements separated from pedestrian access by safety fencing, gates etc.</p>	<p>A separate pedestrian pathway has been provided to the entrance of the proposed development.</p> <p>Onsite drop-off/pick-up points are within 30m of access points from the basement.</p> <p>The turning bay at the end of the aisle has been separated from walkway areas.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>Accessibility</b>		
<p>- Access provided in accordance with AS1428.1 and Part D of BCA, Part 9.2 of DCP 2014.</p> <p>- Minor alterations must not reduce accessibility, improvements must be made where possible,</p> <p>- Other matters to be considered include:</p> <p>- i. Continuous path of travel from street/parking area into and within every room and outdoor area,</p> <p>- Pathways 1200mm-1500mm and grades no steeper than 1:14</p> <p>- One onsite parking space 3.6m wide with 2.5m height clearance</p>	<p>An access report has been submitted which has been prepared by PSE Access Consulting, dated 12 June 2019.</p> <p>Refer above, the proposed development is for a new child care centre</p> <p>A continuous path of travel has been provided from the front of the site and from within the basement car park.</p> <p>The front pedestrian pathway is 1.2m in width. The front pedestrian access ramp is 1.5m in width and has a grade of 1:20.</p> <p>One accessible space has been provided within the basement that is 3.6m wide with a 2.65m height clearance.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>



RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- Landscape buffer provided along side and rear boundaries in residential zone, minimum width 1m</li> </ul>	<p>conditions recommended</p> <p>The proposed landscaped setback provided along the front boundary generally exceeds 2m wide and complies with the above control. Species selection will assist in screening the proposed development whilst maintaining appropriate sightlines for vehicles entering/exiting the site. As such, it is considered that those species chosen are satisfactory in this instance. A landscape buffer of 1m has been provided to all side and rear boundaries.</p>	<p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> <li>- Landscape/setback buffers for centres in commercial and industrial zones depending on context,</li> </ul>	<p>The proposed childcare centre is not located in a commercial or industrial zone and therefore this control is not applicable.</p>	<p>N/A</p>
<b>Play Spaces</b>		
<b>Size and Functionality of Play Spaces</b>		
<ul style="list-style-type: none"> <li>- New centres to provide indoor, outdoor play spaces and transition areas</li> </ul>	<p>Indoor and outdoor play spaces have been provided.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Regular shapes with convenient access</li> </ul>	<p>The proposed internal and external play areas are regularly shaped with convenient access.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Avoid location of play spaces in front setback</li> </ul>	<p>The proposal would not include an outdoor play space within the front setback.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- New centres – 10m<sup>2</sup> of unencumbered outdoor play space /child care place <b>inclusive</b> of transition area</li> </ul>	<p>It is noted that the outdoor play space complies with the Childcare Planning Guideline under the <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities 2017)</i> (SEPP) which prevails over the DCP2014.</p> <p>The proposed centre-based childcare facility provides 669.70m<sup>2</sup> of unencumbered outdoor space. This equates to 7.04m<sup>2</sup> of unencumbered outdoor space which is compliant with the minimum</p>	<p>N/A SEPP Guidelines Prevail</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
	7.0m <sup>2</sup> specified within the Childcare Planning Guideline.	
<ul style="list-style-type: none"> <li>- New centres – at 4.5m<sup>2</sup> of unencumbered indoor play space for each / child care place <b>exclusive</b> of transition areas.</li> </ul>	<p>It is noted that the indoor play area complies with the Childcare Planning Guideline under the State Environmental Planning Policy (Educational Establishments and Child Care Facilities 2017) (SEPP) which prevails over the DCP2014.</p> <p>The proposed centre-based child care facility provides 316.16m<sup>2</sup> of unencumbered indoor space for 100 children. This equates to 3.32m<sup>2</sup> of unencumbered indoor space for each child which is compliant with the Education and Care Services National Regulation.</p>	<p>N/A SEPP Guidelines Prevail</p>
<b>Outdoor Play Spaces</b>		
<ul style="list-style-type: none"> <li>- Shaped to maximise supervision and useability and stimulates early learning</li> </ul>	The proposed outdoor play area is shaped to maximise supervision and useability.	Yes
<b>Designed to</b>		
<ul style="list-style-type: none"> <li>- Be well drained</li> </ul>	The proposal was referred to Council's Development Engineer, who raised no objection to the proposed methods of drainage, subject to conditions.	Yes
<ul style="list-style-type: none"> <li>- Takes advantage of existing natural features and vegetation</li> </ul>	Refer above.	Yes
<b>Designs aim for</b>		

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- 30% natural planting area</li> <li>- 30% turfed area</li> <li>- 40% hard surfaces (sand, paving, timber platforms)</li> </ul>	<ul style="list-style-type: none"> <li>- 107.15m<sup>2</sup> of natural planting has been provided within the rear outdoor play space which equates to 16% of the total outdoor play space of 669.70m<sup>2</sup>.</li> <li>- 241m<sup>2</sup> of new turf provided which equates to 36% of the total outdoor play space of 669.70m<sup>2</sup>.</li> <li>- 267.88m<sup>2</sup> of hard surfaces provided which equates to 47% of the total outdoor play space of 669.70m<sup>2</sup>.</li> </ul> <p>Whilst this is considered a shortfall, it is considered the provision of natural planting is appropriate for the site and will meet the relevant planting objectives.</p>	No
<b>Work based child care centres, and centres in mixed use facilities</b>		
<ul style="list-style-type: none"> <li>- Where outdoor spaces are provided externally above ground level (refer section 3.4 of this Part):</li> </ul>	The proposed child care centre is not work based child care nor located within a mixed use facility	N/A
<ul style="list-style-type: none"> <li>- i. make outdoor space of a similar quality to that achievable at ground floor level. designed to comply with requirements of section 6.2.2.</li> </ul>	Refer above	N/A
<ul style="list-style-type: none"> <li>- ii. measures implemented for protection from excessive wind and other adverse climatic conditions</li> </ul>	Refer above	N/A
<ul style="list-style-type: none"> <li>- iii. Adequate fencing is to be provided for the safety of the children and to prevent objects from being thrown</li> </ul>	Refer above	N/A
<ul style="list-style-type: none"> <li>- Outdoor storage space does not impede supervision of the play areas. 0.5m<sup>2</sup> of space per child who will be using the area.</li> </ul>	Refer above	N/A
<b>Indoor Play Spaces</b>		
<ul style="list-style-type: none"> <li>- a. Indoor play spaces shall be designed to:               <ul style="list-style-type: none"> <li>- i. Achieve passive surveillance from all rooms;</li> <li>- ii. Provide direct access to play areas;</li> <li>- iii. Allow maximum supervision of the indoor and outdoor play spaces;</li> </ul> </li> </ul>	<p>The indoor play spaces are regularly shaped and encourage passive surveillance from all rooms.</p> <p>The proposed internal viewing windows allow for maximum</p>	<p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- iv. Allow subspaces to be set up with discernible divisions to offer a variety of play areas.</li> </ul>	supervision from internal common areas to the outdoor play areas. No subspaces are shown on the submitted plans.	
<b>Miscellaneous Controls</b>		
<b>Signage</b>		
<ul style="list-style-type: none"> <li>- All advertising and signage must be designed to comply with Part 9.1 Advertising Signs.</li> </ul>	No signage proposed. A condition is recommended that would require separate consent for any signage not capable of being erected as 'exempt' development.	N/A
<b>Exterior Lighting</b>		
<ul style="list-style-type: none"> <li>- Lighting is to be provided to assist access via the main entrance.</li> </ul>	The submitted plans do not show proposed lighting. Lighting details are to be provided prior to issue of the construction certificate and are to comply with Australian Standards.	Condition
<ul style="list-style-type: none"> <li>- The street number of the building is to be visible from the street day and night, by lighting and/or reflective material</li> </ul>	Refer above	Condition
<ul style="list-style-type: none"> <li>- External lighting must not adversely impact adjoining properties.</li> </ul>	Refer above	Condition
<b>Waste Storage and Management</b>		
<ul style="list-style-type: none"> <li>- Waste management plan submitted</li> </ul>	Waste management plan has been submitted with the proposed development application	Yes
<ul style="list-style-type: none"> <li>- Adequate provision made for the storage and collection of waste and recycling in accordance with Part 7.2 of this DCP.</li> </ul>	The proposal was referred to Council's Environmental Health Officer for comment. In their latest referral response, no objection to the proposal was raised, subject to conditions	Yes
<ul style="list-style-type: none"> <li>- In addition to the requirements of Part 7.2 of this Plan, applications for child care centre development are to address the following considerations.</li> </ul>		
<ul style="list-style-type: none"> <li>- special removal service required for the removal/disposal of nappies</li> </ul>	Refer above	Refer above
<ul style="list-style-type: none"> <li>- frequency of removal of waste to ensure regular removal and avoid undue build up of garbage</li> </ul>	Refer above	Refer above
<ul style="list-style-type: none"> <li>- opportunities for avoidance, reuse</li> </ul>	Refer above	Refer above



<b>RYDE DCP 2014</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
and recycling of waste		
- convenience for staff of the location of bins	Refer above	Refer above
- security of waste from access by children	Refer above	Refer above
- . likely requirements for waste from kitchen facilities	Refer above.	N/A
- Impact of waste storage and collection on adjoining residential developments in terms of unsightliness, odour and noise	Refer above	Refer above
- Expansion – as far as possible to be visually and physically integrated into the design. Screening required for areas visible from street.	Proposal is for a new child care centre	N/A
- Where food preparation is carried out, waste area is to be covered and floor graded and drained, easily accessible and suitably screened	The proposal was referred to Council's Environmental Health Officer for comment. In their latest referral response dated 24 April 2020, no objection to the proposal was raised, subject to conditions	Yes
- Residential areas - not to be designed to store waste facilities of a size and scale which can only be managed by side arm waste collection vehicles. - There is to be no on-site access by waste collection vehicles	Refer above	Refer above
- Composting must not impact on amenity of adjoining premises or the centre	Refer above	Refer above
- Separate waste collection services including frequency and times must minimise noise impact on neighbouring properties	Refer above	Refer above
<b>Emergency Evacuation</b>		
- Fire Safety and Evacuation Plan complying with AS3745 prepared for all new centres and for developments resulting in an increase in places	Emergency Evacuation procedures and an emergency evacuation floor plan have been submitted with the development application.	Yes
The Fire Safety and Evacuation Plan is to address: - i. The mobility of children and how this is to be accommodated during	Refer above	Yes

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>an evacuation;</p> <ul style="list-style-type: none"> <li>- ii. The location of a safe congregation area, away from the evacuated building, busy roads and other hazards, and away from evacuation points for use by other occupants/tenants of the same building or of surrounding buildings; and</li> <li>- iii. The supervision of children during the evacuation and at the congregation area with regard to the capacity of the child care centre including child to staff ratios.</li> </ul>		
<b>Out of School Hours Care</b>		
<ul style="list-style-type: none"> <li>- Where an OOSH service is proposed in a childcare centre, the centre shall provide permanent separation of OOSH facilities from the remaining centre facilities.</li> </ul>	<p>No out of school hours care is proposed.</p>	<p>N/A</p>
<ul style="list-style-type: none"> <li>- Operational elements which are to be provided separately for each service include:               <ul style="list-style-type: none"> <li>- i. amenities (toilet facilities)</li> <li>- ii. indoor play spaces, and</li> <li>- iii. outdoor play areas (especially where vacation care is proposed).</li> </ul> </li> </ul>		
<ul style="list-style-type: none"> <li>- Access to staff facilities should also be provided for staff of the OOSH facility</li> </ul>		
<ul style="list-style-type: none"> <li>- The operational elements are to be designed in accordance with any relevant controls under this Part (for example minimum area requirements for outdoor play areas, indoor play areas)</li> </ul>		
<ul style="list-style-type: none"> <li>- Proposed number of staff and child care places are to be provided in accordance               <ul style="list-style-type: none"> <li>- with section 2.2 of this Part</li> </ul> </li> </ul>		
<ul style="list-style-type: none"> <li>- Parking requirements will be assessed in accordance with section 5 of this Part</li> </ul>		
<ul style="list-style-type: none"> <li>- Child care centres that include out of school hours care are not to result in an overdevelopment of the site.</li> </ul>		
<ul style="list-style-type: none"> <li>- The total number of places approved for the centre will include places approved for out of school hours care where this is proposed</li> </ul>		

<b>DEMOLITION</b>	<b>PROPOSAL</b>	<b>COMPLIANCE</b>
<ul style="list-style-type: none"><li>• Plan showing all structures to be removed.</li></ul>	No demolition proposed	N/A
<ul style="list-style-type: none"><li>• Demolition Work Plan</li></ul>	No demolition proposed	N/A
<ul style="list-style-type: none"><li>• Waste Management Plan</li></ul>	Plan submitted	Yes

## Attachment 3 – Recommended conditions of consent

### 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 Management Plan	25.06.2020	Designcorp Architects, Sheet No. N000, REF:2018-193, Issue n
Roof Site/Analysis Plan	25.06.2020	Designcorp Architects, Sheet No. N3, REF 2018-193, Issue n
Basement/Section A/Section C – Acoustic Detail	25.06.2020	Designcorp Architects, Sheet No. N4, REF 2018-193, Issue n
Ground/Section B	25.06.2020	Designcorp Architects, Sheet No. N5, REF 2018-193, Issue n
First/Section C	25.06.2020	Designcorp Architects, Sheet No. N6, REF 2018-193, Issue n
North Elevation/South Elevation/East Elevation/West Elevation/Section D	25.06.2020	Designcorp Architects, Sheet No. N7, REF 2018-193, Issue n
Calc Plan Ground	25.06.2020	Designcorp Architects, Sheet No. N10, REF 2018-193, Issue n
Calc Plan First	25.06.2020	Designcorp Architects, Sheet No. N11, REF 2018-193, Issue n
Material and Finishes Schedule	25.06.2020	Designcorp Architects, Sheet No. N15, REF 2018-193, Issue n
Landscape Plan	01.07.2020	TGS Landscape Architects, Drawing Number: 2019.0602DA1-1, Sheet 1 of 2, Issue C
Landscape Plan	01.07.2020	TGS Landscape Architects, Drawing Number: 2019.0602DA1-2, Sheet 2 of 2, Issue C
Emergency Management Plan	Undated	SPS Fire and Safety
Evacuation Plan Basement	21.05.2020	SPS Fire and Safety
Evacuation Plan Ground Floor	21.05.2020	SPS Fire and Safety
Evacuation Plan First Floor	21.05.2020	SPS Fire and Safety
Cover Sheet & Design Summary Table	02.07.2020	EZE Drainage Solutions, Job No. 17125, DWG No. D1, Issue C
Stormwater Management Plan	02.07.2020	EZE Drainage Solutions, Job No. 17125, DWG No. D2, Issue C
Typical Details	02.07.2020	EZE Drainage Solutions, Job No. 17125, DWG No. D3, Issue C
OSD Calculation Sheet & OSD Details	02.07.2020	EZE Drainage Solutions, Job No. 17125, DWG No. D4, Issue C

Basement Drainage Design	02.07.2020	EZE Drainage Solutions, Job No. 17125, DWG No. D5, Issue C
<b>Documents</b>		
Traffic and Parking Impact Assessment	02.07.2020	McLaren Traffic Engineering & Road Safety Consultants, Doc REF: 200440.01FA, Issue A
Noise Impact Assessment	26.06.2019	Rodney Stevens Acoustics, Reference: 190153R1, Revision 2
Pre-Construction Concept Design Road Safety Audit	21.05.2020	The Transport Planning Partnership, Version 01, Ref: 16300
Geotechnical Investigation Report	30.04.2020	GCA Geotechnical Consultants Australia, Report No. G19103-1
Ambient Air Quality Assessment	26.08.2019	GCA Geotechnical Consultants Australia, Report No. E1951-1
Preliminary Site Investigation Report	26.08.2019	GCA Geotechnical Consultants Australia, Report No. E1950-1
Wind Impact Assessment	02.09.2020	Vipac Engineers & Scientists, Document No. 30N-19-0166-TRP-6765722-0
Section J Report	28.06.2019	Outsource Ideas p/l, Revision A.
Assessment Report, Access and Compliance Requirements	12.06.2019	PSE Access Consulting. Prepared by Mr. Peter Simpson.
Arboricultural Implication Assessment	14.06.2019	Horticultural Resources Consulting Group, Issue A.
Waste Management Plan	15.07.2019	Designcorp Australia Pty Ltd

2. Prior to the issue of a **Construction Certificate**, the following amendments shall be made:

- (a) The plans shall be amended to demonstrate the acoustic barriers around the first-floor play area are to be a height of at least 1.8 metres above the finished floor level of the first floor decking.
- (b) An additional emergency evacuation gate shall be provided within the southern side boundary fence providing access to the public walkway. The gate shall be sited between the rear boundary and the rear of the child care centre.

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

**Reason:** To address potential overlooking and emergency egress concerns.

3. **Emergency evacuation.** Documentation relating to the emergency evacuation of the site shall be modified as follows:

- (a) The design of the emergency evacuation gates referred to in Condition 2(b) are to ensure:
  - Both gates are flush with the boundary/acoustic fence (i.e. they are not to be 'indented' or contained within an alcove), and must not contain gaps in accordance with the approved noise impact assessment,

- Both gates are to be designed so that they open inwards (i.e. they are not to open out into the adjoining pathway),
- Both gates are to be designed so that they can only be opened from within the site, and
- The internal sides of both gates are to clearly indicate that they are for emergency exit purposes only. The exterior of both gates (i.e. sides addressing the adjoining pathway) are to also indicate that site access is to be obtained from the Quarry Road frontage.

The placement and design of the gates are to be indicated on the construction plans prior to the issue of a **Construction Certificate**.

(b) The Emergency Management Plan is to be amended as follows:

- In the event of an off-site evacuation, the emergency marshalling point is to be located at the end (i.e. turning head) of the Readford Place cul-de-sac to the southwest. Off-site gathering at the intersection of Quarry Road and Aeolus Avenue is to be removed.
- The emergency access routes from the ground and first floors are to be altered, so that evacuation occurs through the two side emergency exit gates (as conditioned above) to the pathway adjoining the southeast side boundary of the site. Where practical, routes to the off-site marshalling point are to avoid using Quarry Road.

The amendments to the Emergency Management Plan are to be implemented prior to the issue of an **Occupation Certificate**.

**Reason:** To ensure the safe evacuation of the building in the event of an emergency.

4. **Plan of Management.** A detailed Plan of Management (PoM) is to be prepared and provided to the Manager Development Assessment at the City of Ryde Council prior to the operation of the approved use. The PoM must address:

- All operational requirements of the approved child care centre, and
- Be consistent with the requirements of this consent.

Operation of the site is not to commence until the Manager Development Assessment at the City of Ryde Council has indicated that they are satisfied with the contents of the PoM, and the approved document cannot be altered without the written consent of Council.

**Reason:** To ensure that the operation of the site is in accordance with the requirements of this consent.

5. **Inconsistency between documents.** In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

**Reason:** To ensure that the development is in accordance with the determination.

6. **No approval for signage.** This development consent does **not** approve the installation or erection of any signage not specified or detailed by the approved plans or these conditions. Separate consent must be attained for any future signage that is not 'exempt' development.

**Reason:** Statutory requirement.

7. **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.

**Reason:** Statutory requirement.

8. **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:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.

**Reason:** To ensure the structural protection of adjoining properties.

9. **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.

**Reason:** To ensure reasonable standards of amenity for occupants of neighbouring properties.

10. **Hoardings.**

- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
- (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

**Reason:** To ensure the safety of the public and hoarding/fencing is removed at the completion of the development.

11. **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.

**Reason:** To ensure the safety of the public.

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.

**Reason:** To ensure public spaces are unobstructed during construction.

13. **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.

**Reason:** To ensure protection of adjoining public spaces.

14. **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.

**Reason:** To ensure compliance with the requirements of *Roads Act 1993*.

15. **Public Utilities.** 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 (e.g. Telstra, Jemena, Ausgrid, etc.), with all costs associated with this alteration to be borne by the applicant.

**Reason:** To ensure access to public utilities.

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.

**Reason:** Statutory requirement.

17. **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.

**Reason:** To minimise impact upon pedestrian and vehicular traffic systems.

18. **Construction and fit-out of food premises within the child care** – All proposed food premises (other than retail meat premises) must be constructed and fitted-out in accordance with the requirements of:

- (a) Food Safety Standard 3.2.3: *Food Premises and Equipment*; and
- (b) Australian Standard *AS 4674-2004: Design, construction and fit-out of food premises*.

**Reason:** Statutory requirement.



19. **Construction of walls** - The walls of all proposed food premises must be constructed of brick, concrete blocks, preformed panels filled with suitable material or other solid materials.

**Reason:** To ensure compliance with BCA and relevant Australian Standards. .

20. **Provision for installation of kitchen exhaust systems** - Adequate provision must be made for the installation of kitchen exhaust systems to the proposed food premises.

**Reason:** To ensure the required exhaust is provided.

21. **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.

**Reason:** To ensure fresh air is provided to the basement.

22. **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.

**Reason:** To ensure compliance with relevant Australian Standards.

23. **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.

**Reason:** To ensure compliance with relevant Australian Standards.

24. **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.

**Reason:** To ensure compliance with relevant Australian Standards.

25. **Storage of garbage and recyclable materials** - A separate room or area must be provided in a convenient location within the basement for the storage of garbage and recyclable materials in compliance with Council's Development Control Plan 2014 Part 7.2.

**Reason:** To ensure a separate waste room is provided.

26. **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.

**Reason:** To provide the design requirements for the waste room.

27. **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.

**Reason:** To ensure access is provided for waste collection vehicles.

28. **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.

**Reason:** Statutory requirement.

29. **Installation of grease trap** - A grease trap must be installed if required by Sydney Water Corporation. The grease trap must be located outside the building or in a dedicated grease trap room and be readily accessible for servicing. Access through areas where exposed food is handled or stored or food contact equipment or packaging materials are handled or stored is not permitted.

**Reason:** To ensure compliance with relevant Australian Standards.

## 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.

30. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:
- (a) 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
  - (b) 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.

**Reason:** To ensure neighbours are notified prior to the commencement of demolition.

31. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).

**Reason:** Statutory requirement.

### 32. **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 the Work Cover Authority, 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.

33. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.

**Reason:** Statutory requirement.

34. **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.

**Reason:** Statutory requirement.

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

**Reason:** To ensure waste is managed in accordance with the consent.

36. **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.

**Reason:** To ensure waste is disposed of at lawful facilities.

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

**Reason:** To ensure public safety.

38. **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.

**Reason:** To ensure the source of fill is known.

39. **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.

**Reason:** To ensure the source of fill is documented.

40. **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.

**Reason:** To ensure the source of fill is documented.

41. **Surplus excavated material** - All surplus excavated material must be disposed of at a licensed landfill facility, unless Council approves an alternative disposal site.

**Reason:** To ensure appropriate disposal of excavated material.

#### **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.

42. **Section 7.12.** 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>
Section 7.12 Contribution	\$19,837.87

These are contributions under the provisions of Section 7.12 of the *Environmental Planning and Assessment Act, 1979* as specified in City of Ryde Fixed Rate (Section 7.12) Development Contributions Plan 2020, effective from 1 July 2020.

The above amount is current at the date of this consent, and is 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 amount that differs from that shown above.

The contribution must be paid **prior to the issue of any Construction Certificate**. 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 City of Ryde Fixed Rate (Section 7.12) Development Contributions 2020 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>.

**Reason:** Statutory requirement.

43. **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**.

**Reason:** To ensure compliance with the Australian Standards.

44. **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**.

**Reason:** To ensure the structural integrity of the approved development.

45. **Security deposit.** The Council must be provided with security for the purposes of section 4.17(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)

**Reason:** Statutory requirement.

46. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:

- (a) Infrastructure Restoration and Administration Fee
- (b) Enforcement Levy

**Reason:** Statutory requirement.

47. **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**.

**Reason:** Statutory requirement.

48. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.

**Reason:** To provide suitable vehicular access.

49. **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.

**Reason:** Statutory requirement

50. **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**.

**Reason:** To ensure the use of appropriate roofing material to minimise reflectivity and impacts upon amenity.

51. **Fencing.** Where applicable, fencing is to be in accordance with Council's DCP 2014:
- Part 3.2 – Child Care Centres, Section 3.5 (Fences, Gates and Security), and
  - Part 3.3 – Dwelling Houses and Dual Occupancy (attached), Section 2.16 – Fences.

Details of compliance are to be provided in the plans for the **Construction Certificate**.

**Reason:** To ensure fencing is compliant with Council's policy requirements.

52. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

**Reason:** To ensure appropriate lighting is provided for residential safety and maintains the amenity of adjoining properties.

39. **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 (Off street 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) All internal driveways and vehicle access ramps must have ramp grades, transitions and height clearances complying with AS 2890 for all types of vehicles accessing the parking area. To demonstrate compliance with this Australian Standard, the plans to be prepared for the Construction Certificate must include a driveway profile, showing ramp lengths, grades, surface RL's and overhead clearances taken along the vehicle path of travel from the crest of the ramp to the basement. The driveway profile must be taken along the steepest grade of travel or sections having

significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

- b) To allow for adequate sight distance from a vehicle exiting the property to pedestrians in the footpath area, the northern side of the driveway entry at the property boundary must have clear sight through a splayed region defined by Figure 3.3 of AS 2890.1 (2004) and Council's DCP. Ideally the region is to be free of all obstructions, otherwise any solid obstructions are to be no greater than 900mm above finished surfaces and horizontal fencing/ slats are to permit more than 50% visual permeability.

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

**Reason:** To ensure compliance with AS2890.

40. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to the kerb in Quarry Road, generally in accordance with the plans by EZE Drainage Solutions Pty Ltd, drawing number 17125 D1 to D5, revision C, dated 2nd July 2020, subject to any variations marked in red on the approved plans or noted following:

- To minimise the expanse of hardstand the OSD storage must be extended and located under the pathway in the front setback.

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:

- 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.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
- 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.

**Reason:** To ensure effective stormwater management.

41. **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.

**Reason:** To ensure effective stormwater management.

42. **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.

**Reason:** To ensure effective stormwater management.

43. **Vehicle Footpath and Gutter Crossover Approval.** A new vehicle footpath crossing and associated gutter crossover shall be constructed at the approved vehicular access location/s. 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 consistent with that of the development and ensure it is compliant with current Council's standards and specifications. The location, design and construction shall be in accordance with Council's

DCP 2014 Part 8.3 (*Driveways*), 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 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 crossing shall be 6.0 m. wide, without the splays, and 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.

The Council approved design details shall be incorporated into the plans submitted for the application of the Construction Certificate.

**Reason:** To ensure compliant vehicular access is constructed.

44. **Road and Public Domain Works.** The following Public Domain works are required;
- a) Construction of a new concrete vehicular crossing as specified under the condition "*Vehicle Footpath and Gutter Crossover Approval*".
  - b) Construction of a new concrete footpath spanning the site frontage. The footpath width and grade must be in accordance with the DCP Part 8.5 (*Public Civil Works*) Section 2.3. If there is an existing footpath in the vicinity of the site which is variable to these specifications, the applicants is to confer with Council's Civil Works section for directions as to the appropriate footpath specifications.
  - c) Reinstatement of damaged sections of kerb and gutter.
  - d) Removal of any existing footpath and gutter crossover which is not fronting an approved access point and the reinstatement of grass verge, concrete kerb, gutter and footpath in this region.

In accordance with Section 138 of the Roads Act, detailed engineering plans prepared by a qualified and experienced civil engineer, complying with the specifications outlined in Council's DCP 2014 Part 8.5 (*Public Civil Works*) must be submitted and approved by Council prior to the issue of the Construction Certificate.

Engineering plans assessment and inspections fee associated with this work

are payable in accordance with Council's Management Plan prior to approval being issued by Council.

**Reason:** To ensure the serviceability of infrastructure adjacent the development property is consistent with the life of the development and provides safe and efficient access to the site.

45. **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 the Geotechnical Report by Geotechnical Consultants Australia Pty Ltd, reference G19103-1, revision 0, dated 30<sup>th</sup> April 2019.

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

**Reason:** To ensure there are no adverse impacts arising from excavation works.

46. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties that may be affected by the construction work. As a minimum, the scope of the report is to include:

- 5 Readford Place
- The public pathway adjoining the site on the eastern boundary
- 180 Quarry Road

A copy of the dilapidation survey is to be submitted to the Accredited Certifier and Council prior to the release of the Construction Certificate.

**Reason:** To ensure there is a record of properties that may be affected by the construction works.

47. **Site Dewatering Plan.** A Site Dewatering Plan (SDP) must be prepared and submitted with the application for a Construction Certificate.

The SDP is to comprise of detailed plans, documentation and certification of the system, must be prepared by a chartered civil engineer and must, as a minimum, comply with the following;

- a) All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded so as to prevent the emission of offensive noise as a result of their operation.
- b) Pumps used for dewatering operations are not to be fuel based so as to minimise noise disturbance and are to be electrically operated.
- c) Discharge lines are to be recessed across footways so as to not present as a trip hazard and are to directly connect to the public inground drainage infrastructure where ever possible.
- d) The maximum rate of discharge is to be limited to the sites determined PSD rate or 30L/s if discharging to the kerb.
- e) Certification must state that the submitted design is in accordance with the requirements of this condition and any relevant sections of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
- f) Be in accordance with the recommendations of approved documents which concern the treatment and monitoring of groundwater.
- g) Any details, approval or conditions concerning dewatering (eg Dewatering License) as required by the Water Act 1912 and any other relevant NSW legislation.
- h) Approval and conditions as required for connection of the dewatering system to the public drainage infrastructure as per Section 138 of the Roads Act.

**Reason:** To ensure that stormwater runoff and the disposal of groundwater from the excavation is drained in an appropriate manner and without

detrimental impacts to neighbouring properties and downstream water systems

48. **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.

**Reason:** Protection of the environment.

49. **Irrigation.** Automatic irrigation connected to recycled water or harvested rainwater is to be provided to the planting beds located under the boundary acoustic fence and planting areas of the upper terrace. Details of compliance must be shown on the plans for Construction Certificate.

**Reason:** To provide a sufficient supply of water to vegetation to ensure establishment and continued health.

50. **Canopy Tree Planting.** The outdoor play spaces must include additional canopy tree plantings to ensure canopy cover to at least 50% of the outdoor play area within 5 years of planting. Details of compliance must be shown on the plans for Construction Certificate.

**Reason:** To ensure appropriate levels of natural shade and sun protection are provided to the outdoor play area.

51. **Shade Cover.** The upper terrace outdoor play space must include fixed shade sails to provide shade to at least 50% of the terrace area. Details of compliance must be shown on the plans for Construction Certificate.

**Reason:** To ensure appropriate levels of shade and sun protection are provided to the outdoor play area.

52. **Species Substitution.** The *Acmena smithii*, *Viburnum odoratissimum* and *Photinia glabra* shown planted under the boundary acoustic fence must be substituted for species which grow to a maximum mature height of 2m.

**Reason:** To ensure the form and condition of boundary planting does not conflict and is not impacted by the overhead acoustic fence.

53. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

**Reason:** To ensure appropriate lighting is provided for residential safety and maintains the amenity of adjoining properties.

54. **Consolidation of lots.** Prior to issue of any Construction Certificate, the Applicant must consolidate the existing lots Lot 12 and 13 within Deposited Plan 239671 which will form the development site into a single lot. Evidence of lot consolidation, in the form of a plan registered with NSW Land Registry Services, must be submitted to the Certifier prior to issue of any Construction Certificate.

**Reason:** To ensure that the legal property description is consistent with the proposed site layout and that continuous structures will not be placed across separate lots.

## **PRIOR TO COMMENCEMENT OF WORKS**

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.

55. **Construction Traffic Management Plan.** As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by a Traffic Engineer having RMS accreditations and submitted to Council for approval prior to the issue of a Construction Certificate. This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent the site.

The CTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- Specify construction vehicle routes and rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council's Traffic section.
- Wherever the site is in proximity to a Public School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum seven (7) days notification must be provided to adjoining property owners prior to the implementation of significant temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street tree's.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS's Manual – “Traffic Control at Work Sites” and Councils DCP 2014 Part 8.1 (Construction Activities). The modification of parking restrictions (Work Zones) and standing heavy vehicles (crane, concrete pump, etc) on a footpath/ roadway are subject to separate approval from Council and/or the Local Traffic Committee.

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and is to be paid at the time that the Construction Traffic Management Plan is submitted.

**Reason:** To minimise impacts of construction activities on the surrounding road network.

**56. Site Sign**

- (a) 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.
- (b) 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.

**Reason:** Statutory requirement.

**57. 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.

**Reason:** To ensure notice to given to adjoining owners prior to excavation works.

- 57. Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

**Reason:** To ensure to site is safely secured.

- 58. 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.

**Reason:** To ensure public safety.

- 59. 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 a construction site. A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane.

**Reason:** To ensure a work zone is approved to minimise impact on traffic.

**DURING WORKS**

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.



60. **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*.

**Reason:** Statutory requirement.

60. **Construction noise.** The L<sub>10</sub> noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.

**Reason:** To reduce impacts on amenity of surrounding sites.

61. **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.

**Reason:** To ensure all works are located on the subject site.

62. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.

**Reason:** To protect the environment and the amenity of surrounding properties.

63. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:

- (a) Fill is allowed under this consent;
- (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
- (c) the material is reused only to the extent that fill is allowed by the consent.

**Reason:** To protect the environment.

64. **Construction materials.** All materials associated with construction must be retained within the site.

**Reason:** To ensure safety and amenity of the area.

65. **Site Facilities.** The following facilities must be provided on the site:
- (a) toilet facilities in accordance with WorkCover 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.

**Reason:** Statutory requirement.

66. **Site maintenance**  
The applicant must ensure that:

- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
- (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
- (c) the site is clear of waste and debris at the completion of the works.

**Reason:** To ensure the site is appropriately maintained.

67. **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".

**Reason:** To ensure works do not disrupt pedestrians and vehicular traffic.

68. **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.

**Reason:** To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

69. **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 EZE Drainage Solutions Pty Ltd, drawing number 17125 D1 to D5, revision C, dated 2nd July 2020, submitted in compliance to the condition labelled "*Stormwater Management.*".

