

SYDNEY NORTH PLANNING PANEL

Panel Ref No	2017SNH011
DA Number	LDA 2016/0359
Local Government Area	City of Ryde
Proposed Development	Construction of 2 buildings of up to 6 & 9 storeys containing 96 apartments, 2 commercial units and 3 levels of basement car parking.
Street Address	39-41 Devlin Street, Ryde
Applicant	Chiwayland Australia Pty Ltd
Date of Lodgement	1 August 2016
Number of Submissions	First round notification: 5 submissions received Second round notification: 1 submission received
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the Act)	General Development over \$20 Million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Regulation 2000; • Environmental Planning and Assessment Act 1979; • State Environmental Planning Policy (State and Regional Development) 2011; • State Environmental Planning Policy No. 55 – Remediation of Land; • State Environmental Planning Policy (Building Sustainability Index: BASIX); • State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development; • State Environmental Planning Policy (Infrastructure) 2007 • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; • Ryde Local Environmental Plan 2014; • City of Ryde Development Control Plan 2014; and • Section 94 Development Contributions Plan 2007.
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> 1. Conditions of consent; 2. Clause 4.6 variation request to building height standard
Report by	Planning Ingenuity, Consultant Planners
Report date	2 February 2018

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Assessment Report and Recommendation

1. EXECUTIVE SUMMARY

The following report is an assessment of a development application for the construction of a mixed use development at 39-41 Devlin Street, Ryde.

The proposed development (as amended) includes the construction of a mixed use development containing a total of 96 residential units and 322m² of commercial floor space across two separate tenancies. A total of 107 car parking spaces are proposed.

The application was placed on public notification on two occasions and received a total of six (6) submissions. During the first notification period from 11 August 2016 to 7 September 2016, Council received five (5) submissions. The submissions raised various concerns including potential loss in value of neighbouring properties, building height, nil setback to north-western boundary, traffic impacts on Belmore Lane, excavation damage, demolition hazards and privacy impacts.

During the second notification period from 27 July 2017 to 11 August 2017, Council received one submission. 'Psychological pressure' from higher buildings, view loss and 'lighting rights' were the issues raised. All issues have been addressed in this report.

The development has been assessed in respect of the relevant planning instruments and the application is non-compliant with the following:

- The development results in a 36.5% variation in relation to Clause 4.3 - Height of Buildings under Ryde LEP 2014. The applicant has submitted a Clause 4.6 statement in relation to variation of this development standard.
- There are non-compliances with the Residential Apartment Design Code in respect to deep soil, private open space and building separation.

Following an assessment of the development application, it is considered that these non-compliances are acceptable on planning grounds. Consideration of various design matters by Council's technical departments has not identified any fundamental issues of concern with the proposal. Consequently this report concludes that the proposal is acceptable in terms of its design, function and relationship with its neighbours.

Clause 7 of SEPP No. 55 Remediation of Land requires the consent authority to consider if the land is contaminated and if it is contaminated, is it suitable for the proposed development. A Detailed Site Investigation dated 19 December 2016 and a Remediation Action Plan dated 13 January 2017, both prepared by Aargus have concluded that the site can be rendered suitable for the redevelopment of the site for the proposed development. Appropriate conditions have been imposed to ensure that the site is remediated in accordance with this plan.

This report recommends that approval be granted to this application in accordance with conditions provided in Attachment 1.

2. APPLICATION DETAILS

Name of applicant: Chiwayland Australia Pty Ltd

Owner of site: Roads Wholesale Parts Pty Ltd

Estimated value of works: \$37,064,500

Disclosures: No disclosures with respect to the Local Government and Planning Legislation Amendment (Political Donations) Act 2008 have been made by any persons.

3. SITE DESCRIPTION

The subject site is located on the corner of Devlin Street and Victoria Road, known as 39-41 Devlin Street, Ryde (also known as 771-775 Victoria Road). The site is legally described as Lot 200 in DP 1006373 and has a total area of approximately 2,900m².

The site was previously occupied by a car sales yard and onsite servicing of vehicles. The previous built form on the site consisted of a two storey building located centrally on the site with the car yard oriented to the Victoria Road and Devlin Street frontages. Vehicular access to the site was via both street frontages, with access to the servicing area adjoining Belmore Lane beneath the car yard

above. The development has been demolished under separate development consent issued by Council.

The site has three street frontages being Devlin Street, Victoria Road and Belmore Lane. The adjoining sites to the west of Belmore Lane and to the north contain residential flat buildings.

Figures 1 and 2 below provide an aerial view of the site (outlined in red) and its context, whilst photographs of the site and surrounds are provided at **Figures 3 to 5**.



Figure 1: Aerial photo of the site

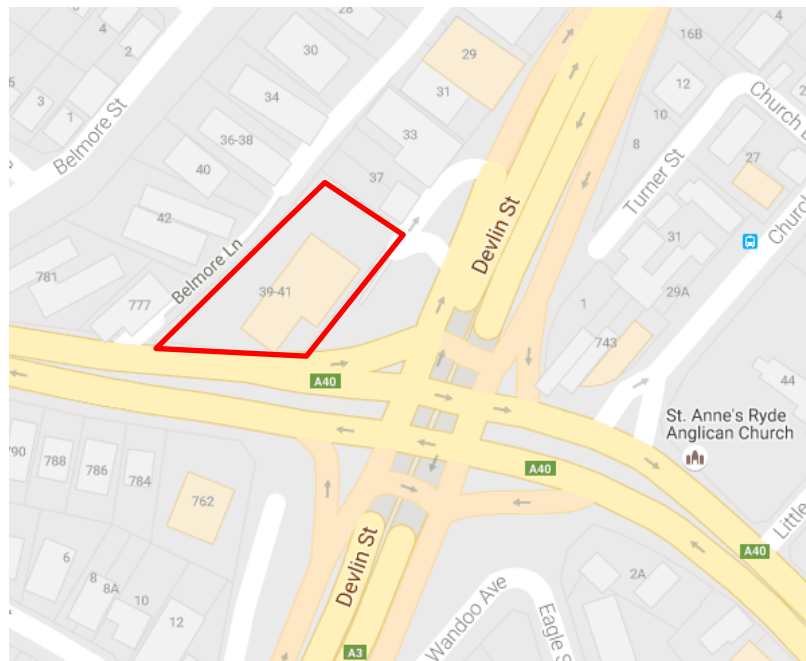


Figure 2: Site and surrounds



Figure 3: The site viewed from Victoria Road. This photograph demonstrates the car yard that previously existed on the site.



Figure 4: The site viewed from Devlin Street. This photograph demonstrates the car yard that previously existed on the site.



Figure 5: The site looking south-west along Belmore Lane. The previous car yard is visible in the background.

4. SITE CONTEXT

The site is located at the south western edge of the Ryde Town Centre under the City of Ryde DCP 2014, within the Commercial Edge West (Precinct No. 7).

Residential development located to the north-east of the site consists of a newly constructed mixed use building at No. 35 Devlin Street. The sites to the north-west of the subject site, across Belmore Lane, are occupied by residential flat buildings between 2 and 4 storeys in height (Figures 6 and 7). All surrounding land to the west, north and east is zoned B4 Mixed Use.



Figure 6: No. 777 Victoria Road (south-west of site)

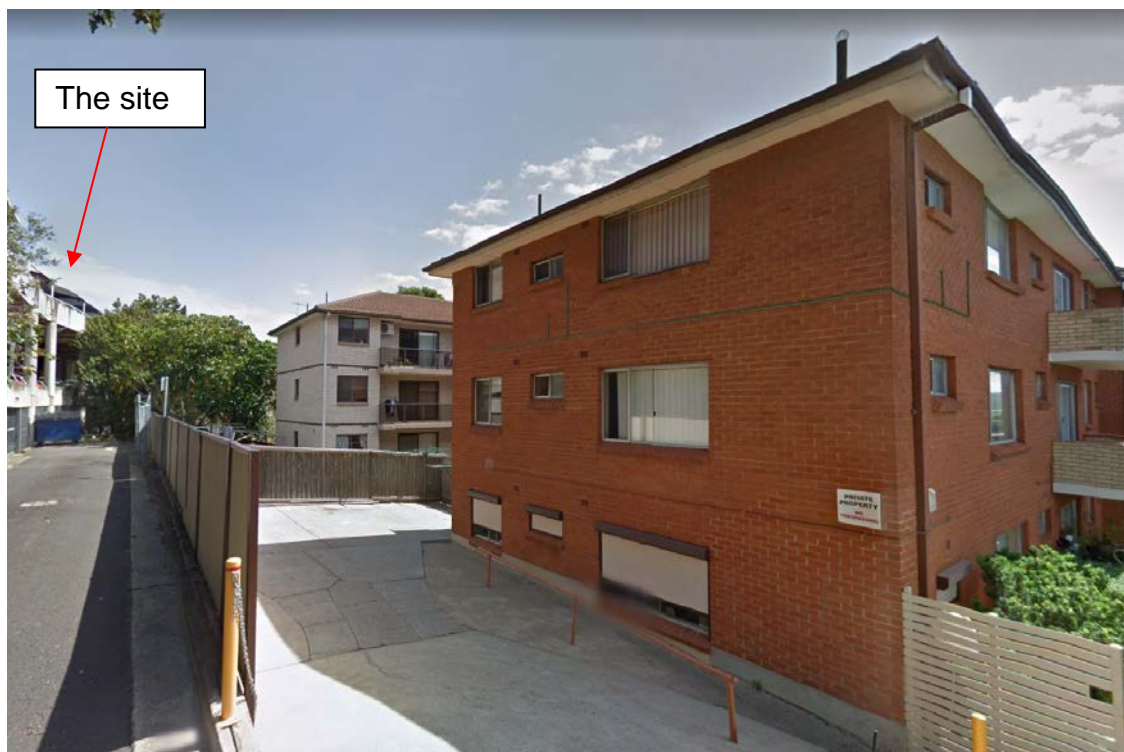


Figure 7: Nos. 36-38 Belmore St and No. 42 Belmore St (west of site). The above photograph shows the rear of these sites which adjoins Belmore Lane.

Development on the southern side of Victoria Road consists predominantly of single storey dwellings houses, with 'Willandra', a two storey State listed heritage dwelling located on the corner of Victoria Road and Devlin Street (**Figure 8**).



Figure 8: Development on the southern side of Victoria Road

5. PROPOSAL

The scope of works for which consent is sought comprises:

- Construction of a mixed use development consisting of two buildings containing a total of 96 residential units and 322m² of commercial floor space. More specifically:

- Basement Level 3 – car parking for 45 cars and residential storage;
- Basement Level 2 – car parking for 23 cars, residential storage, service areas and waste rooms;
- Basement Level 1 – car parking for 39 cars, residential storage, bicycle parking, and six units;
- Ground Floor – 322m² commercial floor area (2 tenancies), 11 units and communal open space;
- Levels 1 to 3 – 15 units per level;
- Levels 4 and 5 – 10 units;
- Level 6 – 9 units and communal open space;
- Level 7 – 5 units and communal open space;
- Vehicular access is provided from a single driveway off Belmore Lane;
- Waste collection is proposed on site from the Basement 02 Level waste loading bay located at grade to Belmore Laneway; and
- Landscaping is provided in both ground floor and upper level communal open space areas.

The plans that form the basis of this assessment report are referenced as Revision J dated 25 January 2018.

A photomontage of the proposed development is provided in **Figure 9**.



Figure 9: Photomontage of proposed development as viewed from the corner of Victoria Road and Devlin Street.

(NB: corner screen element lowered under Issue J final plans)

6. **BACKGROUND**

Demolition of existing structure at the site has been carried out under LDA 2016/0503, Deferred Commencement approval issued on 15 February 2017 and activated on 29 November 2017.

The subject development application was lodged on 1 August 2016.

The application was notified from 11 August 2016 to 7 September 2016. Five (5) submissions were received during this period.

An UDRP meeting took place on 27 September 2016. A number of issues were raised by the Panel primarily in regard to:

- The upgrade of Belmore Lane and ensuring equitable access;
- Privacy impacts to neighbouring properties to the north-west and across Belmore Lane;
- Visual impacts and scale of the building plinth facing Belmore Lane;
- Greater fenestration should be provided at the corner of Devlin Street and Victoria Road facade to ensure better engagement with the street;
- Management of the access of the general public to the common open space area; and
- Facade design to Belmore Lane results in excessive scale and a different architectural treatment from the Devlin Street and Victoria Road facades would assist in reducing the scale of the building.

The Panel advice concluded support for the scheme and considered that with the incorporation of the Panel recommendations that the scheme could deliver a high quality design solution.

A letter dated 11 November 2016 was sent to the applicant (incorporating Panel concerns and assessment issues above) seeking additional information and requesting further information and/or revised plans in respect of the following:

- Bonus building height provision is exceeded and not supported;
- Insufficient proposed laneway upgrade to allow bonus height and FSR provisions to be invoked;
- Insufficient setback to Belmore Lane;
- Work-Live units not supported and should be replaced with commercial tenancies;
- Insufficient deep soil provided;
- Insufficient information provided on unit, private open space and storage sizes;
- Delivery of public domain works; and
- An Arts and Cultural Plan is to be submitted.

Amended plans (Issue B, dated 20 December 2016) and additional information were provided to Council on 23 December 2016. The changes included:

- Façade treatment to Belmore Lane elevation;
- Greater fenestration to Devlin Street and Victoria Road facades;
- Proposed upgrade of Belmore Lane;
- Car park re-design to accommodate 11m waste vehicle; and
- Proposed pocket park on Devlin Street (now deleted from application).

The amended plans were considered by the UDRP on 1 February 2017. The remaining issues can be summarised as follows:

- The architectural expression does not achieve the desired 'bold highway' architecture and is too bulky;
- The screen along the Belmore Lane facade should extend to the underside of the slab; and
- Integrate fire boosters into façade on Victoria Road.

In light of the Issue B plans and UDRP Comments, a meeting was held with Planning Ingenuity, the applicant and Council on 9 March 2017 to discuss outstanding issues with particular reference to:

- Building height;
- Pocket Park management;
- Laneway treatment;
- Ventilation provision;
- Façade revisions;
- Building montages;
- Deep soil provision; and
- Request for photomontages in respect to impacts on adjoining heritage items.

