

Report to Sydney West Central Planning Panel

Panel reference	2016SYW132 DA
DA number	JRPP-16-03313
Proposed development	2 x residential flat buildings containing 140 units
Street address	Lot 1 within the subdivision of Lot 100 DP 1049793 at 848 Windsor Road, Rouse Hill
Applicant/owner	Zhinar Architects/Southern Han Rouse Garden Pty Ltd
Date of DA lodgement	31 May 2016
Number of submissions	0
Regional development criteria (Schedule 4A of the EP&A Act)	Capital investment value (CIV) over \$20 million (DA has CIV of \$29.1 million)
All relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River • Blacktown City Council Growth Centre Precincts Development Control Plan 2010
Report prepared by	Natalie Camilleri
Report date	14 June 2017
Recommendation	Approval subject to conditions

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 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)? **Yes**

Conditions

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

Assessment Report

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ATTACHMENTS

Attachment 1	–	Location map
Attachment 2	–	Aerial image as of 12 March 2017
Attachment 3	–	Zoning extract
Attachment 4	–	Detailed information about proposal and Clause 4.6 variation request
Attachment 5	–	Development application plans
Attachment 6	–	Assessment against planning controls
Attachment 7	–	Draft conditions of consent

1 Executive summary

- 1.1 This report considers a proposal to construct 2 x 4 storey residential flat buildings containing 140 units, two levels of basement parking and associated landscaping.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3 The key issues that need to be considered by the Panel in respect of this application are:
 - a. Building height variation - the proposal seeks to vary the building height by up to 2.8 m (maximum) above the permissible height limit of 12 m for rooftop plant and equipment only. This variation is considered acceptable.
 - b. Communal open space – the provision of common open space complies, however the applicant seeks to utilise the front setback area facing Windsor Road as part of the common open space area, which is considered satisfactory.
 - c. Solar access - the maximum number of units receiving no sunlight access exceeds the Apartment Design Guide standard of 15%, being 20% of the total number of units, however due to site constraints this is considered acceptable.
- 1.4 The application is therefore satisfactory when evaluated against Section 79C of the Environmental Planning and Assessment Act 1979.
- 1.5 This report recommends that the Panel approve the application subject to the recommended conditions.

2 Location

- 2.1 The site is located on proposed Lot 1 within the subdivision of Lot 100 DP 1049793, 848 Windsor Road, Rouse Hill.
- 2.2 The location of the site is shown in **Attachment 1**.

3 Site description

- 3.1 The site is a proposed lot within a larger allotment known as Lot 100 DP 1049793, Windsor Road, Rouse Hill. Proposed Lots 1 to 3 and public roads will be created through the subdivision of the lot approved by DA-15-01553, which is yet to be registered at Land Property Information. This proposal will be situated on proposed Lot 1. We will require the subdivision to be registered prior to the release of any Construction Certificate on Lot 1.
- 3.2 Proposed Lot 1 has an irregular configuration, with 2 local road frontages to the south and west of the site, 1 collector road frontage to the north and 1 arterial road to the east. The site has boundary dimensions of approximately 160 m to the north, 46 m to the east, 49 m to the west and 146 m / 57.5 m to the south. The total site area of Lot 1 is 7,239 sqm. The site contains a dwelling and associated structures, which are being used for a commercial lawn and turf business.
- 3.3 An aerial image of the site and surrounding area is at **Attachment 2**.

4 Background

- 4.1 On 17 May 2010, the site was rezoned to part R3 Medium Density Residential and part RE1 Public Recreation under State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The site was rezoned from its previous 1(a) General Rural zoning under the Blacktown Local Environmental Plan 1988 to its current zoning as part of the 'Area 20' precinct of the North West Priority Growth Area.
- 4.2 On 16 February 2017, Council approved DA-15-1553 for the subdivision of the land. This included demolition of existing structures, construction of new public roads at 18 m wide and Torrens title subdivision into 3 residue lots.