**Reason:** To ensure effective stormwater management.

70. **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.

**Reason:** To ensure protection of the environment.

71. **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.

**Reason:** To ensure works are in accordance with the recommendations of the submitted Geotechnical Report.

72. **Site Dewatering Plan – Implementation.** The Site Dewatering Plan (SDP) on the site must be constructed in accordance with the Construction Certificate version of the SDP submitted in compliance to the condition labelled “Site Dewatering Plan.”, the requirements of Council in regards to disposal of water to the public drainage infrastructure and the requirements of any Dewatering License issued under NSW Water Act 1912 in association with the works. A copy of the SDP is to be kept on site at all times whilst dewatering operations are carried out.

**Reason:** To ensure effective dewatering operations.

73. **Construction Traffic Management Plan - Implementation.** All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

**Reason:** To ensure works are in accordance with the approved CTMP.

74. **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.

75. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.

**Reason:** Statutory requirement.

## 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.

76. **Landscaping.** All approved landscaping works are to be completed prior to the issue of the **Occupation Certificate**.

**Reason:** To ensure completion of landscaping works in accordance with the approved plans.

77. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Each year the Owners must send to the Council and the Fire and Rescue NSW an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

**Reason:** Statutory requirements.

78. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of any **Occupation Certificate**.

**Reason:** Statutory requirement.

79. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site

[www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

**Reason:** Statutory requirement.

80. **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**.

**Reason:** To ensure there is a record of properties that may be affected by the construction works once completed.

81. **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**.

**Reason:** To ensure the integrity of works in the public domain.

82. **Letterboxes and street/house numbering.** All letterboxes and house numbering are to be designed and constructed to be accessible from the public way. Council must be contacted in relation to any specific requirements for street numbering.

**Reason:** To ensure consistency with Council’s requirements for street numbering.

83. **Redundant Footpath Crossing.** The existing footpath crossing(s) and associated gutter crossover(s) which are not accessing approved vehicle access points must be removed and restore kerb and gutter, verge and footway to match existing adjoining sections. All new levels and materials must be flush and consistent with adjoining sections and all costs are to be borne by the applicant. The works must be completed to Councils satisfaction, prior to the issue of any Occupation Certificate.

**Reason:** To protect the public infrastructure and ensure safety of pedestrians.

84. **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.

**Reason:** To ensure appropriate stormwater management.

85. **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, and pump/ sump 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.

**Reason:** To ensure the OSD is registered on the title of the land.

86. **Engineering Compliance Certificates.** 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 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).

- e) 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.
- f) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.

**Reason:** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards,

87. **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).

**Reason:** To ensure the constructed On-site detention will not be modified

88. **Parking Area Line Marking and Signage.** Traffic control line marking 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.

**Reason:** To ensure the safe and efficient circulation of traffic and access to parking, directional signage

89. **Certification of fit-out work** - Where Council is not the Principal Certifying Authority, the PCA must inspect the completed fit-out and issue a compliance certificate certifying that the fit-out complies with Food Safety Standard 3.2.3: *Food Premises and Equipment* and Australian Standard AS 4674-2004: *Design, construction and fit-out of food premises*, and a copy of the compliance certificate must be submitted to Council, before the issue of an Occupation Certificate.

**Reason:** To ensure compliance with the relevant Australian Standard.

90. **Compliance report** - A report from a qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria must be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) before the issue of an Occupation Certificate.

**Reason:** To ensure the proposal has been constructed in accordance with the acoustic recommendations.

## 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.

91. **Hours of operation.** The hours of operation are to be restricted to:

- 7:00am to 6:00pm (Monday-Friday).

This condition does not apply to activities (e.g. cleaning) which take place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling, then such internal activities must not occur outside the hours of use specified above.

**Reason:** To ensure conformity with proposal.

92. **Number of children.** The maximum number of children shall be limited to the following:

- 0-2 years: Twelve (12)
- 2-3 years: Fifteen (15)
- 3-6 years: Sixty-eight (68)

**Reason:** To ensure conformity with proposal.

93. **Number of staff.** The number of staff onsite shall be as follows:

- At least thirteen (13) staff are to be provided for children accommodated by the child care centre, **except** where stipulated by the regulations, and
- At least one (1) member of staff for administration/support purposes.

**Reason:** To ensure sufficient staffing in accordance with the Regulations.

94. **Parking Allocation.** Both the owner and occupier of the development must provide and maintain the minimum parking allocation as follows;

- 10 visitor spaces,
- 1 shared visitor and loading bay space,
- 1 disabled visitor space, and
- 7 staff spaces.

95. **Delivery times.** All deliveries to the child care centre are not to occur between the hours of 3:30pm and 9:00am Monday to Friday.

**Reason:** To minimise disturbance of surrounding areas and conflict with peak pick and drop off times.



96. **Loading area.** All deliveries during permitted times are to be loaded and unloaded within the basement carpark.

**Reason:** To minimise disturbance of surrounding areas.

97. **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*.

**Reason:** To protect the amenity of neighbouring properties.

98. **Noise.** A validation report must be obtained from a suitably qualified and experienced consultant in acoustic engineering three (3) months after the business commences trading and from time to time as reasonably requested by Council. The report should demonstrate and certify that noise from the development to adjoining sensitive receivers satisfies the provisions of the *Protection of the Environment Operations Act 1997*, NSW Office of Environment & Heritage/Environment Protection Authority Noise Policy for Industry, and conditions of Council's development consent.

If it is found the development fails to satisfy these provisions, then works and/or operational modifications shall be undertaken; any such changes must then be validated by a further acoustic assessment, by a suitably qualified acoustic engineer to be selected by Council. The reasonable cost of such appointment shall be borne by the operator, and in the event of continued inconsistency, then any further works and/or operational requirements recommended by the Council-selected acoustic consultant shall also be borne by the licensee/operator and carried out within a time frame set by Council.

**Reason:** To protect the amenity of neighbouring properties and ensure compliance with approved documentation.

99. **Validation of noise complaints.** Following commencement of operation, should substantiated complaints or breaches of noise regulation occur, a suitably qualified acoustic engineer selected by Council will be engaged to measure noise emanating from the building/premises and to recommend appropriate action. The reasonable cost of such appointment shall be borne by the operator and any works and/or operational requirements recommended by the acoustic consultant shall also be borne by the licensee/operator and carried out within a time frame set by Council.

**Reason:** To protect the amenity of neighbouring properties.

100. **Waste storage/disposal – hours of collection.** Waste and recyclable material generated by these premises must not be collected between the hours of 6:00pm and 7:00am Monday to Friday.

**Reason:** To protect the amenity of neighbouring properties.

101. **Waste storage/disposal – method.** All waste generated on the premises must be stored and disposed of in an environmentally acceptable manner.

**Reason:** To protect the amenity of the surrounding area.

102. **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.

**Reason:** To protect the amenity of the surrounding area.

103. **Waste storage/disposal – recycling.** Wastes for recycling should be stored in separate bins or containers and transported to a facility where the wastes will be recycled or re-used.

**Reason:** To ensure sufficient waste storage.

104. **Transfer of waste containers to emptying point** - Staff or contractors must be employed to take the waste containers from the garbage room or waste storage area to the container emptying point for servicing and to return the containers to the garbage room or waste storage area after servicing.

**Reason:** To ensure effective waste management.

105. **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.

**Reason:** To ensure effective waste management.

106. **Trade waste permit** - The applicant must contact Sydney Water Corporation to determine whether a Trade Waste Permit is required before discharging any trade wastewater to the sewerage system.

**Reason:** To ensure effective waste management.

107. **Maintenance of waste storage areas** - All waste storage areas must be maintained in a clean and tidy condition at all times.

108. **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 *Noise Policy for Industry (EPA, 2017)*.

- (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.

**Reason:** To protect the amenity of neighbouring properties.

## **ADVISORY NOTES**

### Health Inspection Services:

109. **Inspections and fees** - Council officers may carry out periodic inspections of the premises to ensure compliance with relevant environmental health standards and Council may charge an approved fee for this service in accordance with Section 608 of the *Local Government Act 1993*.

The approved fees are contained in Council's Management Plan and may be viewed or downloaded at [www.ryde.nsw.gov.au](http://www.ryde.nsw.gov.au).

**Reason:** Statutory requirement.

**CL 4.6 VARIATION OF DEVELOPMENT STANDARDS JUSTIFICATION**

**176 QUARRY ROAD, RYDE**

**DA FOR CONSTRUCTION OF A CHILD CARE CENTRE**



**Photomontage: Designcorp Architects**

**Report Prepared by: Giovanni Cirillo**

**Issue Date: 1 July 2020**

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## Contents

Summary	4
Introduction	5
The Request	5
The Site	5
Proposed Development	6
The Development Standards	8
Relevant Clause Extracts	10
Public Interest and Consistency with the Objectives of the Standard and Zone	12
R2 Zone Objectives	12
Clause 4.4 Objectives	12
Clause 4.6 3(a) Compliance Unreasonable or Unnecessary	13
Consistency with the Objectives of the Standard	14
No Significant Environmental Impacts	14
Community Burden	14
Clause 4.6 3(b) Environmental Planning Grounds	15
Specific Element of the Development that Contravenes the Standard	15
Environmental Planning Justification	15
Concurrence of the Secretary	16
Conclusion	17

## Summary

This Clause 4.6 variation request accompanies a development application for 176 Quarry Road, Ryde. Clause 4.4 of the Ryde Local Environmental Plan 2014 ('the LEP') limits development on the site to a maximum FSR limit of 0.5:1. The site's area is 1,234.54m<sup>2</sup> and has a maximum permissible GFA of 617.27m<sup>2</sup>.

A part of the proposed building, a space on Level 1 labelled as 'unencumbered outdoor play area' ('Level 1 outdoor area') has an area of 159.64m<sup>2</sup>. It has no roof and is partially enclosed by walls 1.8m in height. Planning Lab contends that this area does not meet the definition of Gross Floor Area (GFA) and should be excluded from the Floor Space Ratio calculations. Under this approach, the development has a total FSR of 0.457:1 which complies with the applicable maximum FSR limit and a Clause 4.6 variation request is not required.

Nonetheless, this clause 4.6 variation request has been prepared as if it is required because Ryde Council has indicated that they consider the Level 1 outdoor area to constitute GFA. Under this interpretation, the proposal has a total FSR of 0.587:1 and exceeds the maximum permitted GFA under Clause 4.4 by 107.34m<sup>2</sup> which is a variation of 17.4%.

The proposed development has a public benefit as it provides childcare services to meet the needs of the community in compliance with the objectives of the R2 Low Density Residential zone. If this variation is refused, the additional 107.34m<sup>2</sup> of GFA that would need to be removed from the proposal would reduce the potential available childcare spaces in the development from 95 to 79. This would reduce the availability of services to meet the day to day needs of residents and is not in the public interest.

The variation arises from the necessity for the outdoor area wall to be 1.8m (instead of 1.4m which would exclude the area from the GFA count) to achieve compliance with regulation 104 of the Child Care Planning Guideline and to achieve a better acoustic outcome.

Compliance is unreasonable and unnecessary in this instance as the objectives of the development standard (Clause 4.4) are achieved notwithstanding non-compliance with the standard. This is primarily because the additional wall height is located at the rear of the block and will not be readily visible from the public domain. Therefore, in comparison to a compliant scheme with a 1.4m wall height, the proposal does not present as having greater bulk.

The additional height of the fence has multiple environmental planning benefits including; improved child safety, improved acoustic amenity of the built environment and minimisation of privacy impacts upon neighbours.

The proposal has an inconsequential overshadowing impact on 174 Quarry Road but is otherwise without adverse environmental impacts. On balance, the impact of not approving the variation would be a reduction of approximately 16 child care places which is disproportionate to the negative environmental impact of the development which is a negligible overshadowing impact.

The Ryde Local Planning Panel may assume the concurrence of the Secretary of the Department of Planning and Environment to the variation due to Department of Planning Circular PS 18-003 'Variations to development standards' 21/02/2018.

This request has adequately addressed the matters required for consideration under Clause 4.6 of the Ryde LEP 2014.

# Introduction

## The Request

We consider that the proposed development complies with the maximum floor space ratio of 0.5:1 which applies to the site under clause 4.4 of the Ryde Local Environment Plan 2014 ('the LEP'). As shown in the GFA calculations in the drawings provided by designcorp, the Level 1 outdoor area has a GFA of 159.64m<sup>2</sup> and has been excluded from the FSR calculations as it is uncovered. This is discussed in greater detail under the heading 'The development standards'.

Ryde Council has indicated that they do not share this interpretation of GFA and so this variation request has been prepared on a contingent basis. If Council accepts the argument presented in the 'The Development Standards' section then this request is not required.

If the consent authority does not accept that GFA should be applied as argued above, then this Clause 4.6 variation request will be required in consideration of the floor space ratio contravention. This should not be considered to detract from Planning Lab's position that the proposal is compliant with the site's maximum FSR. In that event, the variation is worthy of approval as:

- The proposal is in the public interest as it meets the R2 zone objectives by providing a permissible land use providing child care services to meet the day to day needs of residents.
- Compliance is unreasonable and unnecessary as the proposal meets the first test in *Wehbe v Pittwater Council* [2007] NSWLEC 827 that the objectives of the standards are achieved despite the non-compliance with the standards.
- There are sufficient environmental planning grounds to justify the contravention as the proposed walls to the Level 1 outdoor play area will increase the safety of building occupants, reduce acoustic impacts on the built environment, minimise privacy impacts on surrounding dwellings and has only a negligible shadow impact.
- If the variation is not approved, the opportunity to provide 107.34m<sup>2</sup> of childcare services will be lost. This will result in the loss of approximately 16 childcare spaces which is against the public interest.
- The concurrence of the Secretary can be assumed by the Ryde Local Planning Panel.

## The Site

The subject site for the Development Application is 176 Quarry Road, Ryde which is described by NSW Land and Property Information as Lots 12 and 13 in DP 239671 comprising a site area of 1,234.54m<sup>2</sup>. The site is currently occupied by a large detached two storey residential dwelling built over the two allotments with a detached metal shed in the rear yard. The area immediately surrounding the site is characterised by single and double storey detached residential dwellings. A public pathway aligns the south east site boundary.

The site is located in an R2 zone and has a maximum FSR of 0.5:1.





Figure 1 - 176 Quarry Road

## Proposed Development

The proposal is for the development of a child care centre which is intended to have capacity for up to 95 children between the ages of 0-6 years. The design is a two-storey building with a single level of basement car parking. At ground level, the site includes covered and uncovered play areas. On the second storey, a 159.64m<sup>2</sup> outdoor play area is provided which is open to the sky. The Level 1 play area is surrounded by outer walls that are 1.8m in height in order to protect the children and to provide an acoustic barrier to prevent offensive noise escaping to surrounding properties.

Interpretation	Site area	Proposed GFA	Proposed FSR	Extent of non-compliance
Level 1 outdoor play area excluded from GFA	1,234.54m <sup>2</sup>	564.97m <sup>2</sup>	0.457:1	n/a - complies
Level 1 outdoor play area included in GFA	1,234.54m <sup>2</sup>	724.61m <sup>2</sup>	0.587:1	107.34m <sup>2</sup> / 0.087:1
Difference	-	159.64m <sup>2</sup>	0.13:1	-

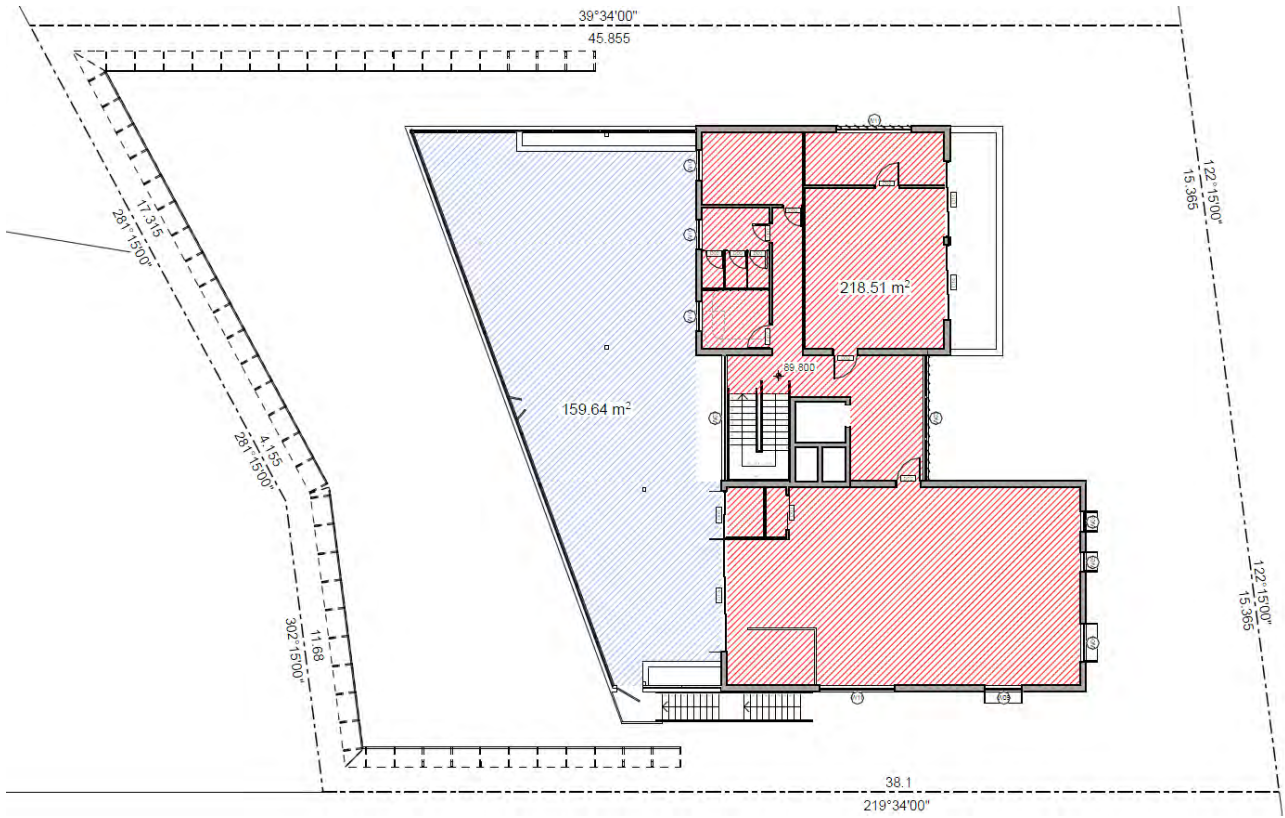


Figure 2 – The outdoor play area shown in blue

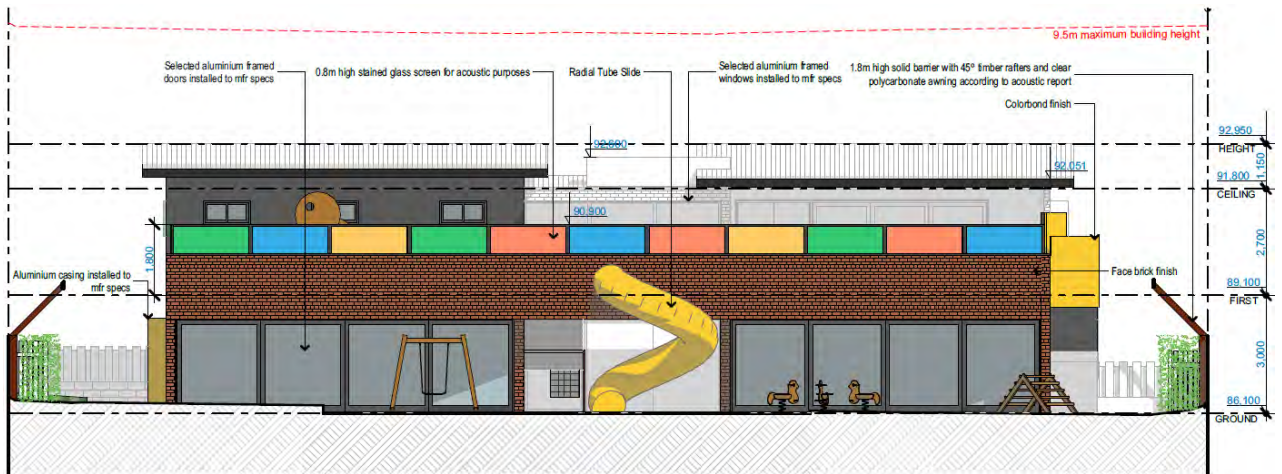


Figure 3 – The West Elevation showing the height of the wall

### Clause 4.4

Clause 4.4(2) of the Ryde LEP 2014 states that:

*(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

The LEP's 'Floor Space Map' shows the site as having a maximum floor space ratio of 0.5:1. Therefore, the site's maximum FSR is 0.5:1.

Clause 4.4 of the LEP should be read in conjunction with Clause 4.5(2) which states:

*(2) Definition of "floor space ratio" The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.*

The LEP definition of GFA is (underline added for emphasis):

**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,*  
*but excludes—*
- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement—*
  - (i) storage, and*
  - (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.*

The LEP definition of GFA excludes areas which are not part of a floor of a building. As shown in the definitions below, a floor of a building is synonymous with a storey and a storey must have either a floor or roof above it. As the Level 1 outdoor area has no roof, it does not constitute a storey of the building and is exempt from being counted as GFA.

The Merriam-Webster Online Dictionary defines a floor as being synonymous with a storey saying:

*“1: the level base of a room*

*2a: the lower inside surface of a hollow structure (such as a cave or bodily part)*

*2b: a ground surface // the ocean floor*

*3a: a structure dividing a building into stories*

*b: the occupants of such a floor”*

The Merriam-Webster Online Dictionary defines a storey as being:

*1a: the space in a building between two adjacent floor levels or between a floor and the roof*

*b: a set of rooms in such a space*

*c: a unit of measure equal to the height of the story of a building // one story high*

The proposal does not constitute a space between a floor and a roof and is therefore not a storey or a floor of the building. The area of the Level 1 outdoor playground is therefore not GFA for the purposes of calculation of the FSR under Clause 4.4 of the LEP.

#### **Contingent Clause 4.6**

Council has previously indicated that they do not accept the above argument and have requested a Clause 4.6. Accordingly, this Clause 4.6 request is provided in support of the proposed development on a contingent basis to apply if the Council does not accept the interpretation above. The remainder of this request is prepared on the assumption that Council maintains its position and considers the Level 1 outdoor play area as GFA. Planning Lab does not accept this position but even if the Council is correct in their interpretation, development consent should still be granted based on this Clause 4.6 Request.

#### **The variation to the FSR development Standards**

The site's area is 1,234.54m<sup>2</sup>. The maximum FSR applied to the site is 0.5:1. The maximum permitted GFA for development on the site under Clause 4.4 is 617.27m<sup>2</sup>.

The proposed development has a GFA of 724.61m<sup>2</sup> which equals an FSR of 0.587:1. This represents a variation of 107.34m<sup>2</sup> and 0.087:1 which is equal to a variance of 17.4%.

#### **Clause 4.6**

Development consent may still be granted to the proposal despite the non-compliance with Clause 4.4 if a variation is approved under Clause 4.6 of the LEP. This document is a written request from the applicant which addresses the relevant considerations of Clause 4.6. The FSR control under Clause 4.4 is not excluded from the operation of the Clause.

## Relevant Clause Extracts

The relevant clauses of the Ryde LEP 2014 are Clause 4.4 - Floor Space Ratio and Clause 4.6 - Exceptions to Development Standards. They are reproduced in full below.

### 4.4 Floor space ratio

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

- (a) to provide effective control over the bulk of future development,*
- (b) to allow appropriate levels of development for specific areas,*
- (c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

*(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

### 4.6 Exceptions to development standards

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless—*

- (a) the consent authority is satisfied that—*
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) 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, and*

*(b) the concurrence of the Secretary has been obtained.*

*(5) In deciding whether to grant concurrence, the Secretary must consider—*

*(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

*(b) the public benefit of maintaining the development standard, and*

*(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

*(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—*

*(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

*(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

**Note.** *When this Plan was made it did not include all of these zones.*

*(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*

*(8) This clause does not allow development consent to be granted for development that would contravene any of the following—*

*(a) a development standard for complying development,*

*(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*

*(c) clause 5.4,*

*(ca) clause 4.3, to the extent that it applies to the land identified as "Town Core" on the Ryde Town Centre Precincts Map,*

*(cb) clause 4.1A, to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached),*

*(cc) clause 6.9.*

## Public Interest and Consistency with the Objectives of the Standard and Zone

A proposed development is in the public interest where it is consistent with the relevant objectives of the applicable standards and the land use zone in which it is located (*Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*).

The proposal is consistent with the relevant R2 zone and Clause 4.4 objectives as discussed below.

### R2 Zone Objectives

The site is located within an R2 low density residential zone in which 'Centre-based child care facilities' are permitted with consent. The objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a variety of housing types.*

Dot point 2 relates to the proposal for the development of a childcare centre. The proposed development would have childcare places for up to 95 children between of various pre-school ages. This is self-evidently a facility and service that will assist in meeting the day to day needs of those nearby residents with young children. The proposal is in the public interest as it provides a vital service for residents.

Dot points one and three do not apply to the proposed development as they relate to housing and the proposal is for a permitted use other than housing.

### Clause 4.4 Objectives

The objectives relating to FSR are set out in Clause 4.4(1) of the LEP. They are:

- (1) *The objectives of this clause are as follows—*
- (a) *to provide effective control over the bulk of future development,*
  - (b) *to allow appropriate levels of development for specific areas,*
  - (c) *in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

#### **(a) to provide effective control over the bulk of future development,**

The additional FSR of the development is located at the Level 1 outdoor play area which is at the rear of the block and will not be apparent from the street. This play area provides outer walls greater than 1.4m for the safety of children (in compliance with regulation 104 of the Childcare Planning Guideline) and to minimise the acoustic impacts on neighbouring development. The necessity for 1.8m high outer walls is specific to the proposed use as a childcare centre and has positive safety impacts for building occupants (children) and positive acoustic impacts for neighbouring buildings by minimising sound impacts. Were it

not for these benefits, an outer wall of 1.4m could be provided and the area would be excluded from consideration as GFA which would render the development compliant with the FSR standard. Similarly a slatted balustrade could be provided but for the above considerations which would also be excluded from calculation in GFA.

The additional wall height of 0.4m (which causes the non-compliance) is located at the rear of the development and will not be readily observable from the public domain. If the wall were lowered, or the outdoor terrace were removed entirely from the proposal, the apparent bulk of the building from the public domain would not be reduced. The proposal does not, therefore, diminish the ability of the FSR control to control the bulk of future development as the proposed design is comparable in scale to a compliant building.

**(b) to allow appropriate levels of development for specific areas,**

The surrounding area is characterised by a mix of one and two storey residential dwellings with large front setbacks and side setbacks of approximately 1m-2m. The proposed development is consistent with this pattern of development. The additional building bulk that the development proposes is located at the rear of the building and will not generally be seen from the public domain and especially from Quarry Road. The development is consistent with the pattern and scale of surrounding development and is appropriate to the area.

As discussed above, a reduction in the height of the fence or the use of a slatted balustrade around the Level 1 outdoor play area would exclude the area from consideration as GFA rendering the FSR numerically compliant but this would not reduce the building's apparent bulk from the public domain. The proposed design represents an appropriate built form and level of development for the area.

**(c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.**

The site is not on land identified as a Centre on the Centres Map and this objective does not apply.

## Clause 4.6 3(a) Compliance Unreasonable or Unnecessary

The most common five methods for demonstrating that compliance is unreasonable or unnecessary are set out in *Wehbe v Pittwater Council [2007] NSWLEC 827*. These five methods were re-affirmed in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*. It should be noted that while multiple methods may apply in some instances, any one of the methods is sufficient on its own to satisfy the requirement to demonstrate that compliance is unreasonable or unnecessary. The methods are:

1. the objectives of the development standard are achieved notwithstanding non-compliance with the standard
2. the underlying objective or purpose of the standard is not relevant to the development
3. the underlying objective or purpose would be defeated or thwarted if compliance was required



4. the standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and/or
5. the zoning of land was unreasonable or inappropriate, such that the standards for that zoning are also unreasonable or unnecessary.

This request addresses the first listed method and demonstrates that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

In addition, to the first test of Wehbe, this request also seeks to demonstrate that the 'unreasonable and unnecessary' requirement is met because the burden that would be placed on the community by not permitting the variation (and allowing for additional provision of childcare places) would be disproportionate to the (inconsequential) adverse consequences attributable to the proposed non-compliant development.

### Consistency with the Objectives of the Standard

This has been demonstrated under the 'Clause 4.4 objectives' heading in this variation request.

### No Significant Environmental Impacts

The additional 0.4m of wall height on the Level 1 outdoor area does not result in any consequential negative environmental impacts. On balance, the increased wall height improves environmental amenity.

The wall will not be readily seen from the public domain and will have no impact on the building's perceived bulk and scale. There is no view loss resulting from the wall.

The walls will have a negligible additional overshadowing effect on 174 Quarry Road from approximately 2pm. This will affect a very small portion of the rear private open space of 174 Quarry Road, the great majority of which will be unaffected.

The proposed wall height of 1.8m lessens any potential privacy issues in comparison to a 1.4m wall. This is because the 1.8m tall wall will not readily permit views into the rear private open spaces of neighbouring dwellings. The higher fence has been designed in accordance with the recommendations of the project Acoustic Consultant, Rodney Stevens Acoustics, who have recommended that the wall be a minimum of 1.6m to ensure the protection of the acoustic amenity of the neighbouring dwellings. The wall height will lessen the acoustic impact of the childcare centre and protect environmental amenity of the neighbourhood.

### Community Burden

The proposal will provide child care places for up to 95 children in support of the objectives of the R2 zone as discussed above. If the variation is not permitted, the building will be required to reduce its GFA by 107.34m<sup>2</sup> which is equal to 17.4%. A corresponding decrease in childcare places would be a reduction of 16 child care places down to 79. A reduction in the provision of childcare spaces is an undesirable outcome for the landowner, future operator and the community.

As identified above, the additional wall height above 1.4m does not result in any significant adverse environmental impacts. As such, the impact of not approving the variation (a reduction of approximately

16 child care places) is disproportionate to the impact of the development (negligible overshadowing impact).

## Clause 4.6 3(b) Environmental Planning Grounds

There are sufficient environmental grounds to justify this variation to Clause 4.4. In stating this we have considered the following (*Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*):

- the specific element of the development that contravenes the development standard (rather than the development as a whole); and,
- the environmental planning grounds on which it is justified.

### Specific Element of the Development that Contravenes the Standard

The proposal exceeds the maximum permitted GFA under Clause 4.4 by 107.34m<sup>2</sup>. This results from the inclusion of the Level 1 outdoor play area (159.64m<sup>2</sup>) in the GFA calculation because the walls exceed 1.4m. Were the walls 1.4m or less in height, there would not be any contravention of Clause 4.4. The walls are required to reach 1.8m in height for the protection of children and required to be at least 1.6m as an acoustic barrier. Therefore, the specific element of the building which causes the contraventions is the section of wall to the Level 1 play area where it exceeds a height of 1.4m.

### Environmental Planning Justification

There is an absence of any environmental harm arising from the wall height of the Level 1 play area as discussed above. There are environmental planning benefits resulting from the wall height of 1.8m which relate to objectives 1.3(b), 1.3(g) and 1.3(h) of the *Environmental Planning and Assessment Act 1979* (*Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 [23]*).

#### **1.3(h)**

The additional wall height increases the safety of occupants which includes both staff and children. If a 1.4m high wall were provided, the risk of a child falling would be higher than with a 1.8m wall. Child safety is increased by the height of the wall making it extremely unlikely that a child could climb over the wall and thereby preventing them from falling. The safety of staff is increased as they will in turn be unlikely to be required to prevent a child from falling which could put them at risk of a workplace injury.

#### **1.3(g)**

The 1.8m wall height provides a suitable acoustic barrier which will minimise the environmental impact of noise generated by the development having a positive impact on the amenity of the built environment. Surrounding development consists of detached suburban style housing which are a particularly noise sensitive type of development. A 1.4m wall would necessarily provide a smaller sound barrier and have a

diminished ability to contain noise. This has been demonstrated in the Acoustic Impact Statement by Rodney Stevens Acoustics.

A 1.8m wall height has the additional benefit of protecting the privacy of neighbouring residential buildings. If a 1.4m high wall were provided, adult occupants would be able to see into the rear private open space of 180 Quarry Road, 174 Quarry Road 5 Readford Place and 6 Readford Place from certain parts of the development. A wall height of 1.8m will prevent this from occurring and protects the privacy of the surrounding detached suburban houses.

### **1.3(b)**

In addition to the specific environmental planning benefits arising from a 1.8m wall instead of a 1.4m wall, there is a direct benefit of permitting the variation as it will allow for the provision of more childcare places than would otherwise be permitted which will promote the social and economic welfare of the community. Regulation 104 of the Childcare Planning Guidelines (which must be considered by the consent authority under Clause 23 of *State Environmental Planning Policy (Educational Establishments and Childcare Facilities 2017)*) requires that:

*Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.*

Regulation 104 goes on to provide guidance that fences should be solid to provide no climbing points and should have a minimum height of 1.8m. If the variation is not approved, the development would be required to remove 107.34m<sup>2</sup> of GFA from the design. This cannot be achieved by simply removing the Level 1 outdoor play area due to the outdoor play area requirements under Regulation 108 which requires that 7m<sup>2</sup> of outdoor space per child (the proposal provides 7.01m<sup>2</sup> per child). If this Clause 4.6 is not approved, the opportunity to provide 95 childcare places would be reduced by 16 to approximately 79 child care spaces.

A reduction of child care spaces within a residential area is undesirable as they form a vital service for parents in the neighbourhood.

## **Concurrence of the Secretary**

The consent authority, being the Ryde Local Planning Panel, may assume the concurrence of the Secretary of the Department of Planning and Environment to the variation. This is because of Department of Planning Circular PS 18–003 ‘Variations to development standards’, 21/02/2018, which is a notice under 64(1) of the Environmental Planning and Assessment Regulation 2000.

The Circular allows independent hearing and assessment panels who exercise consent authority functions on behalf of councils, but are not legally delegates of the council to assume the Secretary’s concurrence even where the development contravenes a numerical standard by greater than 10%.

