

## Section 96 (2) Report to Sydney West Joint Regional Planning Panel

<b>JRPP No:</b>	2016SYW042 DA
<b>DA No:</b>	MOD-15-02689
<b>Proposed development:</b>	Section 96 (2) to JRPP-14-1593 that approved 5 x 4 storey residential flat buildings
<b>Development type:</b>	Capital Investment Value > \$20 million
<b>Lodgement date:</b>	28 October 2015
<b>Land/address:</b>	Lot 4 DP 135883 828 Windsor Road, Rouse Hill
<b>Land zoning:</b>	R3 Medium Density Residential
<b>Revised capital investment value of development:</b>	\$57,376,609
<b>Applicant:</b>	R Tasevski of Hai Sheng Group
<b>Landowner:</b>	SHLF Pty Ltd
<b>Report author:</b>	Melissa Parnis, Assistant Team Leader Projects
<b>Instructing officers:</b>	Judith Portelli, Manager Development Assessment Glennys James, Director Design and Development
<b>Date submitted to JRPP:</b>	8 August 2016

## Assessment Report

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### Attachments

- Attachment 1 – Draft modifications to conditions of consent
- Attachment 2 – Section 96 (2) application plans
- Attachment 3 – Section 96 assessment

## 1. Summary

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- 1.1 On 22 July 2015, the Sydney West Joint Regional Planning Panel (JRPP) approved the construction of 5 x 4 storey residential flat buildings containing a total of 253 units and associated basement car parking, temporary access to Windsor Road and common open space at 828 Windsor Road, Rouse Hill.
- 1.2 The applicant has lodged a Section 96 (2) application for the following modifications:
  - Change in unit mix, resulting in an increase of units by 1 unit
  - Internal apartment layout resulting in external amendments in windows and balconies only
  - Modifications to basement car parking.
- 1.3 The modifications do not result in an increase in height and the floor space within the development is reduced.
- 1.4 In accordance with Clause 21 of State Environmental Planning Policy (SEPP) (State and Regional Development) 2011, the JRPP is the determining authority for a Section 96 (2) for a previous JRPP Application. While Council is responsible for the assessment of the Section 96 application, determination of the application will be made by the JRPP.
- 1.5 The site is zoned R3 Medium Density Residential under the SEPP (Sydney Region Growth Centres) 2006. Residential flat buildings are permissible in the zone with consent.
- 1.6 The modifications have been assessed against Section 96 (2) of the Environmental Planning and Assessment Act 1979 and are considered satisfactory.
- 1.7 The application was notified to property owners and occupiers within the locality between 2 and 16 March 2016. The application was also advertised in the local newspapers and a sign was erected on site. In response to notification, no submissions were received.
- 1.8 It is recommended that the proposed modifications be approved subject to the condition modifications documented at attachment 1 to this report.

## 2. Background

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- 2.4 The initial DA (JRPP-14-1593) was lodged on 15 August 2014. The development constituted 'Regional development' requiring referral to the JRPP as the capital investment value of the development exceeded \$20 million.
- 2.5 The DA was considered at the Sydney West Joint Regional Planning Panel meeting on 22 July 2015. The JRPP determined to approve the development application and the notice of determination was subsequently issued on 3 August 2015.

## 3. The proposal

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- 3.1 The proposal seeks approval for modifications to the approved residential flat buildings, as follows:
  - a. Proposed amendment to convert Unit A208 from a 2 level apartment to 2 individual units.
  - b. Modifications to apartment layouts proposed for ground floor units BG06 - B306 and BG07 - B307 in Block B. This has resulted in the addition of an open study



area to these units. The internal amendments will have minimal impact on the location and size of some windows and balconies.