Amended plans were provided by the applicant on 25 July 2017 (Issue F). The amended plans (Issue F) were placed on public notification a second time from 27 July 2017 to 11 August 2017. One (1) submission was received following close of the second notification round. Refer to detailed assessment of submissions located at Part 13 of this report. Issue F plans incorporated a GFA increase resulting in an FSR non-compliance and the applicant was advised that the scheme would not be supported.

Subsequently, revised plans were submitted on 30 August 2017 (Issue G). The amendments made by the applicant include:

- **Building Height:** A decrease in overall maximum building height by 2.29m (from 31.65m to 29.36m). An updated Clause 4.6 Request was provided seeking departure from the permitted 21.5m maximum height by 7.86m. The height at the western boundary on Victoria Road has been reduced by 7.59m

so that it is now below the 21.5m maximum building height limit, which applies to both the development site and the neighbouring site.

A comparison of building massing showing the reduction on building height from the original proposal (Issue A) to Issue G is provided below in **Figures 10 to 11**.



Figure 10: Original (Issue A) – Height Plane Perspective from west

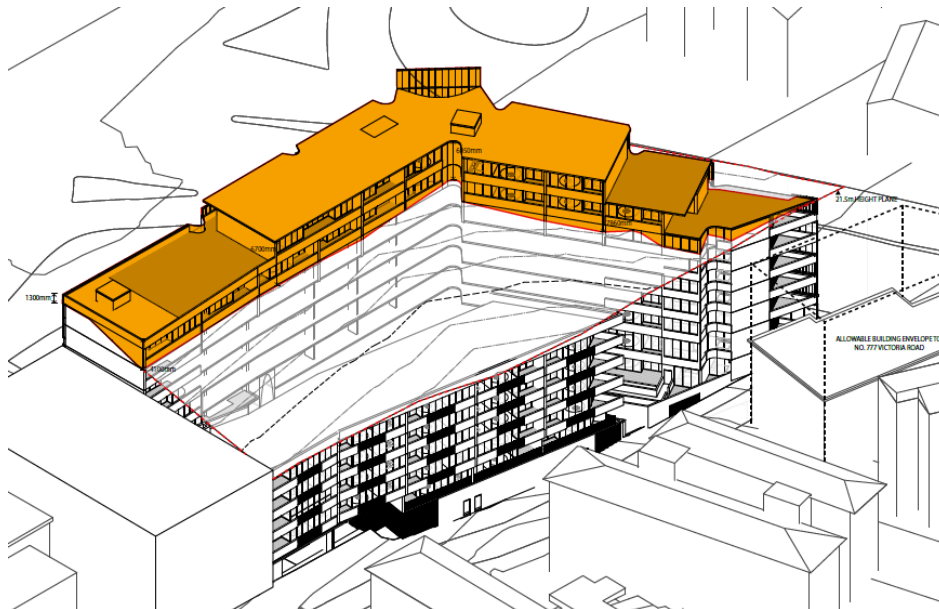


Figure 11: Issue G – Height Plane Perspective from west

- **Floor Space Ratio:** Reduced to 2.5:1 to comply with the LEP.
- **Car Parking:** Addition of 4 parking spaces within Basement 03 due to the rearrangement of the fire stairs, consistent with BCA requirements.

- **External appearance:** The façades to Devlin Street and Victoria Road have been redesigned and propose vertical elements and façade screens “to disguise the horizontal elements and improve weather protection”, and landscaping is provided behind the screens. A comparison of the façade treatment from the original proposal (Issue A) to the current proposal (Issue G) is provided below at **Figures 12 and 13**.



Figure 12: Original proposal (Issue A) – horizontal façade treatment



Figure 103: Issue G – vertical elements and façade screens provided. (Note: the corner screen element has been reduced in the latest set of plans).

- **Removal of 2 units:** Removal of 1 unit from Level 06 and 1 unit from Level 07 (from the drawings submitted on the 25 July 2017).
- **Rooftop landscaping:** Rooftop landscaping changes in response to the removal/redesign of the upper level units and reconfiguration of the rooftop.
- **Relocation of substation:** Repositioning of the substation at Ground Level to improve sight-lines from the footpath and driveway.

Issue G plans were informally reviewed by GM Urban Design and comments were provided on 3 October 2017 with remaining issues regarding internal amenity and the design treatment of the building. These matters have been resolved through further design changes as provided in the final revised plans Issue J, dated 25 January 2018.

The application was presented to a Sydney North Planning Panel briefing on 25 October, 2017.

Final amended plans Issue J, dated 25 January were submitted to Council and all unresolved matters have now been addressed. These plans form the subject of this assessment.

Changes include:

- Reduction in height (by 1.8m) of the corner screen element at Devlin Street / Victoria Road junction to building roof top to RL 85.9;
- Modification to western unit adjoining Belmore Lane to provide better internal amenity and acceptable building separation with adjacent buildings to the north-west;

- Aluminium louvre panelling has been extended across the Basement 02 wall to Belmore Lane
- Revised Landscape Plan consistent with revised scheme incorporating increase communal open space setback to Laneway, revised species and a low masonry wall/edge to Victoria Road (to prevent overflow);
- Landscape Planter added to Level 6 north-western corner of communal open space and
- Compliant balconies to Units 110, 210, 310, 405, 505, 605, 703.

7. APPLICABLE PLANNING CONTROLS

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- Statement Environmental Planning Policy (State & Regional Development) 2011;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX);
- State Environmental Planning Policy (Infrastructure) 2007;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development;
- Ryde Local Environmental Plan 2014; and
- City of Ryde Development Control Plan 2014.

8. PLANNING ASSESSMENT

8.1 Environmental Planning and Assessment Act 1979

Section - 5A Threatened species, populations or ecological communities, or habitats

This section of this Act requires a range of matters to be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.

Noting the review undertaken for this development application, it is apparent the site does not have any ecological attributes which, if lost, would impact upon any threatened species, population, ecological community or habitat.

Section 79C Evaluation

All relevant matters for consideration under Section 79C have been addressed in the assessment of this application.

8.2 Environmental Planning and Assessment Regulation

This application satisfies Clause 50(1)(a) of the Regulation as it is accompanied by the nominated documentation for development seeking consent for a mixed use development, including:

- A design verification statement from a qualified designer;
- An explanation of the design in terms of the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development; and
- Relevant drawings and montage.

8.3 State Environmental Planning Policy (State and Regional Development) 2011

This proposal has a Capital Investment Value of more than \$20 million, and consequently the Joint Regional Planning Panel is the consent authority for this application.

8.4 State Environmental Planning Policy No 55 – Remediation of Land

The requirements of State Planning Policy No. 55 – Remediation of Land apply to the subject site. In accordance with Clause 7 of SEPP 55, the consent authority must consider if the land is contaminated and, if so, whether it is suitable, or can be made suitable, for the proposed use.

Historically, the site has been used for vehicle sales and servicing. The application was accompanied by a Detailed Site Investigation. This report has concluded that the risk to human health and the environment associated with soil contamination at the site can be rendered suitable for the proposed use once the following are implemented:

- 1) An appropriate remedial management/strategy is developed culminating in the preparation of a Remedial Action Plan (RAP) in accordance with the EPA Guidelines. The investigation report also states that there were soil exceedances at Bore Holes 3 and 4.

- 2) Installation of groundwater wells to determine if groundwater on site has been adversely impacted by contaminated soils on site as the conditions of the groundwater is currently unknown.
- 3) All soils to be removed from the site shall be classified in accordance with the EPA requirements.

A Remediation Action Plan has been prepared by Aargus which addressed the above issues identified in the Detailed Site Investigation. This report has concluded that the site can be rendered suitable for the proposed development subject to the implementation of remediation and validation works in accordance with the Remediation Action Plan.

Both of these reports have been reviewed by Council's Senior Environmental Health Officer who has agreed with the findings of the report. Appropriate conditions of consent have been recommended. (See condition numbers 86 to 89).

8.5 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, a BASIX Certificate (719174M_03) has been prepared for the development which provides the development with a satisfactory target rating.

Appropriate conditions will be imposed requiring compliance with the BASIX commitments detailed within the Certificate. (See condition numbers 3 and 131).

8.6 State Environmental Planning Policy (Infrastructure) 2007

The Infrastructure SEPP applies to the subject site given frontage of the site is to Victoria Road, a Classified Road. In addition, the development is classified as a 'Traffic Generating Development' as it includes more than 75 dwellings for residential use with access to a Classified Road (Victoria Road). **Table 1** below contains the provisions of the Infrastructure SEPP applicable to this DA:

Table 1: Infrastructure SEPP		
Provision	Comments	Comply?
Clause 101 Development with frontage to a classified road (1) The objectives of this clause are: <ul style="list-style-type: none"> To ensure that new development does not compromise the effective and ongoing operation and function of classified roads; and 	The DA was referred to Roads and Maritime Services (RMS) for comment and no objections have been raised with regard to the proposal subject to conditions of consent. (See Conditions 24 to	Yes

Table 1: Infrastructure SEPP		
Provision	Comments	Comply?
<ul style="list-style-type: none"> To prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads. 	<p>31)</p> <p>The acoustic report submitted by the applicant provides a number of recommendations to ensure the impact of noise from Victoria Road is managed and minimised. The recommendations form part of the conditions of consent (See Conditions 52 and 83)</p>	Yes
<p>(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:</p> <ul style="list-style-type: none"> Where practicable, vehicular access to the land is provided by a road, other than a classified road; and The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of: <ul style="list-style-type: none"> The design of vehicular access to the land, or The emission of smoke or dust from the development, or The nature, volume or frequency of vehicles using the classified road to gain access to the land. 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. 	<p>Access to the site is provided from Belmore Lane with no provision for vehicular access off Victoria Road.</p> <p>No adverse impact on the safety, efficiency or operation of Victoria Road.</p> <p>The acoustic report submitted with the application provides a number of recommendations to minimise adverse impacts of Victoria Road on future occupants. (See Condition 83)</p> <p>The RMS has raised no objection to the proposal, subject to condition of consent (See Conditions 24 to 31)</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>Clause 102 Impact of road noise or vibration on non-road development</p> <ul style="list-style-type: none"> Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette. If the development is for the purposes of a building for residential use, 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 	<p>Victoria Road is a State Classified Road. As noted above, an acoustic report has been submitted and this includes a number of recommendations to ensure compliance with the appropriate noise levels for residential development. The recommendations are covered by conditions of consent (See Condition 83).</p>	Yes

Table 1: Infrastructure SEPP		
Provision	Comments	Comply?
LAeq measures are no exceeded: – In any bedroom in the building – 35 dB(A) at any time between 10pm and 7am – Anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40dB(A) at any time.		
Clause 104 Traffic generating development <ul style="list-style-type: none"> The proposed development, being a residential development with more than 75 dwellings, and with access to a classified road is considered traffic generating development. Before determining a DA for which this clause applies the consent authority must: <ul style="list-style-type: none"> Take into consideration any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless before the 21 days have passes, the RTA advises that it will not be making a submission), The accessibility of the site concerned, and Take into consideration any potential traffic safety, road congestion or parking implications of the development. 	<p>The proposed development is considered 'traffic generating development'.</p> <p>RMS has raised no objection to the proposal.</p> <p>The site is accessed from Belmore Lane, not Victoria Road. Required parking is provided and no traffic safety or congestion issues anticipated.</p>	<p>Noted</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

8.7 Deemed State Environmental Planning Policy Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Deemed SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, 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.

The site is approximately 1 kilometre from the nearest point of Sydney Harbour. As the site is not located on the foreshore or adjacent to the waterway, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development.

8.8 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

This Policy aims to improve the design quality of residential flat development. This proposal has been assessed against the following matters relevant to SEPP 65 for consideration:

- Urban Design Review Panel;
- The 9 SEPP 65 Design Quality Principles; and
- Apartment Design Guide.

8.8.1 Urban Design Review Panel

As detailed in Section 6, the original scheme and amended schemes were considered by the UDRP on 27 September 2016 and 1 February 2017.

Following submission of the Issue G plans, dated 30 August 2017, the application was reviewed by GM Urban Design. As stated above, outstanding design issues that remained in relation to internal amenity, the presentation of the building and contribution to the streetscape have been addressed through further amendments the subject of the current Issue J plans, dated 25 January 2018. The outstanding issues are provided below:

- *The screen in its totality should be deleted and just the balustrade left so that there is greater visibility to the landscape.*

Comment: This refers to the screen provided on the roof of the building at the intersection of Victoria Road and Devlin Street demonstrated in **Figure 14**. The screen has been reduced in height by 1.8m from RL 87.7 to RL 85.9 and is found to be acceptable.



Figure 14: Southern Elevation (Issue J) – showing lowered screen to RL 85.9

- *The treatment of the windows and entry doors behind the screen is very poor. The level of visual permeability of this screen over the building will be quite high particularly at night and behind the screen looks very like the 1960 apartment buildings with long open corridors. The doors are not full height but stop at 2100mm and the window are not acceptable as they will create privacy issues if the sill is as shown and they must only be high light widows plus they are just pushed holes in the wall. The materiality behind the screen is not clear but looks like painted render which again is not a quality solution for such long corridors.*

Comment: Due to the open form batters at Levels 1, 2 and 5, 6 of the building façade, the doors and windows will be visible as illustrated in **Figure 15**.

Issue J plans provide windows at 900mm above finished floor level, to be treated with frosted glazing and will sit between bench height and overhead joinery. The height of doors (lift, unit entrance and cupboard) along Devlin Street / Victoria Road frontage have been maintained on the acceptable premise that doors to lifts are a standard opening based on manufacturer's specification (2,100mm), unit entrance doors are fire rated to BCA requirements and therefore are 2,040-2,400mm based on availability from suppliers, and service cupboards will be aligned with entry doors to keep a consistent datum. This outcome is considered acceptable as demonstrated in Figure 15 below which shows the Devlin Street elevation (Issue J).