The Secretary can be assumed to have given concurrence to the variation, provided that the determination is not made by a delegate of the Council.

## Conclusion

This written request for variation to the FSR development standards has been prepared on a contingent basis and is to be relied upon by the consent authority if it does not accept the applicant's position that the Level 1 outdoor play area does not constitute GFA.

The proposed variation to the FSR development standard is appropriate in the case of this development because:

- The proposal is consistent with the objectives of the R2 zone and the Clause 4.4
- compliance with the development standards are unreasonable or unnecessary in the circumstances of the case;
- there are sufficient environmental planning grounds to justify contravening the development standards;
- the concurrence of the Secretary can be assumed.

This request has adequately addressed the matters required for consideration under Clause 4.6 of the Ryde LEP 2014.

- 3 142 -148 Cox's Road, North Ryde - Alterations and additions to the existing building to accommodate 135 place child care centre on the first floor. The hours of operation are between 6:30am and 7:00pm Monday to Friday. The development also involves a change of use of tenancy 5 and 7 on the ground floor to office, increasing in parking from 56 to 58 spaces, 2 business identification signs and strata subdivision - LDA2019/0189**

**Report prepared by:** Creative Planning Solutions

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

**File Number:** GRP/09/6/12/1/2 - BP20/907

### City of Ryde Local Planning Panel Report

<b>DA Number</b>	LDA2019/0189
<b>Site Address &amp; Ward</b>	142 -148 Cox's Road, North Ryde Lot 41 in Deposited Plan 560408 Lot 3 in Deposited Plan 220894 West Ward
<b>Zoning</b>	B1 Neighbourhood Centre
<b>Proposal</b>	Alterations and additions to the existing building to accommodate 135 place child care centre on the first floor. The hours of operation are between 6:30am and 7:00pm Monday to Friday. The development also involves a change of use of tenancy 5 and 7 on the ground floor to office, increasing in parking from 56 to 58 spaces, 2 business identification signs and strata subdivision.
<b>Property Owners</b>	Alramon Pty Ltd
<b>Applicant</b>	EVMR Pty Ltd/As Five Canons
<b>Report Author</b>	Ben Tesoriero Consultant Planner
<b>Lodgement Date</b>	2 June 2019
<b>Notification - No. of Submissions</b>	Seventeen (17) submissions received, all objecting to the proposed development.

**ITEM 0 (continued)**

<b>Cost of Works</b>	\$1,689,220.54
<b>Reason for Referral to LPP</b>	<p><b>Contentious development</b> – (b) in any other case – is the subject of 10 or more unique submissions by way of objection.  <i>Schedule 1, Part 2 of Local Planning Panels Direction</i></p> <p><i>and</i></p> <p><b>Departure from development standards</b> – contravention of the floor space ratio development standard by more than 10% - <i>Schedule 1, Part 3 of Local Planning Panels Direction</i></p>
<b>Recommendation</b>	Refusal
<b>Attachments</b>	<p>Attachment 1 – SEPP (Educational Establishments and Child Care Facilities) 2017, Clause 23 – Matters for consideration - (Provisions of the Child Care Planning Guideline)</p> <p>Attachment 2 – LEP and DCP Compliance Table</p> <p>Attachment 3 – SEPP 64 – Advertising and Signage compliance table</p> <p>Attachment 4 - Clause 4.6 Written Variation Request</p> <p>Attachment 5 – Plans submitted with the LDA</p>

**1. Executive Summary**

The subject development application (DA No. LDA2019/0189) was lodged on 12 June 2019 and seeks consent for alterations and additions to the existing building to accommodate a 135 place child care centre on the first floor. The proposed hours of operation are between 6:30am and 7:00pm Monday to Friday. The development also involves a change of use of Tenancy 5 and Tenancy 7 on the ground floor to use as office premises, increase to the number of parking spaces from 56 to 58, 2 business identification signs and strata subdivision.

In accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 – Directions by the Minister, this application is reported to the Ryde Local Planning Panel for determination as it proposes a departure from a development standard in excess of 10%, and is contentious development, having received greater than ten (10) submissions.

**ITEM 0 (continued)**

The application was advertised in accordance with the provisions of the *Ryde Development Control Plan 2014* (RDCP2014), and seventeen (17) submissions were received, all of which objected to the proposed development.

On 28 August 2019, a request for information (RFI) was issued to the applicant requesting the issues identified in Council's preliminary assessment to be addressed. On 4 October 2019, the applicant submitted amended plans and documentation. The amended plans and documentation addressed some of the issues raised in Council's RFI, however, other matters remained outstanding, with the application seeking a non-compliance floor space ratio development standard.

The applicant submitted a Clause 4.6 written objection to the FSR non compliance on 13 January 2020. The proposal results in a technical non compliance with the development standard on the basis of the inclusion of outdoor play spaces which have wall heights in excess of 1.4 metres. The applicant contends that the area is partially unroofed and where there is no roof should be excluded from the calculation. Council does not agree with this.

It is Council's position that the proposal seeks a 36.2% variation to the FSR development standard. The proposed variation is not considered to be reasonable and insufficient environmental planning grounds have been provided to justify the variance. The variance sought is on the basis of an intensification of use, the number of children proposed and reliance upon an adjoining property in which owner's consent has been provided to facilitate the development. This forms part of the recommendation for refusal.

On 26 March 2020 Council wrote to the applicant and advised owner's consent was required to be provided, concerns with the submitted traffic and parking assessment and issues relating to the landscape design were also raised. Further information was submitted on 15 May 2020 including amended architectural plans, amended landscape plans and a supplementary traffic and parking assessment. On 19 May 2020 the applicant submitted a legal opinion regarding the issue of owner's consent. The issues relating to landscape design and the proposed car parking shortfall were resolved.

Council requested further clarification on traffic matters on 16 June 2020 and the applicant provided a further amended supplementary traffic and parking assessment on 8 July 2020. The concerns relating to owner's consent and traffic impact remain unresolved and form part of the recommendation for refusal.

The proposal is not considered to be consistent with the requirements of the *Childcare Planning Guideline*, as well as with key development controls contained within the *Ryde Development Control Plan 2014*. The proposal significantly intensifies the use of the site, has not demonstrated there is not a resultant adverse

### ITEM 0 (continued)

impact on the surrounding road network, and the proposal relies upon the use of the adjoining allotment and owners consent has not been provided.

Having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act*, it is recommended Development Application No. LDA2019/0189 be refused.

## 2. The Site and Locality

The site contains two adjoining allotments, with the north-western allotment being a larger regularly shaped allotment legally described as Lot 41 in Deposited Plan 560408 and known as 144-148 Cox's Road. The south-eastern allotment is legally described as Lot 3 in Deposited Plan 220894 and has an address of 142 Cox's Road, North Ryde. This allotment is L-shaped, as it sits partially behind the adjoining allotment at 140 Cox's Road. Collectively, the subject site has a total site area of 2729.5m<sup>2</sup> (survey plan, based off title) (**Figure 1 - 3**).



Figure 1 – Map location of the subject site (identified by the red border) and surrounding area.

Source: <https://maps.six.nsw.gov.au>



**ITEM 0 (continued)**



**Figure 2** – An aerial photo of the subject site (identified by the red border) and surrounding area.  
Source: <https://maps.six.nsw.gov.au>



**Figure 3** – A closer aerial photo of the subject site (identified by the red border) and surrounding land.  
Source: <https://maps.six.nsw.gov.au>

**ITEM 0 (continued)**

Existing development on the subject site consists of a two-storey commercial building which contains eleven (11) commercial tenancies on the ground floor (**Figure 4**). The first floor of the development is currently vacant, with the building at 144-148 Cox's Road containing a full width balcony facing towards the street (**Figure 5**).

The rear of the site contains a car park which includes parking associated with the existing complex (**Figure 6**). The car park is accessed via a one-way entry/exit driveway arrangement, requiring vehicles to access the site via a driveway and crossover from the south-eastern end of the Cox's Road frontage, and to exit the site via the adjacent Council car park at 150 Cox's Road. The allotment which comprises the Council car park is not burdened by a right of carriageway or similar, meaning that there is no legal mechanism which enables vehicles to exit the subject site via the Council car park.

The subject site is located on the south-western side of Cox's Road, within the North Ryde Neighbourhood Centre. Development within the surrounding area primarily consists of commercial, retail and business tenancies, as well as a range of community uses. Notably, the subject site abuts land within the RE2 Private Recreation zone to the immediate south-west as well as sitting adjacent and opposite land within the SP2 Infrastructure zone. The subject site is located along a bus route, with the nearest stop being located a short distance (less than 10 metres, in front of 140 Cox's Road) from the site frontage (Bus Stop ID:211368).

Adjoining and surrounding development consists of the following:

- 140 Cox's Road: This site adjoins the south-eastern side boundary of the subject site, with part of the subject site wrapping around its rear boundary. Development on this site consists of liquor store (Cellarbrations) within a two-storey commercial building with an external timber cladding finish (**Figure 7**).
- 150 Cox's Road: This site adjoins the north-eastern side boundary of the subject site. The site is zoned SP2 Infrastructure in accordance with RLEP2014 and contains the Council car park described earlier (**Figure 8**).
- 191-195 Cox's Road: This site is located directly opposite the subject site to the north-east, across Cox's Road. The site contains Holy Spirit Catholic Primary School North and is zoned SP2 Infrastructure (**Figure 9**).
- 199 Cox's Road: This site adjoins the primary school to the north-west and is zoned B1 Neighbourhood Centre. The site comprises of a single storey brick commercial building with two tenancies. The tenancies are occupied by a bank and medical centre (**Figure 10**).
- 137 - 207 Twin Road: This site is zoned RE2 Private Recreation, comprises of the North Ryde Golf Club, and is located immediately to the south-west of the subject site (**Figure 11**). Vehicular access to this site is from the primary frontage along Twin Road, approximately 600 metres south-west of the subject site.

**ITEM 0 (continued)**



**Figure 4** – The subject site, as viewed from the north-eastern side (i.e. opposite side) of Cox's Road.  
Source: CPS – Site Inspection, 27 June 2019



**Figure 5** –The subject site viewed from the existing first floor balcony at the rear. Note: The first floor is currently vacant.  
Source: CPS – Site Inspection, 27 June 2019.

**ITEM 0 (continued)**



**Figure 6** – Car park located at the rear of the subject site.  
Source: CPS – Site Inspection, 27 June 2019



**Figure 7** –140 Cox's Road – two storey commercial building containing liquor store immediately adjoining the subject site to the south-east.

**ITEM 0 (continued)**

Source: CPS – Site Inspection, 27 June 2019.



**Figure 8** –150 Cox's Road – Adjoining Council car park immediately adjoining the subject site to the north-west.

Source: Google – November 2017



**Figure 9** – 191 – 195 Cox's Road directly opposite the subject site and including Holy Spirit Catholic Primary School North.

Source: Google – November 2017

**ITEM 0 (continued)**



**Figure 10** – 199 Cox's Road, as viewed from Cox's Road.  
Source: Google – November 2017

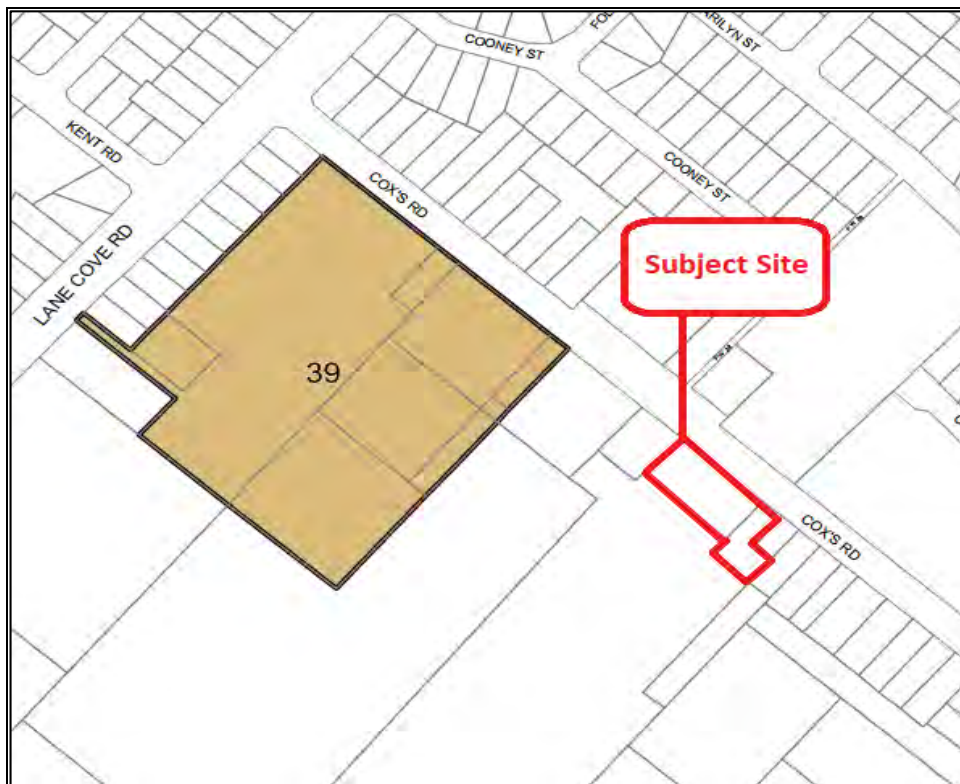


**Figure 11** – 137 -207 Twin Road as identified by the red boarder – North Ryde Golf Club, located immediately to the south-west of the subject site, zoned RE2 Private Recreation.  
Source: <https://maps.six.nsw.gov.au>

### ITEM 0 (continued)

The subject site is not affected by any significant environmental hazards or affectations. The subject site does not contain a heritage item nor is it within a heritage conservation area; it is however in close proximity to an item of local heritage significance, which is identified by Schedule 5 of *Ryde Local Environmental Plan 2014* (RLEP2014) as follows:

- North Ryde Public School (Buildings B00J, B00M and B00N) (house) (Item No. 39), at 154 Cox's Road, North Ryde; located within 100m of the subject site to the west (**Figure 12**).



**Figure 12** – The subject site is located within 100m of Heritage Item No.39 (North Ryde Public School) which is of local heritage significance.

Source: <https://www.legislation.nsw.gov.au/maps>

### 3. The Proposal

The proposal seeks consent for alterations and additions to the existing building to accommodate 135 place childcare centre on the first floor. The hours of operation are between 6:30am and 7:00pm Monday to Friday.

The development also involves a change of use of Tenancy 5 and Tenancy 7 on the ground floor to use as office premises, increase to the number of parking spaces from 56 to 58, 2 business identification signs and associated strata subdivision.

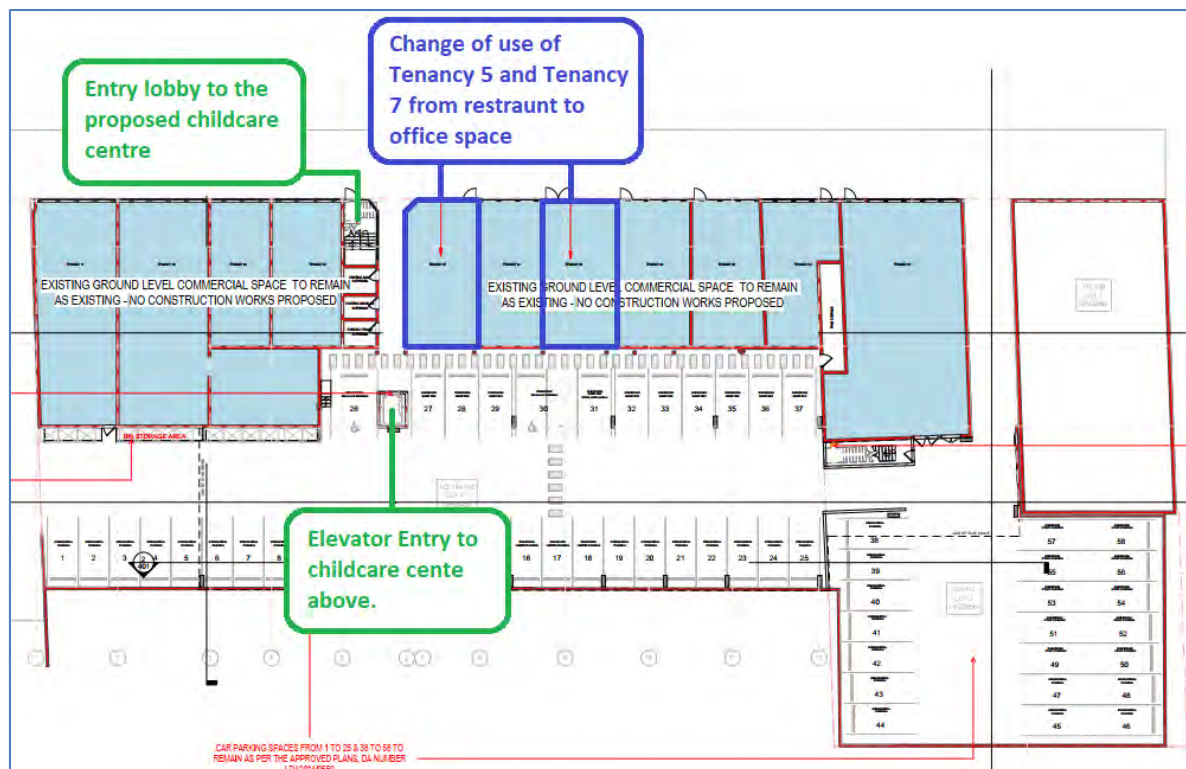
## ITEM 0 (continued)

Details and specifics of the proposal are as follows:

### Ground floor:

The ground floor of the existing building includes 11 commercial and retail tenancies. Tenancy 5 and Tenancy 7 will include a change of use from restaurants to office spaces (no change of use is proposed to Tenancy 6, which sits between these two tenancies). (**Figure 13**).

Entry to the proposed childcare centre will be facilitated via the existing access lobby located between Tenancy 7 and Tenancy 8 on the ground floor. The access lobby includes stairs which lead up to the proposed childcare centre on the first floor. Additionally, the lobby provides access to the elevator located adjacent to the car park at the front portion of the car park.



**Figure 13** – Proposed Ground Floor Plan indicating the location of the main entry point to the childcare centre, and the change of use of Tenancy 5 and Tenancy 7.

Source: Applicant's submitted Ground Floor Plan/Five Canons Architecture, Revision M.

### First floor:

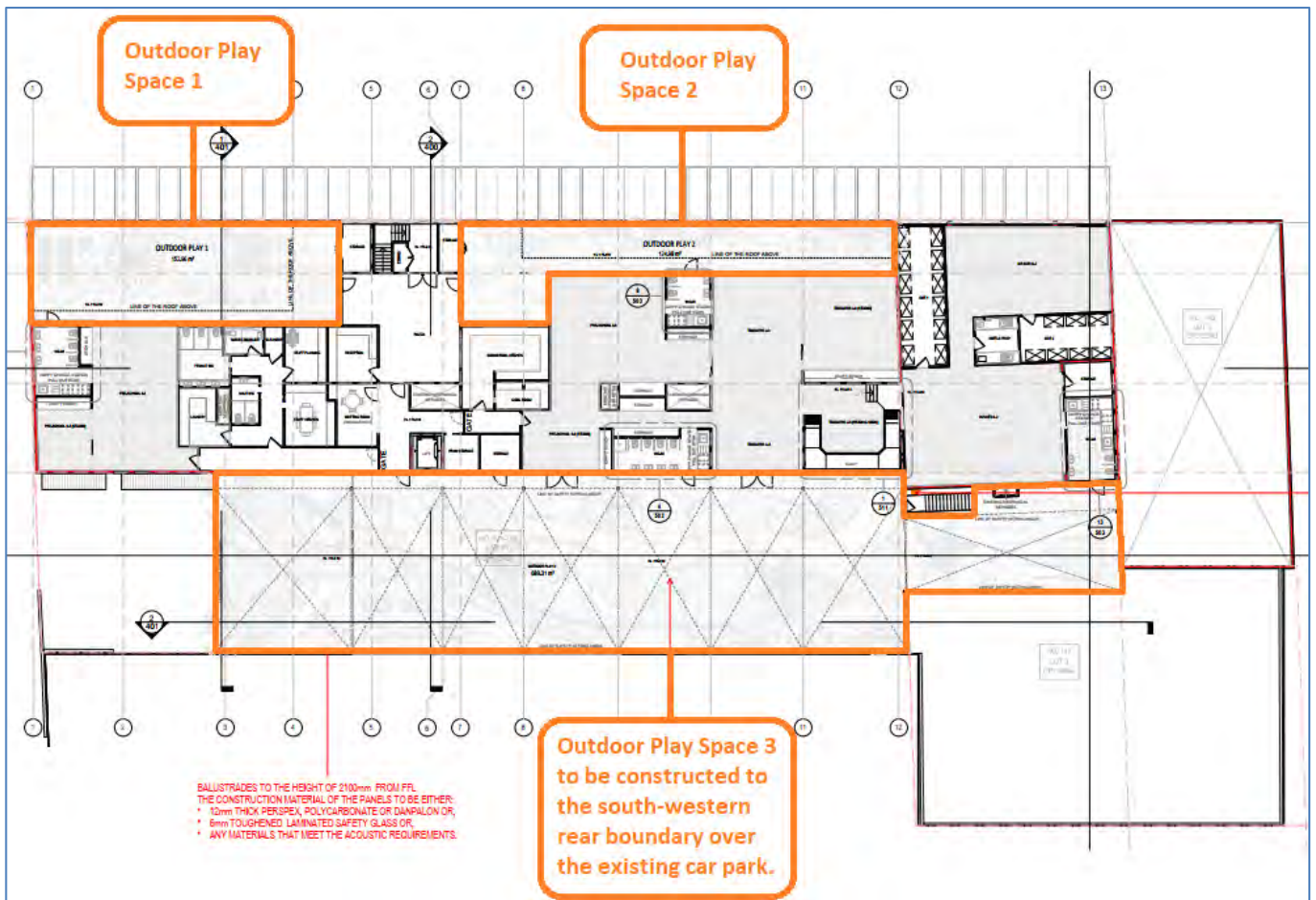
The childcare centre is to include a plaza area, 3 outdoor play places (**Figure 14**), 4 indoor play spaces, 4 children's bathroom facilities with nappy change stations and pull out stairs.



### ITEM 0 (continued)

The proposed outdoor play spaces are each proposed with surrounding 2.1 metre acoustic walls. This requires that the existing front balconies be occupied by two of the play spaces, with a rear extension required to accommodate the third and largest play space. The layout of the play spaces across the first floor are shown within **Figure 14** and detailed sections of the acoustic walls are shown within **Figure 15**. Outdoor play spaces that are bound by walls of at least 1.4 metres in height contribute to the calculation of gross floor area, and this information was provided to the applicant in the Council RFI.

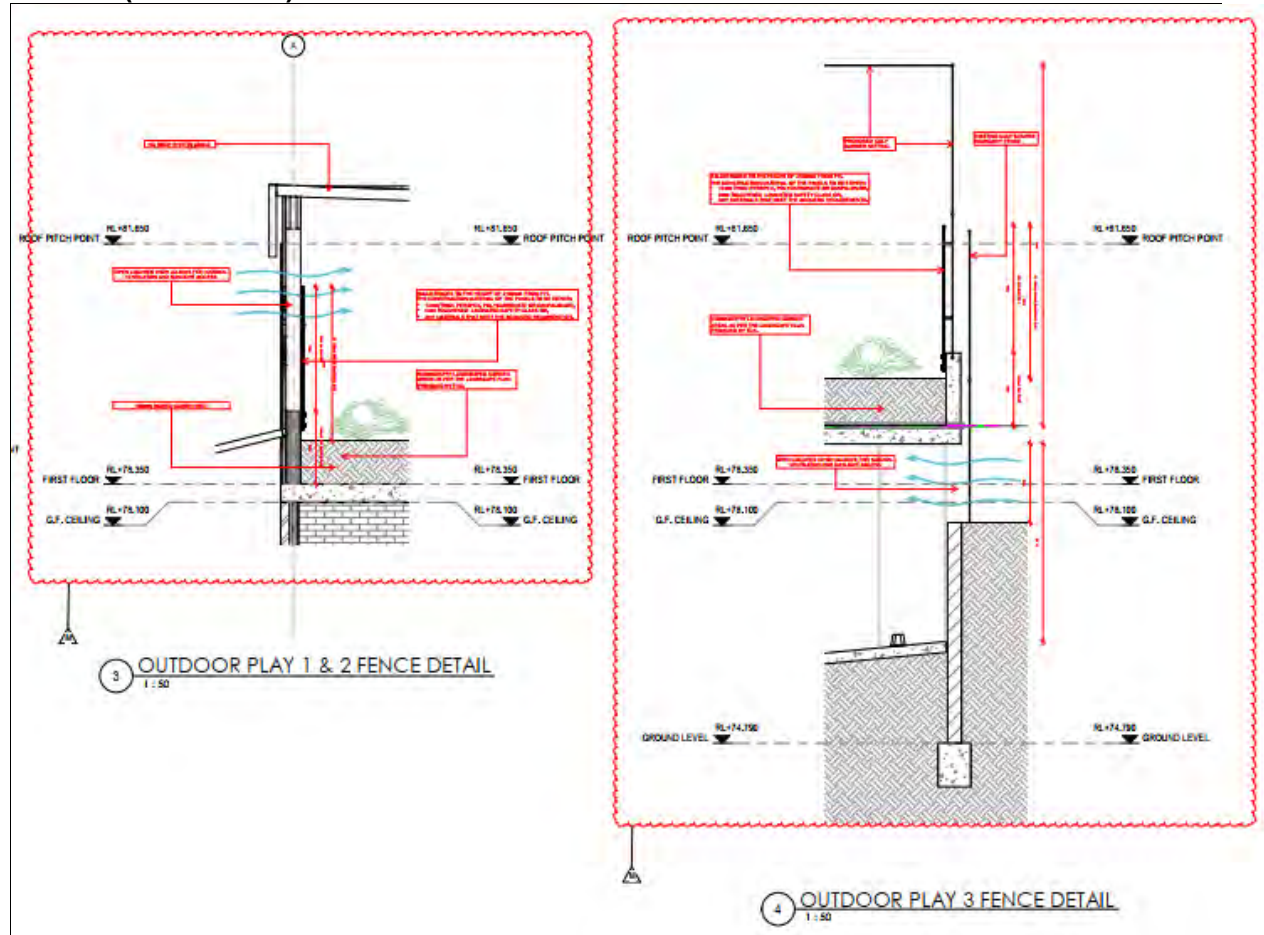
Facilities for staff have also been provided which include staff male and female bathroom facilities, a unisex bathroom, cleaners room, reception room, staff room, staff planning room, meeting room and laundry. The centre is also proposed to include 5 internal storage areas and 3 external storage areas.



**Figure 14** – Proposed First Floor Plan indicating the location of the outdoor play spaces within the proposed childcare centre.

Source: Applicant's submitted First Floor Plan/Five Canons Architecture, Revision M.

**ITEM 0 (continued)**

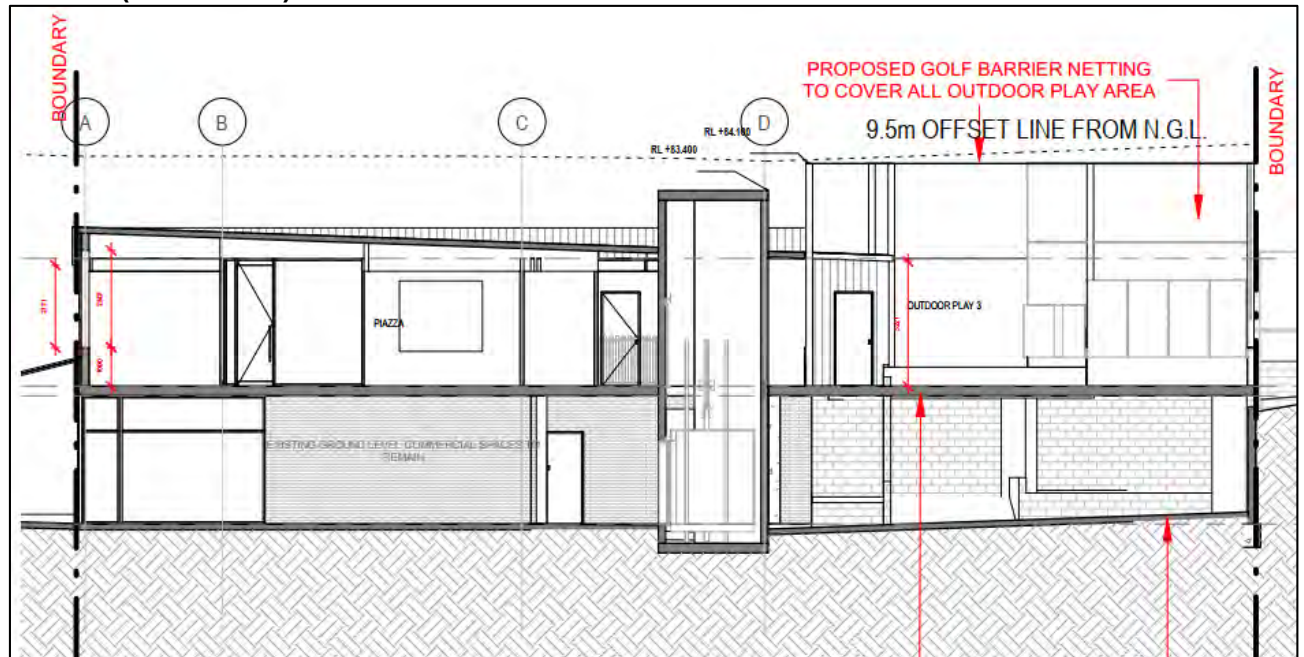


**Figure 15 – Proposed Detailed Section indicating the design of the front acoustic walls (left) and the rear acoustic walls.**  
Source: Applicant's submitted Outdoor Play Fence Details /Five Canons Architecture, Revision M.

External

The proposal seeks to incorporate various minor design changes to the building, predominantly being those already described above. The proposal seeks to increase the maximum height of the building through the provision of safety netting and supporting structures, designed to protect occupants from stray golf balls from the adjacent course, as shown within the image below.

**ITEM 0 (continued)**



**Figure 16** – Proposed Cross Section indicating the height of the golf ball barrier netting.

Source: Applicant’s submitted Section Plan/Five Canons Architecture, Revision M

The proposal seeks various other alterations to the roof, including the removal of various portions above the outdoor play spaces, so as to create outdoor play space with direct solar access.

The proposal also seeks to continue to rely upon the existing one-way entry/exit driveway arrangement which requires vehicles to exit the site via the Council Car Park, despite there being no known legal mechanism in place to permit this arrangement.

