

Sydney North Planning Panel

SNPP No	2017SNH042
DA Number	MOD2017/85
Local Government Area	City of Ryde
Proposed Development	Modification to LDA 2015/0654 pursuant to S.96(2) including various changes to the car parking area, modifications to floor plans on all levels, reduce the communal open space area on the roof top and provide private roof top terraces.
Street Address	723-731 Victoria Road, 10 Little Church Street & 3-7 St Annes Street, Ryde.
Applicant	CD Architects
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	Original Consent determined by Sydney East Joint Regional Planning Panel as the Capital Investment Value Exceeded \$20M.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979; • State Environmental Planning Policy (Building Sustainability Index: BASIX); • 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. • S94 Contribution Policy
List all documents submitted with this report for the panel's consideration	Attachment 1: Conditions of consent Attachment 2: Original approved plans
Recommendation	Approval
Report by	Sandra McCarry Senior Town Planner
Report date	4 July 2017

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?	Yes
Clause 4.6 Exceptions to development standards	
If a written request for a contravention to a development	N/A

standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	
Special Infrastructure Contributions	No
Does the DA require Special Infrastructure Contributions conditions (S94EF)?	
Conditions	Yes – the applicant has reviewed the conditions and has raised no objections to the conditions.
Have draft conditions been provided to the applicant for comment?	

Assessment Report and Recommendation

1. EXECUTIVE SUMMARY

Consent is sought to modify Local Development Application No. 2015/0654 under the provisions of Section 96(2) to provide for various internal changes to the approved buildings so as to rationalise the approved development for improved amenity and livability.

The proposed modifications primarily seek to revise the car parking layout, increase the amount of commercial space, make internal floor changes resulting in change to the unit mix and a reduction in the number of units from 105 to 100. It was also proposed to reduce the size of the roof top communal open space in Buildings C & B and provide private roof courtyards on the roof of Buildings B, C & D.

On 29 May 2017, the applicant was advised that the proposed changes to communal open space and the provision of the private rooftop courtyards would not be supported by Council Officers. The applicant has agreed to delete the proposed private courtyards on the roof of Buildings B, C & D with only minor changes to the communal open space. **Condition 1(g)** has been imposed requiring the deletion of the private rooftop courtyard areas and the Gorter skylights.

The application was placed on public notification from 10 May 2017 until 31 May 2017 as well as advertised in the Northern District Times. During this time, no submissions were received.

The proposed modifications have been considered against the relevant environmental planning instruments including RLEP 2014, DCP 2014 and SEPP 65. The amended development is considered to remain generally satisfactory in relation to the requirements of Council's applicable planning controls.

The amended proposal is therefore considered to be generally satisfactory with regard to the requirements of Council's LEP, the zone objectives and DCP controls. The amended development is substantially the same development as that previously considered and approved by the Sydney East Joint Regional Planning Panel.

Consequently this report concludes that the amended development proposal is sound in terms of design, function and relationship to surrounding sites. This report recommends that consent be granted to this application in accordance with conditions provided in **Attachment 1**.

2. BACKGROUND

The originally approved development, Local Development Application 2015/0654, was determined by the former Sydney East Joint Regional Planning Panel due to the estimated Capital Investment Value limits applicable at the time of determination.

It was approved as a Deferred Commencement on 20 October 2016 for demolition of existing buildings and construction of a mixed use development containing a total of 105 residential units & 269m² of commercial floor space.

The Deferred Commencement Condition required Root Mapping Investigations to be undertaken to determine the likelihood and level of impact the proposed development will have on neighbouring trees. The Root Mapping Investigation was undertaken and confirmed that there would be no impact to the neighbouring trees. Accordingly Council advised the applicant on 25 October 2016 that the consent is operative.

3. APPLICATION DETAILS

Applicant: CD Architects

Owner: Kaloriziko P/L

Estimated value of works: Original value: \$34,144,723.

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

4. SITE DESCRIPTION & CONTEXT

The subject site is located on the north eastern side of Victoria Road and is legally described as Lots A, B, C, D, E and F in DP26272 and Lot 78 in DP9692. The site has a total area of approximately 3,436m² and comprises 7 separate land parcels.

The site has three street frontages; Victoria Road, Little Church Street and St. Anne's Street. The adjoining sites to the south east are residential flat buildings. St Anne's Church and cemetery (heritage listed) are located on the north-western side of Little Church Street and located on the north-eastern side of St Anne's Street are residential flat buildings.

Figure 1 below provides an aerial view of the site (outlined in red) and its context whilst photographs of the site and surrounds are provided at **Figures 2 to 6**.



Figure 1: Aerial photo of the site.



Figure 2: No. 10 Little Church Street – single storey dwelling house on the corner of Little Church Street and St Annes Street, to be demolish.



Figure 3: Nos. 3 and 5 St Anne's Street – single storey dwelling houses, to be demolish.



Figure 4: No. 7 St Anne's Street - single storey dwelling house to be demolish.



Figure 5: 721 Victoria Road – 5 storey residential flat building located at the corner of St Annes Street and Victoria Road, adjacent to the southern eastern boundary of the subject site.



Figure 6: 9-11 St Anne's Street – a 3 storey residential flat building.

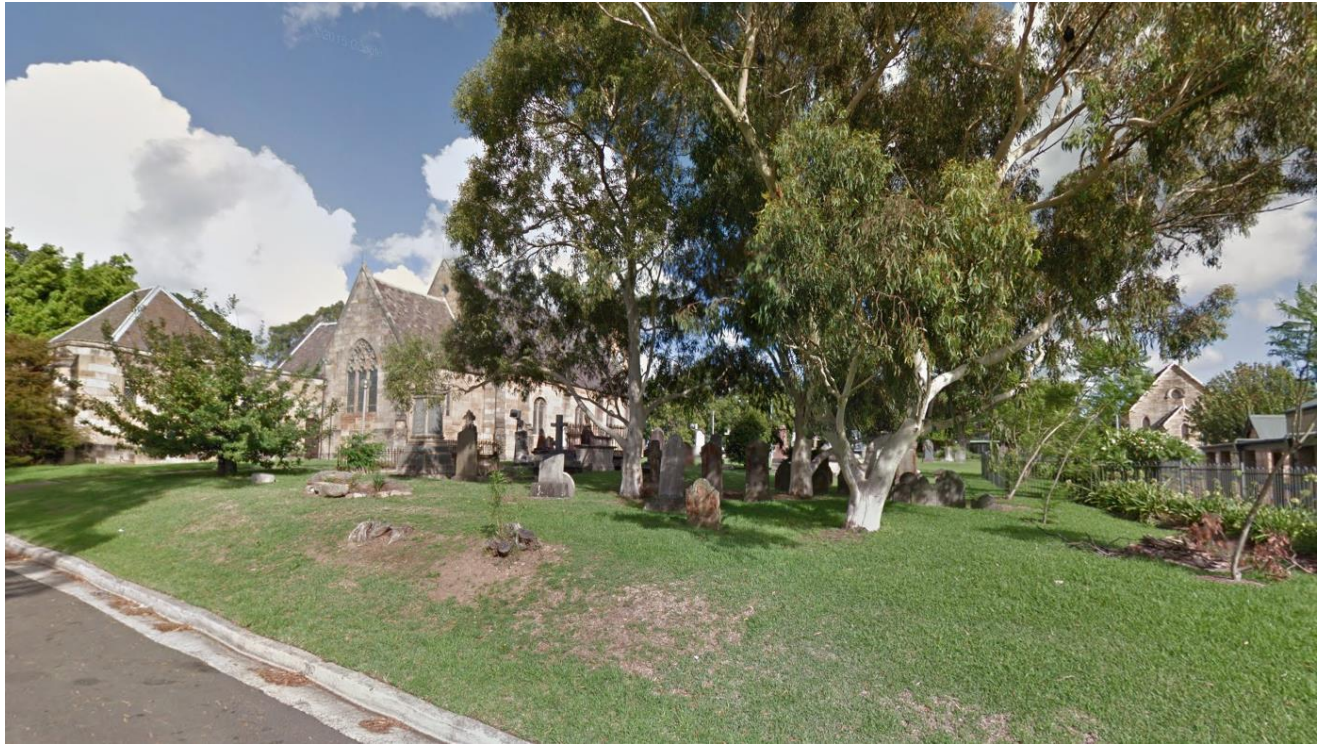


Figure 7: St Anne's Church – taken from the internal road.