- c. Modifications and the addition of an additional bedroom is proposed for apartments AG02, AG08, CG01, CG05, CG07, CG09 and CG13, A102 - 302, A108 - 308, CG101 - CG301, C105 - 305, C107 - 307, C109 - 309 and C113 - 313, DG04, DG07 - DG08, DG10, DG12, EG05 and D107 - D307, D110 - D310 and E101 - E301. These amendments are intended to achieve better unit mix for the development. These amendments required some changes to the location and size of windows and balconies.
- d. Amendments to apartment layouts is proposed for DG01 - DG03, DG05 - DG06, DG09, DG11, EG01, EG03 - EG04, EG06 - EG09, EG11 - EG12, D101 - D301, D102 - D302, D103 - D303, D105 - D305, D106 - D306, D108 - D308, D109 - D309, E102 - E302, E104 - E304, E105 - E305, E106 - E306, E107 - E307, E108 - E308, E109 - E309, E110 - E310, E112 - E312, E113 - E313, E115 - E315 and E116 - E316 in Blocks D and E. These amendments are due to structural design co-ordination requirements which led to amendments to the location and size of some windows and balconies.
- e. Redesign of basement to allow for additional spaces as a result of changes in unit mix.
- f. Reduction in the number of adaptable units, from 34 units to 26 units, compliant with the minimum 26 adaptable units required by the development controls.
- g. Modifications to the waste management of Blocks D and E, with the introduction of garbage chutes, and amendments to the location of the main collection garbage room within the basement. The development previously provided 321 car parking spaces and now provides 353 car parking spaces.
- h. Modifications to the basement car parking layout. This includes the increase in basement 1 size to meet the additional car parking requirement as a result of the change in unit mix.

- 3.2 The proposal seeks to modify the internal layout of units, resulting in a change in unit mix of all buildings. The table below summarises the approved unit mix and the proposed unit mix as a result of the modifications.

Unit mix	Buildings A, B and C		Buildings D and E		Total	
	DA	S96	DA	S96	DA	S96
1 bedroom	12	8	26	22	38	30
2 bedroom	124	104	81	74	205	178
3 bedroom	7	32	3	14	10	46
<b>Total units</b>	<b>143</b>	<b>144</b>	<b>110</b>	<b>110</b>	<b>253</b>	<b>254</b>

- 3.3 The floor space has been modified from 1.7:1 to 1.68:1. The proposal remains compliant with the maximum permissible FSR of 1.75:1 as identified by the Growth Centres SEPP.

- 3.4 A copy of the revised development plans is held at attachment 2 of this report.

## 4. Planning controls

4.1 The planning controls that relate to the proposed development are as follows:

**(a) Environmental Planning and Assessment (EP&A) Act 1979**

The proposal complies with the provisions of section 96 (2) of the EP&A Act. For a detailed assessment against this section, refer to attachment 3.

**(b) State Environmental Planning Policy (State and Regional Development) 2011**

Clause 21 of the SEPP (State and Regional Development) 2011 identifies that the JRPP is the consent authority for a section 96 (2) application for the modification of a development consent previously granted by the Panel. Therefore, our officers will be responsible for the assessment of the section 96 (2) application and the JRPP will determine the section 96 (2) application.

**(c) State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development**

SEPP No. 65 (SEPP 65) – *Design Quality of Residential Flat Development* applies to the assessment of development applications for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings. The State Government *Residential Flat Design Code* (RFDC) also applies. The SEPP primarily aims to improve the design quality of residential flat development and states that residential flat development is to 'have regard to the publication *Residential Flat Design Code* (a publication of the Department of Planning, September 2002)'.

As the original DA was lodged on 29 September 2014, the proposal predates Amendment 3 of SEPP No. 65 which was published on 19 June 2015. Therefore, the proposal continues to be assessed under SEPP No. 65 and the RFDC before the amendment, in accordance with the savings provisions of the amendment.

In the assessment of the modifications to basement design, internal unit mix and apartment layout, the key criteria of the new Apartment Design Guide has been considered as follows:

Requirement	Original approval	Proposal	Comment
<b>Deep soil zones</b> Minimum area = 7% of site area Preferred area = 15% If the site is between 650 to 1,500 sqm then minimum dimensions of 3 m If over 1,500 sqm then min dimensions of 6 m	25% deep soil zone	25% deep soil zone	No change.



Requirement	Original approval	Proposal	Comment
<b>Solar and daylight access</b>  Living rooms and POS receive minimum 2 hours direct sunlight between 9 am – 3 pm in mid-winter > 70% of units	71%	70%	Unit redesign and introduction of new windows enables the development to still be compliant
<b>Natural ventilation</b>  All habitable rooms naturally ventilated  Number of naturally cross ventilated units > 60%	66%	65%	Unit redesign and introduction of new windows enables the development to still be compliant
<b>Apartment size and layout</b>  Studio > 35 sqm 1 bed > 50 sqm 2 bed > 70 sqm 3 bed > 90 sqm + 5 sqm for each unit with more than 1 bathroom	1 bed – min. 51 sqm 2 bed – min. 70 sqm 3 bed – min. 119 sqm	1 bed – min. 50 sqm 2 bed – min. 73 sqm 3 bed – min. 95 sqm	Revised unit layouts meet the minimum requirements
<b>Private open space (POS) and balconies</b>  Studio > 4 sqm 1 bed > 8 sqm and 2 m depth 2 bed > 10 sqm and 2 m depth 3 bed > 12 sqm and 2.4 m depth	Minimum 10 sqm provided to all units and 12 sqm to 3 bedroom units	Minimum 10 sqm provided to all units and 12 sqm to 3 bedroom units	Revised unit layouts meet the minimum POS and balconies sizes
<b>Common circulation and spaces</b>  Maximum number of apartments off a circulation core on a single level – 8 to 12	Maximum 8 units per core	Maximum 8 units per core	Revised floor plans meet the maximum units per core requirement