**4. Background**

12 June 2019	The development application (DA) was lodged.
Advertising placed 26 June 2019. Notification -21 June 2019 to 10 July 2019.	The DA was notified to owners of surrounding properties and advertised in the <i>Northern District Times</i> . In response to this notification of the DA, seventeen (17) submissions objecting to the development were received. The objectors raised the following concerns with the proposal: <ul style="list-style-type: none"> <li>- Car Parking, including in relation to adequacy of parking provision, vehicular and pedestrian safety, and car park design.</li> <li>- Traffic impacts, including in relation to the methodology of the traffic study.</li> </ul>

**ITEM 0 (continued)**

	<ul style="list-style-type: none"> <li>- Concerns regarding emergency and evacuation procedures for ensuring the safety of the children.</li> <li>- Insufficient solar access afforded to the rear outdoor play space.</li> <li>- Health and safety concerns regarding the current vacant area of the first floor.</li> <li>- Request for Cox's Road Master Plan be included in the draft LEP.</li> </ul>
<p>28 August 2019</p>	<p>Following a preliminary assessment, a request for further information was forwarded to the applicant raising the following issues:</p> <p><b><i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 – Childcare Planning Guideline.</i></b></p> <p><u><i>Noise and Air Pollution</i></u></p> <ul style="list-style-type: none"> <li>• Portions of the perimeter of the outdoor play spaces included operable louvres and not the 1.4m high acoustic wall as recommended by the submitted Acoustic Report.</li> <li>• The applicant was requested to submit amended plans with the recommended acoustic wall to be appropriately incorporated into the design.</li> </ul> <p><u><i>Traffic, parking and pedestrian circulation</i></u></p> <ul style="list-style-type: none"> <li>• Wheelchair and pram accessible parking had not been provided within the proposed development.</li> </ul> <p><u><i>Toilet and hygiene facilities</i></u></p> <ul style="list-style-type: none"> <li>• The submitted plans did not provide windows into bathrooms and cubicles to allow supervision by staff in accordance with Section 4.3, Regulation 109 of the Education and Care Services National Regulations.</li> <li>• The applicant was requested to provide details of windows to toilets facilities in order to demonstrate compliance.</li> </ul> <p><u><i>Premises designed to facilitate supervision</i></u></p> <ul style="list-style-type: none"> <li>• Solid walls had not been provided between cubicles.</li> <li>• The applicant was requested to provide solid walls between each cubicle within the children's toilets to achieve</li> </ul>

**ITEM 0 (continued)**

	<p>compliance with Regulation 115.</p> <p><u>Emergency and evacuation procedures</u></p> <ul style="list-style-type: none"><li>• A Risk Assessment to identify potential emergencies that are relevant to the service had not been submitted.</li><li>• The applicant was requested to provide a detailed risk assessment.</li></ul> <p><u>Fencing</u></p> <ul style="list-style-type: none"><li>• Insufficient information regarding the fencing arrangements to the south-western outdoor play space.</li><li>• Insufficient information was provided on the submitted plans in relation to childproof gates and details pertaining to locking systems.</li></ul> <p><b>Ryde Local Environmental Plan 2014</b></p> <p><u>Floor Space Ratio</u></p> <ul style="list-style-type: none"><li>• The proposal exhibited a gross floor area of 2269.66m<sup>2</sup>, which equated to an FSR of 0.83:1, and thus failed to achieve compliance with the floor space ratio development standard prescribed for the subject site.</li><li>• The GFA calculations provided inappropriately excluded the GFA attributed to outdoor play space 1 and 2, which were to include outer walls greater than 1.4m as recommended within the submitted Acoustic Report.</li><li>• The applicant was advised that the gross floor area definition contained within the Dictionary of RLEP2014 only excludes terraces and balconies, if the outer walls are less than 1.4m in height.</li><li>• Council also advised the applicant that if the non-compliance was to be maintained, a clause 4.6 written request would need to be submitted.</li></ul> <p><b>Ryde Development Control Plan 2014</b></p> <p><u>Child Care Centre Design</u></p> <ul style="list-style-type: none"><li>• Insufficient information had been provided on the submitted landscape plan in order to ascertain whether the submitted landscape plans had been designed by a landscape</li></ul>
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**ITEM 0 (continued)**

	<p>architect registered under the Australian Institute of Landscape Architects.</p> <p><u><i>Educators to Staff Ratios</i></u></p> <ul style="list-style-type: none"> <li>• The submitted plans did not provide details on the number of children to be located within each room.</li> <li>• Council advised a revised estimate of the total number of educators to be provided.</li> </ul> <p><u><i>Car Parking</i></u></p> <ul style="list-style-type: none"> <li>• The proposal provided twenty-eight (28) car parking spaces, which resulted in a shortfall of one (1) car parking space, which would likely be exacerbated with correctly nominated educator ratios.</li> </ul> <p><u><i>Additional Information</i></u></p> <p>Council also requested the following information be provided as part of any amended plans to be submitted:</p> <ul style="list-style-type: none"> <li>• Section plans to depict all significant variations in the design of the building.</li> <li>• Shadow diagrams to depict the full extent of shadows to the outdoor play spaces.</li> <li>• Detailed signage information in order to enable an assessment against State <i>Environmental Planning Policy No.64 – Advertising and Signage</i>.</li> </ul>
<p>4 October 2019</p>	<p>The applicant submits amended plans for assessment.</p> <p>The amended plans and documentation submitted have addressed the following:</p> <ul style="list-style-type: none"> <li>• Details regarding fencing arrangements to the perimeter of Outdoor Play Space 3 were included, but depicted an acoustic wall in accordance with the recommendations provided within the submitted Acoustic Report. This barrier is proposed to be 2.1m high.</li> <li>• The inclusion of wheelchair accessible parking.</li> <li>• Windows provided to bathrooms to maximise supervision.</li> <li>• Solid walls provided between cubicles.</li> <li>• The submission of a Risk Assessment to identify potential</li> </ul>

**ITEM 0 (continued)**

	<p>emergencies that are relevant to the service.</p> <ul style="list-style-type: none"> <li>• Landscape Architect information submitted as requested.</li> <li>• The submitted plans provide the number of children to be located within each room.</li> <li>• Sections, shadows, signage information and a new survey has been submitted.</li> </ul> <p>However, the amended plans submitted have not satisfactorily addressed some of the matters raised in the RFI issued to the applicant on the 28 August 2019, which include the following:</p> <ul style="list-style-type: none"> <li>• Floor Space Ratio has become further non-compliant, given the inclusion of a 2.1m high acoustic wall to the boundaries of rear Outdoor Play Space 3.</li> <li>• The proposal does not provide a sufficient number of allocated children and staff parking. Furthermore, although correct educator ratio information has been provided, no other managerial or support staff have been accounted for in the calculation of staff numbers.</li> </ul> <p>Additional issues have arisen, including:</p> <ul style="list-style-type: none"> <li>• The 2.1m acoustic walls which surround the play spaces exacerbates the bulk and scale of the proposed development.</li> <li>• The outdoor play spaces fail to achieve compliance with the design aims specified for natural planting area, turfed area and hard surface areas.</li> <li>• The childcare centre is to be located on the first floor of an existing commercial building in an area where there is insufficient landscaping and deep soil arrangements.</li> </ul> <p>Given the applicant has been unable to resolve the above issues, and further non-compliances have arisen, this report recommends refusal of the application.</p>
5 December 2019	The proposed development was referred to Bitzios Traffic Consultants for a peer review of submitted information.
13 January 2020	The applicant submits a Clause 4.6 variation to the proposed FSR non compliance.
26 March 2020	<p>A request for further information was sent to the applicant raising the following concerns:</p> <ul style="list-style-type: none"> <li>- Owner's consent had not been submitted. The proposal relies upon the adjoining property at Lot 1 within DP</li> </ul>

**ITEM 0 (continued)**

	605185 to facilitate vehicular access and an intensification of use. <ul style="list-style-type: none"> <li>- Concerns relating to landscaping regarding insufficient amount of natural planting and deep soil landscape area. Excessive levels of hard paving.</li> <li>- Concerns with the submitted traffic and parking assessment relating to trip generation rates.</li> </ul>
15 May 2020	The applicant submitted amended plans, landscape plan and updated traffic comments.
19 May 2020	The applicant submits letter of advice regarding owner's consent.
16 June 2020	A request for further information was sent to the applicant regarding the amended traffic information and raised concerns relating to trip generation and the amended response. Further clarification was sought.
8 July 2020	The applicant submitted an amended traffic and parking assessment.

**5. Planning Assessment**
**5.1 State Environmental Planning Instruments**

<b>Instrument</b>	<b>Proposal</b>	<b>Compliance</b>
<b>State Environmental Planning Policy No. 55 – Remediation of Land</b>		
The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated.	A contamination assessment has not been submitted with this application; however, given no earthworks are proposed, and the existing commercial uses at the subject site and within the locality, it is unlikely that the proposal will present any contamination	Yes



**ITEM 0 (continued)**

	concerns.	
<b>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</b>		
<p>The Vegetation SEPP commenced on 25 August 2017 and replaced clause 5.9 of RLEP 2014, which related to the preservation of trees and vegetation.</p> <p>The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.</p>	<p>The proposal has been considered satisfactory by Council's Landscape Architect and supported by an landscape plan. The proposal does not unduly impact upon any existing biodiversity or trees or vegetation on the site</p>	Yes
<b>State Environmental Planning Policy No.64 – Advertising and Signage (SEPP 64)</b>		
<p>Clause 8 of SEPP 64 states that the consent authority must not grant consent to an application for signage unless it is satisfied:</p> <p>a) That the signage is consistent with the objectives of this Policy as set out in clause 3(1)(a), and</p> <p>b) That the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.</p> <p><u>Objectives</u></p> <p>The objectives stipulated under Clause 3(1)(a) are:</p> <ol style="list-style-type: none"> <li>To ensure that signage (including advertising):</li> <li>Is compatible with the desired amenity and visual character of an area, and</li> <li>Provides effective communication in</li> </ol>	<p>The proposal seeks consent for the inclusion of two business identification flush wall signs, one each on the first floor of the north-eastern (front) and north-western elevation. Each sign contains three-dimensional graphics and letters indicating the name and logo of the service provider.</p> <p>The proposed development satisfies the objectives of this policy by ensuring that the proposed signage is</p>	Yes

**ITEM 0 (continued)**

<p>suitable locations, and 4. Is of high-quality design and finish,</p>	<p>compatible with the desired amenity and visual character of the locality, provides effective communication and is of high-quality having regard to both design and finishes.</p> <p>Schedule 1 of SEPP 64 provides assessment criteria for the provision of new signage. An assessment of the proposed signage against these criteria is provided within <b>Attachment 3</b>. This assessment has concluded that the signage is satisfactory with respect of SEPP 64.</p>	
<p><b><u>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</u></b></p>		
<p>Clause 23 of the <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i> (SEPP) provides that:</p> <p><i>Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.</i></p>	<p>The <i>Child Care Planning Guideline</i> (herein simply referred to as 'the Guideline') establishes the assessment framework to deliver consistent planning outcomes and design quality for centre-based childcare facilities in NSW.</p>	<p><b>No</b></p>

**ITEM 0 (continued)**

	<p>A detailed assessment of the proposal against provisions of the Guidelines is illustrated in the compliance table held in <b>Attachment 1</b>. There are areas of non compliance identified in Attachment 1 and have been discussed following the table.</p>	
<b>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</b>		
<p>This Plan applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.</p>	<p>Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.</p>	<p>Yes</p>

**State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

Clause 23 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 provides that:

*Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.*

The Child Care Planning Guideline (herein simply referred to as 'the Guideline') establishes the assessment framework to deliver consistent planning outcomes and design quality for centre-based childcare faculties in NSW.

**ITEM 0 (continued)**

A detailed assessment of the proposal against provisions of the Guidelines is illustrated in the compliance table held in **Attachment 1**. The non compliances are discussed below”

Principle 2 Built Form

Principle 2 – Built form contained within the childcare planning guideline provides the following:

- *Good design achieves a scale, bulk and height appropriate to the existing desired future character of the surrounding area.*

*Good design achieves an appropriate built form for a site and the buildings purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Good design also uses a variety of materials, colours and textures.*

The proposal is inconsistent with Principle 2 Built Form. The proposal results in an excessive FSR which is a result of an intensification of land use and results in an unacceptable built form. The scale of the resultant development is inconsistent with the desired future character of the surrounding area. The proposed scale of the development contributes to the intensification of the land use and results in unacceptable traffic impacts.

Part 3.8 Traffic, parking and pedestrian circulation

There is a discrepancy between Part 5.1 of RDCP and the parking requirement identified in control 31. Control 31 references reliance upon the parking requirements specified in the DCP that applies to the land. On this basis, the proposal is required to provide 17 car spaces for the children, 12 car parking spaces for staff and 1 accessible space. The proposal provides for 16 parking spaces for the children, 12 spaces for staff and 1 accessible space and is non compliant. The non compliance has been considered satisfactory based on the applicant’s justification which includes an analysis based on first principles that the level of parking provision is sufficient despite the technical non-compliance with Council’s control. This has been peer reviewed by Council’s Consultant Traffic Engineer and the shortfall is considered acceptable.

Control 33 requires a Traffic and Parking study to be prepared in support of the proposal to quantify potential impacts. The proposal has been supported by Traffic and Parking Assessments undertaken by McLaren Traffic Engineering. Throughout the assessment of the application, two supplementary Traffic and Parking Assessments were provided and in the most recent Assessment dated 7 July 2020, the proposal had not satisfactorily demonstrated there would not be an adverse

### ITEM 0 (continued)

impact upon the local traffic network as a result of queuing at the intersection of Cox's Road and Wicks Road. The proposal is considered unsatisfactory in this regard.

The proposal relies upon exiting the site via the adjoining Council carpark. The proposal is an intensification of use and owners consent has not been sought. The car park has been identified for strategic upgrades which will impact the operation of the child care centre were it to be approved and given there is no legal entitlement for use, this is must be resolved prior to development consent being issued.

## 5.2 Ryde Local Environmental Plan 2014

### Clause 2.3 - Zone Objectives and Land Use Table

The subject site is within a B1 Neighbourhood Centre zone under the provisions of the *Ryde Local Environmental Plan 2014* (RLEP2014) – **Figure 17**. The child care is defined as a 'centre-based child care facility' which is permissible with consent in the B1 zone. The ground floor tenancies would either be defined as 'office premises' or be ancillary to the child care centre use, and in either circumstances, are permissible within the B1 zone.

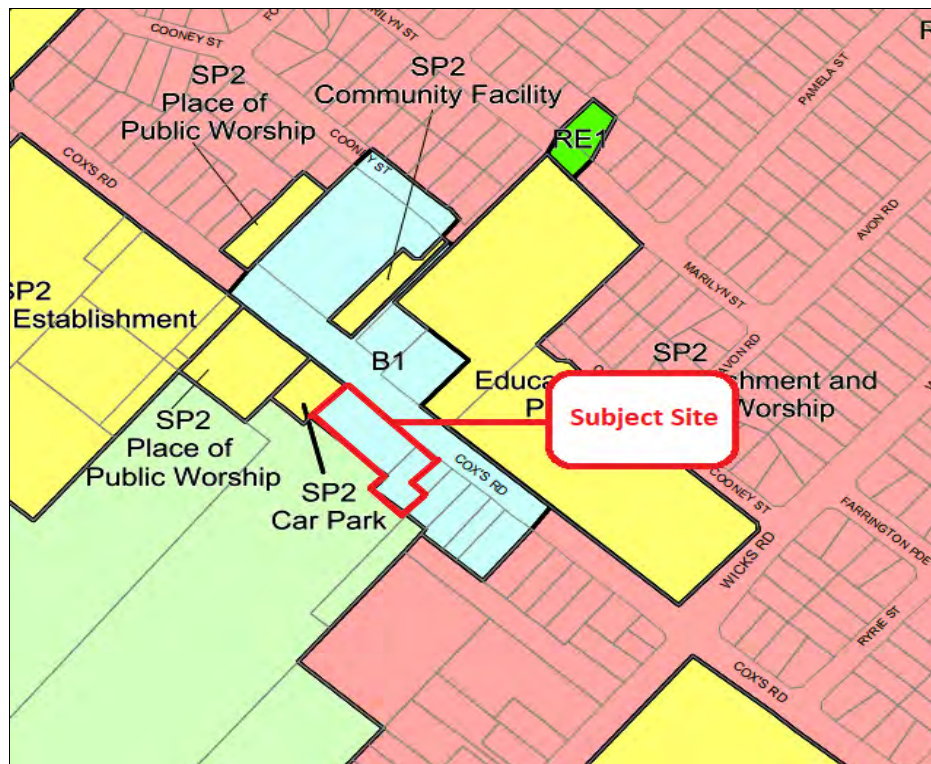


Figure 17 – RLEP2014 Zoning map extract. Subject Site located within the B1 zone.

Source: <https://www.legislation.nsw.gov.au>

**ITEM 0 (continued)**
**Objectives of the B1 – Neighbourhood Centre zone:**

The objectives of the B1 zone are as follows:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To encourage employment opportunities in accessible locations.*

The proposed development would satisfy the first objective, as the proposed childcare centre provides a community use to serve the people who live and work in the surrounding area. In addition, the conversion of tenancy 5 and 7 from restaurants to office spaces provides a more diverse range of small-scale business and retail uses on the ground floor.

The proposed development would also satisfy the second objective of the control, in that it would provide numerous employment opportunities within the North Ryde Neighbourhood Centre which is an accessible location.

The following is a summary of the clauses under Ryde LEP 2014 applicable to the development.

<b>Ryde LEP 2014</b>	<b>Proposal</b>	<b>Compliance</b>
<b>4.3(2) Height</b>		
9.5m	The maximum building height of the proposed development is 9.13m. This has been calculated at the proposed roof pitch at RL:84.10 and the existing finished floor level at RL:74.790.	Yes
<b>4.4(2) FSR</b>		
0.8:1 (2183.60m <sup>2</sup> )	Ground Floor – 980.04m <sup>2</sup> First Floor – 1994.45m <sup>2</sup>  GFA 2974.49m <sup>2</sup> FSR – 1.08:1 Site Area (2729.5m <sup>2</sup> –	No

**ITEM 0 (continued)**

Ryde LEP 2014	Proposal	Compliance
	site survey)	
<b>4.6 Exceptions to development standards</b>		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</p> <p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	<p>Variation of 36.2% to the standard</p> <p>Refer to discussion below.</p>	<p><b>No</b></p>
<b>5.10 Heritage Conservation</b>		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views,</p> <p>(c) To conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance</p>	<p>The subject site does not contain a heritage item, and is not located within a heritage conservation area.</p> <p>It is however located within the vicinity of an item of local heritage significance, which is identified by Schedule 5 of Ryde Local Environmental Plan 2014 (RLEP2014) as follows:</p> <p>“North Ryde Public School (Buildings B00J, B00M and B00N)” (house) (Item No. 39), at 154 Cox’s Road, North Ryde”.</p> <p>The proposal has been considered acceptable by Council’s Heritage Advisor given the</p>	<p>Yes</p>

**ITEM 0 (continued)**

<b>Ryde LEP 2014</b>	<b>Proposal</b>	<b>Compliance</b>
	relative scale of the alterations and additions to accommodate the proposed childcare centre on the first floor of the existing commercial building, and the separation between the buildings, there are no anticipated impacts to the nearby heritage item.	
<b>Clause 6.4 Stormwater management</b>		
(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.	<p>The proposal is consistent with the provisions of Clause 6.4(3) in that the proposal has been designed to maximise the use of permeable surfaces allowing for water filtration and avoids adverse impacts of stormwater runoff on adjoining properties and receiving waters.</p> <p>The proposal has been considered acceptable by Council's Senior Development Engineer.</p>	<p style="text-align: center;">Yes</p>

**Clause 4.6 Exceptions to development standards**

The development contravenes Clause 4.4(2) of RLEP 2014 which establishes the maximum floor space ratio development standard of 0.8:1. The proposal results in a gross floor area of 2974.49m<sup>2</sup> which equates to an FSR of 1.08:1 and does not comply with the development standard.



**ITEM 0 (continued)**

The proposal represents a 36.2% variation to the standard. The applicant has submitted a Clause 4.6 request prepared by Planning Lab and dated 19 December 2019 (**Attachment 4**) to vary the development standard.

There is a difference in FSR calculation. The applicant's written variation indicates a departure of 59.17m<sup>2</sup>. Council's calculation which is consistent with those shown on the submitted architectural plans (Drawing DA-106 Revision M dated 15.05.2020 prepared by Five Cannons) indicates a variation of 767.91m<sup>2</sup>. Council's assesses the proposal as seeking a 36.2% variation whilst the applicant's submission is a 0.27% variation. The Clause 4.6 variation has not included balconies and terraces where the external wall is greater than 1.4 metres. Gross floor area is defined as follows:

*gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:*

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,*  
*but excludes:*
- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement:*
  - (i) storage, and*
  - (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.*

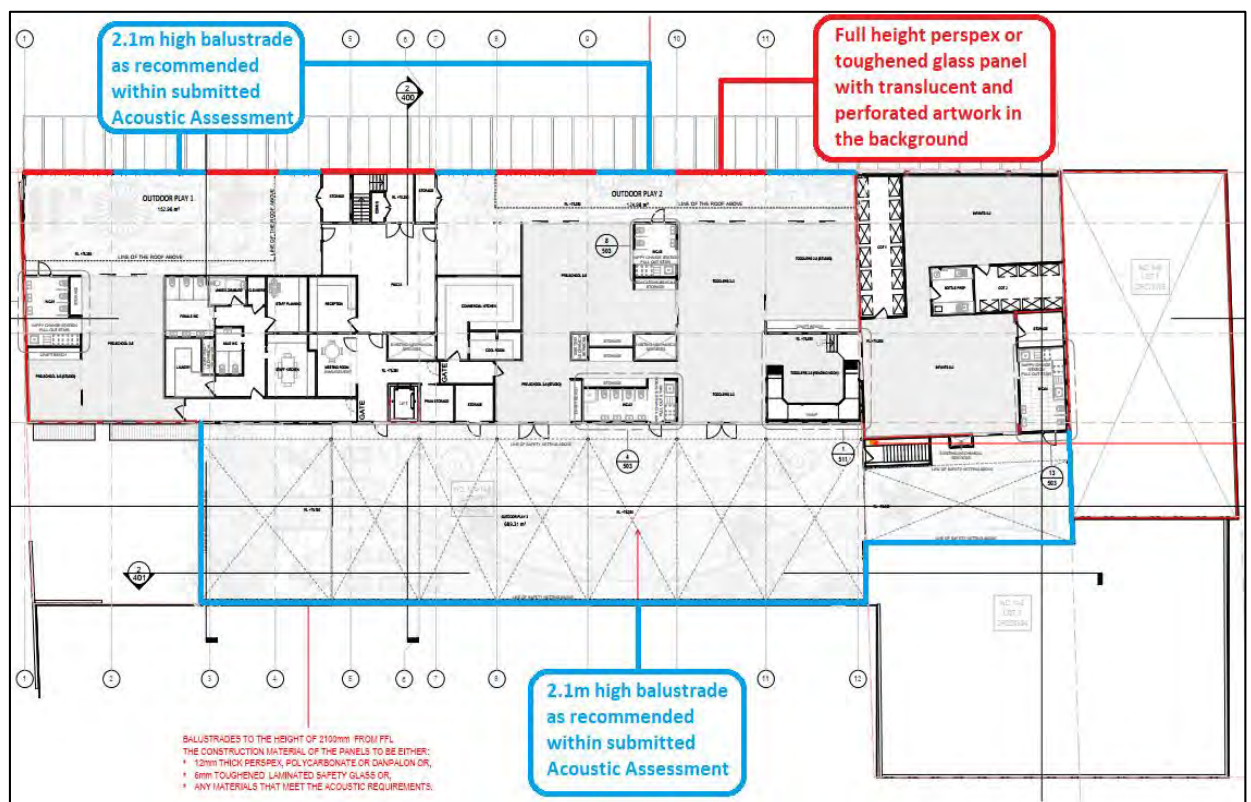
Much of the FSR non-compliance arises from the proposed fencing arrangements to the outdoor play spaces and is a technical non compliance. Given the solid acoustic structures are greater than 1.4 metres in height, these are included as part of the GFA calculation.

The proposal relies upon 1.4 metres high solid barrier along the boundaries of the front outdoor play spaces in order to minimise the noise impacts from those areas and to achieve compliance with the noise level criterion as recommended by the submitted Acoustic Report prepared by Rodney Stevens Acoustics, dated 15 April 2019. (See Figure 18). The area of the play spaces required is on the basis of the number of children proposed, consistent with the Education and Care Services National Regulations.

**ITEM 0 (continued)**

The Applicant's Clause 4.6 contends that Play space 1 and 2 are unroofed and are excluded from the GFA calculation. The play spaces have a combined area of 277.94m<sup>2</sup>. The written variation has been provided on the basis of including northern play area and indicates there is a resultant FSR of 0.82:1 and is seeking a variation of 59.17m<sup>2</sup> only. The proposed play spaces are identified in **Figure 19**.

Council does not agree with the exclusion of Play Space 1 and 2 on the basis it is unroofed. The definition relating to the exclusion of terraces and balconies does not reference the need of the balcony or terrace to be roofed, rather it refers only to include a wall height greater than 1.4 metres in which these two areas do.

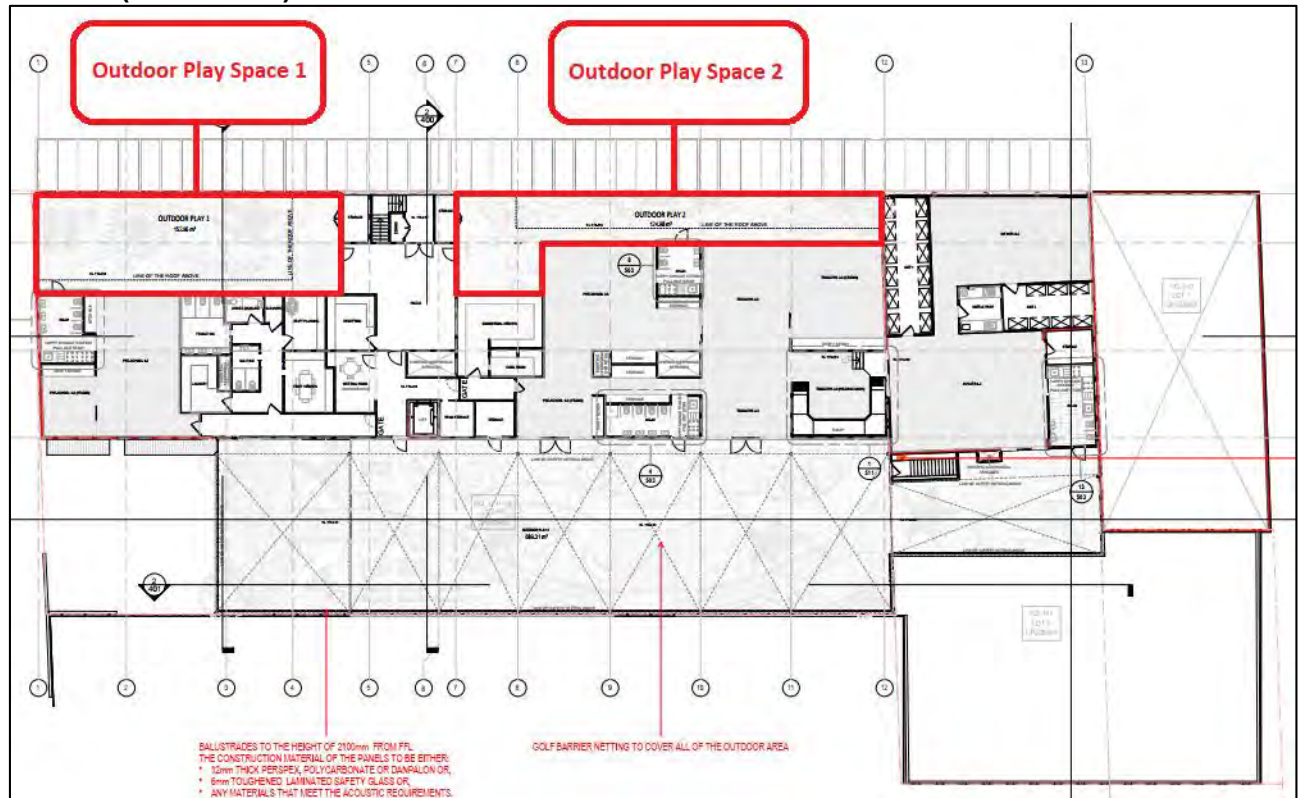


**Figure 18** – Extract of applicant's submitted first floor plan, detailing the location of the solid 2.1m high acoustic wall to surround the outdoor play spaces, and full height Perspex or glass panels to Outdoor Play Space 1 and 2.

Source: Applicant's submitted first floor plan/Five Canons Architecture, Revision M

The applicant's Clause 4.6 has not included the play area at the rear of the site. Council is of the view that this space needs to be included due to the height of the walls surrounding this space being 2.1m.

**ITEM 0 (continued)**



**Figure 19** – Proposed First Floor Plan indicating the location of outdoor play space 1 and 2 within the proposed childcare centre.

Source: Applicant's submitted First Floor Plan/Five Canons Architecture, Revision M

An assessment of the relevant provisions of Clause 4.6 is as follows:

- Clause 4.6(3)(a) - Is compliance unreasonable or unnecessary in the circumstances of the case?
- Clause 4.6(3)(b) - Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

The written request provides the reasons why compliance with the standard is unreasonable and/or unnecessary, with selected excerpts shown below:

- *The additional is minor being just 59.17m<sup>2</sup> on a block with an area of 2,729.5 m<sup>2</sup>*
- *The additional GFA is a nominal amount and does not substantially increase the building's scalar beyond an FSR of 0.8:1 in such a way as it would be identifiable from the public domain*
- *The additional outer wall height provide protection for children against falling*

**ITEM 0 (continued)**

- *The additional outer wall height provides an acoustic barrier to prevent offensive noise from entering and exiting the site*
- *The additional outer wall height facilitates the use of the space as an outdoor play area which allows additional child care spaces*
- *The change to the building's bulk and scale as seen from Cox's Road will remain consistent with the existing development neighbouring commercial developments.*
- *The additional wall height has no shadow impact upon private development*
- *The additional FSR does not result in any adverse privacy impacts.*
- *The proposal is consistent with the objectives of Clause 4.4*
- *The FSR variation is nominal as it results from the taller than usual wall heights resulting from necessity due to the proposed use as a child care*
- *The proposed bulk and scale are consistent with those of the surrounding buildings and streetscape*
- *The proposal proposed building will not appear incongruous with neighbouring buildings when viewed from the public domain*
- *The proposal provides additional GFA for the use of a child care centre which provides a necessary service to parents within North Ryde*
- *The proposed use is as a child care centre. In the event that the proposal was to comply with a 0.8:1 FSR, the amount of child care spaces offered by the centre would need to be reduced to maintain compliance with the requirements to provide sufficient open space per child. This is not in the public interest.*
- *The proposed building's FSR being 0.82:1 is a function of a larger than balcony walls. A compliant wall height would be unsafe for children and would reduce the acoustic dampening properties of the wall.*
- *The proposal does not result in any significant negative environmental impact and that there are sufficient positive impacts justified on environmental planning grounds to justify the proposed contraventions.*

**Assessment Officer's Comments:**

The proposal is a technical non compliance with the development standard. The intensification of the use and the size of the child care centre results in the excessive departure of the development standard. The intensification sought is based on the number of children and compliance with the standard could be achieved with the reduction in the number of children which presently extends beyond the suitability of the site. The non-compliance and the proposal does not satisfy Clause 4.6(3)(a) and

**ITEM 0 (continued)**

4.6(4)(a)(i) in demonstrating it is unreasonable or unnecessary to comply with the standard.

The proposed development relies upon land not in their ownership and in which owner's consent has not been provided to facilitate the proposed intensification of the land use. The development cannot exist in upon itself and relies upon Council's carpark to facilitate the development.

The written request indicates the variation is a result of the use of the site as a child care. The breach is a result of the number of children proposed and the requirement of outdoor play spaces and necessity for acoustic fencing to maintain the amenity of adjoining properties. Compliance could be achieved with the reduction in the number of children.

The submission has not established there are sufficient environmental planning grounds to justify contravening the standard in accordance with (Clause 4.6(3)(b) and 4.6(4)(a)(i).

**Is the proposal in the public interest?**

Pursuant to clause 4.6(4)(ii), a development will be in the public's interest if it is consistent with the objectives of the development standard and also the zone objectives in which the particular development is carried out. Council is of the view that the development is contrary to the public interest as required by Clause 4.6(4)(a)(ii) for the following reasons:

- The proposal does not achieve the objective of the standard as required by Clause 4.6(3)(a) and 4.6(4)(a)(i).
- The number of children proposed results in an intensification of the land which extends beyond the suitability of the site
- The proposal is capable of achieving compliance with the development standard by a reduction in the number of children proposed.
- The number of children determines the resultant traffic generation. The applicant has not demonstrated that the intensification of use does not lead to adverse impacts upon the local road network;
- The proposal relies upon access through the adjoining allotment and owner's consent has not been provided. The intensification of use will impact upon the adjoining allotment. The proposal extends beyond the site and has not provided sufficient environmental planning grounds.

**Summary**

The applicant has submitted a Clause 4.6 written request that seeks to justify contravention of the development standard Clause 4.4 Floor Space Ratio. Pursuant to Clause 4.6(3)(a) of RLEP 2014, the written request has not demonstrated that

**ITEM 0 (continued)**

compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The written request has not demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard, as required by Clause 4.6(3)(b).

Pursuant to Clause 4.6(4)(a)(i) of RLEP 2014, Council is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3). Further, it is Council's opinion that the proposed development will be contrary to the public interest because it is inconsistent with the objectives of the development standard for floor space ratio.

The concurrence of the Planning Secretary is not required. Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

Accordingly, the proposal variation is not supported.

**5.3 Draft Environmental Planning Instruments**

Instrument	Proposal	Compliance
<b>Draft Remediation of Land State Environmental Planning Policy</b>		
<p>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:</p> <p><i>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.</i></p>	<p>The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of development applications. The proposal does not include any earth works and the proposed child care is located on the first floor. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.</p>	<p>Yes</p>

**ITEM 0 (continued)**

<b>Draft Environment SEPP</b>		
<p>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 a number of SEPPs, which include:</p> <ul style="list-style-type: none"> <li>- State Environmental Planning Policy No. 19 – Bushland in Urban Areas</li> <li>- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> </ul>	<p>The proposal is not inconsistent with the provisions of the draft SEPP.</p>	<p>Yes</p>

**5.4 Ryde Development Control Plan 2014 (RDCP2014)**

The proposal is subject to the provisions of the following parts of RDCP2014:

- Part 3.2: Child Care Centres
- Part 7.2: Waste Minimisation and Management;
- Part 8.2: Stormwater & Floodplain Management;
- Part 8.3: Driveways;
- Part 9.1: Signage
- Part 9.3: Parking Controls

Clause 26(1) of *State Environmental Planning Policy (educational Establishments and Child Care Facilities) 2017* indicates that a provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers of the like, of children) does not apply to development for the purpose of a centre-based child care facility:

- a) Operational or management plans or arrangements (including hours of operation),
- b) Demonstrated need or demand for child care services,
- c) Proximity of facility to other early education and care facilities,
- d) Any matter relating to development for the purpose of a centre-based child care facility contained in:
  - i. The design principles set out in Part 2 of the Child Care Planning Guideline, or

**ITEM 0 (continued)**

- II. The matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that guideline (other than those concerning building height, side and rear setbacks or car parking rates).

A detailed assessment of the proposal against the Ryde Development Control Plan 2014 (RDCP2014), Part 3.2 Child Care Centres is illustrated in the compliance table held in **Attachment 2**. Taking into consideration the above provisions of clause 26(1) of RDCP2014, the relevant non-compliances identified in the compliance tables are assessed and discussed in more detail below.

**Part 2.1 Suitability of Location and Site for Child Care Centre**

The site includes two allotments, being Lot 41 in Deposited Plan 560408 and Lot 3 in Deposited Plan 220894 in addition to relying upon Lot 1 within Deposited Plan 605185 (Council's carpark) to enable vehicles to exit upon Cox's Road. Lot 3 in Deposited Plan 220894 (142 Cox's Road) is L shaped and irregular in shape and is contrary to the requirements for a regular shaped allotment. However, given the siting of the child care at first floor it does not adversely impact the design of the proposal. This non compliance is acceptable.

**Part 3.4 Centres in Mixed Use Developments and in Non-residential areas**

The proposed outdoor play space 1 and 2 are sited adjacent to Cox's Road frontage and play space 3 is sited above the car parking area at the rear of the site and located at first floor and is contrary to controls (e) and (g). Despite this, the applicant has provided an air quality assessment report as well as an access report which confirms the location is suitable.

The DCP also requires that child care centres are to be located to benefit from a north/northeast aspect and to provide for year round comfort and useability of outdoor play spaces. In order to address the concerns held regarding the FSR non compliance, the amended plans have reduced the depth of the roofing above play spaces 1 and 2. These play spaces have a north eastern aspect and it is considered more desired to maintain the provision of roofing. It is Council's opinion, these spaces are included the GFA calculation whether they are roofed or not on account of the wall heights.

**Part 5.1 Car Parking, Traffic and Access**

Section 5.1 of Part 3.2 of DCP 2014 prescribes the following car parking provisions:

- *Off-street parking is to be provided at the rate of 1 space per 8 children, and 1 space per 2 staff. Stack or tandem parking may only be used for staff parking and with no more than 2 spaces in each tandem space.*



**ITEM 0 (continued)**

- *Where calculations for car parking result in a fraction, the number is to be rounded up to the nearest whole number.*
- *One off-street accessible parking space is to be provided for use by persons using mobility aids.*

In accordance with the aforementioned controls, the childcare centre would be required to provide 17 car spaces for the children, 12 car parking spaces to accommodate the staff members and 1 accessible parking space to accommodate for people with mobility aids.