5. PROPOSAL

The approved development comprises of four attached building pods in a U shaped configuration with a central common open space area between Buildings A & D, as shown in **Figure 8** below. Building A is a three storey building, located on the north western corner of the site with frontages to St Annes and Little Church Street. Building B is 6 storeys, located on the south western corner with frontages to Victoria Road and Little Church Street. Building C is located on the south eastern section of the site facing Victoria Road and is 5 storeys. Building D is located on the north east corner facing St Annes Street and is 6 storeys in height. Communal open space are also proposed on the roof area of Buildings B & C to capture the views to the city.

Modifications are now sought to revise the car parking and storage layout in the basement levels, internal floor changes to accommodate increase commercial area, changes to the units arrangements on each of the levels, changes to the roof top communal area and provision of private rooftop courtyards on Building B, C and D



Figure 8: Location of the proposed buildings and number of storeys of each building.

More specifically, the modifications are as follows:

- Revise the car parking layouts:-
 - Upper and lower ground basements: change and increase the number of storage cages throughout the basement levels.
 - Relocate disabled car parking spaces within the basement area with loss of two disabled car spaces in upper basement level.
 - A visitor car space added to Basement 1.
- Lower Ground commercial level
 - Due to relocation of some of the storage cages in the northern corner to the lower basement levels, the north western commercial tenancy has increased in size (269m² to 355m²) with commercial store room (25m²) added.
 - Provision of bicycle parking on the lower ground (commercial) floor.
 - Eastern storage area removed and basement reduced in size.
 - Changes to the size of two of the waste rooms.
- Internal changes to unit layouts
 - Lower Ground Floor Residential:

- Extend the lower ground floor residential area to the west by increasing Unit CLG01 from 1 bedroom unit to 2 bedroom unit (52m² to 104m²).
- Minor internal changes to Unit CIG02 (rearrange location of bathroom) with increase in size from 89m² to 92m².
- Unit CLG03 changed from 2 bedroom to 3 bedroom (85m² to 98m²)
- Unit CLG04 increased in size from 1 bedroom to 2 bedroom (70m² to 101m²).
- Revised waste room.

Ground Floor:

- Extend western wall of Unit AG01 & BG01 to line up with the building western façade. This will increase Unit AG01 from 79m² to 81m² and Unit BG01 from 1 bedroom to 2 bedroom (51m² to 84m²)
- Internal changes to Units AG02 & AG03, reduction in size by 13m² and 5m², respectively.
- Unit CG01 merged in with Units BG03 & CG02.
- Unit DG01 & DG02 merged into a new 3 bedroom unit.

Level 1:

- Deletion of a unit with the area merged into the surrounding units – Unit A103 increased from 1 bedroom to 2 bedroom and Unit A102 changed from 1 bedroom to 2 bedroom (51m² to 78m²).
- Units D101 merged with Unit D102 into a 3 bedroom unit.

Level 2:

- Deletion of a unit (Unit A203) with the area merged into the surrounding units - Units A202 & A203 changed from 1 to 2 bedroom

Level 3:

- Unit B302 extended to the north to increase in size and change from 2 bedroom to 3 bedroom.
- Internal changes to Unit C304.

Levels 4 & 5

- Portion of Unit B402, D401 & B502 & D501 extended to the northern elevation.
- Portion of Unit D404 & D504 extended to the south and changed from 1 bedroom to 2 bedroom.
- Level 5 – B504 increased in area, changed from 2 bedroom to 3 bedroom plus study (80m² to 112m²).
- Gorter skylight with retractable stairs to the roof top area in Units C403 & C404 to roof Level 5 in Building C to provide private courtyard areas to each of these units.
- Gorter skylight with retractable stairs to the roof top area in Units B501, B502, B504, B505, B506, B507, D501, D502, D503 & D504 to roof Level 6 in Buildings B & D so as to provide private courtyard areas to each of these units.

Change approved unit mix: from 105 units comprising of

- 49 x 1 bedroom units;
- 52 x 2 bedroom units;
- 4 x 3 bedroom units and
- 269m² of commercial floorspace.

to 100 units comprising of

- 33 x 1 bedroom
- 58 x 2 bedroom
- 9 x 3 bedroom and
- 355m² of commercial floorspace.

Proposed changes to conditions of consent

The following amendments to the conditions of consent are required:

- Condition 1 - Development in Accordance with Plans
Changes to reflect the amended plans submitted with the S.96 modification.
- Condition 3- BASIX.
Changes to reflect the amended BASIX Certificate.
- Condition 42 - Section 94
Changes to the S94 contribution to reflect the new unit mix and commercial floor space.
- Condition 57 – Adaptable Unit.
Changes to the total number of units to be provided has altered the number of adaptable units to be provided.
- Condition 68 – Vehicle Access & Parking
The revised plans have addressed original concerns about the driveway grades of the main accessway with regard to AS2890.2. This has now been addressed and Condition 68 is to be amended accordingly.
- Conditions 69 & 119– Stormwater Management
The revised plans have amended the stormwater plans and this has been amended accordingly.
- Condition 155 – Parking Allocation.
Changes to the car parking allocation to reflect the amended car parking requirement as a result of the new unit mix and commercial floor space.

6. APPLICABLE PLANNING CONTROLS

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

- Environmental Planning and Assessment Act 1979;
- State Environmental Planning Policy (Building Sustainability Index: BASIX);
- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development;
- Ryde Local Environmental Plan 2014;
- City of Ryde Development Control Plan 2014 and
- S94 Contribution Policy.

7. PLANNING ASSESSMENT

7.1 Environmental Planning and Assessment Act, 1979

The provisions of Section 96(2) of the Environmental Planning and Assessment Act, 1979 allow a consent authority to modify the consent where the application meets the following criteria: -

- (a) The development to which the consent as modified relates is substantially the same development.
- (b) Any concurrence authority has been consulted and has not objected.
- (c) The application has been notified in accordance with the regulations.
- (d) Submissions made during the prescribed notification period have been considered.

Under s96 (2) (a) Council must be satisfied that the development as modified is substantially the same as was approved in the original consent. In arriving at this determination there should be no consideration of the merits of the proposal but rather a straight before and after comparison. If it is determined to be substantially the same then the proposed modifications need to be assessed on their merits having regard to submissions received and any relevant council planning controls.

The **current approval** provides for demolition of existing buildings, amalgamation of the lots and construction of a mixed use development containing a total of 105 residential units and 269m² of commercial floor space.

The **proposed modifications** relate to internal alterations to facilitate a reduction from 105 apartments to 100 apartments, internal changes to the basement levels to rearrange storage space, minor balconies changes and extend the lower ground floor into the void area. The applicant has agreed to delete the private rooftop courtyards and rooftop fencing, accordingly the proposed modifications are generally within the approved building footprint.