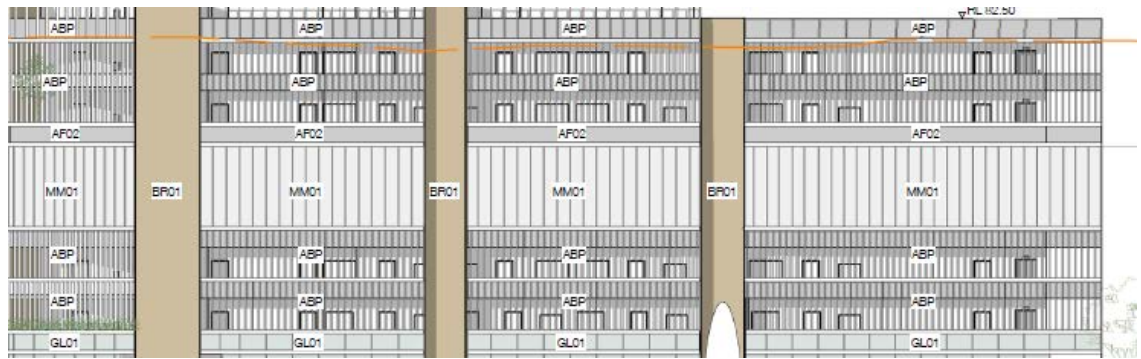


Figure 15: Devlin Street Elevation -Exposed doors and windows through proposed open battens to façade

- *Question whether the planted area on some of the floors will survive as the screen will reduce solar access and they face north. Removal of the screen to this corner element at the floors with landscape would allow the greenery to be seen and to provide some relief to the facade which now appears to be just two colours only.*

Comment: As demonstrated by **Figure 16**, the landscape planter is proposed at the building corner to Levels 1, 3, 5 and rooftop. In accordance with the Victoria Road Facade Detail Plan DA0701, Levels 1 and 5 do not provide mesh screening at the building corner. Removal of the mesh to the corner at Level 3, being the central banding to the building would entirely alter the language of the façade to both Victoria Road and Devlin Street and is therefore not being pursued. The upper roof top screen has been lowered in height to RL 85.9 (refer to Point 1).

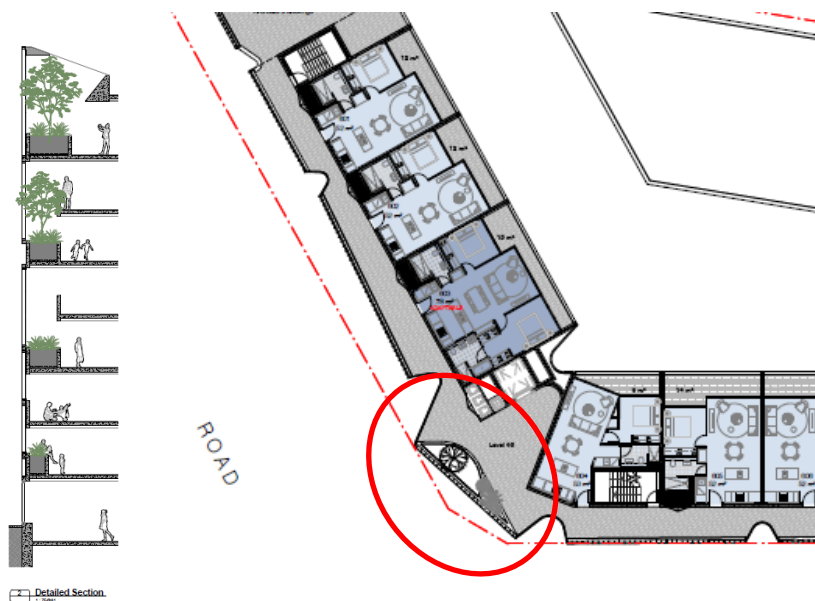


Figure 16: Section detail showing planting & plan view (Level 6) showing planter at Devlin Street and Victoria Road building intersection.

- *There is a lot of off form concrete to Belmore Lane at grade - the risk of graffiti is really high here so conditions relating to that or requiring them to continue an aluminum facade panel along instead is needed - this would give a stronger base to the building too.*

Comment: The issue G plans showed that the material finish reference AF01 is off form concrete which extends along the basement level of the Belmore Lane façade. As sought by the Panel comments this finish has been amended in Issue J to be a continuation of the aluminum façade paneling (material finish reference AAL which is anodized aluminium louvres - bronze). Condition 122 has also been imposed to assist in limiting graffiti.

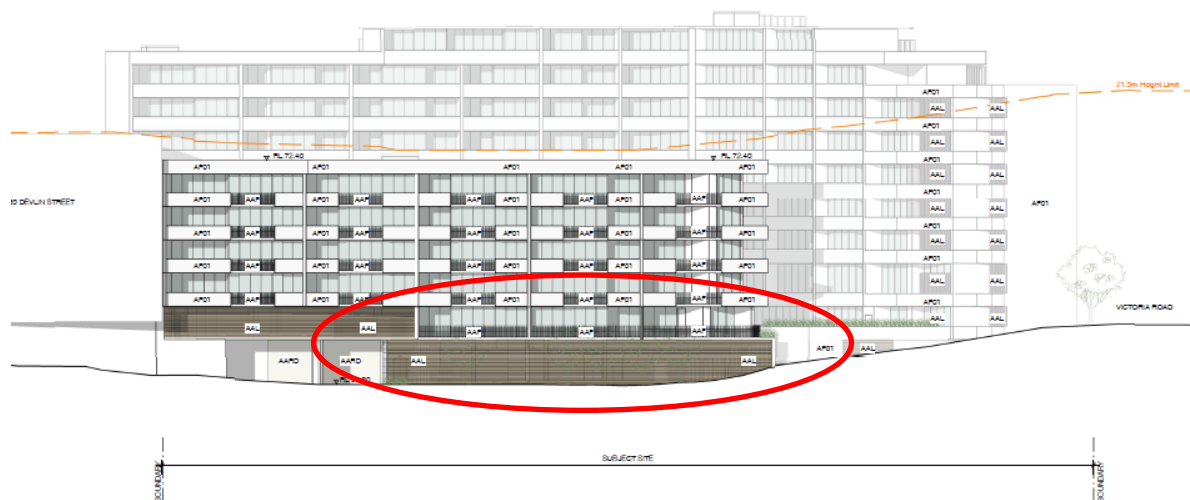


Figure 17: The above figure shows the location of the off form concrete visible to Belmore Lane (circled in red). This has been replaced with anodized aluminium louvres.

- *The side elevation to the adjoining site is a concern as it does not seem to have any facade treatment to it at all?*

Comment: This is not a concern given the approved development at No. 37 Devlin Street is currently under construction with a nil setback to the shared boundary.

- *Concerned with the spacing of the open battens - 450mm is a large gap so the facade treatment will do very little to moderate climate effects or acoustics - the spacing needs to be much closer and should be deeper battens angled to some degree to handle the weather better.*

Comment: This potential issue has arisen through inconsistent plan details. The Material Detail – DA0511 is incorrectly presented stating “open battens”. Whereas, the Victoria Road Facade Detail – DA0701 is correct and confirms that there is in fact metal mesh infills between the 450mm battens to the central band of the building at Levels 5 and 6 to the Victoria Road and Devlin Street facade. As such, the level of exposure is considered to be limited and no further design treatment is considered necessary.

SEPP 65 Design Quality Principles

There are nine design quality principles identified within SEPP 65. The following table provides an assessment of the proposed residential flat building (RFB) against the nine design principles of the SEPP.

Table 2: SEPP Design Quality Principles	
Planning Principle	Comment
<p>Context and Neighbourhood Character 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 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>The redevelopment of this site will be consistent with the desired future character for the precinct as identified in Part 4.4 of DCP 2014 – Ryde Town Centre. The desired future character for this precinct is to incorporate mixed higher density residential and commercial/retail development. The proposed development will deliver high density mixed uses of the nature anticipated for the locality well distributed across the site. The proposal offers an improved presentation to Victoria Road and Devlin Street whilst providing future occupants with a quality residential environment through appropriate building and open space placement.</p>
<p>Built Form and Scale Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. 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. 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>The scale is consistent with the planned development within this precinct.</p> <p>The proposal complies with the FSR controls and will not adversely impact on the streetscape or the amenity of the surrounding buildings.</p> <p>The applicant's request to vary the height limit is supported as the bulk of the development is considered acceptable given that the development is compliant at the Belmore Lane frontage and massed towards the Devlin Street and Victoria Road corner where higher built form can be supported.</p> <p>The proposal has been architecturally treated to provide interest in the design and assist in providing the development with acceptable bulk through distribution of building bulk. The public domain along the street frontages of the site will be upgraded.</p>
<p>Density Good design has a density appropriate for a site and its context, in terms of the number of units or residents. 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>The proposal complies with the FSR for the site with the overall bulk and scale of the buildings being appropriate with relation to the future density anticipated for the area. The site's density is also considered appropriate given its location on Victoria Road and Council's adopted strategic planning vision for the locality.</p>

Table 2: SEPP Design Quality Principles	
Planning Principle	Comment
<p>Sustainability Good design involves design features that provide positive environmental and social outcomes. Good sustainable design includes use of natural cross breezes 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>The applicant has provided BASIX Certificate No 719174M_03 which indicates that the residential component of the buildings will meet the energy and water use targets set by the BASIX SEPP.</p> <p>A Waste Management Plan for the demolition of the existing buildings has been submitted and is considered acceptable by Council's Waste Officer.</p> <p>The design has also ensured the development will comply with the passive solar design principles and cross ventilation as provided in the Apartment Design Guide.</p>
<p>Landscape 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, and respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>The development makes provision for deep soil planting in the setback to Victoria Road. Council's Consultant Landscape Architect has raised no objections to the proposed landscaping for the site.</p> <p>The landscaping of the communal open spaces as well as other design features such as seating and rooftop gardens will ensure that these spaces provide useable and protected recreational and passive areas for future residents.</p> <p>Each unit is also provided with ADG compliant private balcony areas sufficient for recreational use and amenity benefit.</p>
<p>Amenity Good design positively influences internal amenity for residents and external amenity for 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>The design of the units allows for sufficient level of amenity for occupants of the buildings and residents of surrounding properties.</p> <p>The development complies with the controls and/or objectives contained in the Apartment Design Guide in respect to apartment sizes, building depth, access to sunlight, ventilation, acoustic privacy, storage layout and access requirements.</p> <p>Some site specific variations form part of the proposal and are considered to be justified.</p>
<p>Safety 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 purpose.</p>	<p>The development is consistent with the CPTED principles as follows:</p> <ul style="list-style-type: none"> • The entrance to each apartment building will be clearly legible and well lit.

Table 2: SEPP Design Quality Principles	
Planning Principle	Comment
<p>Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>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>	<ul style="list-style-type: none"> • Appropriate signage to be provided to the buildings' entrance with appropriate lighting. • Lighting, both internal and external, will be provided in accordance with Australian Standards. <p>The proposal was referred to NSW Police who has reviewed the proposal and provide support for the proposal subject to conditions (See Condition numbers 119 to 122).</p>
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</p>	<p>The proposed unit mix will result in the provision of an affordable range of housing in the area which is highly accessible to public transport and nearby shops.</p> <p>As a guide the Housing NSW Centre for Affordable Housing suggests 1 and 2 bedroom apartments contribute towards achieving housing affordability.</p> <p>1 and 2 bedroom apartments are well represented in the subject proposal.</p>
<p>Architectural Expression</p> <p>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.</p> <p>The visual appearance of well-designed apartment buildings responds to the existing or future local context, particularly desirable elements and rhythms of the streetscape.</p>	<p>The development has incorporated a variety of materials and finishes to assist in the massing of the buildings as well as providing differentiation between the uses and various elements within the development.</p> <p>The UDRP have provided support for the design and presentation of the proposed development, notably supporting the 'linear highway architecture'.</p>

8.8.2 Apartment Design Guide

The SEPP requires consideration of the "Apartment Design Guide" (ADG) which supports the 9 design quality principles by giving greater detail as to how those principles might be achieved. **Table 3** below provides an assessment of the proposal against the matters in the ADG:

Table 3: SEPP NO. 65 Apartment Design Guide - Compliance Table		
DESIGN CRITERIA	PROPOSAL	COMPLIES
Part 2: Development Controls		
<p>Building Depth</p> <p>Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line</p>	Max. 10m	Yes

<p>Building Separation</p> <p>Minimum separation distances for buildings are:</p> <p>Up to 4 storeys:</p> <ul style="list-style-type: none"> • 12m (Habitable) • 9m (habitable/non-habitable) • 6m (non-habitable) <p>5-8 Storeys</p> <ul style="list-style-type: none"> • 18m (Habitable) • 12 (habitable/non-habitable) • 9m (non-habitable) <p>9+ storeys</p> <ul style="list-style-type: none"> • 24m (Habitable) • 18m(habitable/non-habitable) • 12m (non-habitable) <p>No separation is required between blank walls.</p>	<p><u>Ground to Level 3</u></p> <p>External</p> <p>Victoria Road Building</p> <ul style="list-style-type: none"> • NW elevation to No. 777 Victoria Street: 6-7m (bath), 7.5m (living) • N elevation to No. 42-44 Belmore Street: 18m (Balcony) <p>Belmore Lane Building</p> <ul style="list-style-type: none"> • NW elevation to No. 42-44 Belmore Street: 14m (<u>solid wall</u> to living) 10.5m (bath) • NW elevation to No. 36-38 Belmore Street: 13.5m (bed/bath) <p><u>Level 4 to Level 7</u></p> <p>Victoria Road Building</p> <ul style="list-style-type: none"> • NW elevation to No. 777 Victoria Street : 6-7m (bath) 7.5m (living) <p>Devlin Street Building</p> <ul style="list-style-type: none"> • NW elevation to No. 42-44: 35m • NW elevation to Nos. 36-38: 34m <p>Internal</p> <p>Victoria Road Building to Belmore Lane Building : 7.5m -10m (balcony to blank wall - living)</p> <p>Devlin Street building to Belmore Lane building:</p> <p>Ground Level : Variable</p> <p>11m (living U003 / balcony U011),</p> <p>13.5m (living U004 /balcony U010),</p> <p>Level 1-Level 3: Variable</p> <p>9m (eg. U115 balcony to corridor)</p> <p>11m (eg. U113 balcony to corridor)</p> <p>12m (eg. U112 balcony to corridor)</p> <p>14m (eg. U110 to blank wall U105)</p> <p>Nil to NE boundary with blank wall (approved 8 storey building at 35 Devlin Street on nil setback)</p> <p>This issue has been addressed in greater detail after the table.</p>	<p>No</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes</p> <p>NA</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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Part 3 Siting the development Design criteria/guidance		
<u>Communal and Public Open Space</u>		
Communal open space has a minimum area equal to 25% of the site.	The proposal provides a total of 34.7% of the site area as common open space.	Yes
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	55% of open space receives >2hours sunlight.	Yes
<u>Deep Soil Zones</u>		
Deep soil zones are to meet the following minimum requirements: Site area greater than $1,500\text{m}^2 = 7\%$	4.8% deep soil area	No <i>Refer to discussion following this table</i>
<u>Visual Privacy</u>		
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: <ul style="list-style-type: none"> Up to 12m (4 storeys) 6m (habitable) / 3m (non-habitable) Up to 25m (5-8 storeys) 9m (Habitable) / 4.5m (non-habitable) 	<ul style="list-style-type: none"> NW boundary – nil setback to boundary (south-western side) increasing to 2.5m (north-eastern side) NE boundary – consistent with adjoining development (No. 35 Devlin Street) nil setback (blank wall) to 35 Devlin Street. Setbacks to Devlin Street and Victoria Road comply with DCP requirements – refer to table below.	No <i>Refer to discussion on building separation below.</i> Yes
<u>Car parking</u>		
For development in the following locations: <ul style="list-style-type: none"> on sites that are within 800 metres of a railway station; or within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre, 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.	Refer to DCP compliance table	N/A

