

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

<b>JRPP No.</b>	2016SYW064 DA
<b>DA No:</b>	MOD-16-00080
<b>Proposed Development:</b>	Section 96 (2) to JRPP-14-1915 that approved 6 x 4 storey residential flat buildings.
<b>Development Type:</b>	Capital Investment Value > \$20 million
<b>Lodgement Date:</b>	10 March 2016
<b>Land/Address:</b>	Lot 205 DP 660230 822 Windsor Road Rouse Hill
<b>Land Zoning:</b>	R3 Medium Density Residential SP2 Infrastructure (Classified Road)
<b>Revised Capital Investment Value of Development:</b>	\$65,449,892
<b>Applicant:</b>	Mayrin Rouse Hill DM Pty Ltd
<b>Landowner:</b>	Mayrin One Pty Ltd ATF Mayrin One Trust
<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>	29 July 2016

## ASSESSMENT REPORT

### CONTENTS

1. Summary .....	2
2. Background .....	2
3. The proposal .....	2
4. Planning controls .....	4
5. Internal referrals .....	6
6. Public comment .....	6
7. Assessment .....	7
8. Concluding comments .....	8
9. Recommendation .....	9

### ATTACHMENTS

- Attachment 1 – Draft modifications to conditions of consent
- Attachment 2 – Revised photomontages
- Attachment 3 – Original elevations for Stages 1 and 6
- Attachment 4 – Section 96 (2) application plans
- Attachment 5 – Section 96 assessment

## 1. Summary

---

- 1.1 On 22 July 2015, the Sydney West Joint Regional Planning Panel (JRPP) approved the staged construction of 6 x 4 storey residential flat buildings containing a total of 289 units and associated basement car parking, temporary access to Windsor Road and common open space at 822 Windsor Road, Rouse Hill.
- 1.2 The applicant has lodged a Section 96 (2) application for the following key modifications:
  - Increase in floor to ceiling heights which results in increase in height by up to 900 mm
  - Façade design changes
  - Redesign of basement
  - Adjustment of mix of apartments, including an additional 2 units in Stage 1
  - Internal floor plan layout modifications.
- 1.3 In accordance with Clause 21 of the State Environmental Planning Policy (State and Regional Development) 2011, the Joint Regional Planning Panel (JRPP) is the determining authority for a Section 96(2) for a previous JRPP Application. As such, while Council is responsible for the assessment of the Section 96 application, determination of the application will be made by the JRPP.
- 1.4 The site is zoned R3 Medium Density Residential and SP2 Infrastructure (Classified Road) under the State Environmental Planning Policy (Sydney Region Growth Centres) 2006. Residential flat buildings are permissible in the zone with consent.
- 1.5 The modifications have been assessed against Section 96 (2) of the Environmental Planning and Assessment Act 1979 and are considered satisfactory.
- 1.6 The application was notified to property owners and occupiers within the locality between 3 and 17 May 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.
- 1.7 It is recommended that the proposed modifications be approved subject to the conditions modifications documented at **Attachment 1** to this report.

## 2. Background

---

- 2.1 The initial DA (JRPP-14-1915) was lodged on 29 September 2014. The development constituted 'Regional development' requiring referral to the JRPP as the capital investment value of the development exceeded \$20 million.
- 2.2 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

---

- 3.1 The proposal seeks approval for modifications to Stages 1 and 6 only within the approved residential flat buildings development. Each stage proposed 1 residential flat building.
  - a. Increase of number of apartments within the Stage 1 residential flat building from 69 apartments to 71 apartments. The increase is a result of modifications to individual floor plates and size of units, modifications to the apartment mix and



changes to the fire stairs as recommended by the applicant's fire engineers. The new total of apartments is increased to 291 apartments.

- b. Increase in floor to floor heights from 2.85 m to 3.0 m, resulting in a number of encroachments above the maximum building height control of 12 m. The modification seeks a maximum building height of 12.9 m. Portions of the building over the height limit include parapet, plant and equipment and lift overrun but no residential units.
  - c. Removal of fire egress through corridors and replaced with a single stair riser to each core. The modification is an alternative solution from the applicant's fire engineer obtained for egress distances.
  - d. New accessible garbage rooms and chutes have been added to each floor, with the main waste collection still provided within the basement.
  - e. Balconies have been added to the southern elevation on levels 1 and 2 as a result of converting 1 x 3 bedroom unit into 2 x 1 bedroom apartments.
  - f. New façade treatment of buildings including windows/doors, balconies, louvre panels, material and external finishes and colours, balcony surround framing and balustrades, skillion roof element above balconies being deleted. A revised photomontage is held at **Attachment 2**. The original approved elevations are held at **Attachment 3**.
  - g. The upper basement level has been modified with 3.5 m height clearance to accommodate waste collection vehicles.
  - h. Adaptable units have been reviewed and revised to comply with Australian Standards.
  - i. The basement car park has been revised to increase the number of car spaces from 182 spaces to 189 spaces comprising 162 residential spaces and 27 visitors. Bicycle storage has also been revised. The car park design has been revised to straighten perimeter roads, addition of plant rooms as required and additional garbage rooms to each core.
  - j. The car park ramp has been revised to comply with Australian Standards and waste collection company requirements.
  - k. Building entries have been relocated due to the redesign of the buildings core areas.
  - l. Sun control and privacy screens have been added.
  - m. Internal apartment layouts have been modified in response to the internal apartment layouts being adjusted.
- 3.2 The proposal seeks to modify the internal layout of units, resulting in a change in unit mix of the Stage 1 building. The internal layout of Stage 6 has been modified, however, the number of units and mix remains unchanged. The buildings in Stages 2 – 5 remain unmodified. The below table summarises the approved unit mix and the proposed unit mix as a result of the modifications.