The proposed modifications are considered to be consistent with the originally approved development application. This conclusion is reached as the proposed modifications retain the intent of the originally approved development. The application can be considered on its merits.

Section 96(2) (b) is not relevant to the current application, as concurrence was not required for the original approval.

The proposal meets the requirements of 96(2) (c) and 96(2) (d) listed above. The proposal was notified and no submissions were received.

7.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

An updated BASIX Certificate has been submitted with the application to reflect the proposed amendments. **Condition 3** has been updated to reflect the new BASIX Certificate number and date.

7.3 State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development

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

- The 9 SEPP 65 Design Quality Principles; and
- The NSW Apartment Design Guide (ADG) guidelines.

The proposed modifications do not diminish the design quality of the building and was not referred to Council's Urban Design Review Panel.

Note: A design verification statement has been submitted in accordance with the requirements of the SEPP and the Environmental Planning and Assessment Regulation.

The principles and ADG guidelines have been considered as part of this assessment.

Design Quality Principles

The Principles under this Policy aim to incorporate the provisions of SEPP 65 with the design guidance of the ADG. They provide nine principles for the merit based assessment of a proposal and aid the achievement of good design.

The following table provides an assessment of the proposal against the nine Design Quality Principles:

Design Quality Principle	Comment
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, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	The proposed modifications 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 proposal offers an improved presentation to Victoria Road.

Design Quality Principle	Comment
Built form and scale	
<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The proposed modifications will not significantly add to the bulk and scale of the approved building. The modifications will not alter the approved height and will be within the maximum permissible FSR under the RLEP 2014 of 2.5:1.</p>
Density	
<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population.</p> <p>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The proposal achieves a high level of amenity for future residents through providing well-appointed units with good access to sunlight and cross ventilation.</p> <p>The modifications will result in increased floor space however the proposal will not exceed the maximum permissible FSR under the RLEP 2014 of 2.5:1. An FSR of 2.48:1 is proposed.</p>
Sustainability	
<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>The amended proposal is accompanied by a BASIX Certificate, achieving the required energy and water efficiency targets under SEPP (BASIX) 2004.</p>
Landscape	
<p>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.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which</p>	<p>The modifications, subject to Condition 1(g) to delete the private roof top terrace areas, will have minimal impact to the approved communal landscaped open space on the roof of the buildings.</p>

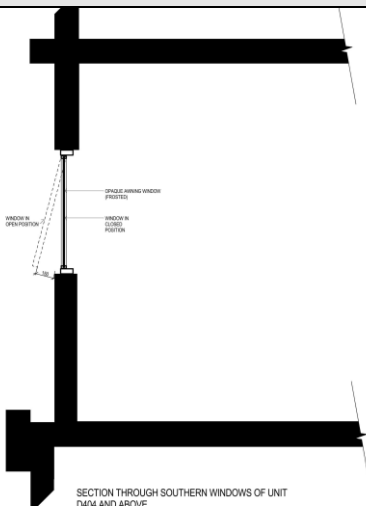

Design Quality Principle	Comment
<p>contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	
Amenity	
<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The proposed modifications for internal amendments to the units will result in improved amenity with larger internal living areas which would achieve good solar access and cross ventilation, and are provided with sufficient outdoor space.</p>
Safety	
<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</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>	<p>The original proposal generally complied with CPTED principles. The amended scheme will not alter this.</p>
Housing diversity and social interaction	
<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment 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 and providing opportunities for social interaction among residents.</p>	<p>The amended proposal comprises 100 apartments and provides for the following mix:</p> <p>33 x one bedroom units (33%) 58 x two bedroom units (58%) 9 x three bedroom apartments (9%)</p> <p>Of these, 10 units will be adaptable.</p> <p>It is considered the proposed apartment mix is suitable to reach a wide demographic and living needs.</p>
Aesthetics	
<p>Good design achieves a built form that has good proportions and a balanced composition</p>	<p>Building design has incorporated balconies, windows, awnings and roof elements on all</p>

Design Quality Principle	Comment
of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	façades of the building.

Apartment Design Guides

The SEPP also requires the Council to take into consideration the requirements of the Apartment Design Guide. The following matters are considered relevant to the Section 96 application.

	Comments	Comply
Part 2C Building Height	The proposed S96 will not alter the approved height.	Yes
Part 2D Floor space ratio	Original application approved a FSR of 2.36:1 (8158m ²). It is now proposed to provide an additional 362m ² of floor space plus inclusion of 2 excess car spaces, resulting in a FSR of 2.48:1 (8531m ²). The amended proposal is still within the maximum FSR allowed and is considered satisfactory.	Yes
Part 2F Building Separation Minimum separation distance for buildings are: <u>Up to 12m (4 storeys)</u> <ul style="list-style-type: none"> – 12m b/w habitable/balconies – 9m b/w habitable/non habitable – 6m b/w non habitable. <u>5 to 8 storey</u> <ul style="list-style-type: none"> – 18m b/w habitable/balconies – 12m b/w habitable/non habitable – 9m b/w non habitable. 	The original consent approved a 3.7m setback from the rear south eastern boundary for Building D. This setback was for Levels 1 to 4 with Levels 5 & 6 setback 7m. It is now proposed to extend Units D404 & D504 further south to be in line with the units below. As a result this has reduced the setback to the common boundary with 721 Victoria Road to 3.7m for the entire 6 storeys. The JRPP originally approved the 3.7m setback along this elevation as the windows proposed along the building façade were opaque awning windows. Opaque awning windows are windows that are frosted and restricted in opening, as shown in the diagrams below.	No – variation acceptable.

	Comments	Comply
	  <p>IMAGE OF OPAQUE AWNING WINDOW</p> <p>The Section 96 application proposes the use of these windows on levels 4 & 5. These windows will prevent any overlooking concerns. The additional bulk of this part of the building will not affect the adjoining property as the buildings are offset to each other. In addition, there will be no impact in terms of overshadowing. The breach in building separation distances can be supported in the circumstances of the case.</p>	
<p>Part 3D Communal and public open space</p> <p>Communal opens space has a minimum area equal to 25% of the site. Developments to achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (min winter).</p>	<p>The original approval provided a total of 32% of the site area as common open space.</p> <p>Note: The proposed modification to reduce the communal open space on Building B & C by 251m² and 46m² respectively for the provision of private courtyards on the roof</p>	<p>Yes</p>

	Comments	Comply												
	<p>area is not supported by Council Officers and the applicant has agreed to delete these from the proposed modification. Accordingly Condition 1(g) has been imposed requiring such.</p> <p>Buildings A & C have communal open space located on the roof of the buildings. It is proposed to extend Units B303 and B504 located on the roof area of Building A & C, respectively. The extension will encroach into the communal open space, reducing the communal open space on Building A from 189m² by 16m² to 173m². Building C communal open space area will be reduced by 22m² from 190m² to 168m². The proposed reduction in communal open space of 38m² is relatively minor, resulting in the proposal providing 30% of communal open space, complying with the required 25%.</p> <p>The communal open space will receive the required solar access.</p>													
<p>Part 3F Visual Privacy</p> <p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Bld Height</th><th>Habitable room/balconies</th><th>Non hab rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys).</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9 + storeys).</td><td>12m</td><td>6m</td></tr> </tbody> </table>	Bld Height	Habitable room/balconies	Non hab rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys).	9m	4.5m	Over 25m (9 + storeys).	12m	6m	<p>It is proposed to reduce the rear setback along the south eastern elevation of Building D (See full discussion above under Building Separation). This modification will result in a reduced setback of 3.7m for Levels 5 & 6. However it is proposed to provide opaque awning windows along this elevation. These windows with frosted glass and restricted opening will minimise any overlooking to the adjoining property (721 Victoria Road).</p> <p>The building separations between the 4 buildings on site have not been altered.</p>	Yes
Bld Height	Habitable room/balconies	Non hab rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys).	9m	4.5m												
Over 25m (9 + storeys).	12m	6m												
Part 4 Designing the building														