Solar Access and Daylight 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 in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas No more than 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	88% receive in excess of 2 hours of sunlight to living room windows and private open space areas during mid-winter. 12%	Yes Yes
Natural Ventilation At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. 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	88% The proposed development has been designed to reduce the potential noise impact from the Devlin Street and Victoria Road frontages as required by Objective 4J-1. This has involved orientating apartments away from the noise sources by using single loaded corridors and employing plenums and mechanical ventilation to achieve cross ventilation, which is consistent with the related Design guidance.	Yes
Ceiling Height Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> Habitable Rooms – 2.7m Non-habitable rooms – 2.4m If located in a mixed use area - 3.3m for ground and first floor to promote future flexibility 	All habitable rooms have minimum 2.7m ceiling heights. Non-habitable rooms contain ceiling heights that are at least 2.4m Ground floor building height is 3.7m	Yes
Apartment Layout Apartments are required to have the following minimum internal areas: <ul style="list-style-type: none"> Studio - 35m² 1 Bedroom - 50m² 2 Bedroom - 70m² 3 Bedroom - 90m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum	<ul style="list-style-type: none"> 1B min. 52m² 2B min. 75m² 3B min. 97m² Units with an additional bathroom provide the additional floor space.	Yes Yes Yes Yes

<p>internal area by 5m² each</p> <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. Daylight and air may not be borrowed from other rooms</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	<p>Complies.</p> <p>Minimum 10m² or 9m².</p> <p>Minimum 3m.</p> <p>Minimum 3.6m or 4m.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>Private Open Space</p> <p>All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> • Studio - 4m² • 1 Bedroom - 8m² (Minimum depth of 2m) • 2 Bedroom - 10m² (Minimum depth of 2m) • 3 Bedroom - 12m² (Minimum depth of 2.4m) 	<ul style="list-style-type: none"> • 1B – 8m² to 28m² • 2B – 11m² to 21m² • 3B – 24m² and 25m² <p>(Confirm by POS schedule DA-2905)</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>Common Circulation Space</p> <p>The maximum number of apartments off a circulation core on a single level is 8.</p>	<p>Maximum of 8 units.</p>	<p>Yes</p>
<p>Storage</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> • Studio - 4m² • 1 Bedroom - 6m² • 2 Bedroom - 8m² • 3 Bedroom - 10m² <p>At least 50% of the required storage is to be located within the apartment</p>	<p>Compliant storage is provided within each unit and within the basement levels. (Confirmed by storage schedule DA-2904)</p> <p>Storage is provided within each unit and the basement levels. At least 50% of required storage is located within apartments.</p>	<p>Yes</p> <p>Yes</p>

As indicated by the above ADG table, the proposed development does not meet the design criteria relating to deep soil, building separation and visual privacy.

Each of these issues is discussed further below.

Deep Soil

The ADG requires a site having an area greater than 1,500m² to provide 7% of the site as deep soil area with a minimum dimension of 6m. The proposal provides a strip of deep soil along the south-western site boundary adjoining Victoria Road, which has dimensions of 24m long between 3m and 5m wide. This area represents 4.8% of the site. This setback is to be planted with massed groundcovers and large native trees.

The applicant has justified the non-compliance as follows:

- *The site is located within a high-density centre location;*
- *Presently, the site is fully occupied by buildings and hard surfaces associated with its use as a car yard and service centre and provides no deep soil zone;*
- *Deep soil has been maximised on the site and provided in the most appropriate location (along the Victoria Road frontage) as recognised by the Urban Design Review Panel;*
- *The deep soil zone is of sufficient width to support large trees as indicated in the landscape drawings.*
- *The deep soil area is complemented by substantial planting on structure reflected in the significant exceedance of the communal open space requirements; and*
- *The combination of the deep soil zone, planting on structure, building orientation and internal planning will create apartments with exceptionally high amenity given the town centre location.*

The objectives for the provision of deep soil zones under the ADG seek to support healthy plant and tree growth and are recognised to improve residential amenity. It is also recognised by the ADG that achieving the design criteria may not be possible on some sites eg. in high density areas.

Despite the numerical non-compliance with the control, the proposal, in addition to the 4.8% deep soil area along Victoria Road, provides centrally located landscaped common open space between the proposed buildings, landscaping to Belmore Lane and rooftop landscaped gardens in the communal open space. Collectively, these green spaces contribute to a high quality development with suitable landscape contribution to the site and a variety of quality landscaped spaces for passive and active recreation. As such, notwithstanding the numerical shortfall, the objectives for the deep soil design guidance are maintained.

Therefore the non-compliance with the control is supported.

Building Separation and Visual Privacy

Part 2F of the ADG seeks the following building separation relevant the development:

Building height	Separation Distance
Up to 4 storeys	6-12m
Up to 8 storeys	9-18m
9 storeys and above	12-24m

As identified in the above ADG table, the proposal does not meet the minimum separation distances to adjacent development across Belmore Lane to properties located at No. 777 Victoria Road, No. 40 and Nos. 36-38 Belmore Lane (**Figure 18**). The proposal also results in variation to the internal building separation within the development site (**Figure 22**).

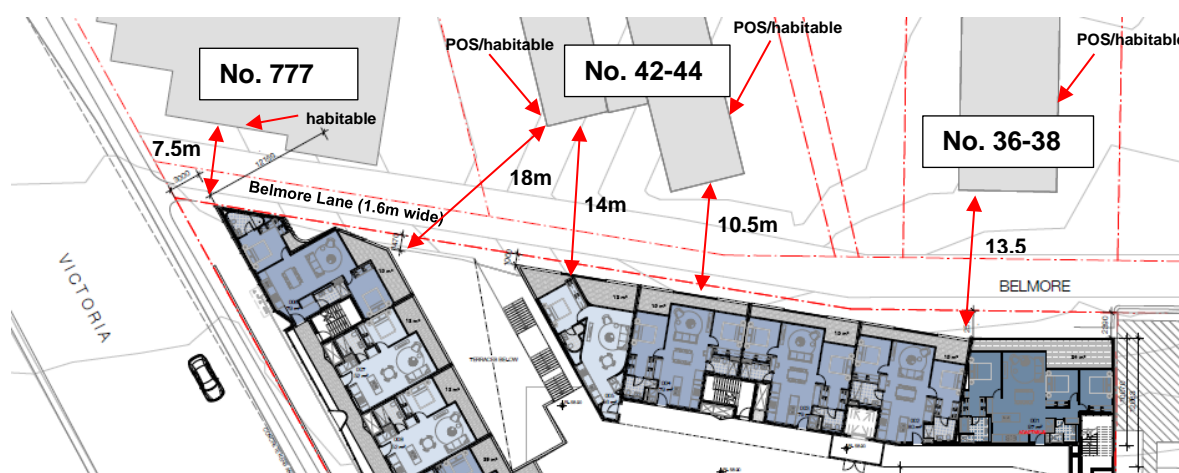


Figure 18: Separation distance of building to properties across Belmore Lane

External to the site at Basement L1 to Level 5, the proposed Victoria Road building is setback 7.5m to living spaces within No. 777 Victoria Road as a result of a proposed nil setback to the north-eastern boundary. The extent of the separation is due to the laneway width (1.6m) and setback of No. 777. The existing relationship between No. 777 Victoria Road and the subject site is illustrated in **Figure 19** and the proposed building separation from Ground Level to Level 6 of the proposed development is illustrated in **Figure 20**.



Figure 19: No. 777 Victoria Road (left) and subject site (right)

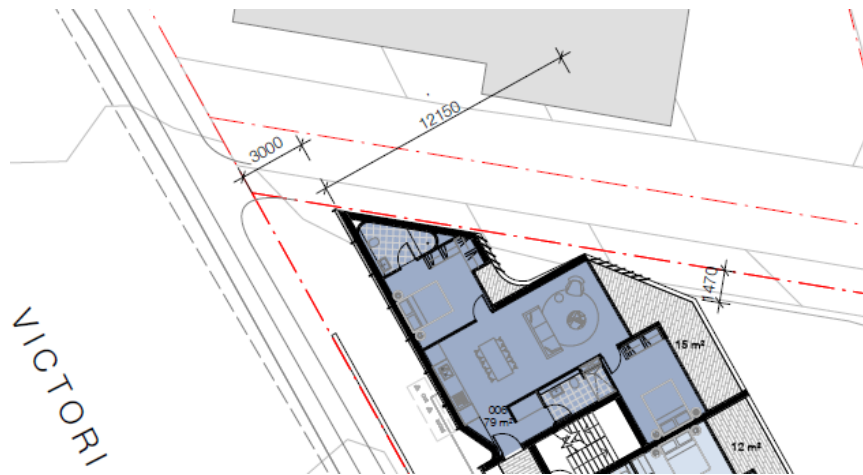


Figure 20: Ground level plan showing relationship to buildings on Belmore Lane

The nil setback is treated with a blank wall to a bathroom. An increased setback to 8m is provided to a small bedroom balcony that is treated with angled louvres. The west facing elevation to the primary living area provides no openings with outlook and private open space oriented north away from No. 777 and where the separation (to No. 42-44 Belmore Street) achieves a distance of 18m. Notwithstanding the reduced numerical separation to No. 777, the location of uses, solid walls, orientation and louvres results in a suitable interface with existing developments across Belmore Lane. Furthermore, to create a buffer a 750mm wide planter will be required along the NW edge of the Terrace to Unit G04 (See Condition 43). This represents a far better separation and privacy solution to the earlier Issue G Plans.

The objectives of the building separation design criteria seek to achieve appropriate building scale and massing, provide suitable amenity and opportunities for communal open space and landscaping.

The proposed north-western corner unit will not contravene the objectives of the building separation requirement. Notwithstanding the numerical non-compliance the treatment to the corner most unit (Belmore Lane and Victoria Road) achieves a suitable relationship between opposing buildings.

As illustrated by the Western Elevation to Belmore Lane (DA-0501), the balcony treatment to balustrades is provided with solid treatment within the primary area of the balcony (**Figure 21**). In light of the stated objective above, the separation and relationship between the proposed development and No. 42-44 and Nos. 36-38 Belmore Street is considered acceptable and will not result in privacy conflict, particularly given the orientation of those buildings which turn their back on the development.

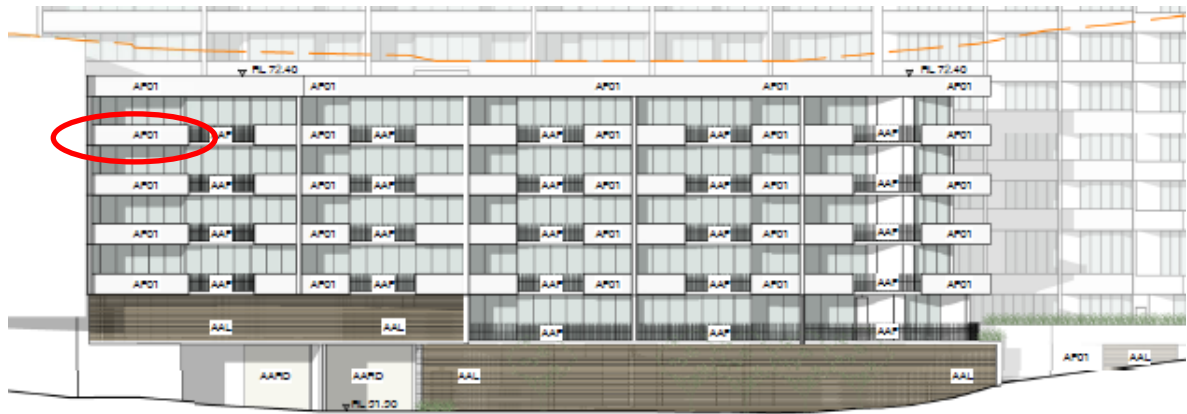


Figure 11: Western Elevation to Belmore Lane (DA-0501) – solid balustrade (eg circled red)

Internal to the site, due to the arrangement of the buildings, the separation between the Devlin Street Building and Belmore Lane Building is variable ranging from 9-14m from Ground Level to Level 3 (**Figure 22**). This relationship is supported given the proposed units within the proposed Devlin Street / Victoria Road buildings adjoin a solid wall or access corridor to the proposed Belmore Lane Building with primary living areas within the Belmore Lane building oriented to the north-west (Laneway) away from the opposing buildings. It is noted that the Victoria Road Building opposes a blank wall to the Belmore Lane Building to solid wall at a distance of 7.5m (ground) to 10m (Level 1-3), acceptable under the ADG.