Unit Mix	Stage 1		Stage 6		Total of Stages 1 and 6 only	
	DA	S96	DA	S96	DA	S96
1 bedroom	7	15	4	4	11	19
2 bedroom	60	51	46	46	106	97
3 bedroom	2	5	14	14	16	19
<b>TOTAL UNITS</b>	<b>69</b>	<b>71</b>	<b>64</b>	<b>64</b>	<b>133</b>	<b>135</b>

Conditions have been imposed previously to ensure that car parking allocation and number of units with associated bedroom numbers are consistent.

- 3.3 The floor space has been modified, from 1.63:1 to 1.61:1. 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 as well as a detailed list of modifications are held at **Attachment 4** 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 Act 1979 (EP&A Act)**

The proposal complied with the provisions of Section 96 (2) of the EP&A Act. For a detailed assessment against the Section 96, refer to **Attachment 5**.

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

Clause 21 of the State Environmental Planning Policy (State and Regional Development) 2011 identifies that the Joint Regional Planning Panel (JRPP) is the consent authority for a Section 96(2) application for the modification of a development consent previously granted by the panel. Therefore, Council 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**

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



Requirement	Proposal	Comment
<b><u>Deep Soil Zones</u></b> Minimum area = 7% of site area. Preferred area = 15%. If the site is between 650 to 1500 sqm then minimum dimensions of 3m. If over 1500 sqm then min dimensions of 6m.	27 % deep soil zone.	The revised design has decreased the basement footprint. As a result, the deep soil zone area for the development has increased.
<b><u>Solar &amp; Daylight Access</u></b> Living rooms & POS receive minimum 2 hours direct sunlight between 9am - 3pm in mid-winter > 70% of units.	71 % of units meet solar access requirements.	Unit redesign and introduction of new windows enables the development to still be compliant.
<b><u>Naturally Ventilation</u></b> All habitable rooms naturally ventilated. Number of naturally cross ventilated units > 60%.	79% of units are cross ventilated.	Unit redesign and introduction of new windows enables the development to still be compliant.
<b><u>Apartment Size &amp; Layout</u></b> Studio > 35 sqm 1 bed > 50 sqm 2 bed > 70 sqm 3 bed > 90sqm + 5 sqm for each unit with more than 1 bathroom.	1 bed – Min. 50 sqm 2 bed – Min. 70 sqm 3 bed – Min. 98 sqm	Revised unit layouts meet the minimum requirements.
<b><u>Private Open Space &amp; Balconies</u></b> Studio > 4 sqm 1 bed > 8 sqm & 2m depth 2 bed > 10 sqm & 2m depth 3 bed > 12 sqm & 2.4m depth	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><u>Common Circulation &amp; Spaces</u></b> Maximum number of apartments off a circulation core on a single level – 8-12.	Maximum 8 units per core.	Revised floor plans meet the maximum units per core requirements.

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

The subject site is zoned R3 Medium Density Residential and SP2 Infrastructure (Classified Road) 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, as the property is located within the Area 20 Precinct. The development continues to comply with the development standards with the exception of minor encroachments to building height.

Development standard	Original Approval	Modification	Complies
<b>4.3 Building Height</b> Maximum: 12 m	12 m	12.9 m	No – however, variations are minor. These are discussed in Section 7 below.

<b>4.4 Floor Space Ratio</b> Maximum: 1.75:1	1.63:1	1.61:1	Yes – The decrease in floor space is a result of increased circulation areas and apartment redesigns.
---	--------	--------	---

**(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 below table 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 have only been undertaken.

Element/Control	Proposal	Complies
<b>Principal private open space (PPOS)</b> <ul style="list-style-type: none"> <li>Min. 10m<sup>2</sup> per dwelling</li> <li>Min. dimension of 2.5m</li> </ul>	Minimum 10 sqm, with a minimum 2.5 m dimension, has been 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>	Required: 411 spaces (being 352 resident and 59 visitor)  Provided: 414 spaces	Yes

## 5. Internal referrals

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

Section	Comments
<b>Engineering</b>	No objections and no condition modifications.
<b>Building</b>	No objections and no condition modifications.
<b>Traffic Management Section (TMS)</b>	No objections and no condition modifications.
<b>Waste Services</b>	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 3 and 17 May 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. Assessment

- 7.1 The revised design complies with the development controls and standards with the exception of building height. As a Section 96 application, there is no legislative requirement for a Clause 4.6 exception to development standard to be lodged, however, the applicant has lodged the request. A copy of the request is held at Attachment 5.
- 7.2 The maximum height limit on the site is 12 m under the Growth Centres SEPP. The maximum building height proposed by the revised design is 12.9 m, exceeding the maximum permissible building height by 909 mm. The variation is a result in modifications to the floor to floor height, increasing the floor to floor heights from 2.85 m to 3.0 m to provide for a revised construction method and to achieve the required 2.7 m floor to ceiling heights under the Residential Flat Design Code. The following images identify in yellow the height exceedance, with building height offset areas clouded.