**(d) State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

The subject site is zoned R3 Medium Density Residential under the Growth Centres SEPP. 'Residential flat buildings' are permissible within the R3 zone with development consent. Appendix 5 Area 20 Precinct Plan applies to the subject site. The development continues to comply with the development standards, with the exception of minor encroachments to building height. However, there is no increase in building height that was varied as part of the original approval.

Development standard	Original approval	Modification	Complies
<b>4.4 Floor Space Ratio</b> Requirement: maximum 1.75:1	1.7:1	1.68:1	Yes

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

Revised multi-dwelling BASIX Certificates were lodged as part of the development application. The BASIX certificates identify that all buildings achieve the required water, thermal comfort and energy scores required.

**(f) Blacktown City Council Growth Centres Precincts Development Control Plan 2010 (Growth Centres DCP)**

The modifications continue to comply with the Growth Centres DCP. The table below summarises the revised development's compliance with the key controls for residential flat buildings. As there has been no change to the building footprint, an assessment against the development standards as a result of the change in unit mix and basement layout has only been undertaken.

Element / control	Proposal	Complies
<b>Principal private open space (PPOS)</b> <ul style="list-style-type: none"> <li>➤ Min. 10 sqm per dwelling</li> <li>➤ Min. dimension of 2.5 m</li> </ul>	Minimum 10 sqm provided in accordance with DCP and SEPP 65 requirements	Yes
<b>Car parking spaces</b> <ul style="list-style-type: none"> <li>➤ 1 space per dwelling, plus 0.5 spaces per 3 or more bed dwelling</li> <li>➤ May be in a 'stack parking' configuration</li> <li>➤ Spaces to be located below ground or behind building line</li> <li>➤ 1 visitor car parking space per 5 units</li> </ul>	<p>The development requires the following car parking:</p> <p><b>Resident parking</b></p> <p>254 units @ 1 space per unit = 254 car parking spaces</p> <p><i>plus</i></p> <p>46 x 3 bedroom units @ 0.5 spaces per unit = 23 car parking spaces</p> <p>Therefore, 277 resident car parking spaces are required.</p> <p><b>Visitor parking</b></p> <p>254 units @ 1 space per 5 units = 51 spaces</p> <p>Total required: 328 spaces</p> <p>Total provided: 353 spaces</p> <p>27 sets of stacked car parking are provided, which are conditioned to be allocated to the same unit</p>	Yes
<b>Bicycle parking</b> <ul style="list-style-type: none"> <li>➤ 1 space per 3 dwellings</li> </ul>	<p>Required: 85 spaces</p> <p>Proposed: 110 spaces</p>	Yes



## 5. Internal referrals

- 5.1 The application was referred to internal sections of Council for comment as summarised in the table below:

Section	Comments
Engineering	No objections and no condition modifications
Building	No objections and no condition modifications
Traffic Management Section (TMS)	No objections and no condition modifications
Waste Services	No objections and minor condition modifications

## 6. Public comment

- 6.1 The application was notified to adjoining and nearby property owners and occupants for a period of 14 days from 2 to 16 March 2016. An advertisement was also placed in the local newspaper and a notification sign erected on site.
- 6.2 In response to the public notification, no submissions were received.

## 7. Concluding comments

- 7.1 The proposed development has been assessed against the matters for consideration listed in section 96 and section 79C of the Environmental Planning & Assessment Act 1979 and is considered to be satisfactory. The subject site is considered suitable for the proposed development and will be in the public interest.

## 8. Recommendation

- 8.1 The section 96 (2) application be approved by the Sydney West Joint Regional Planning Panel subject to the conditions held at attachment 1.



Melissa Parnis  
Assistant Team Leader Projects



Judith Portelli  
Manager Development Assessment



Glennys James  
Director Design and Development