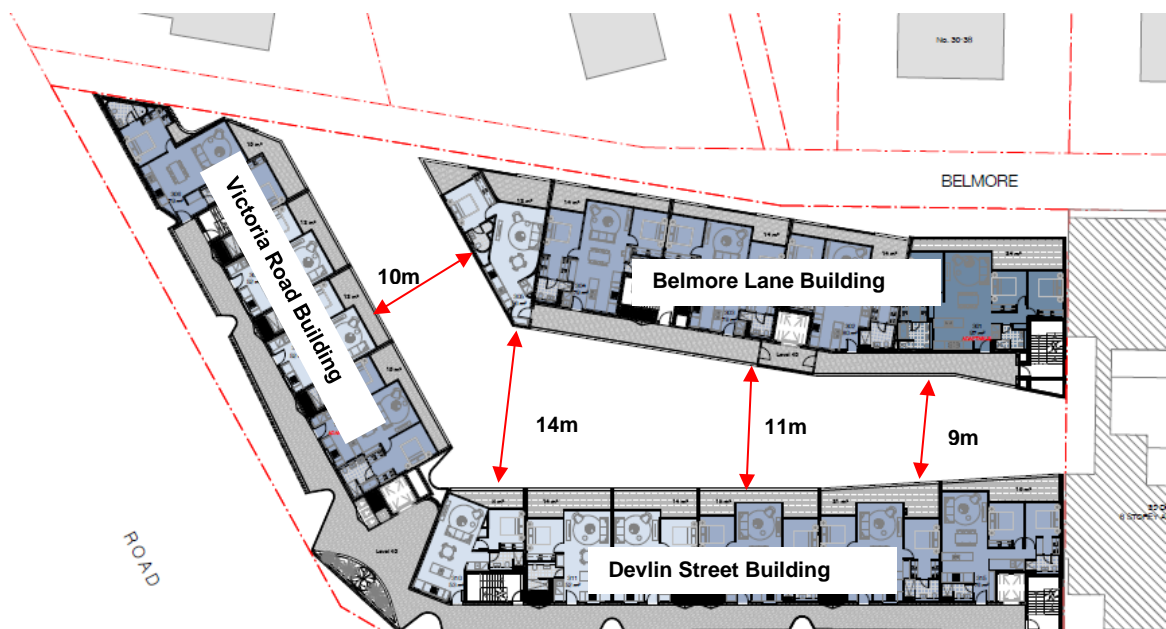


Figure 12 Internal separation distance between proposed buildings (eg. Level 3 – DA-0206)

The development is considered to be satisfactory in terms of Part 2F and Part 3F of the ADG.

8.9 Ryde Local Environmental Plan 2014

The following is an assessment of the proposed development against the applicable provisions from the Ryde Local Environmental Plan 2014.

Clause 2.3 Zone Objectives and Land Use Table

The land is zoned B4 Mixed Use under Ryde LEP 2014.

The amended proposal constitutes a mixed use development comprising residential and commercial uses. The proposed development is permissible as “*commercial premises*” are permissible in the zone and “*residential flat building*” is not listed as a prohibited form of development in the B4 zone.

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 B4 zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.*
- *To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.*

The subject site forms part of the Ryde Town Centre precinct under the Ryde DCP 2014. The proposal meets the objectives of the B4 zone by providing a suitable mix of retail floorspace and residential units on a site that is located within close proximity to public transport, public open space and community services. The proposed development is consistent with the zone objectives and provides a form of development compatible with the anticipated future character for the locality.

Clause 4.3 Height of Buildings

Clause 4.3(2) states that the height of a building on this site is not to exceed the maximum height shown on the Height of Buildings Map. The map specifies the maximum height for any building on the site as 15.5m. Building height is defined in RLEP 2014 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.

Clause 4.3(A) permits an additional 6m height if:

“The lot on which the building is sited has an area of at least 900 square metres and the proposed development is a mixed use development and provides laneway access.”

The site has an area greater than 900m², provides laneway access and proposes a mixed use development. As such the applicable maximum height under the LEP is 21.5m. The proposed development provides a height of up to 29.36m which represents a 36.5% variation (based on the 21.5m height limit). Figures 23 and 24 demonstrate the height non-compliance.

The applicant has provided a Clause 4.6 Variation Statement which, in summary, states:

- *The accentuation of the building form is contextually appropriate and in proportion with the character of nearby development envisaged by the development controls;*
- *The variation does not create substantial additional overshadowing compared to a compliant building;*
- *The site is well located with good access to shops and services and public transport;*
- *Impact on adjoining properties is minimised due to the narrow built form; and*
- *The proposal complies with the FSR control, provides a better streetscape presentation and internal and external amenity compared with a compliant massing arrangement of the buildings.*

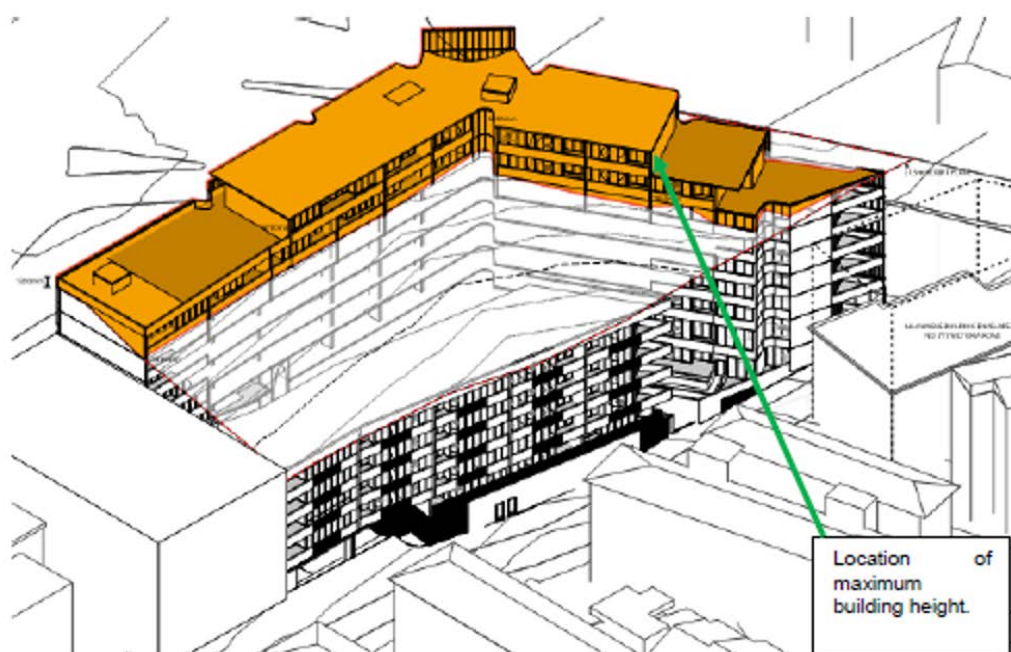


Figure 23: Extent of height breach (3D height plane perspective – north)

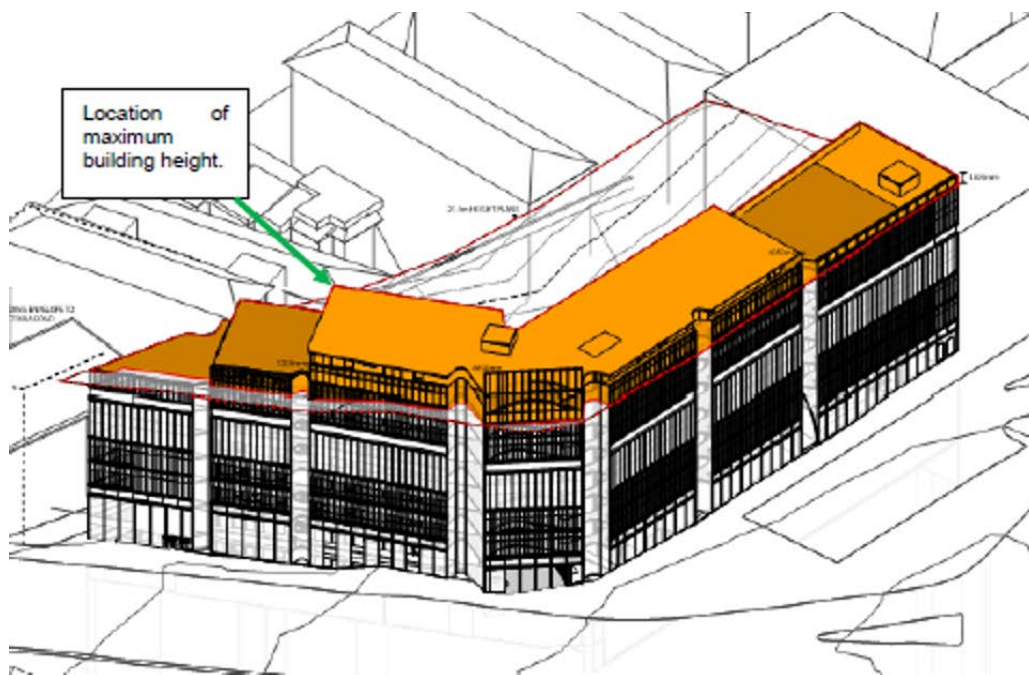


Figure 24: Extent of height breach (3D height plane perspective – south)

The assessment against the applicant's request to vary the LEP height control is provided under Clause 4.6 (Exceptions to Development Standards) below.

Clause 4.6 Exceptions to Development Standards

Clause 4.6 of LEP 2014 allows exceptions to development standards. 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 that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.

The consent authority must be satisfied that the applicant's written request has satisfied the above criteria and that the proposed development will be in the public interest and it is consistent with the zone objectives as well as the objectives of the particular development standard. In addition, consent cannot be granted unless the concurrence of the Director-General has been obtained. These matters are discussed below.

1. Written request provided by the applicant.

The applicant has provided a revised written request seeking to justify the variation to the development standard based on the amended plans. A copy of the request is attached to this report as **Attachment 2**.

2. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.

The applicant's written request has demonstrated that compliance with the development standard would be unreasonable and unnecessary as the development complies with the objectives of the standard. The written request has also considered the environmental planning grounds that are particular to the circumstances of the proposed development. In part the applicant's submission is as follows:

The site is located at the southern entrance of the Ryde Town Centre at the junction of two major roads, being Victoria Road and Devlin Street, both of which are 9 lanes wide at this location. The locality is described as the Commercial Edge West Precinct in the DCP and is an area that is in transition. The planning controls in this locality permit mixed use development up to 21.5m including the immediately adjacent sites to the north and west. Being located on the corner of the Commercial West Precinct and the southern entry to the Ryde Town Centre, the accentuation of the building form resulting from the variation of the maximum building height control is contextually appropriate as illustrated in 4 and 5 and in proportion with the character of nearby development envisaged by the planning controls.

In this regard the Urban Design Review Panel observed " The site is of a significant size located on a prominent intersection within the local government area, with frontage to both Waterloo Road and Devlin Street at Top Ryde.... The scale of the proposal is generally supported by the Panel despite some departures from the applicable building height controls The most significant departure from the building height control occurs along Victoria Road, where the impacts of additional height and overshadowing can be managed, and where the scale of the roadway can accommodate a taller building form."

It should be noted that the proposal has been further amended since the Urban Design Review Panel made these observations such that the extent of the variation has been reduced from 10.15m to 5.85m in the location then described, and 7.86m overall.

The proposed variation does not create substantial additional overshadowing to neighbouring properties than a development complying with the building height control. This is primarily due to the site's north-south orientation and location of the variation which largely creates overshadowing to Victoria Road, rather than neighbouring properties.

The proposed development has been accompanied by shadow diagrams prepared by SJB Architects and are provided at Appendix 3 of the SEE. The diagrams indicate the front yards of properties at 784-788 Victoria Road are generally affected by additional shadows between 9am and 12pm midwinter. Overshadowing only impacts Victoria road rather than causing negatives impacts to residential neighbours.

The proposal does not result in any unacceptable shadow impacts to surrounding residential properties or to the public domain, and will not restrict any future development of surrounding land.

Currently, development fronting Belmore Lane and Devlin Street includes a mix of older, asynchronous residential developments with no heritage significance. The development improves the appearance of the area through the use of contemporary architectural design elements such as articulation, colours and materials on the building facades.

The site is well located with respect to access to shops and services and public transport infrastructure and is a logical place to maximise housing opportunities. The proposal achieves the planned residential densities (as reflected by the floor space ratio control) in a manner that is contextually appropriate, minimises adverse external environmental effects and optimises residential amenity. In this respect the proposal is consistent with Objective (c).

The variation of the height control occurs on the main road frontages in a relatively narrow building form and as such any impact on the amenity of surrounding properties is minimised. Further, we note that the extent of the variation immediately adjacent to neighbouring properties has been reduced in the amended plans from 10.15m to 5.85m. As noted earlier the proposal does not cause any overshadowing of adjoining residential properties.

As noted earlier the site is located at the intersection of two major road corridors containing 9 lanes of traffic each and being 34m and 50m wide. The proposal is of an appropriate height given the location of the site at the southern entrance to the Town Centre and on the corner of this intersection. As noted by the Urban Design Review Panel the scale of the roadway can accommodate a tall building form in this location and in this regard, we believe that the proposal appropriately emphasizes the road frontages along the two road corridors given the particular locational characteristics of this site.

The submitted Clause 4.6 Variation Statement provides satisfactory arguments to depart from the maximum building height control and sufficient justification is provided by the applicant to demonstrate that strict compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case.

3. There are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has addressed the environmental grounds to justify the non-compliance as follows:

The site enjoys a unique location with particular environmental challenges including road noise and topography and opportunities including orientation and its town centre gateway location.

The site lends itself to increased height on the southern and eastern edges (main road frontages) as noted by the Urban Design Review Panel. The increased height on these frontages facilitates a better planning outcome as discussed earlier and does not result in any exceedance of the floor space ratio standard.

The increased height facilitates exceptional solar access within the development (88% overall).

The building frontage on Belmore Lane does not exceed the height limit and is located at the intersection with Victoria Road where the Urban Design Review Panel noted "the scale of the roadway can accommodate a taller building form". The entire length of the Belmore Lane boundary is approximately 75.5m.

The increased building height does not have any adverse amenity impacts on adjacent properties because of the orientation of the site and location of adjacent arterial road corridors.

The corner location of the site at the entrance to the Ryde Town Centre is a unique characteristic of the site such that the proposal would not create an undesirable precedent.

The above justification is considered to provide sufficient environmental planning grounds to justify contravening the development standard to the degree proposed. The location of the proposed variation would not result in unreasonable adverse amenity impacts for adjoining development and the specific site attributes (orientation and location) allowing an acceptable variation to the prescribed height for the site.

The applicant has indicated the shortcomings of alternate (compliant) scheme that would result in a poor streetscape outcome, poor surveillance of Belmore Lane and only baseline amenity performance against the ADG criteria. Furthermore, it would not manage the impact of road noise and would fail to appropriately respond to the gateway location of the site at the intersection of two major and large-scale road corridors.