The car parking for the centre, located at the rear of the site, is proposed to be allocated as follows:

- 16 car parking spaces to accommodate the children
- 12 car parking spaces to accommodate the staff
- 1 accessible space to accommodate people with mobility aids.

The proposal provides for a shortfall of one (1) parking space. This issue was raised in Council's RFI on 28 August 2019, 4 October 2019 and 26 March 2020. The applicant has provided a supplementary Traffic and Parking Assessment on 7 July 2020 which includes an analysis based on first principles that the level of parking provision is sufficient despite the technical non compliance with Council's control. This has been peer reviewed by Council's Consultant Traffic Engineer and the shortfall is considered acceptable.

**The proposal relies upon vehicular access from the site to Cox's Road via Council's car park. No legal entitlement exists for this use. Particular concern has been raised regarding the proposed intensification of use by the proposed child care and reliance upon the carpark without owner's consent being sought or provided. The proposal relies upon the access through Council's land to achieve the desired U shaped driveway access. The on site manoeuvring is reliant upon land in which there is no legal entitlement for use.**

Further, concerns are held regarding the resultant impacts upon the local road network as a result of the intensified land use. The proposal has been supported by supplementary Traffic and Parking Assessments in which the intersection model has not been calibrated to reflect the actual traffic conditions on site. The vehicle queue lengths reflected in the model do not appear to be consistent with the actual queue lengths identified at the intersection of Cox's Road during peak periods. This is important particularly for the base (existing) model, which needs to be consistent with the current traffic conditions during peak periods to accurately assess the likely impacts generated by the proposed child care centre. Concern is held in regards to impact on traffic flows within Cox's Road and Council's carpark.

**ITEM 0 (continued)****Part 6.0 :Landscape design and play spaces**

Section 6.2.2 of Part 3.2 of DCP 2014 prescribes the following design aims for outdoor play spaces:

- 30% *natural planting area (excluding turf)*
- 30% *turfed area,*
- 40% *hard surfaces (sand, paving, timber platforms).*

The proposal provides the following percentage breakdown within the outdoor play spaces:

- 14% (134.45m<sup>2</sup>) natural planting area.
- The proposal does not include any form of natural turfed areas.
- 86% (884.55m<sup>2</sup>) hard surface areas.

The Landscape Plan has not satisfied the following requirements:

- Transition Areas have not been provided
- The proposal is not consistent with the control which requires outdoor play spaces to aim for:
  - 30% natural planting area (excluding turf)
  - 30% turfed area,
  - 40% hard surfaces (sand, paving, timber platforms).

As the outdoor play areas are located on the first floor in the form of a Roof Garden the 30% natural planting area on deep soil is not achievable. The amended landscape plan submitted on 15 May 2020 provided for an increase in raised plantings by 10% (over 100 m<sup>2</sup>) and a reduction in hard surfaces. The additional raised planting beds stimulate children's interest in the natural world and the landscape design has been supported by Council's Landscape Architect.

**5.5 Planning Agreements or Draft Planning Agreements**

No planning agreements or draft planning agreements are relevant to this development.

**5.6 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)**

The subject application has been recommended for refusal.

**ITEM 0 (continued)****5.7 Any matters prescribed by the regulations**Owner's Consent

Schedule 1 of the *Environmental Planning and Assessment Regulation 2000*, Part 1(i) prescribes that development applications must be accompanied by evidence that the owner of the land on which the development is to be carried out consents to the application.

Although no building works are proposed over 150 Cox's Road (the Council car park), the development is wholly reliant on this site to permit the safe and efficient operation of the car park within the subject site. This is despite there being no encumbrances (right of way, etc) on the Council car park to permit vehicular movements between the subject site and the Council car park. The proposal is for an intensification of the use of the land at 142 – 148 Cox's Road and proposes reliance upon the carpark to facilitate the intensified development of the land. Council is under no legal obligation to continue to permit vehicular access between the two allotments, irrespective of whether vehicles can continue to access the car park from Cox's Road.

Owner's consent has not been provided from Council, and although Council are also the consent authority for this development, the Local Planning Panel does not have any authority to provide owner's consent on behalf of Council. The absence of the consent of all owners of land subject to the application is therefore included as a recommended reason for refusal.

Environmental Planning and Assessment Regulation 2000

The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning, Industry and Environment and others. As the proposal is recommended for refusal, there are no further matters for consideration.

Education and Care Services National Regulations

These Regulations underpin the operational and specific design requirements for education and care providers. With regard to the DA, these Regulations govern physical environment design requirements for centre-based child care facilities, and form part of the design guidelines within the CCPG. The proposal complies with such regulations; reference is made to the assessment in **Attachment 1** for further detail.

**ITEM 0 (continued)****6. The likely impacts of the development****Built Environment Impact**

Impacts on the built environment have been discussed throughout this report. There are concerns in relation to the bulk and scale of the proposed development, given the alterations and additions proposed to the first floor of the building to accommodate the childcare centre results in a significant non-compliance with the FSR development standard prescribed for the subject site. The proposed intensification of the use has not demonstrated it does not result in any adverse impact upon traffic flows within Cox's Road or Council's car park.

**Natural Environment Impact**

Impacts on the natural environment have been discussed throughout this report. Such impacts have not been adequately addressed in terms of natural planting, deep soil area requirements within the outdoor play spaces to support the growth of vegetation.

The proposed development would result in adverse impacts to the natural environment given the absence of soft landscaping treatments.

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

The site is not affected by any significant restrictions (flooding, acid sulphate soils, areas of environmental sensitivity, etc.). However, the proposal is considered to be an overdevelopment of the site generated by the number of children proposed. The number of children necessitates the area of outdoor play spaces and these spaces are required to be enclosed by acoustic screening in order to achieve the required noise criterion. The submitted Clause 4.6 is not considered to have satisfied the jurisdictional prerequisite and is not supported. The proposal has not demonstrated it will not result in any adverse impact upon local traffic flows and queueing times along Cox's Road. The intensification of use is reliant upon access through Council's land and no owner's consent has been provided. The proposal in its current form is considered unsuitable.

**8. The Public Interest**

Based on the assessment contained in this report, approval of the development is not in the public interest, and as such shall form a reason for refusal.

**ITEM 0 (continued)****9. Submissions**

The application was advertised in accordance with the provisions of the *Ryde Development Control Plan 2014* (RDCP2014), and seventeen (17) submissions were received, all of which objected to the proposed development

The objections raised in the submissions are outlined below, followed by a comment from the assessing planner:

- **Traffic impacts, including:**
  - **Concerns regarding the methodology of the Traffic Study undertaken, where 5 ground floor tenancies remain vacant.**
  - **The associated traffic impacts of the facility.**
  - **Proximity to public bus stop exacerbating traffic impacts**
  - **Safety impacts**

**Comment** – The submitted Traffic and Parking Impact Assessment (TPIA) and subsequent supplementary reports have been considered by Council’s Consultant Traffic Engineer. The proposal is not considered to be satisfactory in regards to the intersection model not being calibrated to reflect actual traffic conditions on site. The vehicle queue lengths reflected in the model do not appear to be consistent with the actual queue lengths identified at the intersection of Cox’s Rd/Wicks Rd during peak periods. This is important particularly for the base (existing) model, which needs to be consistent with current traffic conditions during peak periods to accurately assess the likely impacts potentially generated by the child care centre.

Council raised issues in relation to the methodology used within the traffic and parking assessment particularly with regard to a number of the ground floor tenancies being vacant. As part of the amended plans and documentation received on 4 October 2019, the applicant’s Traffic Engineer provided a written response indicating that within the initial TPIA and the associated SIDRA modelling, expected future traffic generation had been added to the existing traffic captured within the traffic surveys conducted. The amended information satisfactorily responded to the concerns held in relation to the inclusion of the commercial tenancies.

Council also raised initial concerns with the service and access arrangements to the site, given there are poor sightlines at the driveway entry, primarily due to buses being parked at the adjacent bus stop. This issue remains a concern.

- **Insufficient car parking to accommodate 135 children and insufficient disabled parking.**

**ITEM 0 (continued)**

**Comment** – The proposal results in a short fall of one (1) parking space required for parent drop off. The proposal provides for one (1) accessible space and complies with the control requirements. The proposed parking shortfall has been considered satisfactory by Council's Traffic Consultant. The applicant has demonstrated by an analysis based on first principles that the level of parking provided is sufficient despite the technical non compliance with Council's control.

- **Concerns in relation to car park design and operation, including:**
  - **Concerns that the location of allocated parking spaces 38-44 are not adequately sized.**
  - **Suggestion for car parking spaces abutting the golf course to specify the type of parking arrangement, e.g. nose to wall.**
  - **Skip bin currently occupying parking spaces**

**Comment** – Parking spaces 38-44 remain unchanged and are allocated to the commercial and retail tenancies on the ground floor. The dimensions of these spaces are compliant with the relevant Australian standards.

Car Parking Spaces 1 – 25 abut the golf course and are associated with both the existing commercial tenancies, child care staff and visitors. The proposed spaces are compliant with the dimensional requirements and demonstrate adequate turning circles whereby the specification of which direction vehicles park is not necessary.

The proposal includes provision of a waste room located in the carpark. The proposed waste room is not located within a designated parking space. Childcare visitor spaces are available for service vehicles no larger than a standard B99 vehicle outside of drop-off and pick-up periods.

The design of car parking spaces is consistent with relevant Australian standards.

- **Emergency and evacuation procedures – concerns regarding the location of evacuation points.**

**Comment** – Council's RFI issued to the applicant on 28 August 2019, requested the submission of a Risk Assessment in order to identify potential emergencies relevant to the proposal in accordance with Regulation 97 and 168 of the *Education and Care Services National Regulations*.

As part of the amended plans submitted on 4 October 2019, a detailed Risk Assessment Report was submitted. The Risk Assessment Report submitted, prepared by GHD, dated 4 October 2019, provides detailed evacuation strategies and plans for the proposed childcare centre and includes a fire refuge area within

**ITEM 0 (continued)**

Outdoor Play Space 3 which also provides direct access to the evacuation stairs to the car park.

The information submitted satisfies the above Regulations.

- **Insufficient solar access afforded to the rear outdoor play space.**

**Comment** – Councils RFI issued to the applicant on 28 August 2019, requested the submission of shadow diagrams depicting the full extent of the shadows to the outdoor play areas in order to demonstrate the level of solar access afforded between 9am and 3pm on June 21.

*Regulation 114 of the Education and Care Services National Regulations* prescribes the centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun. Section 4.11 of the Child Care Planning Guideline provides the following design guidance:

- *Outdoor play areas should have year round solar access to at least 30% of the ground area, with no more than 60 per cent of the outdoor space covered.*

As part of the amended plans submitted on 4 October 2019, solar access diagrams were submitted which depicted the level of solar access between 9am and 3pm on June 21. The submitted shows diagrams revealed that at-least 30% of the ground area of the outdoor play spaces will receive 3 hours of sunlight between 12pm and 3pm.

- **Health and safety concerns regarding the current vacant area of the first floor.**

**Comment:** The proposal seeks consent for a new use which would occupy the vacant first floor area. As such, this matter would be able to be addressed were the application to be approved.

- **Request for Council to prepare a Cox's Road Master Plan.**

**Comment** – This matter relates to the preparation of strategic planning documents, and is therefore not specifically relevant to the proposal. The proposal has been considered by Council's Strategic Activation team specially relating to the reliance upon Council's carpark. The carpark has been identified as potentially being modified to have two flow entrance and exit onto Cox's Road adjacent to the subject site.

**ITEM 0 (continued)****10. Referrals*****Internal referrals:*****Landscape Architect**

The amended plans submitted on 19 May 2020 were considered by Council's Landscape Architect. The amendments undertaken to the landscape plan have satisfactorily addressed the previously held concerns relating to consistency with the landscape design provisions of Part 3.2 of RDCP.

**Heritage Advisor**

The amended proposal was referred to Council's Heritage Advisor for consideration. No concerns were raised with the proposed development, given the nature of the works and separation distances between the site and item.

***Traffic***

Council engaged Bitzios Consulting Engineers to undertake an independent peer review of the submitted Traffic and Parking Assessment prepared by McLaren Traffic Engineering (MTE) dated 8 May 2019. Council's in correspondence dated 20 March 2020 raised the following concerns:

- The trip generation rates may be underestimated, leading to possible inadequate parent/visitor parking at peak arrival times.

MTE has used the rates in the *RTA Guide to Traffic Generating Developments (2002)* and subsequent updates to derive a total of 108 trips in the period 0700 to 0900, and 95 trips in the period 1600 to 1800. Trip generation rates adopted in the MTE report are superseded and these rates were only applicable to childcare centres with 22-66 places. MTE has assumed an even 50:50 split of trips in and out of the centre.

The trip generation rates were requested to be recalculated using the formula provided within the latest Childcare Centre Analysis Report (prepared by TEF in 2015 and published by RMS). It was considered this report better reflected a child care of the proposed size.

It was also requested that the trip generation not be spread evenly across the two hours during the AM and PM peak hours. It was advised, that 70% of trips arrive during a sharper 1-hour peak period. The calculation undertaken by Bitzios indicated a trip calculation approximately 20 to 60 per cent higher than MTE trip generation



**ITEM 0 (continued)**

rates and an amended assessment was required reflecting the desired spread of trips during peak periods.

- The trip distribution pattern has minor issues as stated in the report and should be revised before coding the new distribution in the SIDRA model.

MTE's trip distribution assumption of trips to and from "Wicks Road (south leg)" on page 16 of the MTE report. We believe this is intended to be the northern leg of the Cox's Road/Wicks Road intersection. Further, the PM distribution from Wicks Road components do not sum to 35% (page 16) and do not match the numbers in Figure 7B.

- IDM historical signal data and associated signal plans should be adopted from RMS for the purpose of this modelling. SIDRA models and report attachments showed no evidence of applying IDM data for the purpose of this analysis. An optimum cycle time has been used for the signal coding and analysis which is deemed unacceptable.
- The SIDRA models have not been calibrated to actual signal timing and/or back of queue lengths.
- 28 parking spaces have been proposed in the layout. Given the number of proposed 135 childcare places falls outside any existing comparative study and RMS analysis report for childcare centres, a detailed queuing analysis should be undertaken considering a realistic arrival and departure profile to determine any likely internal queueing or queue push back into Cox's Road.
- The proposal does not provide a sufficient amount of car parking allocated for children and staff of the facility in accordance with the parking requirements specified within Section 5.1, Part 3.2 – Car Parking of DCP 2014.

The applicant submitted further information on 15 May 2020 including a supplementary traffic and parking assessment prepared by McLaren Traffic Engineering (MTE) dated 5 May 2020.

On 15 June 2020 Council wrote to the applicant advising the supplementary report had been considered and issues remained. These matters included:

1. Trip Generation
  - a. Not satisfied with MTE response to underestimation of traffic generation associated with the proposed child care centre. They have insisted on using the old figures stipulated in RTA Trip Generation Guideline 2002 with no reasonable technical rationale.

**ITEM 0 (continued)**

- b. Peak hour of the network and traffic profile is different to arrival peak hour of a child care centre. This matter has been completely disregarded with insisting on using the same old method.
  - c. TEF report has been published on TfNSW website, therefore we consider that as an adopted technical document which reflects the most recent traffic behaviour at child care centres. MTE is more than welcome to undertake their own independent survey. In the absence of such comparative study, we strongly recommend using the most recent data.
2. Trip Distribution
    - a. This issue has been addressed by MTE
  3. SIDRA Models
    - a. There is no evidence of SIDRA model calibration. Signal data for the survey date should be purchased from RMS for an accurate modelling.
    - b. With respect to my colleagues opinion, I am not of the opinion that any SIDRA model should have a calibrated base model to be reliable for future assessment using “with development” traffic. All queue length should be validated to modeller and reviewer satisfaction. A superficial assessment using SIDRA will certainly result in unreliable outputs even for a comparative case. In other words, the result will not accurately quantify the impacts of the new development.
  4. Car Parking
    - a. MTE is using the TEF report on an elective basis as it suits them. They just mentioned in the previous section that TEF report has not been adopted by RMS yet.
    - b. We are unaware of any conventional queuing theory assessment in MTE’s report. Are there any updated reports?

The applicant submitted a further supplementary traffic and parking assessment prepared by McLaren Traffic Engineering (MTE) dated 7 July 2020. The further report was referred to Bitzios Consulting Engineers who provided the following advice:

*Section 1.3.1 – IDM data should not reflect an impossible worst degree of saturation. IDM data represent Real time performance of the signalised intersection. It seems that MTE is refereeing to IDM data that the model is failing because of using this data rather than something wrong with the model itself or lack of proper calibration. In other words, MTE is shifting the blame to using IDM data which represent the real time performance of the intersection while they have failed to provide any evidence the model is calibrated and fit for purpose. Obviously using the “Optimum signal timing” and hoping for the best would result in a major discrepancy in the outcomes while we are not even sure if the base model is representing correct queue lengths and delays at this particular intersection. In my opinion, the SIDRA model outputs are still unacceptable despite using IDM data for Cox’s Rd/Wick Road intersection. We*

**ITEM 0 (continued)**

*never mentioned that using IDM data would be a means for calibration while using IDM data would be mandatory for having a calibrated model.*

Assessment Officer's comments: The modelling used is incorrect in relation to the signalling and therefore it cannot be determined whether the proposal as a result of its intensification of use will have an adverse impact on the local road network. From the information provided, it cannot be determined whether correct queue lengths and delays at the intersection of Cox's Road and Wicks Road have been utilised and therefore the actual impact on Cox's Road as a result of the proposed development cannot be ascertained. This forms part of the recommendation for refusal.

**Senior Development Engineer**

The amended information was referred to Council's Senior Development Engineer and the following comments were provided:

*Development Engineering Services initial review identified a parking shortfall for the proposed development. As per the DCP requirements, the development will warrant 17 (16.86) spaces based on the 135 childcare places. The documentation makes no mention of staff levels however the traffic report presents that 12 staff spaces are required so it is presumed that the level of staff for the facility is to be in the order of 24 (planner to confirm).*

*The architectural plans have depicted 12 staff parking spaces and 16 parent pickup / dropoff spaces, presenting a technical shortfall of 1 parking space.*

*The supplementary traffic report has undertaken an analysis of the parking demand on first principles, utilising basic queuing analysis and adopting the derived 98% percentile queue length (commonly adopted in traffic analysis as representing the vast majority of situations). The report has not detailed the analysis however has claimed based on the estimated traffic generation arising from the 135 childcare spaces (detailed in Table 1 of the report) the proposed development would warrant 14 parking spaces. Based on the queuing probability this is correct but it would be prudent to clarify with Council's engaged Traffic Consultant for verification.*

The amended proposal was referred to Council's Traffic Consultant and in their response dated 13 August 2020, no concerns were raised with the parking shortfall proposed. The applicant has demonstrated by an analysis based on first principles that the level of parking provision is sufficient despite the technical non compliance with Council's control.

**Urban Strategy**

**ITEM 0 (continued)**

The proposal was referred to Council's City Activation team in relation to the proposal and its reliance upon Council's carpark. The following comments were received:

*The intention as part of the public domain upgrade at Cox's Road is for the configuration of the Council Car Park to be changed. The existing (eastern) entry will become a two way flow (entry and exit); the existing (western) exit will be closed off. This change will reduce the risk of a vehicle colliding with a pedestrian as they use the pedestrian crossing.*

The proposed development relies upon the use of carpark to facilitate access onto Cox's Road. There is no existing legal entitlement for use and therefore during the identified works to the adjoining carpark, this will prevent the intended use of child care centre and its functioning. The applicant has been requested to seek owner's consent but to date this has not been undertaken. The proposal is an intensification of use which will impact upon the current use of Council's carpark and future works.

**Environmental Health Officer**

The proposal was referred to Council's Environmental Health Officer for comment. In their referral response issued on 13 September 2019, no objections to the proposed development were raised, subject to conditions.

**11. Conclusion**

After consideration of the development against Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the relevant statutory and policy provisions, the proposal in its current form is not suitable for the site and is contrary to the public interest.

Therefore, it is recommended that the application be refused pursuant to Section 80(1)(b) of the Act. The reasons for the decision are as follows:

- The proposal fails to achieve compliance with the floor space ratio development standard prescribed for the subject site.
- The clause 4.6 written request to justify the contravention of the FSR development standard is not supported.
- The proposed intensification of the land use relies upon an adjoining property in which it does not have legal entitlement to use.
- Owner's consent to utilise the adjoining Council owned car park for vehicular access from the subject site to Cox's Road has not been provided with the application.

**ITEM 0 (continued)**

- The proposal has not demonstrated that it will not result in any adverse impact upon the local road network. Insufficient information has been submitted to address queue times at the intersection of Cox's Road and Wicks Road which will potentially be impacted by the intensified land use.

**12. Recommendation**

Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, the following is recommended:

(a) That development application LDA2019/0189 for alterations and additions to the existing building to accommodate a 135 place childcare centre on the first floor, change of use of tenancy 5 and 7 on the ground floor to office, increasing parking from 56 to 58 spaces, 2 business identifications signs and strata subdivision at 142-148 Cox's Road, North Ryde be refused for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development does not satisfy the following provisions of the *Child Care Planning Guideline* as required by Clause 23 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.
  - Section 2, Principle 2 – Built Form – The proposed intensification of land and proposed number of children results in the creation of enclosed outdoor play spaces which contribute to the exceedance of the FSR development standard.
  - The proposal is contrary to Part 3.8 Traffic, parking and pedestrian circulation of the Child Care Planning Guideline.
2. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development does not comply with the following provisions of *Ryde Local Environmental Plan 2014*:
  - Clause 4.4 'Floor Space Ratio' - the proposed development seeks a floor space ratio of 1.08:1 which exceeds the maximum 0.8:1 floor space ratio development standard.
  - The submitted Clause 4.6 written request has not satisfied the jurisdictional prerequisites to support the proposed 36.2% variant to Clause 4.4.

**ITEM 0 (continued)**

3. Pursuant to Section 4.15(a)(iii) of the Environmental Planning and Assessment Act 1979, the development does comply with the following provisions of the Ryde Development Control Plan 2014:
  - Part 3.2 – Part 5.1 Car Parking, Traffic and Access – the proposal is an intensification of use and has not demonstrated there will be no adverse impact upon local traffic and relies upon access through Council’s car park without owner’s consent being provided.
4. Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, the development has failed to provide details prescribed by the regulations contained within the Environmental Planning and Assessment Regulation 2000, Schedule 1. Insufficient information has been submitted to enable assessment of the proposed development as follows:
  - A development application must contain evidence that the owner of the land on which the development is to be carried out consents to the application. The application relies on vehicular access via the adjoining Lot 1 DP 605185, owned by Council, and no evidence has been provided that the owners of that land consent to the application.
5. Pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not suitable for the site. The proposal is contrary to Section 1.3 Objects of the Environmental Planning and Assessment Act 1979
6. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.

**ITEM 0 (continued)**

**ATTACHMENTS**

- 1 SEPP Childcare Planning Guideline
- 2 LEP & DCP compliance table
- 3 SEPP 64 Advertising and Signage
- 4 Clause 4.6 Variation Request
- 5 A3 Plans - subject to copyright provisions

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**Attachment 1 - State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

<b>Relevant clauses</b>	<b>Compliance with standard/provision</b>	<b>Compliance</b>
22 Centre-based child care— concurrence of Regulatory Authority required for certain development	N/A – proposal complies with requirements for outdoor play areas, and concurrence is not required.	N/A
23 Centre-based child care— matters for consideration by consent authorities	The Child Care Planning Guidelines have been considered within the assessment.	Refer to table below
24. Centre-based child care facility in Zone IN1 or IN2 – additional matters for consideration by consent authorities.	The proposed centre-based child care facility is located within the B1 Neighbourhood Centre and therefore this clause does not apply.	N/A
25. Centre-based child care—non-discretionary development standards	Proposal complies with standards.	Yes
26. Centre-based child care— development control plans	Assessment of DCP controls is limited to those which do not contravene this clause.	Refer to DCP assessment.



## Child Care Planning Guideline August 2017

Guideline	Compliance with standard/provision
<b>Part 2 Design Quality Principles</b>	
<p><b>Principle 1. Context</b></p> <p>Good design responds and contributes to its context, including 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. Well-designed child care facilities respond to and enhance the qualities and identity of the area including adjacent sites, streetscapes and neighbourhood. Well-designed child care facilities take advantage of its context by optimising nearby transport, public facilities and centres, respecting local heritage, and being responsive to the demographic, cultural and socio-economic makeup of the facility users and surrounding communities.</p>	<p>The overall size of the development is not appropriate in its context. Refer to discussion of built form below.</p>
<p><b>Principle 2. Built Form</b></p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the surrounding area. Good design 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. Good design also uses a variety of materials, colours and textures. 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. Contemporary facility design can be distinctive</p>	<p>Given the proposed development exhibits an excessive departure from the FSR development standard facilitated by the intensification of the land use.</p> <p>The non-compliant built form is as a result of the 2.1m high acoustic walls to surround the outdoor play space which contribute to these areas being classified as GFA in accordance with the Dictionary contained within RLEP2014.</p>

Guideline	Compliance with standard/provision
<p>and unique to support innovative approaches to teaching and learning, while still achieving a visual appearance that is aesthetically pleasing, complements the surrounding areas, and contributes positively to the public realm.</p>	
<p><b>Principle 3. Adaptive learning spaces</b>            Good facility design delivers high quality learning spaces and achieves a high level of amenity for children and staff, resulting in buildings and associated infrastructure that are fit-for-purpose, enjoyable and easy to use. This is achieved through site layout, building design, and learning spaces fit-out. Good design achieves a mix of inclusive learning spaces to cater for all students and different modes of learning. This includes appropriately designed physical spaces offering a variety of settings, technology and opportunities for interaction.</p>	<p>The centre-based child care facility generally achieves a satisfactory layout to enable adaptive learning spaces.</p>
<p><b>Principle 4. Sustainability</b>            Combines positive environmental, social and economic outcomes. This includes use of natural cross ventilation, sunlight and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and re-use of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>The proposed centre based childcare facility is considered to provide adequate cross ventilation, sunlight and passive thermal design.</p>
<p><b>Principle 5. Landscape</b>            Landscape and buildings should operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A contextual fit of well-designed developments is</p>	<p>The proposal includes a reduced area of natural planting areas as a result of the child care being located at first floor. The proposal has been amended to include a reduction in</p>

Guideline	Compliance with standard/provision
<p>achieved by contributing to the landscape character of the streetscape and neighbourhood. Well-designed landscapes make outdoor spaces assets for learning. This includes designing for diversity in function and use, age-appropriateness and amenity. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p>	<p>hard paving proposed throughout the outdoor play spaces and an increase in natural plantings. The amendments undertaken are considered to have achieved the desired appearance and performance.</p>
<p><b>Principle 6. Amenity</b></p> <p>Good design positively influences internal and external amenity for children, staff and neighbours. Achieving good amenity contributes to positive learning environments and the well-being of students and staff. Good amenity combines appropriate and efficient indoor and outdoor learning spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, service areas and ease of access for all age groups and degrees of mobility. Well-designed child care facilities provide comfortable, diverse and attractive spaces to learn, play and socialise.</p>	<p>The proposal delivers satisfactory quality learning spaces and achieves a satisfactory level of amenity for children and staff, aside from the absence of landscaping referred to above.</p>
<p><b>Principle 7 - Safety</b></p> <p>Well-designed child care facilities optimise the use of the built and natural environment for learning and play, while utilising equipment, vegetation and landscaping that has a low health and safety risk, and can be checked and maintained efficiently and appropriately.</p>	<p>The proposed centre-based childcare facility is designed to minimise safety impacts.</p>

Guideline	Compliance with standard/provision
Well-designed child care facilities incorporate passive surveillance and Crime Prevention Through Environmental Design (CPTED).	As above.
<b>Part 3 Matters for Consideration</b>	
<p><b>C1.</b> For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> <li>• the acoustic and privacy impacts of the proposed development on the residential properties</li> <li>• the setbacks and siting of buildings within the residential context</li> <li>• traffic and parking impacts of the proposal on residential amenity.</li> </ul> <p>For proposed developments in commercial and industrial zones, consider:</p> <ul style="list-style-type: none"> <li>• potential impacts on the health, safety and wellbeing of children, staff and visitors with regard to local environmental or amenity issues such as air or noise pollution and local traffic conditions</li> <li>• the potential impact of the facility on the viability of existing commercial or industrial uses.</li> </ul>	<p>The proposed centre-based childcare facility is located within a B1 Neighbourhood Centre, and is not adjacent to any residential zones. However, residential properties are located a short distance from the site and where relevant, these matters are considered in further detail within the assessment.</p> <p>These matters are considered in further detail within the assessment.</p>
<p><b>C2</b></p> <p>When selecting a site, ensure that:</p> <ul style="list-style-type: none"> <li>• the location and surrounding uses are compatible with the proposed development or use</li> <li>• the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal</li> </ul>	<p>The proposed centre-based childcare facility is a permissible use within the B1 Neighbourhood Centre Zone in accordance with the Ryde Local Environmental Plan 2014, and this use would be compatible with the objectives of the zone.</p> <p>The subject site does not pose any</p>

Guideline	Compliance with standard/provision
<p>hazards</p> <ul style="list-style-type: none"> <li>• there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed</li> <li>• the characteristics of the site are suitable for the scale and type of development proposed having regard to: - size of street frontage, lot configuration, dimensions and overall size - number of shared boundaries with residential properties - the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas</li> <li>• where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use</li> <li>• there are suitable drop off and pick up areas, and off and on street parking</li> <li>• the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use</li> </ul>	<p>significant environmental risks as it is not affected by flooding, landslip, bushfire or coastal hazards.</p> <p>There are minimal earthworks proposed, and given the existing commercial uses at the site, it is unlikely that remediation would be required.</p> <p>The characteristics of the site are considered suitable with the B1 Zone. The proposal is to be located within the first floor of an existing commercial building with a space capable of including a centre-based childcare facility development.</p> <p>The proposed development application seeks consent for alterations and additions to the first floor of an existing commercial building to accommodate a centre-based childcare facility. It is considered the interior and exterior spaces are suitable for the proposed development.</p> <p>It is considered suitable drop off and pick up areas are provided on-site, along with on-street parking.</p> <p>The subject site is located off (Cox's Road) which is a collector road. The subject site is located within 300m of Lane Cove Road which is a classified road. This will not</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> <li>• it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.</li> </ul>	<p>unduly impact on the proposal.</p> <p>The subject site is not located close to any incompatible social activities.</p>
<p><b>C3.</b></p> <p>A child care facility should be located:</p> <ul style="list-style-type: none"> <li>• near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship</li> <li>• near or within employment areas, town centres, business centres, shops</li> <li>• with access to public transport including rail, buses, ferries</li> </ul>	<p>The proposed centre-based child care facility is located directly opposite Holy Spirit Catholic Primary School and within 100m of North Ryde Public School.</p> <p>The subject site is located within the North Ryde Neighbourhood Centre.</p> <p>The subject site is located along a bus route, with the nearest stop being located a short distance (i.e. less than 10m) from the site frontage.</p>
<p><b>C4</b></p> <p>A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from: proximity to:</p> <ul style="list-style-type: none"> <li>- heavy or hazardous industry, waste transfer depots or landfill sites</li> <li>- LPG tanks or service stations</li> <li>- water cooling and water warming systems</li> <li>- odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses.</li> </ul>	<p>The proposal seeks alterations and additions to the existing first floor of a building to accommodate a childcare centre within the B1 Neighbourhood Centre Zone. The subject site is not located within proximity to any heavy or hazardous industries. As such, the site is well located, and there are no undue hazards associated with the site's location.</p>

Guideline	Compliance with standard/provision
<b>3.2 Local Character, streetscape and the public domain interface</b>	
<p><b>C5</b></p> <p>The proposed development should:</p> <ul style="list-style-type: none"> <li>• contribute to the local area by being designed in character with the locality and existing streetscape</li> <li>• reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> <li>• recognise predominant streetscape qualities, such as building form, scale, materials and colours</li> <li>• include design and architectural treatments that respond to and integrate with the existing streetscape</li> <li>• use landscaping to positively contribute to the streetscape and neighbouring amenity</li> <li>• integrate car parking into the building and site landscaping design in residential areas.</li> </ul>	<p>The visual presentation of the proposed centre-based childcare facility from Cox's Road includes provision of 2.1m acoustic barriers as recommended to be implemented by the submitted Acoustic Report, which contributes to the non-compliant FSR.</p> <p>The proposal seeks to utilise the existing car parking located at the rear of the site.</p> <p>The proposal does not include landscape works within the streetscape</p> <p>The proposal seeks to utilise the existing car park on site.</p>
<p><b>C6</b></p> <p>Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> <li>• fencing to ensure safety for children entering and leaving the facility</li> <li>• windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and</li> </ul>	<p>Capable of complying.</p> <p>Windows have been provided on the northern front elevation which provides passive surveillance of the public domain.</p>

Guideline	Compliance with standard/provision
<p>connection between the facility and the community</p> <ul style="list-style-type: none"> <li>• integrating existing and proposed landscaping with fencing.</li> </ul>	<p>The proposed landscape design incorporates plantings and fencing.</p>
<p><b>C7</b></p> <p>On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	<p>The proposed development includes multiple buildings and two entries – one from inside the street and one from the carpark.</p> <p>Pedestrian entries and spaces associated within the childcare centre have been clearly defined.</p>
<p><b>C8</b></p> <p>Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> <li>• clearly defined street access, pedestrian paths and building entries</li> <li>• low fences and planting which delineate communal/ private open space from adjoining public open space</li> <li>• minimal use of blank walls and high fences.</li> </ul>	<p>Entry to the proposed development is clearly defined.</p> <p>No front fence is proposed. Proposal is for alterations and additions to an existing commercial building at the first floor to accommodate a childcare centre.</p> <p>Minimal blank walls proposed.</p>
<p><b>C9</b></p> <p>Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing</p>	<p>No front fencing is proposed.</p>