	Comments	Comply															
4A Solar & daylight access Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	No changes to the solar access. Minimum impact to overshadowing.	Yes															
No more than 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid- winter.	No changes to the solar access.	Yes															
4D Apartment size and layout Apartments are required to have the following minimum internal areas with one bathroom: <ul style="list-style-type: none"> • Studio = 35m²; • 1 bedroom = 50m²; • 2 bedroom = 70m²; • 3 bedroom = 90m²; • 4 bedroom = 102m². <u>Note:</u> Additional bathrooms increase the minimum internal area by 5m ² ;	The modifications to the internal layout results in all of the apartments complying with minimum apartment size.	Yes.															
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.	All habitable rooms have direct access to a window opening that achieve minimum of 10% of the room area. No borrowed daylight and air is proposed.	Yes															
4E Private Open Space and balconies Apartments must provide appropriately sized private open space and balconies to enhance residential amenity. Design criteria 1.All apartments are required to have primary balconies as follows: <table border="1"> <thead> <tr> <th>Dwelling type</th><th>Minimum area</th><th>Min.depth</th></tr> </thead> <tbody> <tr> <td>Studio apartments</td><td>4m²</td><td>N/A</td></tr> <tr> <td>1 bedroom</td><td>8m²</td><td>2m</td></tr> <tr> <td>2 bedroom</td><td>10m²</td><td>2m</td></tr> <tr> <td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr> </tbody> </table>	Dwelling type	Minimum area	Min.depth	Studio apartments	4m ²	N/A	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	The apartment balconies comply with the minimum area requirement.	Yes
Dwelling type	Minimum area	Min.depth															
Studio apartments	4m ²	N/A															
1 bedroom	8m ²	2m															
2 bedroom	10m ²	2m															
3+ bedroom	12m ²	2.4m															
4K Apartment mix A range of apartment types with different number of bedrooms (1 bed, 2 bed, 3 bed etc) should be provided.	The apartment mix has been altered with the proposal complying with a mixture of 1, 2 & 3 bedroom apartments, some with studies.	Yes															
4Q Universal design Adaptable housing should be provided in accordance with the relevant Council policy.	Due to the change in the unit numbers, (from 105 to 100) the number of adaptable housing units to be provided is 10 rather than 11. 10 adaptable units are proposed to																

	Comments	Comply
	be provided. Condition 57 will be amended to reflect the new proposal.	
4U Energy efficiency Development incorporates passive environmental design measures – solar design, natural ventilation etc.	Amended BASIX Certificate submitted.	Yes

7.4 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.

Zone & Zone Objectives

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

The objectives for the B4 Mixed Use are as follows:

- To provide a mixture of compatible uses.
- To integrate suitable business, office, residential, retail and other development in accessible location 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 proposed modifications do not change the approved land use. The development as modified is a permissible form of development and consistent with the zone objectives.

Clause 4.3 Height of Buildings

The maximum height allowed for the site is 20m.

The original application approved a maximum height of 22.3m for Building B.

The modification, with the deletion of the private rooftop courtyards, as required by **Condition1(g)**, will not alter the approved height.

Clause 4.4 Floor Space Ratio

The maximum FSR allowed for the site is 2.5:1.

The original application approved a FSR of 2.36:1 (8158m²). It is now proposed to provide an additional 362m² of floor space plus inclusion of 2 extra car spaces,

11m² resulting in a FSR of 2.48:1 (8531m²). The amended proposal is still within the maximum FSR allowed and is considered satisfactory.

See full discussion below with regards to the additional floor space.

Clause 5.10 Heritage conservation

The subject site is located in proximity to the following items:

- i. Former Court House' 42 Church Street, Ryde (Item No.129)
- ii. St Anne's Ryde Anglican Church' 46 Church Street, Ryde (Item No.130)
- iii. Great North Road' Victoria Road, Gladesville (Item No.154)
- iv. Northern Suburbs Ocean Outfall Sewer' (State Heritage Register listed)

A Heritage Impact Assessment has been submitted with this application. The development proposal was referred to Council's Heritage Officer who has advised that: *"the overall quantum of the building (in terms of its silhouette and form) as approved, is retained.*

In this manner, the proposed modifications will largely retain the visual backdrop to St Annes Church and cemetery as approved, which was considered acceptable subject to conditions of consent which have been duly imposed on the Development Consent.

Subsequently, no objections are raised to the proposed modifications on heritage grounds."

7.5 Any proposed instrument (Draft LEP, Planning Proposal).

None applicable.

7.6 City of Ryde Development Control Plan 2014


The following sections of Ryde DCP 2014 were assessed under the original development application:

- 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


Only those Parts affected by the proposed modification are assessed 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 with regard to the proposed modifications are outlined in Table 2 below:

Control	Comment	Compliance
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.	Max. 22.3m (Building B) – approved in original application. No changes to the approved height. Condition 1(g) imposed for the roof top courtyards/fencing to be deleted as part of this modification.	No change
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.  3m to Victoria Rd 7m to others	No change to approved building setback. Victoria Rd setback: 3m Other streets: 7m	No changes.
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 façades. e. Provide solar protection, including awnings, recessed windows, roof overhangs, external shutters and screens to the western and northern elevations of buildings.	It is proposed to combine corner Units A102 & A103 (2 x 1 bedroom units) into 1 x 2 bedroom unit and enlarge Unit A104 from a one bedroom to a 2 bedroom unit and extend the building to the corner balcony of Unit A102 as illustrated in the diagrams below. The proposed changes will result in minimal changes to the appearance of the building and is considered satisfactory.	Yes

Control	Comment	Compliance
<p>f. Development should protect the existing level of amenity of adjacent development as well as for all users of the site.</p>	<p>BACK</p>  <p>Approved layout.</p>  <p>Approved elevation on the corner of St Annes and Little Church Street.</p>  <p>Approved building outline</p> <p>Proposed layout changes with the green outline of the approved building.</p>	

Control	Comment	Compliance
	 <p>Proposed elevation on the corner of St Annes and Little Church Street.</p>	
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.	As identified earlier the site is in the vicinity of several heritage items. As the Section 96 will not amend the silhouette or form of the approved development, there will be no further impact on the setting of the nearby heritage items.	Yes
7.0 Residential Amenity		
7.1 Residential Private Open Space All communal garden, swimming pool and outdoor spaces should be designed to enhance the safety and security of residents: Above ground open space s. Provide at least one balcony, terrace or deck for each dwelling where direct access to ground	The proposed modifications included modifications to the rooftop communal open space area to provide private rooftop courtyards. This was not supported by Council Officers and the applicant has agreed to the deletion of these changes – see	Yes Yes Yes

Control	Comment	Compliance
<p>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>u. The depth of the primary above ground open space is to be in the range of 2 – 4.0 m. The optimal depth is 2.4 – 3.0 m.</p> <p>v. Smaller secondary open spaces such as balconies off bedrooms are also encouraged. The depth of the secondary open space should be in the range of 0.9 – 1.5 m.</p>	<p>Condition 1(g). Accordingly there are no changes to the communal open space.</p> <p>The modifications have resulted in some units having increased balconies – considered acceptable.</p>	Yes
<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>	No changes to solar access.	Yes
<p>7.3 Visual Privacy</p> <p>a. Ground floor residential development may be permitted subject to Land Use Controls.</p> <p>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.</p> <p>c. Direct overlooking of rooms and private outdoor space of on-site or neighbouring housing, including housing within the same development is to be minimized. 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:</p>	<p>No additional overlooking impact as a result of the modifications. The modification to the setback of Building D for the south eastern elevation has been discussed previously in the report under Building Separation. The proposed modifications, with the opaque awning windows to minimize any overlooking is considered satisfactory in terms of visual privacy.</p>	Yes