As such it is accepted that the variation of the maximum building height and redistribution of building mass as proposed results in a superior planning outcome in terms of a better streetscape and internal and external amenity compared to a compliant form without detrimental impacts. These are considered to be sound environmental planning grounds.

4. The 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.

The zone objectives have already been identified in an earlier section of the report. As previously concluded, the development proposes a compatible building scale relative to adjoining residential flat development and location on a busy intersection and therefore meets the zoning objectives.

The objectives of the height clause in LEP 2014 are as follows:

(a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,

Comment: The proposed building height of the Devlin Street/Victoria Road building and compliant building adjoining Belmore Lane provides a suitable massing for the adjoining residential developments.

The extent of the height breach is contained to the building with frontages to Victoria Road and Devlin Street. The Belmore Lane building complies with the height limit and provides a suitable transition to the existing lower scale residential development to the west.

The overall built form and scale is consistent with the desired future character for the area and is supported by Council's UDRP as providing a gateway form.

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

Comment: The applicant has provided shadow diagrams for 9.00am, 12noon and 3.00pm in midwinter. The submitted diagrams demonstrate that notwithstanding the height variation, acceptable overshadowing will occur in midwinter to the properties on the southern side of Victoria Road and the remaining shadows will occur over Victoria Road and Devlin Street and non-residential land on the south-eastern side of the intersection.

The presentation of the development from Victoria Road and Devlin Street is a suitable mix of residential and commercial uses and is supported by the UDRP. The redevelopment of the site for mixed use development of the nature proposed will improve the appearance of the site on Victoria Road and Devlin Street.

(c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,

Comment: The proposal does not require consolidation of allotments. The proposal will provide a mix of commercial and residential uses at the site which is located adjacent to a major road corridor with a high level of bus services to the City and other key areas. No issues arise in relation to consistency with this objective being achieved.

(d) to minimise the impact of development on the amenity of surrounding properties,

Comment: The adjoining residential properties will not be adversely affected by the height breach. The breach occurs atop the building fronting Victoria Road and Devlin Street and is not located adjacent to any existing residential development. Transition with adjacent residential development is suitable.

(e) to emphasise road frontages along road corridors.

Comment: The site fronts Victoria Road which is a Classified Road carrying high levels of traffic. The site also has frontages to Devlin Street and Belmore Lane. The proposed development is considered to result in a built form that suitably emphasises the road frontages and achieves an appropriate and sympathetic bulk and scale and is consistent with neighbouring redevelopments in this respect.

In accordance with the above, the development recognises and adequately address each of the objectives of Clause 4.3. Accordingly, the proposal meets the objectives of the height control and is in the public interest.

5. Concurrence of the Director General.

As the height variation exceeds 10% it is not possible to assume the concurrence of the Director-General. Concurrence can now only be assumed if the consent authority has first considered the following issues:

- *Whether contravention of the development standard raises any matter of significance for state or regional environmental planning.*

The applicant and Council's Officers are of the opinion that there are no matters of significance for State or regional environmental planning as a consequence of the variation.

- *The public benefit of maintaining the development standard.*

The applicant has provided the following in respect of this issue:

There is no public benefit in maintaining strict compliance with the development standard given that there are no unreasonable impacts that will result from the variation to the maximum building height control and hence there are no public disadvantages. Alternatively, increasing the building height on the Victoria Road and Devlin Street frontages helps to define the entrance to the Ryde Town Centre and facilitates the improvement of Belmore Lane and in doing so provides a public advantage.

We therefore conclude that the benefits of the proposal outweigh any disadvantage and as such the proposal will have an overall public benefit.

The above is supported by Council's Officers.

The other consideration is whether there are any other matters which are required to be taken into consideration before granting consent. In the opinion of Council's Officers there are not considered to be any other matters that are required to be taken into consideration.

Planning Assessment

The applicant has demonstrated satisfactorily that the development complies with the objectives of the Building Height standard and the objectives of the B4 zoning. It is agreed that the proposed development is in the public interest because the objectives of the control are met and the variation does not result in any significant adverse impacts and therefore strict compliance with the Height of Buildings standard would be unreasonable and unnecessary.

In this instance, there is sufficient environmental planning grounds to justify contravening the development standard. It is accepted that the characteristics of the site with respect to location on a busy intersection and adjoining lower scale residential areas to the west and south create some challenges and that some flexibility can be afforded to development at the site. The proposed height breach will not have an adverse impact on surrounding residential development and the distribution of building mass across the site with focus at the corner achieves a suitable built form for the locality, recognized as a better outcome than a compliant scheme. The applicant has provided sufficient argument and environmental planning grounds in this instance to justify contravening the development standard.

The variation to the Height of Buildings standard is supported in planning terms and the UDRP have also provided support for the variation.

Clause 4.4 Floor Space Ratio

Clause 4.4(2) states the floor space ratio (FSR) of a building is not to exceed the maximum specified on the FSR Map. The FSR Map specifies a maximum FSR of 1.5:1 for the site.

Clause 4.4(A) permits an additional 1:1 FSR if:

"The lot on which the building is sited has an area of at least 900 square metres and the proposed development is a mixed use development and provides laneway access."

The site has an area greater than 900m², provides laneway access and proposes a mixed use development as such the maximum FSR applicable to the site is 2.5:1. The proposed development provides an FSR of 2.5:1, which complies with the maximum FSR for the site under Clause 4.4(A).

Other LEP provisions

The table below (**Table 4**) considers other provisions relevant to the evaluation of this proposal:

Table 4: RLEP 2014 Provisions	
Provision	Comment
Clause 5.1 Relevant acquisition authority	No part of the site is mapped as being reserved for acquisition for public purposes.
Clause 5.10 Heritage conservation	<p>The subject site is located in proximity to the following item:</p> <p>i) 'Willandra' at No. 762 Victoria Road, Ryde (Item No.149)</p> <p>A Heritage Impact Assessment has been submitted with the application and is considered acceptable by Council's Heritage Advisor.</p>
Clause 6.2 Earthworks	<p>The proposed development includes excavation for a basement car park. A sediment and erosion control plan has been submitted.</p> <p>The application has been reviewed by Council's Development Engineer and found to be satisfactory subject to conditions (See Condition number 60).</p>
Clause 6.4 Stormwater management	<p>Sufficient information has been provided to determine suitability of the proposed stormwater management for the site in relation to Clause 6.4.</p> <p>The application has been reviewed by Council's Drainage Engineer and found to be satisfactory subject to conditions (See Condition numbers 55 & 56).</p>
Clause 6.6 Environmental sustainability	<p>This clause applies as the site area exceeds 1,500m² and is located in a business zone. Sufficient information has been provided to determine suitability of the proposed stormwater management for the site in relation to Clause 6.6.</p> <p>The application has been reviewed by Council's Drainage Engineer and found to be satisfactory subject to conditions (See Condition numbers 55 & 56).</p>

8.10 City of Ryde DCP 2014

The following sections of DCP 2014 are of relevance, being:

- Part 4.4 – Ryde Town Centre

- Part 7.1 - Energy Smart, Water Wise
- Part 7.2 - Waste Minimisation and Management
- Part 8.1 - Construction Activities
- Part 8.2 - Stormwater Management
- Part 8.3 - Driveways
- Part 9.2 - Access for People with Disabilities
- Part 9.3 - Car Parking

With regard to Parts 7.1 to 9.2, noting the advice received from the various technical departments within Council and the consideration of issues previously in this report, sufficient information has been provided to carry out a thorough assessment of these matters and suitable conditions have been included in the consent where required. Parts 4.4 and 9.3 are considered below.

Part 4.4 – Ryde Town Centre

Part 4.4 of DCP 2014 is the primary DCP applicable to development within the Ryde Town Centre. The relevant provisions of the DCP are outlined in **Table 5** below:

[illegible]

Table 5: RDCP 2014 Provisions

Control	Comment	Compliance
<p>Council may require an assessment of wind impacts and a statement of commitment regarding proposed wind mitigation measures.</p> <p>c. Building design should ensure that summer breezes are not blocked to private open space, such as courtyards and balconies, as well as to the public domain.</p>	<p>The design will allow for summer breezes to the apartments and private open space areas.</p>	<p>Yes</p>
<p>3.3 Active Frontage</p> <p>a. Provide ground level active uses where indicated on the Active Frontage and Awnings Control Drawing.</p>	<p>Site is not indicated as requiring an active frontage.</p>	<p>NA</p>
<p>3.5 Access and public domain</p> <p>a. If required by Council, footpath improvements in accordance with the Ryde Town Centre Public Domain Plan are to be implemented by the developer.</p> <p>b. All development must comply with Australian Standard 1428 and Part 9.2 Access for People with Disability under this DCP.</p> <p>c. Barrier free access must be provided to the common areas of all buildings and public domain areas.</p> <p>d. Adequate parking and safe convenient access to buildings for people with disabilities must be provided.</p> <p>e. To provide active frontage and quality building design, vehicular access ramps must be screened from view, contained wholly within buildings and may not ramp along street boundary alignments except in Devlin Street and by approval of Council and the RMS.</p> <p>f. Minimise the size, quantity and visual intrusion of vehicle access points. The preferred width of vehicle access points is 3 m however, up to 6m may be permitted. Greater widths for car parking access may be approved, if it can be demonstrated that the greater width is necessary and that pedestrian safety is not compromised.</p> <p>g. Vehicular traffic must be separated from pedestrians and vehicular access points clearly identified with paving, signage and the like.</p> <p>h. Loading docks must be located so that vehicles do not stand on any public road, footway, laneway or</p>	<p>Capable of compliance through Conditions (See Condition numbers 66 to 69).</p> <p>Capable of compliance through Conditions (See Condition numbers 66 to 69).</p> <p>Achieved.</p> <p>Achieved.</p> <p>No access from Victoria Road. Vehicular access is from Belmore Lane.</p> <p>One vehicle access point from Belmore Lane.</p> <p>Separate pedestrian and vehicular access provided from Belmore Lane and Devlin Street.</p> <p>The waste loading bay is located on the site and the truck can enter and exit in a forward direction.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Table 5: RDCP 2014 Provisions

Control	Comment	Compliance
<p>service road and vehicles entering and leaving the site move in a forward direction.</p> <p>i. Parking should be well lit, easily accessible and screened from view to maintain the attractiveness of the streetscape.</p>	Basement parking provided.	Yes
<p>3.8 Landscaping and Street Trees</p> <p>a. Street trees and other planting shall be provided in accordance with the Ryde Town Centre Public Domain Plan and their health guaranteed for a minimum of 2 years.</p>	<p>Species selection is generally considered to be satisfactory and incorporates a range of trees, shrubs, grasses and groundcovers.</p> <p>On advice from Council's Open Space Officer, alternate species for the avenue planting to the laneway to ensure evergreen trees is recommended. The landscape plan has provided this.</p>	Yes
<p>3.9 Public Art</p> <p>a. Public art must be included in all new developments of \$5 million dollars or greater.</p> <p>b. A site specific Arts and Cultural Plan is to be submitted together with the development application. The Arts and Cultural Plan should be prepared by an arts and cultural planner and should address the following:</p> <p>i. Identify opportunities for the integration of public art in the development;</p> <p>ii. Identify themes for public art that are informed by the site history and local community issues including environmental sustainability;</p> <p>iii. Be inclusive of communities catering for the elderly, youth, children, mothers and minority groups;</p> <p>iv. Durability, robustness and longevity; and v. Demonstrate how public art is incorporated in the site and built form design.</p> <p>c. Public art shall be located in publicly accessible areas of new development such as foyers, building exteriors, rooftops, adjoining footpaths and the like.</p> <p>d. To the greatest extent possible public art should have a dual purpose. For example public art may include lighting that contributes to luminance levels in the public domain and hence public safety. Public art may also include paving and street furniture</p>	Appropriate conditions will be imposed. (See Condition numbers 84 & 161).	Condition

Table 5: RDCP 2014 Provisions

Control	Comment	Compliance
such as seating, safety barriers and water features. e. Public art may be required as part of an Interpretation Plan for heritage and archaeological resources		
3.10 Hoardings a. For any development in Ryde Town Centre hoardings must include the following (unless duration of construction is to be less than 12 weeks): i. Coordinated graphics that may form part of the public art program for the site; ii. Project consultant information in one location; iii. Required safety signage; and iv. Solid panels in preference to open mesh and fencing. b. Traffic and Pedestrian Plan of Management is required for the hoarding, construction or demolition phase.	Capable of compliance through Conditions (refer to Condition 9).	Yes
4.0 Architecture and Urban Form		
4.1 Building Height a. Buildings must comply with the maximum heights described in Ryde LEP 2014 - Height of Buildings Map. b. Height Planes A, B, C and D apply where indicated on the Building Height Control Drawing in this plan (Figure 4.4.05). c. NA d. Floor to ceiling height must be a minimum of 2.7 m for residential uses. e. To ensure that ground floor levels are adaptable over time for a wide range of uses, the floor to ceiling height shall be a minimum of 3.5 m clear for the ground floor and street levels in all development, regardless of uses, in the B4 Mixed Use – land-use zone except for Precinct 4.	Max. 29.36m (Devlin Street building). Refer to Section 8.9 of this report. NA Min. 2.7m floor to ceiling heights provided. Ground floor commercial level provided with 4m floor to floor.	No (Clause 4.6 submitted) NA Yes Yes
4.2 Setbacks and Build-to Lines a. Building setbacks at the ground level must comply with the Setbacks Control Drawings Figure 4.4.07 and Figure 4.4.17.	Victoria Rd setback: nil to 2.8m Devlin St setback: Nil	Yes Yes