Guideline	Compliance with standard/provision
should be designed in accordance with local heritage provisions.	
<p><b>C10</b></p> <p>High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary</p>	<p>The proposal seeks to include 2.1m high solid acoustic walls to the perimeter of the outdoor place spaces. The subject site is located 300m of Lane Cove Road which is a classified road. Cox's Road is a collector road in accordance with Schedule 2 contained within Part 3.2 of DCP 2014. The acoustic walls in this instance contribute to the floor space ration non-compliance and intensification of the land use of the basis on the number of children proposed.</p>
<b>3.3 Building orientation, envelope and design</b>	
<p><b>C11</b></p> <p>Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> <li>• ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> <li>- facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties</li> <li>- placing play equipment away from common boundaries with residential properties</li> <li>- locating outdoor play areas away from residential dwellings and other sensitive uses</li> </ul> </li> <li>• optimise solar access to internal and external play areas</li> </ul>	<p>The are no visual privacy or overlooking concerns anticipated from the proposed development, given its location on the first floor of an existing commercial building, and that it does not abut any residential properties.</p> <p>A review of the submitted shadow diagrams indicates the proposed development optimises solar access to internal and external play areas.</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> <li>• avoid overshadowing of adjoining residential properties</li> <li>• minimise cut and fill</li> <li>• ensure buildings along the street frontage define the street by facing it</li> <li>• ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.</li> </ul>	<p>The subject site does not overshadow any residential properties.</p> <p>Given the proposed development is located entirely above existing ground level, there are no associated earthworks proposed.</p> <p>The proposal utilises the first floor of an existing building which is orientated towards Cox's Road.</p> <p>The above ground outdoor place spaces proposed are considered to be adequately protected from wind and other climatic conditions.</p>
<p><b>C12</b></p> <p>The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> <li>• building height should be consistent with other buildings in the locality</li> <li>• building height should respond to the scale and character of the street</li> <li>• setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility</li> </ul>	<p>The maximum building height of the proposed development is compliant with the height of buildings development standard.</p> <p>The proposed building height of 9.13m is compliant with the maximum height control of 9.5 specified within RLEP 2014. The proposed building height is considered to be consistent with the broader streetscape.</p> <p>The proposal is largely contained within an existing building, however the nil setback proposed to the southern rear boundary from</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> <li>• setbacks should provide adequate access for building maintenance</li> <li>• setbacks to the street should be consistent with the existing character.</li> </ul>	<p>Outdoor Play Space 3 is considered to contribute to the bulk and scale of the building which is incommensurate amongst adjoining development.</p> <p>Not applicable.</p> <p>No change to the existing street setback is proposed, given the development is to be located within an existing building.</p>
<p><b>C13</b></p> <p>Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres.</p> <p>On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p>	<p>The subject site is not located on a classified road.</p> <p>No changes to the front setback of the building are proposed.</p>
<p><b>C14</b></p> <p>On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p>The subject site is not located within a residential zone.</p>
<p><b>C15</b></p> <p>The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> <li>• respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage</li> <li>• retains and reinforces existing built form and</li> </ul>	<p>The subject site is located within 100m of a heritage item 39, identified as North Ryde Public School which contains three buildings of heritage significance listed within Schedule 5 of LEP 2014.</p> <p>Given the relative scale of the alterations</p>

Guideline	Compliance with standard/provision
<p>vegetation where significant</p> <ul style="list-style-type: none"> <li>• considers heritage within the local neighbourhood including identified heritage items and conservation areas</li> <li>• responds to its natural environment including local landscape setting and climate</li> <li>• contributes to the identity of place</li> </ul>	<p>and additions to accommodate the proposed childcare centre on the first floor of the existing commercial building, and the separation between the buildings, there are not anticipated to be any impacts to the nearby heritage item. The proposal has been considered satisfactory by Council's Heritage Advisor.</p>
<p><b>C16</b></p> <p>The facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> <li>• located to allow ease of access, particularly for pedestrians</li> <li>• directly accessible from the street where possible</li> <li>• directly visible from the street frontage</li> <li>• easily monitored through natural or camera surveillance</li> <li>• not accessed through an outdoor play area.</li> <li>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ul>	<p>The entry point to the proposed development allows for ease of access.</p> <p>The entry to the proposed development is directly accessible from the street via the existing driveway which leads to the rear car park, and separate pedestrian access provided at the ground floor within the centre of the building fronting Cox's Road.</p> <p>The front entry of the proposed centre-based child care facility is clearly visible from Cox's Road.</p> <p>The front entry allows for natural surveillance.</p> <p>The entry is not accessed through an outdoor play area.</p> <p>The ground floor commercial premises are each provided with individual entry points.</p>

Guideline	Compliance with standard/provision
<p><b>C17</b></p> <p>Accessible design can be achieved by:</p> <ul style="list-style-type: none"> <li>• providing accessibility to and within the building in accordance with all relevant legislation</li> <li>• linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry</li> <li>• providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible</li> <li>• minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</li> </ul>	<p>The site provides accessibility in accordance with relevant legislation.</p> <p>The design of the proposed development is considered accessible with disabled access provided to the entrance of the site in the form of an at grade access pathway which leads to the elevator providing access to the childcare centre on the first floor.</p> <p>A continuous path off travel is provided throughout the building.</p> <p>The extent of ramping has been minimised.</p>
<p><b>3.4 Landscaping</b></p>	
<p><b>C18</b></p> <p>Appropriate planting should be provided along the boundary integrated with fencing.</p> <p>Screen planting should not be included in calculations of unencumbered outdoor space.</p>	<p>The proposal provides for landscape gardens equivalent to 14% of the proposed outdoor play spaces. The proposal has been designed in accordance with the DCP provisions and is responsive to the site characteristics being at first floor and not having natural ground access to facilitate an increase in natural landscape surfaces.</p>
<p><b>C19</b></p> <p>Incorporate car parking into the landscape</p>	<p>The proposal seeks to occupy the existing</p>

Guideline	Compliance with standard/provision
<p>design of the site by:</p> <ul style="list-style-type: none"> <li>• planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</li> <li>• taking into account streetscape, local character and context when siting car parking areas within the front setback</li> </ul>	<p>car park at the rear of the site.</p>
<b>3.5 Visual and acoustic privacy</b>	
<p><b>C20</b></p> <p>Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</p>	<p>The balconies overlook and overhang car parking areas only.</p>
<p><b>C21</b></p> <p>Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitably locating pathways, windows and doors</li> <li>• permanent screening and landscape design.</li> </ul>	<p>No overlooking opportunities are anticipated.</p> <p>Pathways, windows and doors suitably located.</p> <p>Landscape not required for this purpose.</p>
<p><b>C22</b></p> <p>Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitable location of pathways, windows and doors</li> <li>• landscape design and screening.</li> </ul>	<p>The layout of the building is appropriate to minimise privacy impacts.</p> <p>Pathways, doors and windows have been suitably located.</p> <p>Landscape not required for this purpose.</p>

Guideline	Compliance with standard/provision
<p><b>C23</b></p> <p>A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> <li>• provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence).</li> </ul>	<p>Despite the proposed development not being directly adjacent to any form of residential accommodation, acoustic fences are proposed.</p>
<p><b>3.6 Noise and Air Pollution</b></p>	
<p><b>C25</b></p> <p>Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> <li>• creating physical separation between buildings and the noise source</li> <li>• orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> <li>• using landscaping to reduce the perception of noise</li> <li>• limiting the number and size of openings facing noise sources</li> <li>• locating cot rooms, sleeping areas and play areas away from external noise sources.</li> </ul>	<p>The proposal seeks to utilise an existing building. Acoustic walls are proposed for the purposes of minimising noise impacts.</p>

<p><b>C26</b></p> <p>An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"> <li>• on industrial zoned land</li> <li>• where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000</li> <li>• along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li> <li>• on a major or busy road</li> <li>• other land that is impacted by substantial external noise</li> </ul>	<p>The submitted acoustic report prepared by Rodney Stevens Acoustics has addressed the relevant acoustic considerations that apply to this site.</p>
<p><b>C27</b></p> <p>Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p>	<p>The site is suitably located to avoid such impacts.</p>
<p><b>C28</b></p> <p>A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> <li>• creating an appropriate separation distance between the facility and the pollution source.</li> </ul> <p>The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution</p>	<p>The characteristics of the site are considered suitable with the B1 Zone. The proposal is to be located within the first floor of an existing commercial building. An air quality assessment report prepared by Todoroski Air Science, dated 11 June 2019 states that the only air pollutants that would affect the proposal are emissions from various food outlets, motor vehicle exhausts and the sewer harvesting facility at the gold course.</p> <p>The report concludes that the above air pollutants would not have any air quality</p>



<ul style="list-style-type: none"> <li>• using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway</li> <li>• incorporating ventilation design into the design of the facility</li> </ul>	<p>impact on the proposed development.</p>
<p><b>3.7 Hours of Operation</b></p>	
<p><b>C29</b></p> <p>Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p>	<p>The DA has been lodged seeking consent for hours of operation between 6:30am to 7:00pm Monday to Friday. It is to be noted that the subject site is located adjacent to non-residential land uses, and there is no objection to the proposed hours of operation.</p>
<p><b>C30</b></p> <p>Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.</p>	<p>The subject site is located within the B1 Neighbourhood Centre Zone and is located adjacent to the SP2 Infrastructure Zone and the RE2 Private Recreation Zone. The proposed childcare centre is to be located on the first floor of an existing building. The ground floor of the building contains commercial and business tenancies. Within close proximity of the subject site are schools and other small business and commercial buildings. Given the surrounding context of land uses, the proposed hours of operation for the centre-based childcare facility are considered to be compatible with adjoining land uses.</p>
<p><b>3.8 Traffic, parking and pedestrian circulation</b></p>	
<p><b>C31.</b> Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the</p>	<p>Refer to DCP assessment.</p>

land.	
<p><b>C32</b></p> <p>In commercial or industrial zones and mixed-use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.</p>	No on-street parking proposed.
<p><b>C33</b></p> <p>A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> <li>• the amenity of the surrounding area will not be affected</li> <li>• there will be no impacts on the safe operation of the surrounding road network.</li> </ul>	<p>A traffic report has been submitted with the proposed development application by McLaren Traffic Engineering and Road Safety Consultants Transit Pty Ltd.</p> <p>The submitted Traffic Report states that the intersection of Wicks Road, Cox's Road is currently performing above a safe operational capacity. However insufficient information has been provided to demonstrate there will not be an adverse impact upon the local traffic network as a result of the intensification of the site.</p>
<p><b>C34.</b></p> <p>Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"> <li>• a classified road</li> <li>• roads which carry freight traffic or transport dangerous goods or hazardous materials. The alternate access must have regard to:</li> <li>• the prevailing traffic conditions</li> <li>• pedestrian and vehicle safety including bicycle movements</li> <li>• the likely impact of the development on traffic.</li> </ul>	The subject site does not front a classified road, or roads which carry freight traffic and therefore this control is not applicable.
<p><b>C35.</b></p> <p>Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure</p>	The subject site is not located within a cul-de-sac or narrow lane road. Cox's Road

<p>that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	<p>provides adequate access to and from the site in the event of an emergency, however concerns are held regarding the impacts upon queuing and waiting lengths at the intersection with Wicks Road which may impact upon access to the site. .</p>
<p><b>C36.</b></p> <p>The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> <li>• separate pedestrian access from the car park to the facility</li> <li>• defined pedestrian crossings included within large car parking areas</li> <li>• separate pedestrian and vehicle entries from the street for parents, children and visitors</li> <li>• pedestrian paths that enable two prams to pass each other</li> <li>• delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</li> <li>• in commercial or industrial zones and mixed-use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas</li> <li>• vehicles can enter and leave the site in a forward direction.</li> </ul>	<p>A separate pedestrian access path has been provided from the car park to the facility.</p> <p>A clearly defined pedestrian pathway has been included on the submitted plans.</p> <p>Separate pedestrian and vehicle entries have been provided from Cox’s Road.</p> <p>Pedestrian pathways are of a sufficient width to allow prams to pass each other.</p> <p>Delivery and loading areas are not required.</p> <p>Entry 1 of the childcare centre has been physically separated from the car parking area.</p> <p>The compliance is reliant upon an adjoining</p>

	site which does not form part of the site for the proposed development and owner's consent has not been provided.
<p><b>C37.</b></p> <p>Mixed use developments should include:</p> <ul style="list-style-type: none"> <li>• driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks</li> <li>• drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site</li> <li>• parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</li> </ul>	<p>The proposal seeks to utilise the existing driveway arrangements on the site. However, concern is held that owner's consent has not been provided by Council in regards to the proposed reliance upon the adjoining property for access to Cox's Road. The proposal is an intensification of use and legal entitlement must be ensured in regards to facilitating such a development.</p> <p>Drop-off spaces have been indicated on the submitted plans.</p> <p>Parking spaces are located amongst parking spaces for the commercial developments fronting Cox's Road. The child care spaces are grouped together and are able to be marked for exclusive use of the centre.</p>
<p><b>C38.</b></p> <p>Car parking design should:</p> <ul style="list-style-type: none"> <li>• include a child safe fence to separate car parking areas from the building entrance and play areas</li> <li>• provide clearly marked accessible parking as close as possible to the primary entrance to</li> </ul>	<p>Capable of complying.</p> <p>Clearly marked accessible parking has been indicated on the submitted plans.</p>

<p>the building in accordance with appropriate Australian Standards</p> <ul style="list-style-type: none"> <li>• include wheelchair and pram accessible parking.</li> </ul>	<p>Wheel chair and pram accessible parking has been provided.</p>
<p><b>Part 4 Applying the National Regulations to development proposal</b></p>	
<p><b>4.1 Indoor Space Requirements</b></p> <p><b>Regulation 107 Education and Care Services National Regulations</b></p> <p>Every child being educated and cared for within a facility must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space.</p> <p>All unencumbered indoor spaces must be provided as a secure area for children. The design of these spaces should consider the safe supervision of children.</p> <p>Applicants should also note that regulation 81 requires that the needs for sleep and rest of children at the service be met, having regard to their ages, development stages and individual needs. Development applications should indicate how these needs will be accommodated.</p> <p><b>Storage</b></p> <p>It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> <li>• a minimum of 0.3m<sup>3</sup> per child of external storage space</li> </ul>	<p>The proposed centre-based child care facility provides 485.42m<sup>2</sup> of unencumbered indoor space for 135 children. This equates to 3.59m<sup>2</sup> of unencumbered indoor space for each child which is compliant.</p> <p>All unencumbered indoor spaces within the proposed development are secure and allow for safe supervision.</p> <p>The submitted development application indicates that two (2) internal sleeping (cot) rooms will be provided adjacent to the babies rooms, for children aged between 0-2 years.</p> <p>The proposed centre-based childcare facility provides 60.769m<sup>3</sup> of external storage space. With 135 children proposed, this</p>

<ul style="list-style-type: none"> <li>• a minimum of 0.2m<sup>3</sup> per child of internal storage space.</li> </ul>	<p>equates to 0.45m<sup>3</sup> of external storage per child.</p> <p>The proposed centre-based child care provides 106.5m<sup>3</sup> of internal storage space. With 135 Children proposed, this equates to 0.78m<sup>3</sup> of internal storage space per child.</p>
<p><b>4.2 Laundry and hygiene facilities</b></p> <p><b>Regulation 106 Education and Care Services National Regulations</b></p> <p>There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering.</p> <p><b>On site laundry</b></p> <p>On site laundry facilities should contain:</p> <ul style="list-style-type: none"> <li>• a washer or washers capable of dealing with the heavy requirements of the facility</li> <li>• a dryer</li> <li>• laundry sinks</li> <li>• adequate storage for soiled items prior to cleaning</li> <li>• an on site laundry cannot be calculated as usable unencumbered play space for children (refer to Figure 2)</li> </ul> <p><b>External laundry service</b></p> <p>A facility that does not contain on site laundry facilities must make external laundering arrangements. Any external laundry facility providing services to the facility needs to comply with any relevant Australian Standards.</p>	<p>Laundry facilities have been included at the western end of the childcare facility adjacent to the indoor play space for children aged between 3-5 years.</p> <p>The proposed laundry is large enough to accommodate necessary appliances and storage.</p> <p>Internal laundry facilities have been provided; therefore the proposal does not require external laundry facilities.</p>

<p><b>4.3 Toilet and hygiene facilities</b>  <b>Regulation 109 Education and Care Services National Regulations</b></p> <p>A service must ensure that adequate, developmentally and age appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children. Child care facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code.</p> <p>Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants (refer to Figure 3).</p> <p>Design considerations could include:</p> <ul style="list-style-type: none"> <li>• junior toilet pans, low level sinks and hand drying facilities for children</li> <li>• a sink and handwashing facilities in all bathrooms for adults</li> <li>• direct access from both activity rooms and outdoor play areas</li> <li>• windows into bathrooms and cubicles without doors to allow supervision by staff</li> </ul>	<p>The toilet/nappy change facilities have been appropriately located for safe and convenient use with washing and drying facilities. It is considered that age appropriate toilets have been provided.</p> <p>Junior toilet pans, low level sinks and hand drying facilities have been included and depicted on the plans.</p> <p>Low level sinks and handwashing facilities have been included within the bathroom/nappy change rooms of the proposed development.</p> <p>Sink and handwashing facilities provided in all bathrooms.</p> <p>Direct access from activity rooms provided. Toilet facilities are accessible via the indoor and outdoor play space.</p> <p>The amended plans submitted on 4 October 2019, include glazed partitions around the toilet and hygiene facilities to maximise supervision.</p>

<ul style="list-style-type: none"> <li>external windows in locations that prevent observation from neighbouring properties or from side boundaries</li> </ul>	<p>Location of external windows prevents observation from neighbouring development into the centre.</p>
<p><b>4.4 Ventilation and natural light</b></p> <p><b>Regulation 110 Education and Care Services National Regulations</b></p> <p>Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the National Construction Code. Ceiling height requirements may be affected by the capacity of the facility.</p> <p><b>Ventilation</b></p> <p>To achieve adequate natural ventilation, the design of the child care facilities must address the orientation of the building, the configuration of rooms and the external building envelope, with natural air flow generally reducing the deeper a building becomes. It is recommended that child care facilities ensure natural ventilation is available to each indoor activity room.</p> <p><b>Natural Light</b></p> <p>When designing child care facilities consideration should be given to:</p> <ul style="list-style-type: none"> <li>providing windows facing different orientations</li> </ul>	<p>Natural light and cross ventilation is acceptable.</p> <p>The proposed centre-based childcare facility addresses the orientation of the building while maximising cross ventilation with windows and sliding door openings to the indoor play areas.</p> <p>Windows have been provided on opposite southern elevations.</p> <p>Skylights not necessary, given satisfactory</p>



<ul style="list-style-type: none"> <li>• using skylights as appropriate</li> <li>• ceiling heights. It is recommended that ceiling heights be proportional to the room size, which can be achieved using raked ceilings and exposed trusses, creating a sense of space and visual interest.</li> </ul>	<p>daylight achievable via the building facades.</p> <p>3.3m floor to ceiling heights are proposed within the indoor play spaces which are considered proportional to room size.</p>
<p><b>4.5 Administrative Space</b></p> <p><b>Regulation 111 Education and Care Services National Regulations</b></p> <p>A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.</p>	<p>An Internal administration/reception room has been provided.</p>
<p><b>4.6 Nappy change facilities</b></p> <p><b>Regulation 112 Education and Care Services National Regulations</b></p> <p>Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children. Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.</p> <p>In circumstances where nappy change facilities must be provided, design considerations could include:</p> <ul style="list-style-type: none"> <li>• properly constructed nappy changing bench or benches</li> </ul>	<p>The proposed centre-based childcare facility provides nappy changing facilities within each of the bathroom facilities for children. The nappy change facilities include benches and bathing facilities. The nappy changing facilities have all been located adjacent to the indoor play spaces to allow for maximum supervision of the children.</p> <p>Nappy changing benches have been provided.</p>

<ul style="list-style-type: none"> <li>• a bench type baby bath within one metre from the nappy change bench</li> <li>• the provision of hand cleansing facilities for adults in the immediate vicinity of the nappy change area.</li> <li>• positioning to enable supervision of the activity and play areas.</li> </ul>	<p>Bench type baby baths have been included on the submitted plans.</p> <p>Hand cleansing facilities are provided within the nappy change room. However, information has not been provided on the submitted plans.</p> <p>Positioned adjacent to indoor play spaces to allow for supervision.</p>
<p><b>4.7 Premises designed to facilitate supervision</b></p> <p><b>Regulation 115 Education and Care Services National Regulations</b></p> <p>A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity. Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the National Construction Code.</p> <p>Design considerations should include:</p> <ul style="list-style-type: none"> <li>• solid walls in children’s toilet cubicles (but no doors) to provide dignity whilst enabling supervision</li> <li>• locating windows into bathrooms or nappy change areas away from view of visitors to the</li> </ul>	<p>The proposed centre-based childcare facility has been designed to allow for maximum supervision of the children from within the indoor and outdoor play spaces. The toilets facilities and nappy changing facilities include glazed partitions to walls to maximise supervision</p> <p>The amended plans submitted on 4 October 2019 include solid walls Between cubicles to provide dignity whilst enabling supervision.</p> <p>The walls to the nappy changing rooms and toilets now include glazed partition windows to maximise supervision and are located</p>

<p>facility, the public or neighbouring properties</p> <ul style="list-style-type: none"> <li>• avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children</li> <li>• avoiding multi-level rooms which compromise, or require additional staffing, to ensure proper supervision. If multilevel spaces are proposed, consideration should be given to providing areas that can be closed off and used only under supervision for controlled activities.</li> </ul> <p><b>4.8 Emergency and evacuation procedures</b> Regulations 97 and 168 Education and Care Services National Regulations Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including:</p> <ul style="list-style-type: none"> <li>• instructions for what must be done in the event of an emergency</li> <li>• a risk assessment to identify potential emergencies that are relevant to the service</li> </ul> <p>Facility design and features should provide for the safe and managed evacuation of children</p>	<p>away from the view of visitors. Windows to bathrooms and nappy change rooms have not been included to maximise supervision.</p> <p>All areas of the proposed development allow for acceptable supervision.</p> <p>Multi-level rooms are not proposed.</p> <p>Emergency and evacuation procedures have been submitted within the report prepared by GHD, dated 4 October 2019.</p> <p>Risk assessment has been submitted as part of the report prepared by GHD, dated 4 October 2019.</p> <p>Refer above.</p>
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<p>and staff from the facility in the event of a fire or other emergency. Multi-storey buildings with proposed child care facilities above ground level may consider providing additional measures to protect staff and children. For example:</p> <ul style="list-style-type: none"> <li>• independent emergency escape routes from the facility to the ground level that would separate children from other building users to address child protection concerns during evacuations</li> <li>• a safe haven or separate emergency area where children and staff can muster during the initial stages of a fire alert or other emergency. This would enable staff to account for all children prior to evacuation. An emergency and evaluation plan should be submitted with a DA and should consider:</li> <li>• the location of a safe congregation/assembly point, away from the evacuated building, busy roads and other hazards, and away from evacuation points used by other occupants or tenants of the same building or of surrounding buildings</li> <li>• how children will be supervised during the evacuation and at the congregation/assembly point, relative to the capacity of the facility and governing child-to-staff ratios.</li> </ul>	<p>Emergency and evacuation floor plans have been submitted.</p> <p>The submitted emergency and evacuation plans indicate the emergency and assembly areas to be located within the Council carpark on the western side of the building.</p> <p>The submitted emergency and evacuation indicate a refuge area to be located within Outdoor Play Space 3.</p> <p>Details of how children will be supervised have been provided within the Risk Assessment prepared by GHD.</p>
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<p><b>4.9 Outdoor Space requirements</b></p>	
<p><b>Regulation 108 Education and Care Services National Regulations</b></p>	
<p>An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m<sup>2</sup> of unencumbered outdoor space.</p>	<p>The proposed centre-based childcare facility provides 1019m<sup>2</sup> of unencumbered outdoor space. This equates to 7.54m<sup>2</sup> of unencumbered outdoor space per child which complies with the minimum 7.0m<sup>2</sup> specified within the Childcare Planning Guideline.</p>
<p><b>Verandahs as outdoor space</b></p>	
<p>Where a covered space such as a verandah is to be included in outdoor space it should:</p>	<p>All outdoor play spaces are located at the first floor level. However, these spaces are proposed to be predominantly open.</p>
<ul style="list-style-type: none"> <li>• be open on at least one third of its perimeter</li> <li>• have a clear height of 2.1 metres</li> <li>• have a wall height of less than 1.4 metres where a wall with an opening forms the perimeter</li> </ul>	<p>N/A</p> <p>N/A</p>
<p><b>Simulated outdoor environments should include:</b></p>	
<ul style="list-style-type: none"> <li>• more access to natural light and ventilation than required for an internal space through large windows, glass doors and panels to enable views of trees, views of the sky and clouds and movement outside the facility</li> <li>• skylights to give a sense of the external climate</li> <li>• a combination of different floor types and textures, including wooden decking, pebbles, mounds, ridges, grass, bark and artificial grass, to mimic the uneven surfaces of an</li> </ul>	<p>There are no simulated outdoor play spaces proposed.</p>

<p>outdoor environment</p> <ul style="list-style-type: none"> <li>• sand pits and water play areas</li> <li>• dense indoor planting and green vegetated walls</li> <li>• climbing frames, walking and/or bike tracks</li> </ul>	
<p><b>4.10 Natural Environment</b></p> <p><b>Regulation 113 Education and Care Services National Regulations</b></p> <p>The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.</p> <p>Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space. Shrubs and trees selected for the play space must be safe for children. Avoid plant species that risk the health, safety and welfare of the facility's occupants, such as those which:</p> <ul style="list-style-type: none"> <li>• are known to be poisonous, produce toxins or have toxic leaves or berries</li> <li>• have seed pods or stone fruit, attract bees, have thorns, spikes or prickly foliage or drop branches.</li> </ul> <p>The outdoor space should be designed to:</p> <ul style="list-style-type: none"> <li>• provide a variety of experiences that facilitate the development of cognitive and physical skills, provide opportunities for social interaction and appreciation of the natural environment</li> </ul>	<p>Nominated planting is safe for children.</p> <p>The proposed outdoor open play areas provide a variety of experiences through to engage play and simulate a variety of sensory environment.</p> <p>The layout of the outdoor play space has</p>

<ul style="list-style-type: none"> <li>• assist supervision and minimise opportunities for bullying and antisocial behaviour</li> <li>• enhance outdoor learning, socialisation and recreation by positioning outdoor urban furniture and play equipment in configurations that facilitate interaction.</li> </ul>	<p>been designed to allow for maximum supervision.</p> <p>The layout of the rear open play space is considered to enhance social interaction through a range of leisure activities and seating areas.</p>
<p><b>4.11 Shade</b></p> <p><b>Regulation 114 Education and Care Services National Regulations</b></p> <p>The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p> <p><b>Solar access</b></p> <p>Outdoor play areas should:</p> <ul style="list-style-type: none"> <li>• have year-round solar access to at least 30 per cent of the ground area, with no more than 60 per cent of the outdoor space covered.</li> <li>• provide shade in the form of trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area</li> </ul> <p><b>Natural Shade</b></p> <p>Planting for shade and solar access is enhanced by:</p> <ul style="list-style-type: none"> <li>• placing appropriately scaled trees near the eastern and western elevations</li> <li>• providing a balance of evergreen and deciduous trees to give shade in summer and</li> </ul>	<p>Outdoor shade structures have been included within each outdoor play space area to protect children from exposure to ultraviolet radiation.</p> <p>A review of the submitted shadow diagrams has revealed that at-least 30% of the ground area of the outdoor play spaces year-round will receive solar access.</p> <p>Shade sails are proposed to provide children with protection from ultraviolet radiation. Trees have also been included to provide additional shade.</p> <p>Given the available soil depths shade trees are not provided but the proposal relies upon shade sails.</p>

<p>sunlight access in winter.</p> <p><b>Built shade structures</b></p> <p>Built structures providing effective shade include:</p> <ul style="list-style-type: none"> <li>• permanent structures (pergolas, sails and verandahs)</li> <li>• demountable shade (marquees and tents)</li> <li>• adjustable systems (awnings)</li> <li>• shade sails.</li> </ul>	<p>Numerous shade sails are proposed in all outdoor play spaces which will provide effective shading.</p>
<p><b>4.12 Fencing</b></p> <p><b>Regulation 104 Education and Care Services National Regulations</b></p> <p>Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including a family day care venue where all children are over preschool age. Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the National Construction Code.</p> <p>In general, fencing around outdoor spaces should:</p> <ul style="list-style-type: none"> <li>• prevent children climbing over, under or through fences</li> <li>• prevent people outside the facility from gaining access by climbing over, under or through the fence</li> </ul>	<p>The amended plans submitted on 15 May 2020, have include a 2.1m high solid fence to Outdoor Play Space 3 which will include materials recommended by the acoustic report such as:</p>



<p>Design considerations for side and rear boundary fences could include:</p> <ul style="list-style-type: none"> <li>• being made from solid prefinished metal, timber or masonry</li> <li>• having a minimum height of 1.8 metres</li> <li>• having no rails or elements for climbing higher than 150mm from the ground.</li> </ul>	<ul style="list-style-type: none"> <li>• 12mm Thick Perspex;</li> <li>• 6mm toughened laminated safety glass</li> </ul>
<p><b>4.13 Soil Assessment</b></p> <p>Regulation 25 Education and Care Services National Regulations Subclause (d) of regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required:</p> <ul style="list-style-type: none"> <li>• a soil assessment for the site of the proposed education and care service premises</li> <li>• if a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken</li> <li>• a statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.</li> </ul>	<p>The proposed development is seeking alterations and additions to an existing building to accommodate a child care centre on the first floor. As such, a soil assessment is not required.</p>

## Attachment 2 – LEP and DCP Compliance Table

RYDE LEP 2014	PROPOSAL	COMPLIANCE
<b>2.7 Demolition requires development consent</b>	Consent for demolition to be sought separately by complying development. In the event of approval, a condition is recommended that would require separate consent for demolition.	Yes
<b>4.3(2) Height</b> • 9.5m	The maximum building height of the proposed development is 9.13m. This has been calculated at the proposed hipped roof pitch at RL:84.10 and the existing finished floor level at RL:74.790.	Yes
<b>4.4(2) &amp; 4.4A(1) FSR</b> • 0.8:1	Ground Floor – 980.04m <sup>2</sup> First Floor – 1994.45m <sup>2</sup>  GFA 2974.49m <sup>2</sup> FSR – 1.08:1 Site Area (2729.5m <sup>2</sup> – site survey)	No
<b>5.10 Heritage Conservation</b>	As per Schedule 5 of Ryde Local Environmental Plan 2014, the subject site is located within 100m of North Ryde Public School which is classified as a heritage item of local significance.  The proposal seeks to utilise the first floor of an existing commercial building with only minor external alterations proposed. Given the minor nature of the proposed works, there are not considered to be any impacts on nearby heritage items.	Yes
<b>6.1 Acid Sulfate soils</b>	The subject site is not affected acid sulphate soils.	N/A
<b>6.4 Stormwater management</b>	The proposed stormwater management system is supported by Council's Senior Development Engineer.	Yes

RYDE DCP 2014	PROPOSED	COMPLIANCE
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RYDE DCP 2014	PROPOSED	COMPLIANCE
<b>Part 3.2 – Child Care Centres</b>		
<b>Child Care Centre Design</b>		
A child care centre development is to be designed and drawn by a person who is an architect or who is accredited by the Building Designers Association of NSW Inc.	A review of the submitted documentation shows that the proposed development has been designed and drawn by Edwin Vanegas of Five Cannons Architecture who is a registered architect (Reg No. 6256) under the NSW Architects Registration Board	Yes
The landscape plan must be designed and specified by a landscape architect with demonstrated experience in designing external spaces for child care centres due to the particular nature of the requirements (refer in particular the requirements in section 6 Landscaping and Play Spaces under this Part)	The Landscape plan has been designed and drawn by Victor Jonathan Barrakat of TGS Landscape Architects who is a registered landscape architect under the Australian Institute of Landscape Architects.	Yes
Child care centre development applications are required to be accompanied by a signed undertaking by the applicant, licensee or proposed licensee that demonstrates that the proposal has been designed to comply with respect to the Children’s Services Regulation 2004 or DoCS requirements as relevant at the time of application	A signed undertaking has been submitted demonstrating that the proposed centre-based childcare facility will be required to comply with the Children’s Services Regulation 2004 before being able to trade/gain the appropriate licence.	Yes
<b>Technical Assessment Requirements</b>		
Technical assessments may also be required to be prepared and submitted with the development application, or while the development application is under assessment, to demonstrate support for the proposal and compliance with this DCP.	The submitted documents include technical assessments as required.	Yes
<b>Suitability of Location and Site for Child Care</b>		
<b>Preferred Locations</b>		
– Single use developments street frontage and width >20m. Corner allotments > 17m	The proposed child care centre is not located on a corner allotment.	Yes
– Single use – minimum site area of 800m <sup>2</sup> – regular in shape	Lot 41 in Deposited Plan 560408 and Lot 3 in Deposited Plan 220894	No