Control	Comment	Compliance
i. 6 m between windows of service		
7.6 Housing Choice 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: 3 bedroom 5 – 35% 2 bedroom 40 – 80% 1 bedroom + studio 5 – 35% c	Change approved unit mix: from 105 units comprising of <ul style="list-style-type: none"> 49 x 1 bedroom units; 52 x 2 bedroom units; 4 x 3 bedroom units and to 100 units comprising of <ul style="list-style-type: none"> 33 x 1 bedroom – 33% 58 x 2 bedroom – 58% 9 x 3 bedroom and – 9% 	Yes

Part 9.3 – Parking Controls

The proposed change in unit mix and increase in commercial area will require parking requirements as follows

Residential Development - High Density (Residential Flat Buildings)

0.6 to 1 space / one bedroom dwelling

0.9 to 1.2 spaces / two bedroom dwelling

1.4 to 1.6 spaces / three bedroom dwelling

1 visitor space / 5 dwellings

- 33 x 1 bedroom
- 58 x 2 bedroom
- 9 x 3 bedroom and
- 355m² of commercial floorspace.

Dwelling Type	No. of Units	Parking required:	
		Min	Max
1B	33	19.8	33
2B	58	52.2	69.6
3B	9	12.6	14.4
Total	100	84.6 (85)	117
Visitor	105/5	20	
Commercial	355m ² /40	8.87 (9)	
Total			
Residential	Proposed: 117	Range 85 (min) to 117(max)	
Visitor	20	20	
Commercial	9	9	

The proposal complies with the required car parking requirement however it is noted that two car spaces have been counted twice (resident 96 on lower basement and Visitor 20 on upper basement) therefore there is an excess of two car spaces.

Given that the resident and visitor parking are at the maximum the excess two car parking space should be allocated to the commercial component. The commercial parking was calculated at the lower rate of 1/40m² rather at retail/restaurant rate of 1/25m² therefore to allow flexibility to the commercial use, the two excess car parking spaces should be allocated as commercial spaces. Council's Senior Co-ordinator - Development Engineer has raised no objections to the proposed modifications to the basement car parking levels and supports the reallocation of the excess car spaces to commercial.

Note: The excess two spaces have been included in the floor space area and the proposal is still within the maximum floor space ratio allowed. **Condition 155** has been amended to reflect the new car parking allocation.

City of Ryde Section 94 Development Contribution Plan 2007

Condition 42 required S94 Contribution payment of **\$1,211,517.37** based on 105 apartments with unit mix of:

- 49 x 1 bedroom units;
- 52 x 2 bedroom units;
- 4 x 3 bedroom units and
- 269m² of commercial floorspace.

The modifications changed the above to 100 units comprising of:

- 33 x 1 bedroom
- 58 x 2 bedroom
- 9 x 3 bedroom and
- 355m² of commercial floorspace.

Perusal of Council's records on 30 May 2017 indicates that the S94 contribution has not been paid.

The new contributions have been calculated as follows (a concession for the 4 dwelling houses on site have been given).

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$265,249.60
Open Space & Recreation Facilities	\$617,725.95
Civic & Urban Improvements	\$232,877.16
Roads & Traffic Management Facilities	\$31,868.35
Cycleways	\$19,843.55
Stormwater Management Facilities	\$61,338.19
Plan Administration	\$5,351.82
The total contribution is	\$1,234,254.62

Condition 42 will be amended to reflect the revised contribution rates.

5. LIKELY IMPACTS OF THE DEVELOPMENT

Increase in Floor Space:

The proposal will increase the floor space by additional 362m² of floor space as follows:

- Lower Ground Floor Commercial

It is proposed to extend the lower ground floor by an additional 83m² by converting a storage area to commercial. Part of the storage area has now been relocated to the basement car parking levels. The proposed modification is considered satisfactory as it is still within the approved building footprint with no visual or amenity impact.

- Lower Ground Floor Residential

It is proposed to enlarge the residential component by extending the units to the northern and western elevation, (adding 85m² of floor area) as illustrated below. The additional area will not be viewed from any public domain as the extension is into a void area.

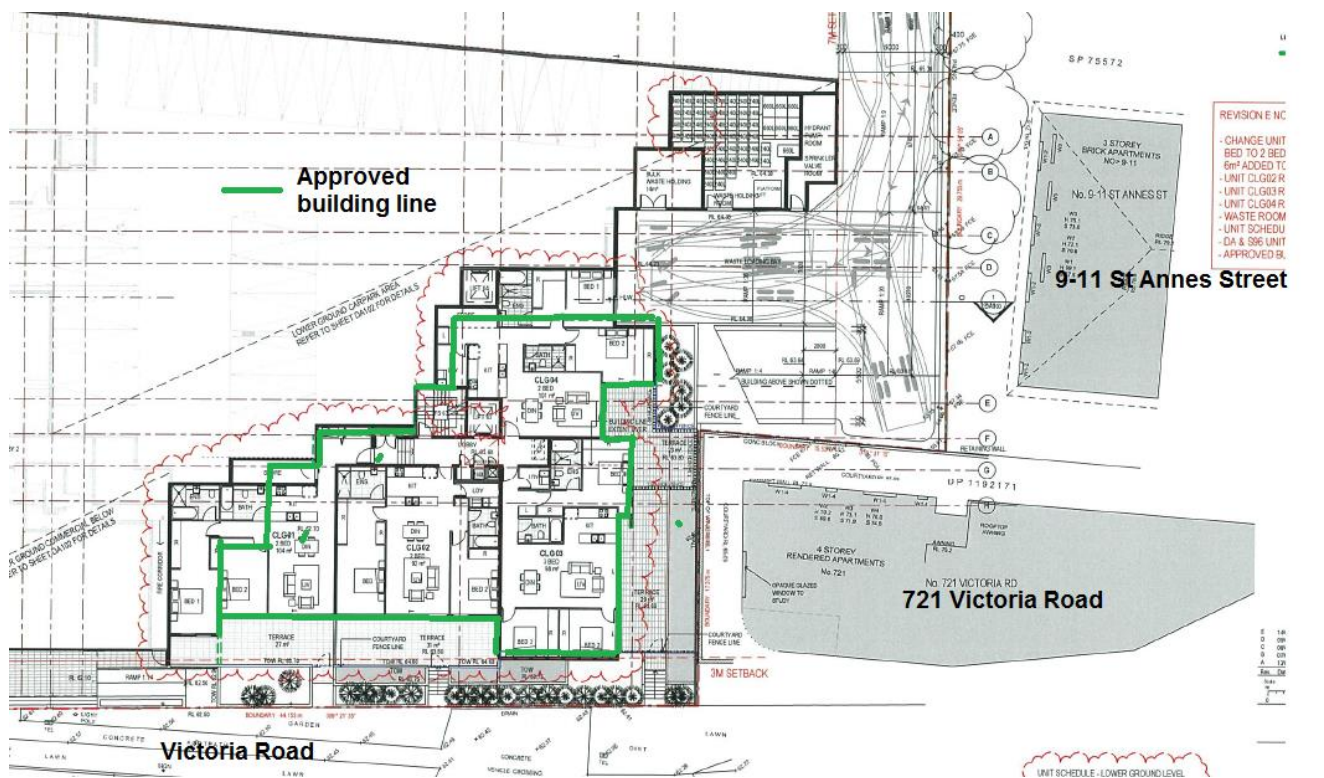


Figure 9: Proposed increase to the building. Green outline is the approved building outline. The proposed extension is within the lower ground void area therefore no visual impact.