Table 5: RDCP 2014 Provisions


Control	Comment	Compliance
 <p>Nil street setback permitted (red)</p>		
4.3 Building Depth a. All occupied points on a commercial floor shall be no more than 15 m from a source of daylight. The preferred maximum depth of office buildings with openings on one side is 15 m. The preferred maximum depth of office buildings with openings on two or more sides is 30 m. b. Maximise daylight to public spaces in retail uses, including particularly arcades, circulation spaces, food courts and the like. Design devices such as atria and light wells are to be provided. c. Maximise natural ventilation in retail and commercial uses by incorporating where possible stack ventilation, openable windows, open air circulation spaces and courtyards. d. Achieve natural ventilation in residential buildings by having window openings in opposite directions and walls where possible. e. The maximum overall depth of residential buildings is 18 m unless design excellence can be demonstrated and natural ventilation is achieved.	<p>Glazed doors and windows provided to the commercial areas will enable sufficient solar access and daylight.</p> <p>No public spaces within the commercial area.</p> <p>Acceptable level of ventilation available.</p> <p>Acceptable level of ventilation available.</p> <p>Max. 15m. Refer to ADG table.</p>	<p>Acceptable on merit</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
4.4 Architectural and Design Quality a. Development on corners must address all street frontages. Entries, windows and other architectural elements should be placed to reinforce the corner. b. Provide building articulation elements including awnings, verandahs, decks, loggias, pergolas, bay windows and recessed doors. c. Windows and entries shall be placed to overlook public spaces and streets to provide surveillance opportunities. d. Balconies may not be continuous along the whole length of building	<p>Suitable design response to all frontages is proposed.</p> <p>Provided.</p> <p>Provided.</p> <p>Balconies do not extend building length.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Table 5: RDCP 2014 Provisions

Control	Comment	Compliance
façades. e. Provide solar protection, including awnings, recessed windows, roof overhangs, external shutters and screens to the western and northern elevations of buildings. f. Development should protect the existing level of amenity of adjacent development as well as for all users of the site.	Suitable solar screening provided. Suitable level of amenity retained to neighbours and future residents.	Yes Yes
5.0 Heritage		
5.3 The Setting a. New development in the vicinity of a heritage item is to be compatible with the visual character of the heritage item and its significant context or setting. b. If the site of a heritage item is amalgamated, the original lot structure shall be discernible in all new development and the visual curtilage retained. c. The natural topography and landscaped setting of the site of a heritage item is to be retained. d. Significant views and other visual links to and from a heritage item are to be preserved and enhanced.	The subject site is located in proximity to the following item: 'Willandra' at No. 762 Victoria Road, Ryde (Item No.149) A Heritage Impact Assessment has been submitted with the application and is considered acceptable by Council's Heritage Advisor.	Yes
6.0 Sustainable Development		
6.1 Sustainable Development a. Development is to comply with Part 7.1 Energy Smart, Water Wise of Development Control Plan 2010. Development within Precinct 1 is to achieve a minimum 5.0 Greenstar Rating and development in Precinct 2 is to achieve a minimum 4.0 Greenstar Rating. b. New development is required to submit an Energy Efficiency Performance Report to indicate overall environmental performance and management in relation to the following matters: i. Solar access that has been achieved for residential living areas, public open space and private open space including clothes drying areas; ii. Solar access for adjoining and nearby development and public domain areas; iii. How energy efficiency is integrated into the orientation and design of buildings and the public domain; iv. Energy efficiency of all appliances including but not limited to hot water systems, clothes dryers, mechanical	There is no recognised impediment to compliance in accordance with BASIX and Energy Efficiency Report. An Energy Efficiency report was submitted with the application. This report demonstrates high level compliance with the objectives of ESD initiatives and strategies.	Yes Yes

Table 5: RDCP 2014 Provisions

Control	Comment	Compliance
ventilation, ceiling fans and the like; v. How water usage is minimised and how the quality and quantity of water discharge from the site is managed; and vi. Details of the potential for water recycling.		
6.2 Water Management a. New development is to submit a Water Management Statement for proposals less than 15 residential dwellings or an Integrated Water Cycle Management Plan for proposals more than 15 dwellings. b. A Water Management Statement and an Integrated Water Cycle Plan must indicate: i. How the water usage is minimised and how the quantity of water discharge from the site is managed; ii. Details of the potential for water recycling and rainwater harvesting and re-use options; iii. Installation of appliances and plumbing hardware that have a minimum AAA Australian Standards Water Conservation Rating; iv. Investigation of treatment and reuse options of Grey Water for non-potable uses as part of the development; and v. Potential for any surplus harvested rainwater being piped for irrigation or other reuse possibilities to downstream Ryde Park.	An Energy Efficiency Report and BASIX certificate were submitted with the application. A Integrated Water Cycle Management Plan has not been submitted with the development application. Condition 55 however will require the submission of a WSUD report to be submitted with the Construction Certificate.	Yes
6.3 Waste Management a. All applications for demolition and development must be accompanied by a Waste Management Plan that specifies the type of waste to be produced and the proposed arrangements for ongoing waste management, collection and disposal. b. All Waste Management Plans shall be prepared in accordance with the relevant requirements of the Waste Recycling and Processing Service Act 1970, and the Waste Minimisation and Management Act 1995, and the Protection of the Environment Operations Act 1997 and Part 7.2 Waste Minimisation and Management.	A Waste Management Plan was submitted with the application. The Plans was found to be acceptable by Council Waste Officer.	Yes
6.5 Alternatives to Private Vehicle Transport a. Refer to 2.7 Bicycle Parking within Part 9.3 Parking Controls of this DCP. b. Workplace Travel arrangements are	10 bicycle parking spaces provided within the basement levels.	Yes

Table 5: RDCP 2014 Provisions

Control	Comment	Compliance
made in every commercial building to encourage greater use of available public transport services by staff. Target 40% of staff to use public transport in each commercial or office premises.	Not considered necessary for proposed size of commercial tenancies.	NA
7.0 Residential Amenity		
7.1 Residential Private Open Space		
Front gardens		
a. Provide front gardens to residential developments where buildings are required to be setback from the street. Refer Setbacks Control Drawing.	NA	NA
b. Design front gardens to provide a positive setting for the building.	NA	NA
c. Tree species shall be selected from a palette in accordance with the relevant recommendations of the Ryde Town Centre Public Domain Plan 2006. Native plant species are generally encouraged.	NA	NA
d. Minimise the impact of driveways in front gardens by design, materials selection and appropriate screen planting.	One driveway proposed from Belmore Lane (no front gardens)	Yes
e. All driveways are to be separated from pedestrian pathways and entryways.	Driveway is separate from pedestrian pathways.	Yes
f. Driveways, kerb crossings, parking, paved areas and external structures must be sited to safeguard the root zone of existing street trees.	Complies	Yes
g. Gardens less than 3 m wide shall have adequate continuous access to allow maintenance.	Complies.	Yes
h. Design front gardens for security by providing adequate lighting to pedestrian and vehicle entrances.	NA	NA
i. Avoid planting which may obscure buildings entries.	Complies	Yes
Private Gardens		
j. Landscape spaces shall retain existing significant mature trees and contribute to the character and environmental quality of the landscape of Ryde Town Centre.	No vegetation on the site to be removed.	NA
k. Where possible provide 20% minimum deep soil landscape space.	ADG prevails.	NA
l. Deep soil landscape areas shall provide some capacity for storage and infiltration of stormwater falling within the total development.	Complies	Yes
m. Provide one large tree, with a spreading canopy, and mature height of 12 metres minimum, planted in	Not considered a requirement for this site.	NA

Table 5: RDCP 2014 Provisions

Control	Comment	Compliance
<p>deep soil, for every 100 m2 of landscaped open space. Indigenous species are preferred and should be selected from the palette detailed in the Ryde Town Centre Public Domain Plan 2006.</p> <p>n. To the greatest extent possible, locate car parking under the building footprint to maximise deep soil.</p> <p>o. Gardens less than 3 m wide shall have adequate continuous access to allow maintenance.</p> <p>p. All air conditioning and other plant shall be screened from view and integrated in the architectural design.</p> <p>q. The design of podium landscapes above car parking shall create optimum conditions for the establishment and long term viability of soft garden areas, including:</p> <p>i. A minimum of 600 mm of soil to allow sustainable planting.</p> <p>ii. Provide drainage and irrigation to all planters over structure.</p> <p>iii. Ensure that all planters are accessible for maintenance.</p> <p>r. All communal garden, swimming pool and outdoor spaces should be designed to enhance the safety and security of residents:</p> <p>Above ground open space</p> <p>s. Provide at least one balcony, terrace or deck for each dwelling where direct access to ground level private open space is not available.</p> <p>t. Primary above ground open space is to be accessible from a family room, lounge, dining room or kitchen, and be north, east or west facing, in the form of balconies, courtyards, terraces, roof gardens and the like.</p> <p>Fences</p> <p>x. Front fencing may only occur in the Precincts 4 and 6 where front setbacks are required.</p>	<p>Basement parking proposed.</p> <p>NA</p> <p>Located in basement.</p> <p>Complies</p> <p>Complies</p> <p>One balcony per unit.</p> <p>Adjoins living areas.</p> <p>NA</p>	<p>Yes</p> <p>NA</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>NA</p>
<p>7.2 Solar Access and Sun Shading</p> <p>a. Optimise solar access to principal living rooms and private open spaces of all dwellings. Mid winter solar access diagrams may be required as part of the energy efficiency Performance Report required by Part 7.1 Energy Smart, Water Wise.</p> <p>b. Provide appropriate sun protection to glazing depending on orientation:</p> <p>i. On north facing facades provide external horizontal shading devices,</p>	<p>ADG prevails - The proposed development provides 88% solar access to proposed units between 9am and 3pm.</p> <p>Provided.</p>	<p>Yes</p> <p>Yes</p>

Table 5: RDCP 2014 Provisions

Control	Comment	Compliance
eaves, awnings, colonnades, balconies, pergolas, planting and the like, to maximise solar access in winter and minimise solar access in summer; and ii. On east and west facing facades provide external vertical shading, sliding screens, adjustable louvres and the like. These may be used in conjunction with awnings, colonnades, balconies, pergolas, and planting. c. Extensive areas of glazing unprotected from sunlight during summer will NOT be permitted. d. Reliance on high performance glazing as the primary element of sun control is NOT permitted.	Complies. Complies.	Yes Yes
7.3 Visual Privacy a. Ground floor residential development may be permitted subject to Land Use Controls. b. Ground floor residential development is encouraged to be more than one storey in height with split-levels, mezzanines and the like so that bedrooms and other spaces may be located above the street level. c. Direct overlooking of rooms and private outdoor space of on-site or neighbouring housing, including housing within the same development is to be minimised through: i. Building layout. ii. Location and design of windows and balconies. d. The use of tinted glazing that does not prevent overlooking is not acceptable as the primary means of achieving privacy. e. This provision gives detailed guidance to the principles of SEPP 65 and promotes appropriate building separation. The preferred minimum distances between opposite windows of neighbouring buildings and dwellings where direct view is not restricted by screening or planting are: i. 6 m between windows of service rooms and/or edges of secondary balconies. ii. 9 m between windows of service rooms and/or edges of secondary balconies to edges of primary balconies. iii. 9 m between windows of service rooms and/or edges of secondary balconies to windows of commercial	Commercial and residential uses are proposed at ground level. Ground floor residential units located above street level. Refer to ADG table. Development results in building separation shortfall which is found to be acceptable through privacy mitigation measures. (See Condition number 43). Not proposed. Noted. Refer to ADG table and Section 8.7 of this report.	Yes Yes Condition Yes -

Table 5: RDCP 2014 Provisions

Control	Comment	Compliance
uses. iv. 12 m between windows of “living” rooms and/or edges of primary balconies. 12 m between windows of “living” rooms to windows of commercial uses.		
7.4 Acoustic Privacy a. Development is to meet or exceed the sound insulation requirements between separating walls and floors of adjoining dwellings of the Building Code of Australia. b. New development is to meet or exceed the recommendations of Australian Standard 3671- 1987: Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors. c. Site buildings and design the internal layout of rooms, courtyards, terraces and balconies, the use of openings, screens and blade walls, and choice of materials, to minimise the transmission of noise externally. d. Design to achieve primary acoustic privacy between adjacent dwellings with appropriate building materials. This may be enhanced using service areas such as circulation, and storage areas, and back-to-back kitchens, laundries, storage and bathrooms to create a noise buffer. e. Balconies and other external building elements are to be located, designed and treated to minimise noise in the building and reflection of noise from the façade. f. The use of a premises, and any plant, equipment and building services associated with a premises must not: i. Create an offensive noise as defined by the Protection of the Environment Operations Act 1997; and ii. Add significantly to the background noise experienced in a locality. Council may require a statement of compliance from a qualified acoustical consultant. g. Machinery and activities, including construction work, that are likely to generate offensive noise must be adequately sound-proofed in accordance with the Protection of the Environment Operations Act 1997 prior to occupation of the premises. h. Where retail and commercial development adjoins residential development, the use of mechanical	<p>With regard to the proposed residential units, the development would be required to meet the recommendations within the Acoustic Report prepared by Acoustic Logic (See Condition number 83). See above.</p> <p>See above.</p> <p>Similar room types adjoin each other in adjacent units.</p> <p>Balconies are oriented to provide acoustic and visual privacy.</p> <p>Condition included in consent (See Condition number 170).</p> <p>Condition included in consent (See Condition numbers 99 & 100).</p> <p>Condition included in consent (refer to Condition 170).</p>	<p>Condition</p> <p>Condition</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Condition</p> <p>Condition</p> <p>Yes</p>

Table 5: RDCP 2014 Provisions

Control	Comment	Compliance
<p>plant equipment and building services will be restricted and must have acoustic insulation.</p> <p>i. Loading and unloading facilities must not be located immediately adjacent to residential development.</p> <p>j. Design restaurants and cafes to diminish the impact of noise associated with late night operation on nearby residents.</p>	<p>Commercial loading bay proposed off Belmore Lane away from units.</p> <p>NA</p>	<p>Yes</p> <p>NA</p>
<p>7.6 Housing Choice</p> <p>a. This provision gives detailed guidance to the principles of SEPP 65. Development is to provide a diverse mix of dwelling sizes generally within the following ranges:</p> <p>3 bedroom 5 – 35%</p> <p>2 bedroom 40 – 80%</p> <p>1 bedroom + studio 5 – 35%</p> <p>b. Developments providing less than 10 units may vary this mix providing a range of dwelling sizes are represented.</p> <p>c. Developments providing less than 5 units are exempt.</p>	<p>5%</p> <p>51%</p> <p>44%</p> <p>More than 10 units proposed.</p> <p>More than 5 units proposed.</p>	<p>Yes</p> <p>Yes</p> <p>No</p> <p>(refer below)</p> <p>NA</p> <p>NA</p>
<p>9.3 Parking Controls</p> <p>Residential Development - High Density (Residential Flat Buildings)</p> <ul style="list-style-type: none"> • 0.6 to 1 space / 1 Bed dwelling (42 units = 25.2 – 42 spaces) • 0.9 to 1.2 spaces / 2 bed dwelling (49 Units = – 44.1- 58.8 spaces) • 1.4 to 1.6 spaces / 3 bed dwelling (5 units = 7 – 8 spaces) • 1 visitor space / 5 dwellings (96/5) – 19.2 spaces <p>Total Residential required: 76-109</p> <p>Visitor spaces Required: 19.2 (ie 20)</p> <p>Commercial 1 / 40m²</p> <p>322/40 = 8.05 (ie. 8)</p>	<p>107 residential spaces proposed (includes 10 adaptable)</p> <p>20 visitor spaces proposed</p> <p>8 Commercial spaces proposed.</p>	<p>Yes</p> <p>Refer to detailed discussion & breakdown below</p>

Discussion on DCP Controls

Chapter 4.4 – 7.6 Housing Choice

The proposed development is required to provide the following housing diversity:

3 bedroom - 5-35%
 2 bedroom - 40-80%
 1 bedroom + studio 5-35%

Instead the proposal accommodates:

3 bedroom – 5%
 2 bedroom – 51%
 1 bedroom + studio – 44%

Despite proposed unit mix falling slightly outside the nominated range for 1 bed/studio units, the development will comprise '*an appropriate mix to accommodate a diversity of housing*' including provision of adaptable dwellings. The proposed housing split is supported.