RYDE DCP 2014	PROPOSED	COMPLIANCE
	<p>L shaped allotment Total Site Area = 2729.5m<sup>2</sup></p> <p>The subject site is located on a collector road, as identified by Schedule 2 within Part 3.2 of DCP 2014.</p>	
<ul style="list-style-type: none"> <li>- Not located on arterial or sub-arterial roads, refer Schedule 2</li> </ul>	<p>The proposed child care centre is not located on an arterial or sub-arterial road.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Within mixed use developments on arterial and sub-arterial roads, located distant and facing away from road</li> </ul>	<p>The proposed child care centre is not located on an arterial or sub-arterial road.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- No battle-axe allotments</li> </ul>	<p>The site is not a battle axe allotment</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Cul-de-sac not preferred. Applications for centres in CDS must demonstrate appropriate traffic management is provided</li> </ul>	<p>Cox's Road is not a cul-de-sac.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Not located in proximity to a brothel (Part 3.1 Brothels under DCP 2006)</li> </ul>	<p>No sex-service premises have been identified within close proximity to the subject site.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Site flat or gently sloping and well drained               <ul style="list-style-type: none"> <li>i. Assist design of useable indoor and outdoor areas at same grade</li> <li>ii. Provide accessibility to all areas</li> <li>iii. Assist drainage after rain</li> </ul> </li> </ul>	<p>There is a rear-to-front fall on the site. The proposed child care being located at first floor achieves at grade indoor and outdoor areas.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Aspect permits maximum solar access and natural ventilation</li> </ul>	<p>The site is located to the south of the Council carpark and is adjoined to the south east by the North Ryde Golf Course. The proposal receives acceptable levels of solar access and does not adversely overshadow adjoining properties.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Located on land not affected by adverse overshadowing by existing or future development, undue heat loads from reflective surfaces of</li> </ul>	<p>Given the zoning and height limitations within the surrounding area, it is unlikely that the child care centre would</p>	<p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
existing or future approved buildings on neighbouring sites	be significantly overshadowed by existing or future development on surrounding sites.	
- Site not subject to undue overlooking from existing or future adjoining development	Given the existing surrounding development the proposal is not subject to overlooking and is unlikely to be adversely impacted in future.	Yes
<ul style="list-style-type: none"> <li>- Preferred locations for larger centres in residential areas;</li> <li>- Sites located on street corners</li> <li>- Sites share common boundaries with compatible non-residential uses</li> <li>- Compatible land uses subject to acceptable traffic and parking</li> </ul>	<p>The proposed centre would accommodate 135 places, and is therefore considered to be a larger centre.</p> <p>The site is not a corner allotment but is adjoined by non residential land uses.</p> <p>The proposal has not demonstrated it will not result in adverse traffic impacts.</p>	No
- Work based centres in mixed use developments adjacent to non-commercial/non-residential components to protect privacy and amenity of centre and neighbouring workers/residents.	The proposal is not part of a mixed-use does not result in any adverse amenity impacts	Yes
<b>Assessing Child Care Needs and Size of Facility</b>		
<p>All development applications for child care centres are required to identify:</p> <ul style="list-style-type: none"> <li>i. Proposed total number of child care places.</li> <li>ii. Proposed number of children by age group;</li> <li>iii. Proposed number of staff including all full time and part time staff, and role of each staff member</li> </ul>	<p>The proposal seeks to accommodate 135 children.</p> <p>The proposed age group breakdown for the child care centre is as follows</p> <p>0-2 years – forty (40)  2-3 years – forty-five (45)  3-6 years – fifty (50)</p> <p><i>The number of educators to children ratios is regulated by the Education and Care Services National Regulations.</i></p> <p><i>The ratios were updated on 1</i></p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
	<p>January 2016. The ratios are provided as follows.</p> <p>1:4 (birth to 24 months)  1:5 (24-36 months)  1:10 (Older than 36 months)</p> <p>Proposed</p> <p>Area A (Preschool 3-5 ) – 20 children and 2 staff  Area B (Preschool 3- 5) 30 children and 3 staff</p> <p>Area C (toddlers 2-3) 45 children and 9 staff</p> <p>Area D (infants 0-2) 20 children and 5 staff</p> <p>Area E (infants 0-2) 20 children and 5 staff</p> <p>Total number of required educators is 24. However, a staff breakdown which includes, managerial staff, cooking staff has not been included with the submitted documentation.</p>	
<b>Site Analysis</b>		
<ul style="list-style-type: none"> <li>- A site analysis to be submitted for new child care centre developments including developments that involve the conversions of existing dwellings/other buildings</li> <li>- A site analysis drawing must be based on a survey drawing produced by a qualified surveyor and contain a reference number and date. All levels are to be provided to AHD</li> </ul>	<p>A site analysis plan has been submitted which has been prepared by Five Canons Architecture.</p> <p>Site analysis is based on the Survey Plan provided by ATS Land and Engineering Surveyors.</p>	<p>Yes</p> <p>Yes</p>
<b>Environmental Risks and Hazards</b>		
<p>The location is to take into consideration any other environmental health hazard or risk relevant to the site and/or existing buildings within the site or the surrounding area having regard to the following:</p> <p>i. Pollution created by car and other</p>	<p>The proposal is located on a collector road. The proposal has been designed incorporating external walls to enclose the designed outdoor play spaces and areas presenting to the streetscape</p>	<p>Yes</p>



RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>centre.</p> <p>The site is not to be in a location likely to be affected by emissions of dust, fumes, noise, nor by frequent truck movements. This especially applies in proximity to industrial and business uses.</p> <p>Consideration is to be given to the requirements of SEPP 55 and any land contamination policy adopted by Council. In this regard a preliminary site assessment, detailed site assessment, and/ or site audit may be required to be submitted with the development application and/or as a requirement of development consent.</p>	<p>The site is located within a Neighbourhood Centre which does not include industrial noise. The surrounding developments include commercial and retail stores.</p> <p>The proposed child care is sited at first floor and does not include any excavation works and is therefore unlikely to be affected by contaminated lands.</p>	<p>Yes</p> <p>Yes</p>
<b>Design and Character</b>		
<ul style="list-style-type: none"> <li>• <b>All Child Care Centres</b></li> <li>- Designed in accordance with CPTED</li> </ul>	<p><i>Surveillance</i></p> <p>It is considered that the proposed child care centre proposed on the first floor of the existing commercial building will provide opportunities for effective casual surveillance. The building entry fronts Cox's Road and provides clear sightlines from internal areas and public spaces.</p> <p>Clear sightlines are also provided from the internal areas to the rear outdoor play areas</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- orientated for year round natural light and ventilation and comfort in indoor spaces and outdoor spaces</li> <li>- design to take advantage of natural lighting and opportunities to maximize solar access and natural ventilation</li> </ul>	<p>The proposal seeks consent for a childcare centre at the first floor of an existing commercial building.</p> <p>The proposal will be afforded year round natural light and ventilation to indoor and outdoor spaces.</p> <p>The proposed centre-based childcare facility is designed to take advantage of natural lighting and ventilation. The</p>	<p>Yes</p> <p>Yes</p>



RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- avoid the proximity to and use of large expanses of UV reflective surfaces</li> <li>- maximize energy efficiency and sustainability and compliance with Part 7.1 Energy Smart, Water Wise under this DCP</li> <li>- building materials, appliances, utilities and fuel sources should be made with consideration for minimising energy requirements</li> <li>- appliances to be used/installed in the centre should have a minimum 3.5 star rating</li> <li>- designed to reflect desired/expected character of buildings in the area</li> </ul>	<p>windows are orientated to promote cross flow ventilation</p> <p>The proposed childcare centre within the first floor of the existing commercial building is located in proximity to large expanses of UV reflective surfaces.</p> <p>An energy efficiency report located within the BCA Compliance Assessment Report, prepared by Aramini Leedham Consulting, has been submitted with the subject development application that addresses compliance with Section J of the Building Code of Australia – Energy Efficiency</p> <p>Refer above.</p> <p>Refer above.</p> <p>The proposal seeks to accommodate a childcare centre within the first floor of the existing commercial building. The provision of prominent 2.1m acoustic walls is not appropriate in this location</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> <li>- frontages and entries are to be designed to be readily apparent from the street frontage</li> <li>- where fill is proposed to be used, clean fill must be used.</li> </ul>	<p>The submitted plans show that the frontage and building entry is readily apparent from Cox's Road.</p> <p>No fill proposed</p>	<p>Yes</p> <p>Yes</p>
<b>Centres in Mixed Use Developments and in Non-residential areas</b>		
<p>Work based child care centres are to be designed as self-contained premises to ensure access for child</p>	<p>The proposal includes a separate main entrance from the street frontage in addition to</p>	<p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>care places is available to community members external from the company, should places permit. The centre is to have a separate main entrance, separate pedestrian and vehicular access including drop off/pickup area in proximity to the entrance, and be readily accessible to the general public.</p>	<p>access from the rear from the car park. The proposal includes separate access for pedestrian and vehicles.</p>	
<p>Child care centres are to be located to benefit from a north/northeast aspect and to provide for year round comfort and useability of outdoor play spaces. The siting and design is to maximize opportunity for indoor and outdoor play areas to be oriented to receive maximum benefits of natural light and ventilation.</p>	<p>The centre benefits from a north-east aspect at the front and a south-west aspect at the rear, towards the golf course. The proposal is to be located within the first floor of an existing commercial building and achieves a compliant level of solar access.</p>	<p>Yes</p> <p>Yes</p>
<p>Outdoor play spaces are to be located away from driveways/sources of noise or fumes.</p>	<p>Play space 1 and 2 adjoin the Cox's Road frontage. The play spaces include a 2.1 metre high acoustic fencing.</p> <p>Play space 3 is sited above the car park at the rear of the site.</p>	<p>Yes</p>
<p>Siting and design of outdoor areas is to avoid being subject to undue reflectivity, glare, heat load and UV radiation from surrounding environments (e.g. from smooth reflective surfaces on tall buildings, expanses of asphalt and concrete). Design and siting should avoid the use of large expanses of UV reflective surfaces (smooth surfaces), including metal sheeting, concrete, asphalt, glass and sand being exposed to the sun from 11 am to 3 pm daylight saving time from reflecting into the outdoor play spaces. Shade audits may be required to be prepared in accordance with the NSW Cancer Council guidelines Shade for Child Care Services to identify initial shade opportunities and protection from indirect and direct UVR, and shade opportunities projected to 5 years from establishment of the centre (once planting is established).</p>	<p>The amended proposal has removed the roofing to play spaces 1 and 2 which have a north eastern aspect.</p>	<p>No</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>All child care centres are preferred to be located at ground floor level where achievable and in areas where the opportunity for natural landscaping comprising deep soil planting is possible (i.e. not to be entirely located over basement areas).</p> <p>Child care centres in mixed use developments may provide spaces for 0-2 year olds above ground floor level (no higher than second storey) subject to meeting minimum safety considerations and natural planting requirements (refer Section 6 of this Part).</p> <p>Where centre facilities are provided for use by children above ground floor level, a safe refuge area shall be provided which opens directly to a dedicated fire-isolated stair. The minimum total area of the refuge shall be calculated at the rate of 0.25 m<sup>2</sup> per person (staff and children) for the capacity of the centre occupying the area at that first floor level at any one time. The doors, walls, floors and ceiling of the refuge shall have a minimum Fire Resistance Level (FRL) equal to that required for the fire stairs. The refuge area is not to be used for storage at any time.</p>	<p>The proposed child care is located at first floor.</p> <p>The proposal includes provision of 40 infants at first floor</p> <p>The proposal includes 2 separate fire stairs</p>	<p>No</p> <p>Yes</p> <p>Yes</p>
<p>Where child care centres are not located at ground level within a mixed-use building, the application is required to address child safety, privacy, and amenity impacts for the surrounding users as well as for occupants of the child care centre (refer Section 6.2 of this Part).</p>	<p>The proposal has been designed in accordance with these provisions.</p>	<p>Yes</p>
<p>Fencing Gates and Security</p>		
<p>Designated outdoor play areas must be fenced on all sides. The design and height of fencing are to prevent children scaling fencing and / or crawling under, and must impede intruders from entering premises through it or from scaling it and to prevent unlawful access to children.</p>	<p>The proposal incorporates provision of 1.4 metre high fencing throughout the development.</p>	<p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>Gates are to be designed to prevent children leaving/entering unsupervised by use of childproof locking systems. All raised areas, including any stairs, are to be enclosed to prevent a child from falling or crawling through gaps.</p>	<p>If the application were recommended for approval this could be conditioned</p>	<p>Yes</p>
<p>Adequate safety provision is to be made to prevent children gaining access to other parts of the building/site unsupervised.</p>	<p>The development contains fencing throughout to ensure children cannot gain access without supervision</p>	<p>Yes</p>
<p>Fencing and gates are to be designed to ensure adequate sightlines for vehicles and pedestrian safety in accordance with Australian Standards and RMS Traffic Management Guidelines.</p>	<p>Proposed fencing enables sight lines.</p>	<p>Yes</p>
<p><b>Privacy</b></p>		
<p><b>Acoustic Privacy – for children in the centre</b></p>		
<p>- Sites affected by heavy traffic or other external noises are to be designed so as to locate sleep rooms and play areas away from the noise source. Noise amelioration incorporated into design</p>	<p>The submitted Acoustic Report prepared by Rodney Stevens Acoustics, dated 15 April 2019, stated that a 1.4 metres high solid barrier along the boundaries of the front outdoor play spaces was to be implemented in order to minimise the noise impacts from those areas in order to achieve compliance with the noise level criterion.</p> <p>The front outdoor play spaces are located on balconies and include outer walls of at least 1.4 metres in height (as recommended within the submitted Acoustic Report)</p> <p>The fencing arrangements to the boundaries of Outdoor Play Space 3 at the rear of the first floor include a 2.1 metre high acoustic wall was also proposed for this area</p>	<p>Yes</p>
<p><b>Acoustic Privacy – for adjoining residents</b></p>		
<p>- Noise impacts on neighbouring properties are to be minimised by design measures including: i. Orientating the facility having</p>	<p>The submitted Acoustic Report prepared by Rodney Stevens Acoustics, dated 15 April 2019, stated that a 1.4 metres high</p>	<p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>regard to neighbouring property layout</p> <ul style="list-style-type: none"> <li>ii. Orientating playgrounds/outdoor play areas away from private open space</li> <li>iii. Using laminated or double glazing where necessary;</li> <li>iv. Designing fencing which minimises noise transmission and loss of privacy</li> </ul> <ul style="list-style-type: none"> <li>- child care centres in residential areas with a side boundary set back of less than 3 metres, noise buffering measures should be considered</li> <li>- Acoustic report submitted including recommendations for noise attenuation measures and specifies pre and post development noise levels.</li> </ul>	<p>solid barrier along the boundaries of the front outdoor play spaces (play space 1 and 2) was to be implemented in order to minimise the noise impacts from those areas in order to achieve compliance with the noise level criterion.</p> <p>The fencing arrangements to the boundaries of Outdoor Play Space 3 at the rear of the first floor include a 2.1 metre high acoustic wall was also proposed for this area</p> <p>The acoustic report concludes that the proposed childcare centre will not cause “offensive noise” levels to neighbouring residences, provided the noise measures recommended are implemented.</p> <p>Noise buffering in place.</p> <p>Acoustic report provides recommendations for noise attenuation measures.</p>	<p>Yes</p> <p>Yes</p>
<b>Visual Privacy – for children in the centre</b>		
<ul style="list-style-type: none"> <li>- Indoor areas adjacent to public areas shall be screened to prevent direct sight lines.</li> <li>- Direct overlooking of indoor amenities and outdoor play spaces from public areas should be minimised through design features including:- <ul style="list-style-type: none"> <li>i. Appropriate site and building layout;</li> <li>ii. Suitable location of pathways, windows and doors;</li> <li>iii. Permanent screening and</li> </ul> </li> </ul>	<p>The indoor play areas are located at first floor and do not enable direct sight lines.</p> <p>There are no visual privacy or overlooking concerns anticipated from the proposed development, given its location on the first floor of an existing commercial building, and that it does not abut any residential properties.</p>	<p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>landscaping.</p> <ul style="list-style-type: none"> <li>- Windows and doors in the proposed centre are to be sited in locations which maximise security for children attending the centre.</li> </ul>	<p>The proposed windows of the indoor play areas allow for this opportunity whilst still being appropriately set back from the front boundary to maximise security. The locations of doors and windows should maximise security of children, as it would allow for surveillance of approaches to the building.</p>	<p>Yes</p>
<b>Visual Privacy – for adjoining residents</b>		
<ul style="list-style-type: none"> <li>- Direct overlooking of adjoining main internal living areas and private open spaces should be minimised through:-               <ol style="list-style-type: none"> <li>i. Appropriate site and building layout;</li> <li>ii. Suitable location of pathways, windows and doors;</li> <li>iii. Landscaping and screening.</li> </ol> </li> <li>- Windows and doors in the proposed centre are to be sited in locations which minimise loss of privacy to adjoining residences</li> </ul>	<p>There are no visual privacy or overlooking concerns anticipated from the proposed development, given its location on the first floor of an existing commercial building, and that it does not abut any residential properties.</p> <p>Windows and doors to the proposed centre are sited in locations which minimise privacy to adjoining properties.</p>	<p>Yes</p> <p>Yes</p>
<b>5.0 Car Parking, Traffic and Access</b>		
<b>Car Parking</b>		
<ul style="list-style-type: none"> <li>- All on-site parking areas are to be designed in accordance with Australian Standard AS 2890.1 and AS 2890.2.</li> <li>- Off-street parking is to be provided at the rate of 1 space per 8 children, and 1 space per 2 staff. Stack parking for staff only and max 2 spaces</li> </ul>	<p>A Traffic and parking report has been submitted with the application demonstrating that all on-site parking is to be designed in accordance with the relevant Australian Standards.</p> <p>The centre-based childcare facility proposes to employ 24 educators and 135 Children. In accordance with Section 5.1 of Part 3.2 of RDCP2014, 1 space per 8 children is to be provided and 1 space per 2 staff is to be provided with an additional accessible car parking space.</p> <p>A total of 28 spaces has been provided which is one less than</p>	<p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- Parking requirement to be rounded up to nearest whole number</li> <li>- 1 accessible space located close to the continuous path of travel and where a minimum height clearance of 2.5 metres can be achieved</li> </ul>	<p>the 29 spaces that are required.</p> <p>The variation of 1 car parking space is considered acceptable to Council's Consultant Traffic Engineer as well as Senior Development Engineer.</p> <p>The proposal provides 1 accessible car parking space and therefore achieves compliance with the aforementioned control.</p> <p>Refer above</p> <p>An accessible car parking space has been provided directly adjacent to the disabled car parking space.</p>	<p>-</p> <p>Yes</p>
<p><b>Work based child care centres, and centres in mixed use facilities</b></p>	<p>The proposed development is located within a mixed-use facility.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Parking spaces and pick up/drop off a max 30m to centre main entrance, preferably at floor level. Direct access provided for those not at floor level,</li> </ul>	<p>The spaces allocated for childcare pick-up and drop-off are all located within 30m of the main building entrance.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- the drop off/pickup zones are to be exclusively available for use in conjunction with the child care centre throughout operating hours, spaces are to be clearly marked</li> </ul>	<p>The drop spaces are clearly identified on plan and if recommended for approval could be conditioned to include required signage.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Driveway access, manoeuvring areas and parking areas are not to be shared with access, parking, manoeuvring areas used by other uses or truck movements.</li> </ul>	<p>The proposal relies upon access through the adjoining allotment (Council's carpark). This is a public carpark which can be utilised by other uses and trucks.</p> <p>The parking area is located amongst the other parking associated with the commercial development within the same building.</p>	<p>No</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<b>On Site Manoeuvrability</b>		
<ul style="list-style-type: none"> <li>- The site must be able to accommodate a “U” shaped one-way driveway system with sufficient driveway turning area in addition to the parking spaces to enable vehicles to enter and leave in a forward direction</li> </ul>	<p>The proposal does rely on two separate driveways to achieve a U shape. However, the secondary access is through Council’s carpark and owners consent has not been sought nor provided.</p>	<p>No</p>
<ul style="list-style-type: none"> <li>- Variation on the requirement for a “U” shaped driveway meets following criteria               <ul style="list-style-type: none"> <li>- i. To provide a separate entrance and exit driveway access at a minimum safe distance from each other</li> <li>- ii. To enable vehicles to leave the site in a forward gear;</li> <li>- iii. To enable vehicles using the entrances and exits to not endanger persons and vehicles using those accesses;</li> <li>- iv. To ensure the front setback is not given over to traffic circulation and parking</li> </ul> </li> <li>- requirements which may unduly impact on streetscape and impact on the opportunity for landscaping to meet the requirements of Section 6 of this Part.</li> </ul>	<p>Proposal is compliant but relies on vehicles exiting via Council car park, despite no owner’s consent being received.</p>	<p>No</p>
<ul style="list-style-type: none"> <li>- Separation - Not &lt; 9m on turning circle of 15m and a</li> <li>- Separation - Minimum width of 12m between driveway laybacks.</li> <li>- Vehicle’s not to encroach on pedestrian access ways. Barriers etc. do not block accessible paths of travel</li> <li>- Separate pavement treatment to distinguish driveway from parking spaces</li> </ul>	<p>Turning circle is not proposed</p> <p>One street driveway laybacks utilised, with another providing access to the Council car park. However, no owner’s consent has been received for the use of the Council car park.</p> <p>The pedestrian pathways have been separated from the vehicle access ways where practicable.</p> <p>Car parking spaces have not been proposed within the front setback.</p>	<p>N/A</p> <p>No</p> <p>No</p> <p>N/A</p>
<b>Impact on Traffic Flow</b>		



RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- Vehicles enter and leave the site in a forward direction. Drop off/pick up area designed separate to manoeuvring area</li> </ul>	<p>Vehicles will enter site via the existing driveway; however, reliant on Council car park as described above.</p>	No
<ul style="list-style-type: none"> <li>- SEE addresses likely impacts on amenity of existing streets.</li> </ul>	<p>The SEE has not accounted for the visual impact of the 2.1m acoustic walls.</p>	No
<ul style="list-style-type: none"> <li>- Not to be located on high volume roads, centres located on high volume roads incorporate measures to alleviate associated traffic problems</li> </ul>	<p>The proposed development is not located on a high-volume road. However, the proposal has not demonstrated it will not result in an adverse impact upon queuing and waiting lengths along Cox's Road.</p>	No
<ul style="list-style-type: none"> <li>- Road Safety Audit required for applications on collector roads where volume exceeds 5000(AADT)</li> </ul>	<p>Road Safety Audit has been submitted.</p>	Yes
<b>Pedestrian Safety</b>		
<ul style="list-style-type: none"> <li>- Segregated from vehicle access with clearly defined paths</li> </ul>	<p>A separate pedestrian pathway has been provided to the entrance of the proposed development.</p>	Yes
<ul style="list-style-type: none"> <li>- Drop off/pick up points provided no more than 30m from main entrance, well lit, allows safe movement,</li> </ul>	<p>The spaces allocated for childcare pick-up and drop-off are all located within 30m of the main building entrance</p>	Yes
<ul style="list-style-type: none"> <li>- Vehicle movements separated from pedestrian access by safety fencing, gates etc.</li> </ul>	<p>Safety fencing has not been provided to separate vehicle movements and pedestrian access.</p>	No
<b>Accessibility</b>		
<ul style="list-style-type: none"> <li>- Access provided in accordance with AS1428.1 and Part D of BCA, Part 9.2 of DCP 2014.</li> </ul>	<p>An access report has been submitted which has been prepared by PSE Access Consulting, dated 28 March 2019.</p>	Yes
<ul style="list-style-type: none"> <li>- Minor alterations must not reduce accessibility, improvements must be made where possible,</li> <li>-</li> </ul>	<p>The proposed childcare centre to occupy the first floor of the existing commercial building utilises existing access</p>	Yes

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- Other matters to be considered include:</li> <li>- Continuous path of travel from street/parking area into and within every room and outdoor area,</li>   <li>- Pathways 1200mm-1500mm and grades no steeper than 1:14</li>   <li>- One onsite parking space 3.6m wide with 2.5m height clearance</li> </ul>	<p>arrangement.</p> <p>A continuous path of travel has been provided from the front of the site and from within the car park at the rear of the site.</p> <p>The proposal seeks to utilise the existing pedestrian pathway on the ground floor of the building which includes a low greek with a minimum width of 1.95m.</p> <p>One accessible space has been provided within the at grade car park at the rear of the site which meets the required dimensions.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>Landscaping and Play Spaces</b>		
<b>General Landscaping Requirement</b>		
<ul style="list-style-type: none"> <li>• <b>Landscape plan provided</b></li> <li>- Significant trees/vegetation to be retained and protection program during construction.</li> </ul>	<p>The proposal was referred to Council's Consultant Landscape Architect/Arborist for comment. A number of issues were raised with regard to the following:</p> <ul style="list-style-type: none"> <li>- Tree Impacts</li> <li>- Plan Inconsistencies</li> <li>- Inappropriate Tree Species</li> <li>- Insufficient Tree Planting</li> <li>- Transition Areas</li> <li>- Insufficient Unencumbered Outdoor space.</li> <li>- Play Space Design</li> <li>- Insufficient Shade</li> <li>- Maintenance Access</li> <li>- Acoustic Fence</li> </ul> <p>An amended landscape plan and design responding to these issues received on 15 May 2020 and has now been</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Hazardous plants avoided (poisonous, choking etc.)</li> <li>- Show landscaping of outdoor play spaces in accordance Section 6.2.2</li> <li>- Considers effect of outdoor play on soil</li> <li>- Considers potential of tree roots to up-lift outdoor surfaces</li> <li>- Identify opportunities for deep soil planting and appropriate tree species</li> <li>- Shrubs and trees that offer range of textures, colours and scents, for children's learning experience</li> <li>- Irrigation utilises rainwater or recycled water</li> </ul>		

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- Landscaping setback of 2m along front boundary</li> <li>- Landscape buffer provided along side and rear boundaries in residential zone, minimum width 1m</li> <li>- Landscape/setback buffers for centres in commercial and industrial zones depending on context,</li> </ul>	<p>considered acceptable by Council's Landscape Architect.</p> <p>The site is located within a centre. The proposed children incorporates landscape buffer within the provided outdoor play spaces which present to the front and rear boundaries.</p>	<p>Yes</p>
<b>Play Spaces</b>		
<b>Size and Functionality of Play Spaces</b>		
<ul style="list-style-type: none"> <li>- Regular shapes with convenient access</li> <li>- Avoid location of play spaces in front setback</li> <li>- New centres – 10m<sup>2</sup> of unencumbered outdoor play space /child care place <b>inclusive</b> of transition area</li> </ul>	<p>The proposed internal and external play areas are regularly shaped.</p> <p>The proposal includes Play space 1 and 2 within the front setback. However, given the child care is at first floor within a neighbourhood centre, the spaces do not detract from an established landscape setting as exists in a low density residential area.</p> <p>Childcare Planning Guideline under the <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities 2017)</i> (SEPP) which prevails over the DCP2014.</p>	<p>Yes</p> <p>Yes</p> <p>N/A SEPP Guidelines Prevail</p>
<ul style="list-style-type: none"> <li>- New centres – at 4.5m<sup>2</sup> of unencumbered indoor play space for each / child care place <b>exclusive</b> of transition areas.</li> </ul>	<p>It is noted that the indoor play area complies with the Childcare Planning Guideline under the State Environmental Planning Policy (Educational Establishments and Child Care Facilities 2017) (SEPP) which prevails over the DCP2014.</p>	<p>N/A SEPP Guidelines Prevail</p>
<b>Outdoor Play Spaces</b>		
<ul style="list-style-type: none"> <li>- Shaped to maximise supervision and useability and stimulates early learning</li> </ul>	<p>The design of the play areas would enable supervision of all areas.</p>	<p>Yes</p>
<b>Designed to</b>		

RYDE DCP 2014	PROPOSED	COMPLIANCE
- Be well drained	The proposal was referred to Council's Development Engineer, who raised no objection to the proposed methods of drainage, subject to conditions.	Yes
- Takes advantage of existing natural features and vegetation	Refer above.	Yes
<b>Designs aim for</b>		
- 30% natural planting area	<ul style="list-style-type: none"> <li>- 134.45m<sup>2</sup> of natural planting has been provided within the outdoor play spaces which equates to 14% of the total outdoor play space of 1019 m<sup>2</sup></li> <li>- The proposal does not include any form of natural turfed areas.</li> <li>- 443 m<sup>2</sup> of hard surfaces provided which equates to 43% of the total outdoor play space</li> </ul>	No
- 30% turfed area	Limited natural turf has been proposed.	No
- 40% hard surfaces (sand, paving, timber platforms)	443 m <sup>2</sup> – 43%	No
<b>Work based child care centres, and centres in mixed use facilities</b>		
- Where outdoor spaces are provided externally above ground level (refer section 3.4 of this Part):	The proposed childcare centre is to be located within the first floor of an existing commercial building in an area where there is minimal opportunity to provide for natural landscaping such as deep soil. It is not unreasonable that the proposal would be located at first floor in this location; however, the landscape scheme has been amended to incorporate an appropriate landscape design and increase in soft landscaping provided within planter areas.	Yes
- i. make outdoor space of a similar quality to that achievable at ground floor level. designed to comply with requirements of section 6.2.2.	Proposal has been designed in accordance with Section 6.2.2 given the site attributes	Yes
- ii. measures implemented for protection from excessive wind and other adverse climatic conditions	Play space 3 is entirely roofed with Play space 1 and 2 being partially roofed.	Yes

<b>RYDE DCP 2014</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
- iii. Adequate fencing is to be provided for the safety of the children and to prevent objects from being thrown	Proposed landscape design incorporates appropriate fencing	Yes
- Outdoor storage space does not impede supervision of the play areas. 0.5m <sup>2</sup> of space per child who will be using the area.	Proposal includes 1019 m <sup>2</sup> Of unencumbered play space and provides the required areas of storage	Yes
<b>Indoor Play Spaces</b>		
- a. Indoor play spaces shall be designed to:	The indoor play spaces are regularly shaped and encourage passive surveillance from all rooms.	Yes
- i. Achieve passive surveillance from all rooms;		
- ii. Provide direct access to play areas;		
- iii. Allow maximum supervision of the indoor and outdoor play spaces;	The proposed internal viewing windows allow for supervision from internal common areas to the outdoor play areas. No subspaces are proposed.	Yes
- iv. Allow subspaces to be set up with discernible divisions to offer a variety of play areas.		
<b>Miscellaneous Controls</b>		
<b>Signage</b>		
- All advertising and signage must be designed to comply with Part 9.1 Advertising Signs.	Proposed signage complies with State Environmental Planning Policy No.64 - Advertising and Signage (SEPP 64). Refer to Attachment 3.	Yes
<b>Exterior Lighting</b>		
- Lighting is to be provided to assist access via the main entrance.	The submitted plans do not show proposed lighting, however this can be conditioned prior to the issue of the construction certificate.	Condition
- The street number of the building is to be visible from the street day and night, by lighting and/or reflective material	Can be conditioned to comply in the event of an approval.	Condition
- External lighting must not adversely impact adjoining properties.	Refer above	Condition
<b>Waste Storage and Management</b>		
- Waste management plan submitted	Waste management plan has been submitted with the proposed development application	Yes
- Adequate provision made for the storage and collection of waste and recycling in accordance with Part 7.2	A bin storage area has been provided within the carpark area at the rear of the site.	Yes

RYDE DCP 2014	PROPOSED	COMPLIANCE
of this DCP.	Council's Environmental Health Officer raised no objection to the storage and collection of waste and recycling.	
- In addition to the requirements of Part 7.2 of this Plan, applications for child care centre development are to address the following considerations.		
- special removal service required for the removal/disposal of nappies	Refer above	Refer above
- frequency of removal of waste to ensure regular removal and avoid undue build up of garbage	Refer above	Refer above
- opportunities for avoidance, reuse and recycling of waste	Refer above	Refer above
- convenience for staff of the location of bins	Refer above	Refer above
- security of waste from access by children	Refer above	Refer above
- . likely requirements for waste from kitchen facilities	Refer above.	Refer above.
- Impact of waste storage and collection on adjoining residential developments in terms of unsightliness, odour and noise	Refer above	Refer above
- Expansion – as far as possible to be visually and physically integrated into the design. Screening required for areas visible from street.	Proposal is for a new child care centre	N/A
- Where food preparation is carried out, waste area is to be covered and floor graded and drained, easily accessible and suitably screened	Council's Environmental Health Officer raised no objection to proposed kitchen design.	Yes
- Composting must not impact on amenity of adjoining premises or the centre	Refer above	Refer above
- Separate waste collection services including frequency and times must minimise noise impact on neighbouring properties	Refer above	Refer above
<b>Emergency Evacuation</b>		
- Fire Safety and Evacuation Plan complying with AS3745 prepared for all new centres and for developments resulting in an increase in places	Emergency Evacuation procedures and an emergency evacuation floor plan have been submitted with the proposed development	Yes

<b>RYDE DCP 2014</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
	application.	
<p>The Fire Safety and Evacuation Plan is to address:</p> <ul style="list-style-type: none"> <li>- i. The mobility of children and how this is to be accommodated during an evacuation;</li> <li>- ii. The location of a safe congregation area, away from the evacuated building, busy roads and other hazards, and away from evacuation points for use by other occupants/tenants of the same building or of surrounding buildings; and</li> <li>- iii. The supervision of children during the evacuation and at the congregation area with regard to the capacity of the child care centre including child to staff ratios.</li> </ul>	Refer above	Yes

<b>DEMOLITION</b>	<b>PROPOSAL</b>	<b>COMPLIANCE</b>
<ul style="list-style-type: none"> <li>• Plan showing all structures to be removed.</li> </ul>	Minimal demolition proposed and a separate demolition plan is therefore not necessary.	Yes
<ul style="list-style-type: none"> <li>• Demolition Work Plan</li> </ul>	No demolition proposed	N/A
<ul style="list-style-type: none"> <li>• Waste Management Plan</li> </ul>	Plan submitted	Yes
<b>3.2 Signage in business Zone</b>		
<p>Sign options for Office and Retail Shop – Fronts within Shopping Precincts or Areas</p> <ul style="list-style-type: none"> <li>• An illuminated Under Awning Sign</li> <li>• Fascia Sign</li> <li>• Top Hamper Sign</li> <li>• Window Sign</li> <li>• Drop Awning Sign</li> <li>• Under Awning Sign</li> <li>• Under Awning Sign</li> <li>• Real Estate Sign</li> <li>• Temporary Sign</li> <li>• Flush Wall Sign</li> <li>• Internally Illuminated Sign.</li> </ul>	Refer to SEPP 64 assessment contained within Attachment 3.	Yes
<b>3.2.2 Extent of Signage Permitted</b>		
<p>For Two or More Storey Buildings</p> <p>The total area of signs to be erected on a building (this includes all elevations) should not exceed 1.5m<sup>2</sup> per 1 metre of frontage of the property</p>	<p>The total frontage width of the subject site is 76.2m.</p> <p>The front elevation sign has a</p>	Yes

to the street	<p>total area of 4.58m<sup>2</sup>.</p> <p>The western elevation sign has a total area of 1.782m<sup>2</sup>.</p> <p>The total area of signs to be erected on the building is 6.362m<sup>2</sup>.</p> <p>The total area does not exceed 1.5m<sup>2</sup> per 1 metre of frontage of the property to the street.</p>	
<p>Front Elevation – All signage above the ground floor or awning level of a building must relate to the activity or use of the building at the first-floor level.</p> <p>The maximum area of signs above the ground floor or awning level on the front elevation should not exceed 15% of the area of the elevation situated at that level.</p>	<p>The front elevation signage relates to the use of the proposed childcare centre to be located within the first floor of the existing commercial building and does not exceed 15% of the area of the elevation at that level.</p>	Yes
<p>Side and Rear Elevations – The maximum area of signs on side or rear walls should not exceed 15% of the area of each elevation visible from a public place. Where there is a break in any elevation the maximum coverage should apply to each part of that elevation.</p>	<p>The proposed side elevation sign does not exceed 15% of the total western elevation wall.</p>	Yes
<p>Flush Wall Sign – A sign attached or painted on the wall of a building and projecting horizontally no more than 300mm from the wall.</p>	<p>The proposed signage will project 300mm off the walls.</p>	Yes