- Ground Floor

It is proposed to do internal work to rearrange the unit configuration and mix and to extend Units AG01 & BG02 to be in line with the western elevation. Unit CG03 will

also be enlarged (changed from a 1 bedroom to 2 bedroom) by extending the north eastern wall to provide an additional bedroom. See **Figure 10** below showing the approved building outlined in green and the proposed extension to Units AG01, BG01 & CG03. The proposed modifications are considered satisfactory and will not greatly alter the external appearance of the building with minimal adverse impact to any adjoining properties.

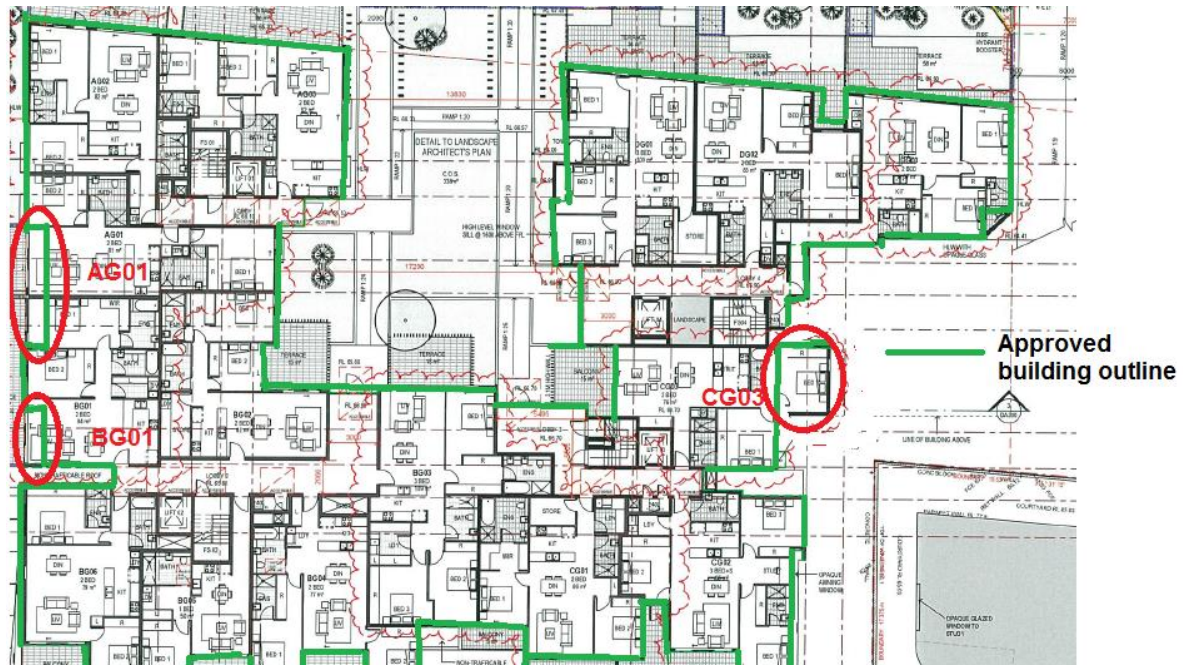
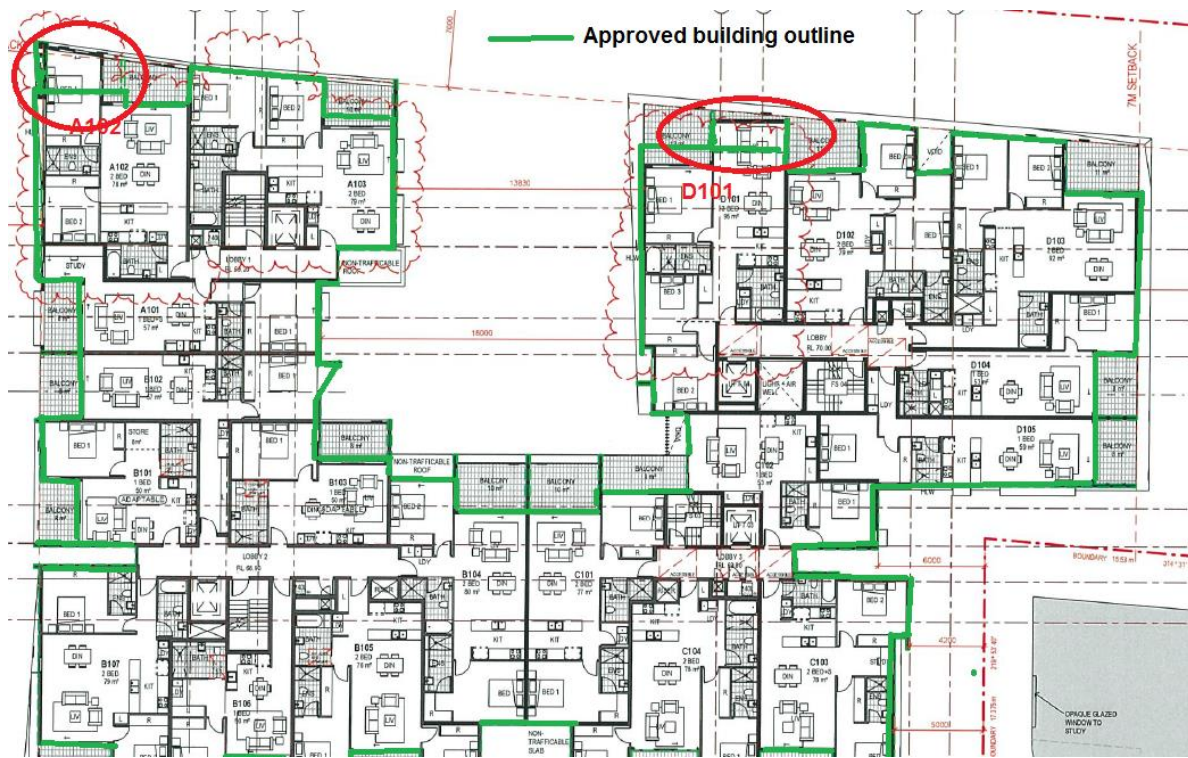


Figure 10: Ground floor with approved building outlined in green.

- Levels 1 & 2

Internal changes to Units A102, A202 and D101 and extending their northern wall out to be in line with the approved building footprint. The extension will not extend beyond the approved building footprint and is not considered to have any adverse impact in terms of overlooking or overshadowing.



- Level 3

It is proposed to extend Unit B303 located on the rooftop of Building A. The proposed modification will change the approved two bedroom unit to a 3 bedroom unit. An additional bedroom is proposed as shown below. The additional bedroom will reduce the common open space on the roof area from 189m² to 173m². The reduction in open space by 16m² is relatively minor and the proposal is still able to comply with the common open space provision of 25%. The proposed modification is considered satisfactory as there will be no adverse impact in terms of loss of amenity.