Chapter 9.3 – Parking Controls

The resident parking requirements are as follows:

Dwelling Type	No. of Units	Parking Req	
		Min.	Max.
1B	42	25.2	42
2B	49	44.1	58.8
3B	5	7	8
Total	96	76.3	108.8
Visitor	96/5	19.2	
Commercial (1/40sqm)	322m ²	8.05	
Total provided:		Complies:	
Residential (10 adaptable)	107	Yes	
Visitor	20	Yes	
Commercial	8	Yes	

The proposal provides a total of 135 parking spaces including 20 visitor spaces and therefore complies with this requirement.

The proposal provides 322m² GFA of commercial floor space and would warrant 8.05 parking spaces based on the DCP rate for office/business premises (1 space per 40m² of GFA). This has been provided in the form of 8 parking spaces within Basement Level 2 and therefore complies.

The proposal therefore complies with the parking provisions contained in DCP2014.

8.11 Section 94 Development Contributions Plan 2007 (Amendment 2010)

Development Contributions Plan – 2007 (2010 Amendment) allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density / floor area. The contributions that are payable with respect to the increased floor area are based on the following figures relating to Ryde.

Contribution Plan	Contributions	Total
Community and Cultural Facilities	\$267,293.68	
Open Space and Recreation Facilities	\$625,459.24	
Civic and Urban Improvements	\$233,761.03	
Roads and Traffic Management Facilities	\$31,980.18	
Cycleways	\$19,919.33	
Stormwater Management Facilities	\$61,708.87	
Plan Administration	\$5,369.44	
Grand Total		\$1,245,491.77

Condition 44 requiring the payment of a Section 94 contribution has been included in the recommendation of this report which will further be indexed at the time of payment if not paid in the same quarter. This condition has required the Section 94 Contribution to be paid prior to the issue of any Construction Certificate for the buildings.

9. 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 issues requiring further consideration are discussed below.

Traffic

The DA was referred to Roads and Maritime Services (RMS) for comment. RMS has raised no objection to the proposal subject to conditions of consent (See Condition numbers 24 to 31).

Council's Traffic Officer has concluded that it is anticipated that there will be a minor traffic net increased which is considered negligible on the local road network.

It is recognised that the proposal will remove access from the existing 3 access points at the site to 1 access point on Belmore Lane. The width of Belmore Lane is 4.3m along most of its length, with relief provided from widened sections as part of

other developments , where road has been extended to 6m. The intent is that as more development occur along the lane, the full length of Belmore Lane will be widened to 6m. In the meantime, the widened sections act as passing opportunities.

A condition will be imposed that requires a right of way to be created over part of the site. This will enable two way movement as well as a turning area at the end of the lane. (See condition number 162).

Privacy

As discussed within the report the application does not comply with the required building separation requirements within SEPP 65. The proposal does not comply with the minimum separation distance however suitable design measures have been incorporated and will result in a suitable privacy relationship adjacent properties across Belmore Lane.

Overshadowing and solar access

The DCP requires the built form of new development to be designed to minimise shadow impacts on surrounding properties. The submitted diagrams demonstrate that at 9am shadow is cast to the south-west and will affect the properties at Nos. 762, and 784 to 788 Victoria Road. At 12pm the shadow falls over Victoria Road and Devlin Street and does not impact any residential properties. The shadow cast at 3pm falls over Victoria Road and Devlin Street, and small parts of a service station and public park on Wandoo Avenue at 3pm.

There is a clear distinction between the shadow cast across the day to demonstrate that all affected residential properties will retain more than 3 hours sunlight from midday during midwinter, above the minimum ADG requirements of 2 hours.

In terms of internal solar access, the proposed development will achieve solar access to 88% of units, consistent with the ADG design guidance of 70%.

Accordingly, the proposed development is acceptable in terms of shadow impacts on adjoining and nearby development and solar access to proposed units.

Noise Impacts

The development is located on Victoria Road, a major Classified State Road and is subject to high volumes of traffic. The proposal may therefore be subjected to potentially high levels of noise as a result of the operation of Victoria Road and Devlin Street. As noted previously in this report, an acoustic report has been submitted as part of the DA. The acoustic report provides recommendations to ensure a suitable noise environment to adjoining land and future occupants of the development (See Conditions numbers 83).

Council's Environmental Health Officer has raised no objections to the proposal subject to the imposition of conditions in line with the recommendations of the submitted Acoustic Report.

10. SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The proposed development is considered suitable for the subject site with respect to the B4 – Mixed Use zoning under RLEP 2014 and the associated planning controls.

The development predominantly complies with the planning controls identified under the various planning instruments.

11. THE PUBLIC INTEREST

The development is considered to be in the public interest as it is reasonably consistent with the relevant planning controls and allows the redevelopment of the site as anticipated by relevant controls. Subject to conditions, assessment of this application has not identified any significant compliance issues, unresolved matters or amenity impacts for adjoining development.

12. REFERRALS

The following table (**Table 6**) provides a summary of internal and external referrals undertaken for this application:

Table 6: Referrals	
Internal	
Heritage Advisor	No objection has been raised to the development
Environmental Health Officer	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 32 to 42, 86 to 89, 123 to 130, 163 to 171).
Development Engineer	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 15 to 19, 55 to 60, 68, 97, 109 to 113, 134 to 138 & 162).
Public Works (Drainage)	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 21 to 23 &

	141).
Public Works (Traffic)	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 20, 64, 65, 115 & 142 to 144).
Public Works (Public Domain)	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 66, 67, 69 to 74, 94 to 96 & 145 to 154).
Public Works (Waste)	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 61 to 63 & 155 to 157).
Open space	No objection has been raised to the development. (See condition number 1a).
External	
Roads & Maritime Services	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 24 to 31).
NSW Police	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 85, 119 to 122 & 140).

13. PUBLIC NOTIFICATION AND SUBMISSIONS

The proposal was notified and advertised in accordance with Part 2.1 (Notification of Development Applications) of DCP2014. The exhibition period was from 11 August 2016 to 7 September 2016. Five (5) submissions were received objecting to, or commenting on, the proposal.

As a result of a second notification period from 27 July 2017 to 11 August 2017 (required as amended plans were submitted by the applicant), Council received one (1) further submission. The majority of the issues raised have been addressed in the above assessment report. Comments are however provided (**Table 7**) in relation to the following matters:

Table 7: Submissions

Objection	Response
<u>First round notification</u>	
Value of neighbouring development (off the plans sales)	Property value is not a planning consideration under Section 79C of the Environmental Planning & assessment Act 1973.
Height exceeds Council's controls	The proposed Belmore Lane building meets the height limit. The proposed Devlin Street building exceeds the height limit however Council is satisfied that the height breach will have no adverse impact on adjoining properties and is supported pursuant to Clause 4.6 of RLEP.
Nil setback to north-eastern boundary	Despite the numerical non-compliance, the nil setback is acceptable as it aligns with the building footprint of the adjoining development at No. 35 Devlin Street which is also built to the boundary in part, and will not have any adverse visual impacts as the northern-most balcony at each level of the proposed development (Devlin Street building) has a solid side wall and a solid balustrade.
Traffic impacts on Belmore Lane. Should be changed to a one-way street with exit to Victoria Road	<p>Council's engineers and the RMS have reviewed the application and raise no objections subject to conditions of consent. RMS has previously advised Council that it is not possible for the laneway to connect to Victoria Road due to its potential adverse impact on the major intersection of Victoria Road and Devlin Street.</p> <p>Council is aware that two cars are unable to pass each other. To address this issue, as properties are redeveloped, a condition of consent is imposed to provide a right of way over a portion of the site. This right of way will increase the width of the laneway to allow for cars to pass. The right of way will also ensure there is adequate turning area at the end of the lane.</p>
Parking provision insufficient	The proposed development complies with the required parking rates.
Structural impact from excavation	A Geotechnical Report was submitted with the application, reviewed by Council's consulting Structural Engineer and found acceptable.
Demolition hazards	Carried out under separate approval.
Reduced privacy and increased noise impacts	<p>Building separation and privacy has been discussed elsewhere in this report. The proposed separation is acceptable.</p> <p>The scale of development and associated increase of cars and future occupants is commensurate with the Town Centre locality. The proposal is generally consistent with the design criteria of the ADG which is the measure for appropriate high density development within an urban environment.</p>

	Standard operational conditions are also imposed to manage offensive noise as defined in the Protection of the Environment Operations Act 1997.
Development will cast shadow impacts to No. 42 Belmore Street.	No. 42 Belmore Street is located to the north of the subject site across Belmore Lane. As demonstrated by the submitted Shadow Diagrams (DA2917, as amended) the proposed development will not impact on this property.
During construction the laneway will be blocked	<p>Council's engineers and the RMS have reviewed the application and raise no objections subject to conditions of consent.</p> <p>The applicant will require a series of Permits from Council for any work or construction related parking on a public road which is required prior to commencement of works.</p> <p>The applicant is also subject to traffic management procedures and systems in accordance with AS1742.3 imposed through consent conditions. Deviation from compliance can result in enforcement action.</p> <p>If the laneway is blocked during construction, this is a matter that can be dealt with by Council's Rangers or NSW Police.</p>
Will appropriate fencing be installed during construction to minimize dust and privacy impacts.	<p>Standard site management conditions of consent require the erection of hoarding fences to the perimeter of the subject site permitted following issue of a permit.</p> <p>Hoarding is required to screen off the building site to avoid safety risk to the public. It is not intended to provide a privacy measure.</p>
Will trees along Belmore Lane be replaced as they screen our clothesline (No. 42).	The proposal includes upgrade to the Belmore Lane pedestrian pathway to Victoria Road. The revised Landscape Plan (Issue 9) now provide an alternate species recommended by Council (<i>Tristanopsis laurina</i>) along the Laneway that at maturity will reach 10m in height.
Control of dust during construction	The applicant has submitted a Waste Management Plan which includes construction management. This Plan has been reviewed and accepted by Councils Health Officer and Councils standard construction / site management conditions will be imposed.
Setback to laneway and No. 777 Victoria Road	This issue has been discussed in detail within this Assessment Report.
Safety concerns as Belmore Lane has no footpath and is a mixed traffic zone.	The proposed driveway to the development is to be treated with contrasting paver finish to create a share way with flush transition to adjacent pavements. This in concert with upgrades to the Belmore Lane pedestrian access is a suitable and improved outcome, supported by Council's traffic engineers and public open space team.
Concerned about damage during construction and what insurance	It is standard practice for buildings to have suitable Contractor's risk insurance, a policy that covers risks

<p>is required by the applicant to cover any damage</p>	<p>associated with a construction project. This will apply should the developer cause damage to the site or adjacent property which carrying out works.</p> <p>Furthermore, the submitted Geotechnical Report has been reviewed and accepted by Councils Consulting Structural Engineer subject to conditions that require compliance with the recommendations of that report.</p> <p>An imposed condition of consent will require the completion of a dilapidation report in relation to all properties that may be affected by the construction work and must be submitted to the PCA and Council prior to CC issue. (see Condition 58).</p>
<p>What precautions will be put in place during demolition of hazardous material</p>	<p>NA - Demolition has been carried out under separate Development Application – LDA 2016/0503. This approval included a standard condition of consent that any hazardous materials, including asbestos, be identified before demolition work.</p> <p>Furthermore, an appropriately licensed contractor is required to be engaged for the removal of friable asbestos or asbestos containing material greater than 10m² and Work Cover notified.</p> <p>Compliance with Work Health and Safety Act 2011, Work Health and Safety Regulation 2011 and Protection of Environment Operations Act 1997 is enforced.</p>
<p><u>Second round notification</u></p>	
<p>Views</p>	<p>The proposed development is a form and scale anticipated by the applicable planning controls relevant to the site. It is not accepted that the development will result in an unacceptable impact on views. Notably, the proposal is lower in building height than the original scheme notified.</p>
<p>Height</p>	<p>The proposed Belmore Lane building meets the height limit. The proposed Devlin Street building exceeds the height limit however Council is satisfied that the height breach will have no adverse impact on adjoining properties and is supported pursuant to Clause 4.6 of RLEP.</p>

14. CONCLUSION

This report considers an application for construction of a mixed use residential and commercial building containing a total of 96 residential units and 322m² of commercial floor space at 39-41 Devlin Street, Ryde.

The development complies with the design criteria in respect to the Apartment Design Guide with the exception of the deep soil and building separation. In this instance the design of the development has satisfied the objectives of the requirements by providing high quality communal landscaped areas.

The application has demonstrated that the level of amenity in terms of solar access, communal open space, privacy and energy efficiency can be met. Overall, the proposal can be supported subject to conditions.

It is recommended that the application be approved subject to conditions.

15. RECOMMENDATION

Pursuant to Section 80 of the Environmental Planning and Assessment Act, 1979, the following is recommended:

- A. That the Sydney North Planning Panel grant approval to development application LDA2016/0359 at 39-41 Devlin Street, Ryde, subject to the recommended Conditions of Consent within Part A in Attachment 1 of this report.
- B. That those persons making a submission be advised of the decision.
- C. That RMS be advised of the decision.

Report prepared by:

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Report approved by:

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