**Attachment 3 – Compliance Table SEPP State Environmental Planning Policy  
No.64 – Advertising and Signage (SEPP 64)**

<b>Matters for Consideration</b>	<b>Comment</b>	<b>Complies</b>
<b>1 Character of the area</b>		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The signage is compatible with the existing and desired future character of the locality and is consistent with the type of signage found along Cox's Road	Yes
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The type of signage proposed is consistent with the signage proposed on adjoining development given its location amongst commercial and business uses.	Yes
<b>2 Special Area</b>		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The signage is not located in an environmentally sensitive area, heritage area, natural or other conservation area, open space area, waterway or rural landscape.	Yes
<b>3 Views and Vistas</b>		
Does the proposal obscure or compromise important views?	The signage will not obscure or compromise important views.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage is of an appropriate scale and location which will not dominate the skyline.	Yes
Does the proposal respect the viewing rights of other advertisers?	The proposed signage will not obscure any future signage and will respect the viewing rights of other advertisers.	Yes

<b>4 Streetscape, setting or landscape</b>		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signage is appropriate given the size of the mixed use building and surrounding buildings.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage is of a satisfactory quality design and finish that will not negatively impact the streetscape amenity of the locality.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage is of a size and scale that is compatible with the subject building and does not result in signage clutter.	Yes
Does the proposal screen unsightliness?	The proposed signage provides visual interest to the building, and maintains the them in this location.	Yes
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signage does not protrude above the building.	Yes
Does the proposal require ongoing vegetation management?	The proposal is not surrounded by vegetation and as such ongoing vegetation management is not required.	N/A
<b>5 Site and building</b>		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The scale, proportion and form of the signage is appropriate given the size of the building.	Yes
Does the proposal respect important features of the site or building, or both?	As above	Yes
Does the proposal show	The proposed signage is responsive to the	Yes

innovation and imagination in its relationship to the site or building, or both?	building, with its design and siting influenced by the form of signage located on adjoining commercial and business buildings.	
<b>6 Associated devices and logos with advertisements and advertising structures</b>		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed signage has not been designed to include any safety or lighting devices.	N/A
<b>7 Illumination</b>		
Would illumination result in unacceptable glare?	No illuminated signage proposed.	N/A
Would illumination affect safety for pedestrians, vehicles or aircraft?	Refer above.	N/A
Would illumination detract from the amenity of any residence or other form of accommodation?	Refer above.	N/A
Can the intensity of the illumination be adjusted, if necessary?	Refer above.	N/A
Is the illumination subject to a curfew?	Refer above.	N/A
<b>8 Safety</b>		
Would the proposal reduce the safety for any public road?	The signage is not considered to have any adverse impact upon the safety for any public road.	Yes
Would the proposal reduce the safety for pedestrians or bicyclists?	As above.	Yes

Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	As above.	Yes
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**CL 4.6 VARIATION OF DEVELOPMENT STANDARDS JUSTIFICATION**

**142 & 144-148 COXS ROAD, NORTH RYDE**

**DA FOR ALTERATIONS AND ADDITIONS TO AN EXISTING  
COMMERCIAL BUILDING FOR USE AS A CHILD CARE CENTRE**



**Report Prepared by: Giovanni Cirillo**

**Issue Date: 19 December 2019**

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## Clause 4.6 Variation Request Summary

### Site

Lot 3 in DP 220894 and Lot 41 in DP 560408 – 142 & 144-148 Coxs Road, North Ryde

Site area: 2,729.5m<sup>2</sup>

### Variations sought

Clause 4.4 Floor Space Ratio

### Extent of FSR variation

Maximum FSR permissible under Clause 4.4: 0.8:1 (2,183.6m<sup>2</sup>)

FSR of building proposed: 0.82:1 (2,242.77m<sup>2</sup>)

Extent of non-compliance: 0.02:1 (59.17m<sup>2</sup>)

### Summary of non-compliance

The proposed child care centre is on the second storey of an existing commercial building. The centre includes three outdoor play areas with areas 1 and 2 being on the northern portion of the site towards the Coxs Road frontage and area 3 being on the south of the site. Play areas 1 and 2 are largely open to the sky but with surrounding fencing being a mix of Perspex or toughened glass panels and fixed coloured louvres which allow for natural ventilation. It is the position of the City of Ryde that these areas be included in the gross floor area (GFA) calculation.

These northern outdoor play areas have a combined area of 269m<sup>2</sup>. Including them within the site's GFA yields a total of 2,242.77m<sup>2</sup> equivalent to an FSR of 0.82:1. These areas do not increase the building's perceived bulk and scale from the public domain and have no associated negative environmental impacts. This Variation Request seeks to vary the FSR standard on this basis.

## Introduction

This Clause 4.6 Variation of Development Standards Justification has been prepared by Planning Lab at the request of the City of Ryde to accompany an application for the development of a childcare centre on the second-storey of the existing commercial building at 142 & 144-148 Coxs Road, North Ryde ('the site'). The Architectural drawings have been prepared by Five Canons Architects and are included within this application. A description of the proposal is included within the attached Statement of Environmental Effects by Planning Lab.

The proposal includes three outdoor play areas with areas 1 and 2 being on the northern portion of the site towards the Coxs Road frontage and area 3 being on the south of the site (figure 3). Play areas 1 and 2 are largely open to the sky but with surrounding fencing being a mix of Perspex or toughened glass panels and fixed coloured louvres which allow for natural ventilation. Play areas one and two have no roof and the outer walls exceed a height of 1.4m. They have a total combined area of 269m<sup>2</sup>. It is the position of Planning Lab that this area is not gross floor area (GFA) under the applicable definition in the Ryde LEP 2014 as discussed within the GFA Definition section of this Variation Request. Notwithstanding, Planning Lab acknowledges that the City of Ryde holds a contrary position and considers these outdoor play areas to constitute GFA. This Variation Request is submitted in acknowledgement of Council's position in order to justify the nominal variance to FSR that occurs under Council's interpretation of the GFA definition whereby the northern outdoor play areas are included and the site reaches an FSR of 0.82:1 exceeding the FSR maximum by 0.02:1 or 59.17m<sup>2</sup>.

## Background

The subject site for the Development Application is 142 & 144-148 Coxs Road, North Ryde which is described by NSW Land and Property Information as Lot 3 in DP 220894 and Lot 41 in DP 560408 comprising a site area of 2,729.5m<sup>2</sup>. The site largely resembles an irregular rectangular with a sole frontage to Coxs Road (figures 1, 4-5). The site is located in a B1 - Neighbourhood Centre zone and has a maximum FSR of 0.8:1.

The existing structure on the site is a semidetached two storey commercial building. The Ground floor contains 11 single storey retail/office tenancies with active frontages to Coxs Road. These tenancies are currently occupied by a range of commercial and retail usages including a pathology lab, restaurants and a dance studio. The upper level of the building has previously been used as a commercial office but is currently vacant. Parking is facilitated on site at the rear of the building which is entered through a neighbouring Council car park and exited through a driveway which divides the ground floor tenancies.

The proposal is for the development of a child care centre with capacity for up to 135 children on the second floor of the existing building. The proposal involves alterations and additions to the existing structure to facilitate a child care centre which requires outdoor play areas. Outdoor play areas 1 and 2 are located along the northern section of the building along Coxs Road. It is proposed to remove sections of the roof in these areas (figure 2) and to enclose them with a mix of toughened glass panels and fixed louvres (figures 5-7).





Figure 1 – The site

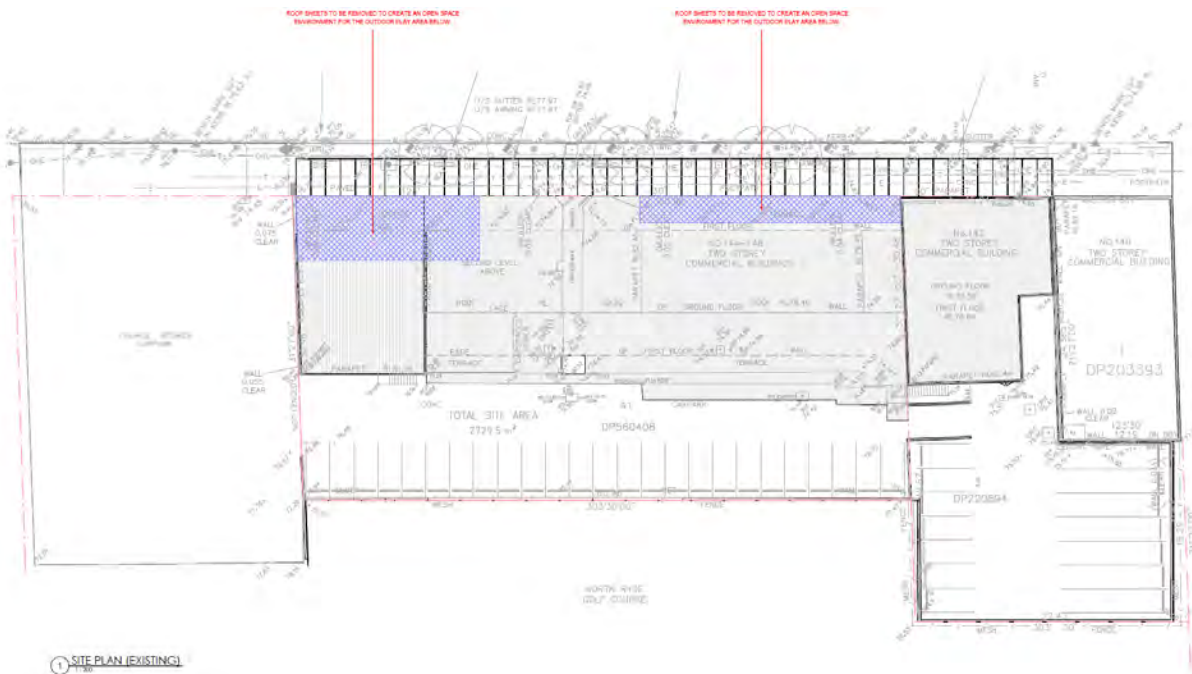


Figure 2 – Roof sheets to be removed to facilitate outdoor play areas 1 and 2.

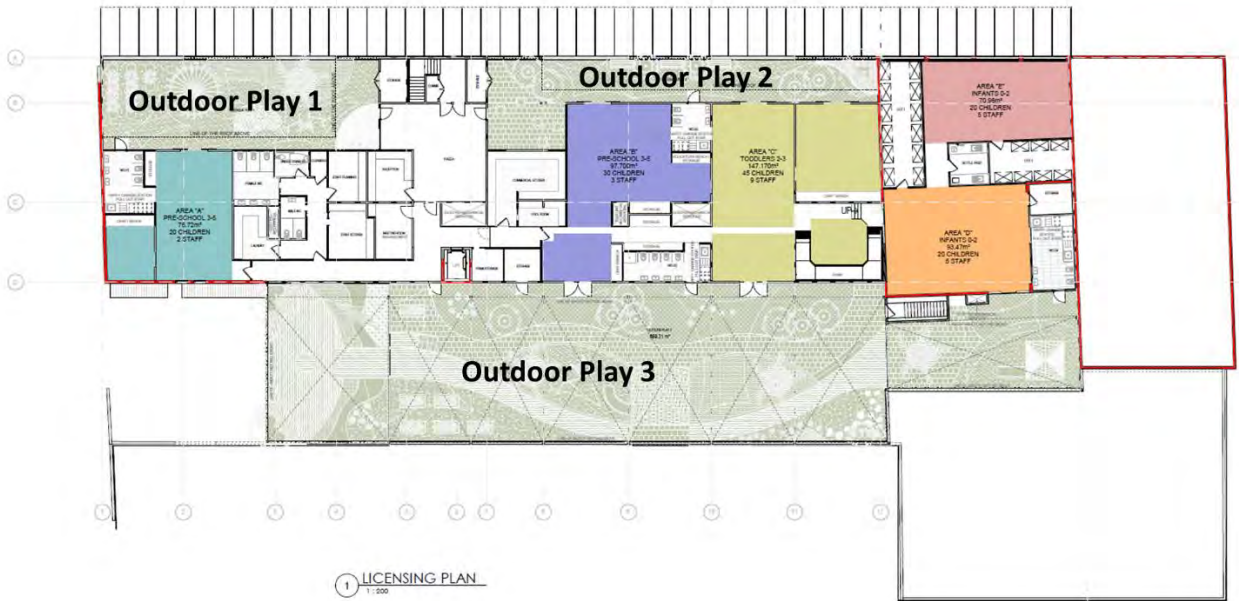


Figure 3 - Locations of the play areas



Figure 4 - The existing northern elevation

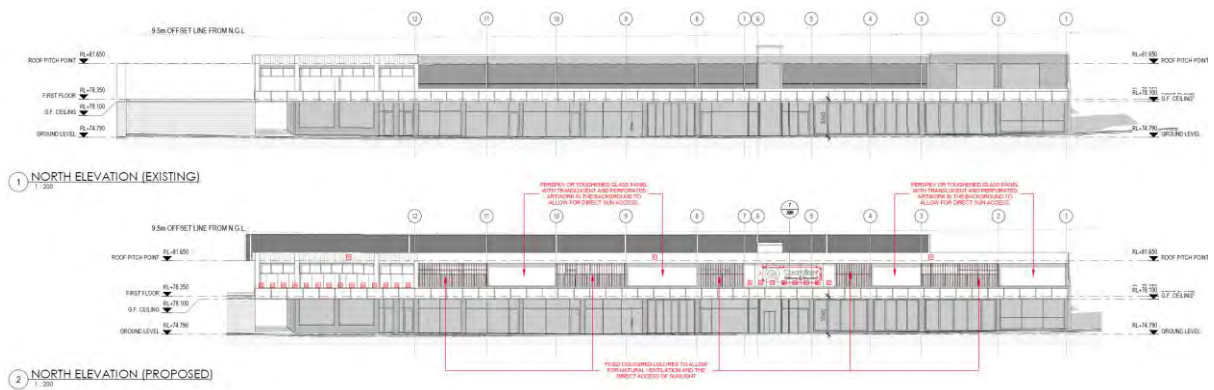


Figure 5 – Existing and proposed northern elevation

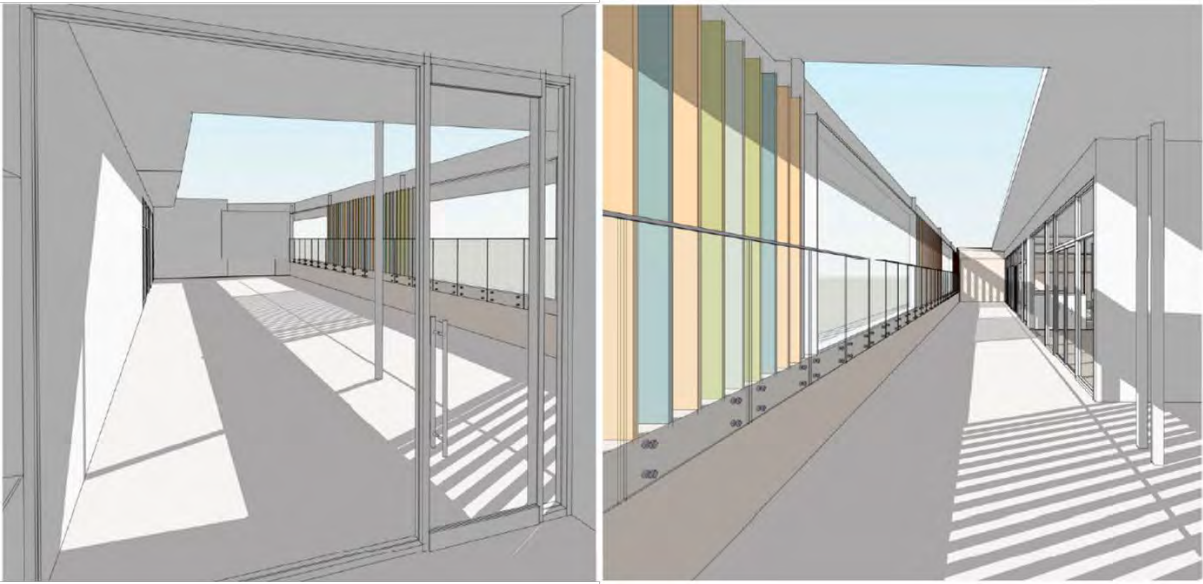


Figure 6 – Section D showing the height of the wall

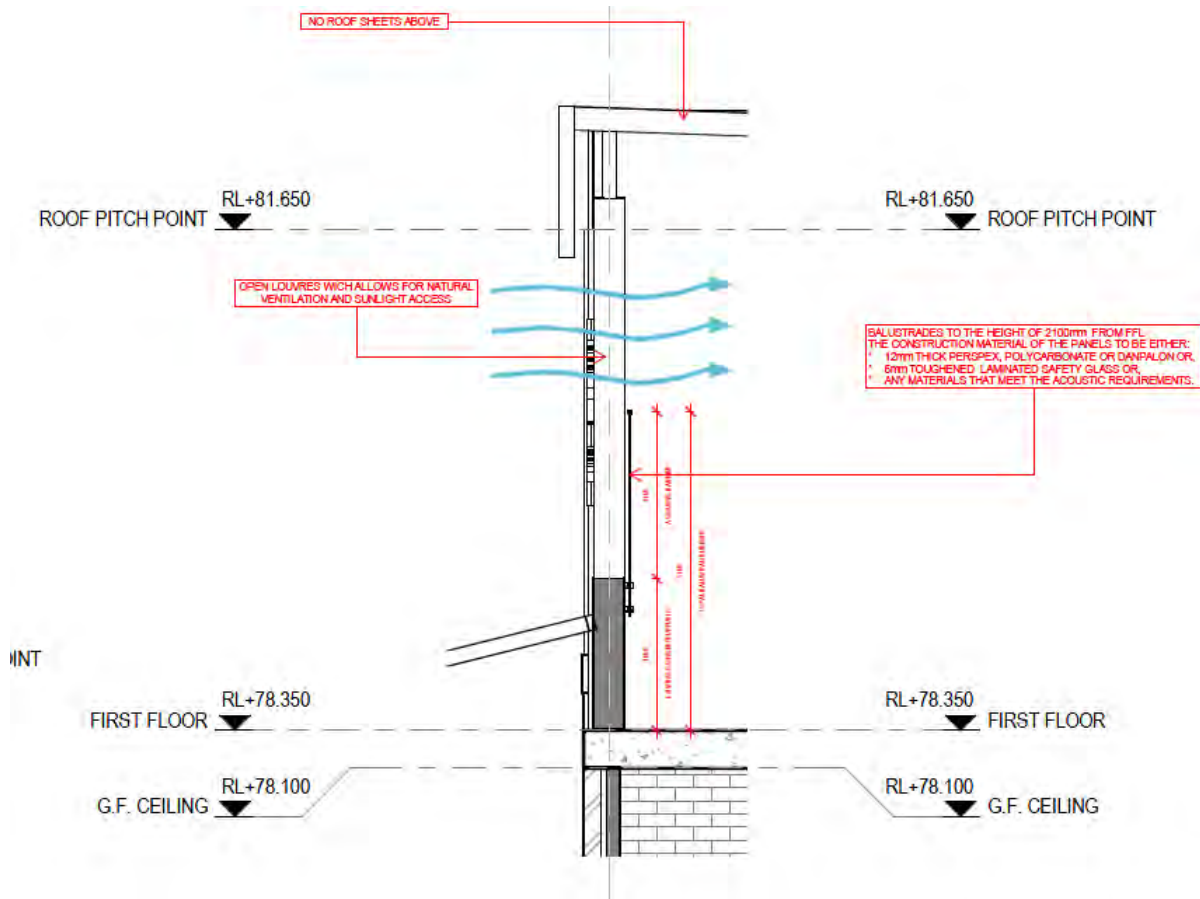


Figure 7 - Outdoor play areas 1 and 2 fencing details

## GFA Definition

### Planning Lab's position

The Ryde LEP 2014 definition of GFA is (underline added for emphasis):

**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,  
but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
  - (i) storage, and
  - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

It is the opinion of Planning Lab that the definition of GFA excludes areas which are not part of a floor of a building. As shown in the definitions below, a floor of a building is synonymous with a storey and a storey must have a floor and a roof above it. As the play areas have no roof, it does not constitute a storey of the building and is exempt from being counted as GFA. Counting such an area as floor space is akin to counting a garden as GFA simply because it has masonry boundary fences.

The Merriam-Webster Online Dictionary defines a floor as being synonymous with a storey saying:

*“1: the level base of a room*

*2a: the lower inside surface of a hollow structure (such as a cave or bodily part)*

*2b: a ground surface // the ocean floor*

*3a: a structure dividing a building into stories*

*also: STORY*

*b: the occupants of such a floor”*

The Merriam-Webster Online Dictionary defines a storey as being:

*1a: the space in a building between two adjacent floor levels or between a floor and the roof*

*b: a set of rooms in such a space*

*c: a unit of measure equal to the height of the story of a building // one story high*

### **Council’s Position**

Planning Lab acknowledges that the City of Ryde holds a counter opinion that any terrace or balcony with walls greater than 1.4m in height should be considered GFA under GFA exclusions definition (i). This Clause 4.6 Variation Request has been prepared in acknowledgement of Council’s interpretation of the GFA definition and will accept that definition for the purposes of this Variation Request.

## **Argument**

The proposed variation to Clause 4.4 of the Ryde LEP 2014 arises from the enclosure height around the second storey outdoor play areas 1 and 2 which have a combined area of 269m<sup>2</sup>. Where the outdoor play areas are included as GFA the proposal reaches 0.82:1 (exceeding the maximum GFA by 59.17m<sup>2</sup>) but where they are excluded, it reaches a compliant 0.723:1.

The outdoor play areas 1 and 2 have walls of 1m in height with an attached acoustic barrier which is an additional 1.1m in height making the enclosure wall height 2.1m. This creates a safe area for children and provides appropriate acoustic protection for the children and staff. Were it enclosed by walls of 1.4m or less in height, this area would be exempt from inclusion in the building’s GFA. But for the need to provide taller walls for child protection and acoustic reasons, this area could be fitted with smaller walls or with a slatted balustrade and be excluded from the GFA calculation. In effect, this is a nominal variance to the FSR standard and is minor being a variance of only 59.17m<sup>2</sup> and 0.02:1.

The existing building has a roof over a second storey terrace along a large portion of the Coxs Road frontage where the play areas are proposed to be located. The proposal will appear from the public domain to enclose this space. This is consistent with the existing pattern of development along the Coxs Road neighbourhood centre where 2-storey commercial buildings are typically built to the front boundary at both levels. The proposal will not be visually inconsistent with the bulk and scale of surrounding development.

The environmental impact of the additional wall height is improved amenity for the building’s occupants with no negative effects on the surrounding development or public domain. The building remains sympathetic to its context and is compliant with the built form controls under the Ryde DCP 2014. It is for these reasons that we request that Council approve this minor variation to Clause 4.4 in allowing the site to reach a GFA of 0.82:1.

## Justification

In response to the proposed FSR non-compliances, this Clause 4.6 application is provided to seek exemption from the development standards. It is submitted that the variation is well-founded and is worthy of Council's approval. The following is an assessment of the proposed variation against the requirements of Cl 4.4 Floor Space Ratio and Clause 4.6 Exceptions to Development Standards.

The proposal seeks to provide sufficient outdoor play space so as to be able to operate as a viable childcare centre offering a high standard of amenity for staff and children. To that end, two open-aired outdoor play spaces are proposed along the Coxs Road frontage. These play areas will be enclosed with a mix of a 1m high wall, toughened glass acoustic screens and vertical louvres. This mixture of materials will ensure child safety, minimise noise impacts from Coxs Road and allow for suitable cross ventilation of the child care centre. The proposed modifications to the façade are in keeping with the character of 2-storey commercial development along Coxs Road and will not result on any negative environmental impacts.

It is the proposed enclosure of play areas 1 and 2 being greater than 1.4m in height which triggers the consideration of the outdoor play areas as GFA, where otherwise, they would not. This results in a proposal which nominally exceeds the maximum FSR by 0.02:1. The exceedance of the FSR as a result of the proposed enclosure results in a superior planning outcome and does not significant environmental impacts, because:

- the additional GFA is a minor amount and does not increase the building's bulk or scale beyond what is already characteristic of the area;
- the additional FSR is minor being only 59.17m<sup>2</sup> and 0.02:1 above the nominated maximum of 0.8:1;
- the wall provides protection for children against falling;
- the wall provides an acoustic barrier to prevent offensive noise from entering or exiting the site;
- the wall facilitates the use of the outdoor play areas which permits additional childcare spaces;
- the increased wall height does not substantively change the building's bulk and scale where it may be seen from the public domain and, to the extent that it does alter the building's bulk and scale, it remains consistent with the surrounding commercial developments;
- the non-compliance does not result in any overshadowing;
- the non-compliance does not result in any adverse privacy impacts.

## Relevant Clause Extracts

The relevant clauses of the Ryde LEP 2014 are Cl 4.4 - Floor Space Ratio and Cl 4.6 - Exceptions to Development Standards. They are reproduced in full in the following pages.

### 4.4 Floor space ratio

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

- (a) to provide effective control over the bulk of future development,*
- (b) to allow appropriate levels of development for specific areas,*
- (c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

(2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

### 4.6 Exceptions to development standards

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) *Development consent must not be granted for development that contravenes a development standard unless—*

*(a) the consent authority is satisfied that—*

*(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) 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, and*

*(b) the concurrence of the Secretary has been obtained.*

*(5) In deciding whether to grant concurrence, the Secretary must consider—*

*(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

*(b) the public benefit of maintaining the development standard, and*

*(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

*(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—*

*(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

*(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

**Note.** *When this Plan was made it did not include all of these zones.*

*(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant’s written request referred to in subclause (3).*

*(8) This clause does not allow development consent to be granted for development that would contravene any of the following—*

*(a) a development standard for complying development,*

*(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*

*(c) clause 5.4,*

*(ca) clause 4.3, to the extent that it applies to the land identified as “Town Core” on the Ryde Town Centre Precincts Map,*

*(cb) clause 4.1A, to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached),*



(cc) clause 6.9.

## Justification for Variation to Clause 4.4

Clause 4.4 dictates the FSR limit for the subject site providing a limit of 0.8:1. The proposal has a site area of 2,729.5m<sup>2</sup> and is proposed to have a GFA of 2,242.77m<sup>2</sup> which equals and FSR of 0.82:1. The proposed exceedance results from the design including an enclosing wall around outside play areas 1 and 2 which the City of Ryde has advised is to be considered as GFA and for which this Variation Justification has been required.

This application will address each aspect of Clause 4.4 for completeness.

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

***(a) to provide effective control over the bulk of future development,***

***(b) to allow appropriate levels of development for specific areas,***

***(c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.***

Objective 1(a). The proposal has a bulk and that is not incongruous with the surrounding neighbourhood character. The surrounding commercial buildings are typically 2 storey buildings being built to the front boundary at both levels. The proposal provides a similar built form which is responsive to the existing surrounding built form. It represents only a minor variance to the standard of 59.17m<sup>2</sup> and will not be evidently of a greater scale than permitted under the existing FSR limit.

Objective 1(b). The proposed use is within an existing 2-storey commercial building in a neighbourhood centre and is appropriate to its context.

Objective 1(c). The site is not located as being within a Centre on the Centres Map.

***(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.***

The building exceeds the FSR of 0.8:1 shown on the Floor Space Ratio map which is the impetus for this application.

## Justification for Variation under Clause 4.6

This application will address each aspect of Clause 4.6 for completeness.

***1) The objectives of this clause are:***

***(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,***

***(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.***

Objective 1(a) provides the impetus for the clause in confirming its intention for flexibility in the application of development standards. Here the flexibility relates to the proposal which relates to a nominal breach of the site's maximum FSR caused by the wall height enclosing play areas 1 and 2.

Objective 1(b) introduces the desired outcome from objective 1(a) in providing a better outcome from applying the flexible approach. This proposal provides an opportunity for a better outcome by varying the relevant FSR standard as follows:

- The proposal is consistent with the objectives of Clause 4.4.
- The FSR variation is nominal as it results from taller than usual wall heights resulting from necessity due to the proposed use as a child care centre.
- The proposed bulk and scale are consistent with those of the surrounding buildings and streetscape.
- The proposed building will not appear incongruous with neighbouring buildings when viewed from the public domain.
- The proposal provides additional GFA for the use of a child care centre which provides a necessary service to parents within North Ryde.

**2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.***

The development standards proposed to be contravened is Clauses 4.4 which not expressly excluded from the operation of this clause.

**3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:***

***(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and***

***(b) that there are sufficient environmental planning grounds to justify contravening the development standard.***

Subclauses 3 (a) and (b) are discussed separately.

(a) Compliance with the development standard is considered unnecessary and unreasonable.

Compliance with Clause 4.4 is considered unnecessary and unreasonable in the circumstances of the case for the following reasons:

- The additional GFA is minor being just 59.17m<sup>2</sup> on a block with an area of 2,729.5m<sup>2</sup>.
- The additional GFA is a nominal amount and does not substantively increase the building's bulk or scale beyond an FSR of 0.8:1 in such a way as it would be identifiable from the public domain.
- The additional outer wall height provides protection for children against falling.
- The additional outer wall height provides an acoustic barrier to prevent offensive noise from entering and exiting the site.
- The additional outer wall height wall facilitates the use of the space as an outdoor play area which allows additional childcare spaces.
- The change to the building's bulk and scale as seen from Coxs Road will remain consistent with the existing development neighbouring commercial developments.
- the additional wall height has no shadow impact upon private development.
- The additional FSR does not result in any adverse privacy impacts.

The outcome of the proposal is a building that fits within its surroundings and achieves the objectives of the B1 zone while staying generally within the built form outcome and scale anticipated for the area.

In this context and in consideration of the nature of the variation sought, it cannot be argued that the proposal is seeking to effect general planning change. Essentially, the development remains compliant with the principles and general parameters of the built form controls and expectations within the planning framework. If approved, the built form outcome of the proposal will not be out of keeping with, nor detrimental to the amenity of its surroundings.

In view of all the above, compliance with Clause 4.4 is unreasonable and unnecessary in the circumstances.

(b) There are sufficient environmental planning grounds to justify contravening the development standard

The proposed use is as a child care centre. In the event that the proposal was to comply with a 0.8:1 FSR, the amount of child care spaces offered by the centre would need to be reduced to maintain compliance with the requirements to provide sufficient open space per child. This is not in the public interest.

The proposed building's FSR being 0.82:1 is a function of a larger than balcony walls. A compliant wall height would be unsafe for children and would reduce the acoustic dampening properties of the wall.

With regard to environmental amenity matters of consideration which are; overshadowing, privacy/overlooking, view loss and visual domination. These matters provide an indication of a proposal's suitability and reflect the matters of consideration under Section 4.15 of the Act.

As indicated previously, the proposed variation in building bulk will not adversely impact on any of those criteria. As reflected in the shadow diagrams submitted with the DA, there is no significant adverse overshadowing effect to neighbouring developments and there is no overshadowing to the

public domain. Similarly, the proposal does not raise any privacy concerns for surrounding development.

Visual domination is usually associated with the perceptions from the public domain and from multi-storey buildings. In this case, the building is an existing two storey commercial building and that form is being generally maintained. The proposed building cannot be said to visually dominate the streetscape. The proposal is consistent with the existing aesthetic character of the area.

Therefore, it would appear that the proposal does result in any significant negative environmental impact and that there are sufficient positive impacts justified on environmental planning grounds to justify the proposed contraventions.

**4) Development consent must not be granted for development that contravenes a development standard unless:**

**(a) the consent authority is satisfied that:**

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and**
- (ii) 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, and**

**(b) the concurrence of the Secretary has been obtained.**

These matters were considered and are positively demonstrated by the proposal. The Director General has formally delegated his function to Council.

4(a)(i)

The matters required to be demonstrated have been addressed under discussion of Clause 4.4.

4(a)(ii) consistency with the objectives for development within land use zone.

The land use table in the LEP specifies the zone objectives and permissible uses. The objectives of the B1 Neighbourhood Centre Zone are:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To encourage employment opportunities in accessible locations.*

The proposal recognises these objectives for the B1 Neighbourhood Centre Zone by:

- Providing child care is a necessary community service.
- The proposed child care centre will require 24 staff to be working when operating at full capacity.

**5) In deciding whether to grant concurrence, the Secretary must consider:**

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and**
- (b) the public benefit of maintaining the development standard, and**
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.**

The Secretary of Department of Planning and Environment can be assumed to have concurred to the variation. This is because of Department of Planning Circular PS 08–003 ‘Variations to development standards’, dated 9 May 2008. This circular is a notice under 64(1) of the *Environmental Planning and Assessment Regulation 2000*. Under Clause 64(2), a consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given.

In any event, the contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

**(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—**

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or**
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.**

**Note.** When this Plan was made it did not include all of these zones.

The proposal is not for the contravention of a subdivision control, nor is it located within one of the specified zones.

- 7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant’s written request referred to in subclause (3).**

The consent authority will keep a record of the determination.

- 8) This clause does not allow development consent to be granted for development that would contravene any of the following:**
- (a) a development standard for complying development,**
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,**
  - (c) clause 5.4.**

Not applicable.