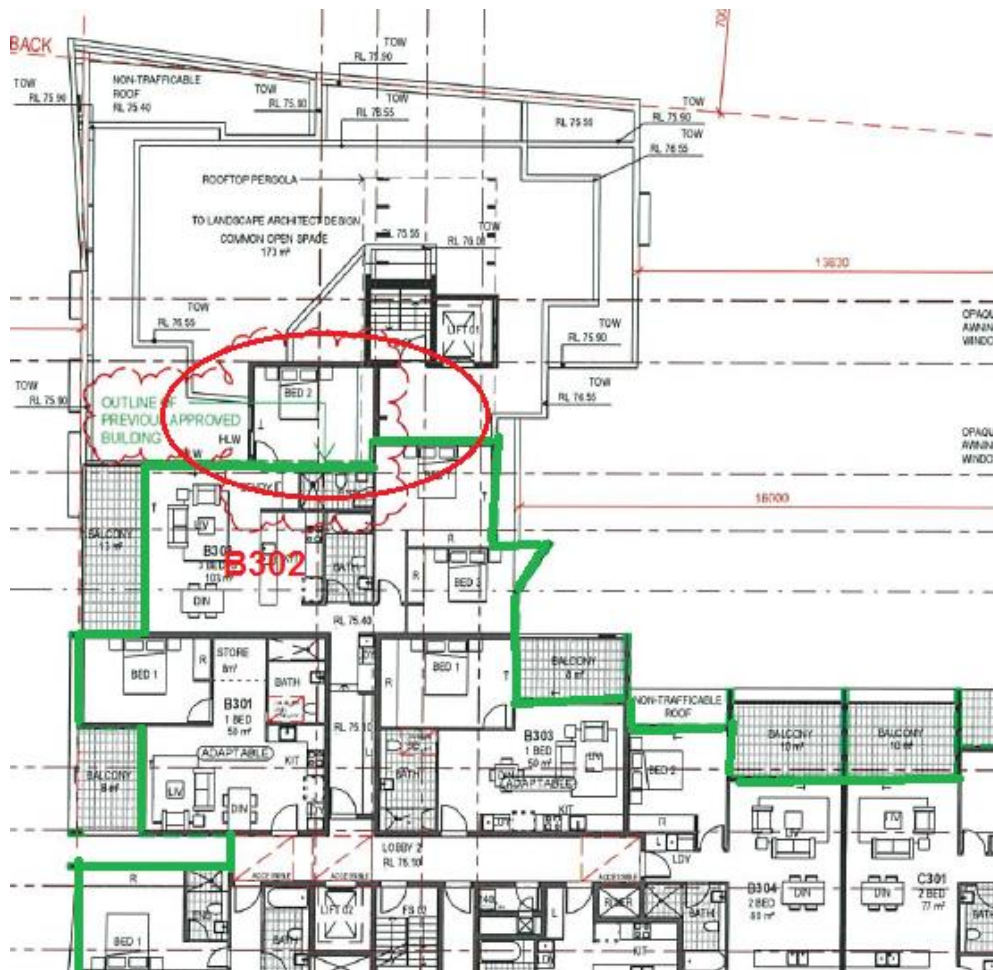


Figure 12: Level 3 with extension of B302 to provide an additional bedroom.

- Levels 4 & 5

It is proposed to extend Units D402, D401 & D404 (and above) as illustrated below. The increase in the floor plate is relatively minor, with increase of 6m² floor space for Unit D402, 3m² for Unit D401 and 30m² for Unit D404 (changed from 1 bedroom to 2 bedrooms).

The modifications will not have any adverse impact in terms of overlooking or visual impact and can be supported. Whilst Unit D404 and D504 will now extend further south, it will now be in line with the units below resulting in a setback of 3.7m from the common boundary, in line with the rest of the building. The elevation with the reduced setback will have opaque awning windows to minimise any overlooking to the adjoining property. These opaque awning windows are frosted glass window with restricted opening, as illustrated on page 16 of the report. Given that it is for a relatively short elevation and that overlooking is minimised, no objections are raised to the proposed modifications.

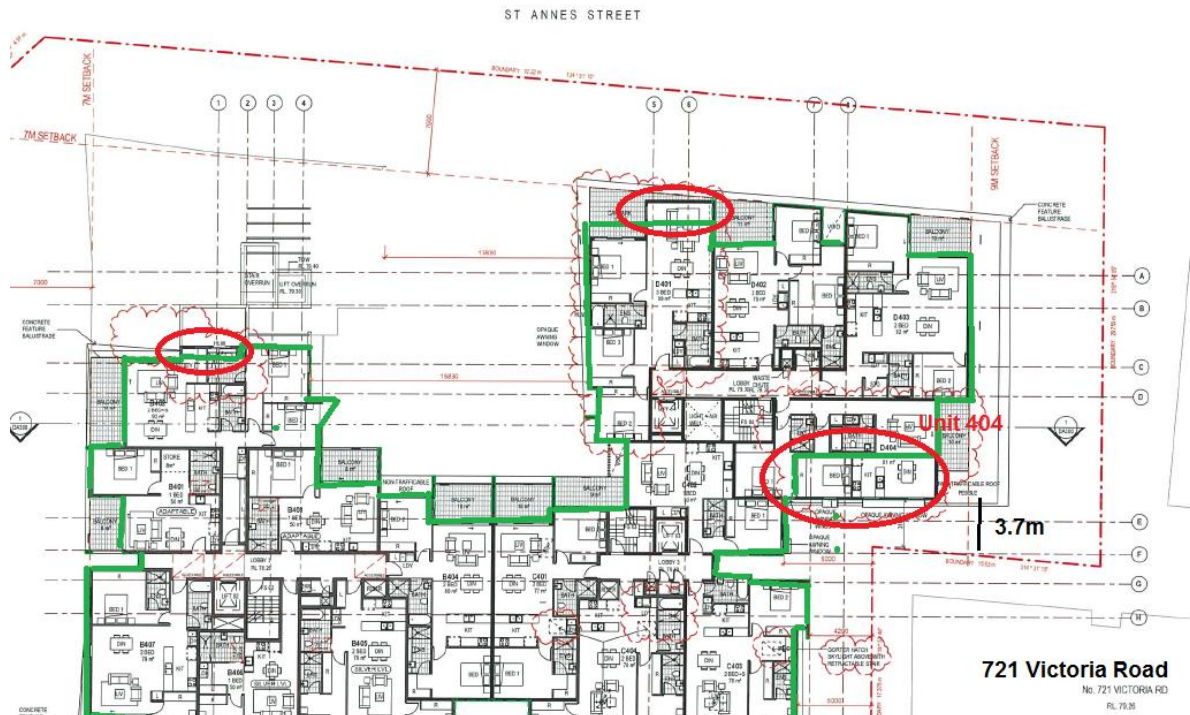


Figure 13: Levels 4 & 5 changes to Building D.

It is also proposed to extend Unit B504 to change it from a 2 bedroom unit of 80m² to a 3 bedrooms + study of 112m². The extension will be within the approved roof top common open space area of Building C. This area was approved with an open space of 190m². It is now proposed to reduce this area by 22.4m².

The overall reduction in communal open space is relatively minor, being total 38m². The proposal will still provide the required communal open space (30%) which is more than required under the ADG.