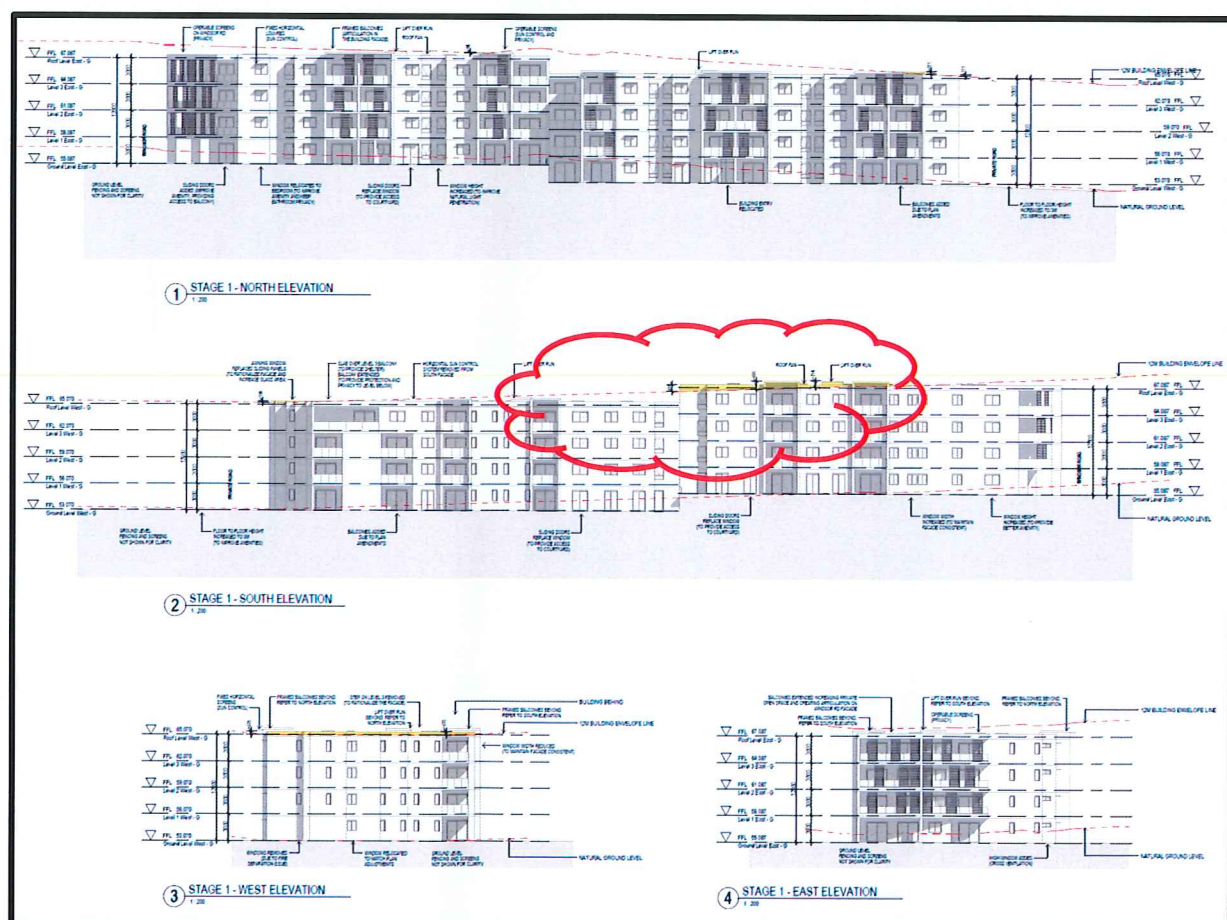


Figure 1: Height variation for Stage 1- (offsets clouded)



Figure 2: Height variation for Stage 6 (offsets clouded)

- 7.3 The variation to building height by up to 909 mm is considered minor as the portions of the building over the height limit include parapet, plant and equipment and lift overrun but no residential units. The topography of the land also results in elements of the building being more than 1.5 m below the maximum height limit. Therefore, the development is not considered to be achieving additional floor space and still presents as a 4 storey residential flat building, meeting the objectives of the development standard.
- 7.4 The proposed exception to the development standard is considered satisfactory as the variation does not result in any additional amenity impact on adjoining properties in regards to overshadowing or privacy impacts. Further, the redesign of the development has improved the amenity for future residents and the overall presentation of the development to the streetscape. Therefore, based on its merits, the minor variation to the maximum building height is considered satisfactory.

## 8. Concluding comments

- 8.1 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.



## 9. Recommendation

---


- 9.1 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