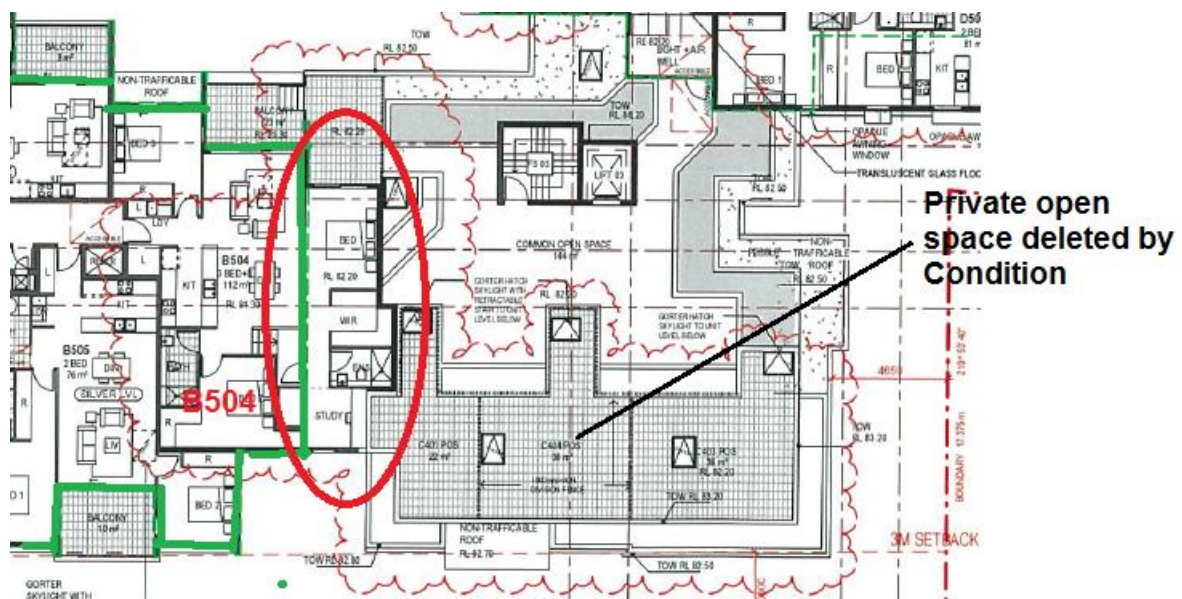


Figure 14: Level 5 – changes to the roof area of Building C

6. **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.

7. **THE PUBLIC INTEREST**

The amendments are considered to be in the public interest as it is reasonably consistent with the relevant planning controls. Assessment of this application has not identified any significant compliance issues, unresolved matters or amenity impacts for adjoining development which would warrant further design amendments or refusal of the application.

8. **REFERRALS**

Senior Co-ordinator Development Engineering Services: 23 June 2017:

Stormwater Management

A review of the plans notes;

- The onsite detention has been relocated out of the sump area fronting the commercial floor area and further east along the Victoria Road frontage. This addresses one of the issues noted in the original development application and the amendment is to be deleted from the original condition concerning submission of a detailed plan.*
- The plans have retained the point of connection to the existing kerb inlet pit. This is not supported due to the expanse of the discharge line (375mm diameter) traversing diagonally in the road reserve. This requirement is retained and the plans are marked accordingly.*
- The original assessment drew concern regarding the external area fronting the commercial floor space being recessed below the surrounding surface levels, creating a sump. The arrangement was accepted as the area was mostly covered by an awning. The applicant has proposed drainage of this area is to be directed to the OSD system and implemented backflow prevention measures. The arrangement is not supported given such devices have potential to fail and if this were to occur, would result in flooding of the commercial floor area.*
- The configuration of the OSD chamber is unsatisfactory with regards to the provision for a failure mode. Noting the sectional view through the tank, the design has provided an access grate to the stormwater filters at RL62.10m which fronts the commercial floor area entrance. The nominated failure mode location is RL62.50m and therefore the design will surcharge at the lower level, flooding the commercial floor area. The matter may be addressed by reconfiguration of the tank and has been noted on the plans and in the condition.*

These matters have been addressed by revision of the condition warranting the submission of the detailed drainage plan.

Vehicle Access and Parking

In regards to parking capacity, the revised plans are noted to have reduced the number of units. The following parking requirements as per the DCP Part 9.3 (Parking) for high density residential parking is as follows;

Unit Type	Quantity	Min.	Max.	Visitors
1 Bedroom	33	19.8	33	
2 Bedroom	58	52.2	69.6	
3 Bedroom	9	12.6	14.4	
TOTALS	100	84.6	117	20
		(85)	(117)	(20)

The proposed commercial component (352m²) warrants the provision of 9 parking spaces based on the parking rates for commercial use (office space).

It is noted that the plans have proposed a parallel space on the southeast side of the dwelling on each of the basement levels which is labelled twice (Resident 36 on Lower Basement and Visitor 20 on Upper Basement). Accordingly the development plans provide 9 commercial parking spaces, 118 resident spaces (inc. 10 disabled spaces) and 21 visitor spaces. As such there is a non-compliance with 2 additional parking spaces therefore these spaces are to be allocated to the commercial component which can be addressed by condition of consent.

A review of the parking area with respect to AS 2890 notes;

- The review of the original application note several discrepancies/ concerns in relation to the proposed driveway grades of the main accessway when held in regard to the requirements of AS 2890.2. The revised plans have addressed these issues accordingly.*
- The plans have provided driveway profiles of the internal ramps which demonstrate compliance with AS 2890.1 however the nominated height clearances are at the Standards limit and cannot be compromised any further. It would be prudent that the detailed structural plans incorporate driveway profiles with allowances for services to be submitted with the CC.*
- The original review noted that visitor space 19 (on the S96 plans) will require vehicles to partly traverse / reverse into a shared zone adjoining the disabled space opposite. This technically requires a bollard in the centre of the area in accordance with AS 2890.6, preventing vehicle access. It is unlikely that a vehicle would attempt to park in this location given it is clearly a pedestrian area fronting the lift access and a doorway through to the storage area on the western side. In lieu of a bollard, a condition requiring the area to be clearly demarcated and marked "No Parking" is recommended.*
- It would appear that Visitor space 19 is allocated as a disabled space though not well marked. The adjoining shared area is only 1.8m and not compliant with the clear 2.4m required by AS 2890.6. A review of the plans notes that Visitor*

space 7 (at the base of the ramp) may be allocated as a disabled space, provided the adjoining storage areas are relocated to the opposite side of the space, in the area between the internal access ramp and the lift. This is addressed by condition.

Environmental Health Officer: 30 June 2017: Environmental Health Officer has reviewed the proposed modifications and has no objections to the modifications.

Heritage Officer: 10 May 2017: Council's Heritage Officer has reviewed the proposal and has advised: *Although an extensive list of changes is proposed as part of this application, the overall quantum of the building (in terms of its silhouette and form) as approved, is retained.*

In this manner, the proposed modifications will largely retain the visual backdrop to St Annes Church and cemetery as approved, which was considered acceptable subject to conditions of consent which have been duly imposed on the Development Consent.

Subsequently, no objections are raised to the proposed modifications on heritage grounds.

No additional conditions are required.

9. **PUBLIC NOTIFICATION AND SUBMISSIONS**

The proposed development was notified and advertised in accordance with Development Control Plan 2014 – Part 2.1, Notification of Development Applications. The S96 application was advertised in the *Northern District Times* on 10 May 2017 and adjoining property owners notified with submission closing on 31 May 2017. No submissions were received.

CONCLUSION

The proposal has been assessed in accordance with Section 96(2) and the heads of consideration listed in Section 79C of the Environmental Planning & Assessment Act 1979 and is considered to be satisfactory.

The Section 96(2) application is recommended for approval subject to the amendment of eight (8) conditions, Condition 1, 3, 42, 57, 68, 69, 119 & 155 and inclusion of one (1) additional condition, Condition 1(g), as modified in **ATTACHMENT 1**

10. **RECOMMENDATION**

That the Sydney North Planning Panel approve MOD17/85 and modify development consent LDA2015/0654 for land at 723-731 Victoria Road, 10 Little Church Street & 3-7 St Annes Street, Ryde in accordance with **ATTACHMENT 1**.

Report prepared by:

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Report approved by:

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Liz Coad
Acting Director - City Planning and Development