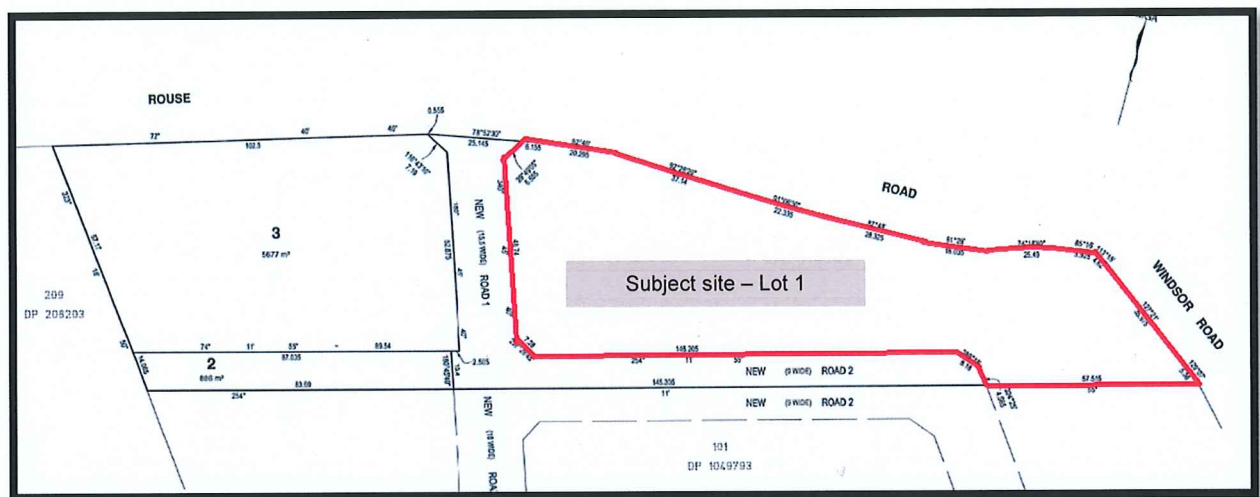


Figure 1 Approved subdivision plan under DA-15-1553 (Source: Zhinar Architects 2016)

5 The proposal

- 5.1 The Development Application (DA) has been lodged by Zhinar Architects for the construction of 2 x 4 storey residential flat buildings, two levels of basement parking and associated landscaping.
- 5.2 The applicant proposes a total of 140 residential units, including 8 x 1 bedroom units, 129 x 2 bedroom units and 3 x 3 bedroom units. 14 of the units are adaptable.
- 5.3 Other details about the proposal are at **Attachment 4**, including traffic, parking and acoustic matters, and a copy of the development plans is included at **Attachment 5**.

6 Assessment against planning controls

- 6.1 A full assessment of the DA against relevant planning controls is provided in **Attachment 6**, including:
 - a. Environmental Planning and Assessment Act 1979
 - b. State Environmental Planning Policy (State and Regional Development) 2011
 - c. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
 - d. State Environmental Planning Policy (Infrastructure) 2007
 - e. State Environmental Planning Policy No. 55 – Remediation of Land
 - f. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

- g. State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- h. Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River
- i. Blacktown City Council Growth Centre Precincts Development Control Plan 2010 (Growth Centre DCP)
- j. Draft West Central District Plan.

7 Key planning issues assessment

7.1 Variation to the Growth Centres SEPP development standard

a. Building height variation

The proposal seeks to vary the building height by up to 2.8 m (maximum) above the permissible height limit of 12 m, but only over limited parts of the 2 buildings, being a variation of 23.3%. The variations sought are as follows:

Part block	Building element	Maximum height	Variation sought (%)
Building 1			
A	Roof parapet, stairs and lift overruns	13.2 m	1.2 m (10%)
B			
Building 2			
C	Roof parapet and lift overruns	14.8 m	2.8 m (23.3%)
D			

The figures below identify the portions of the development that exceed the height limit.

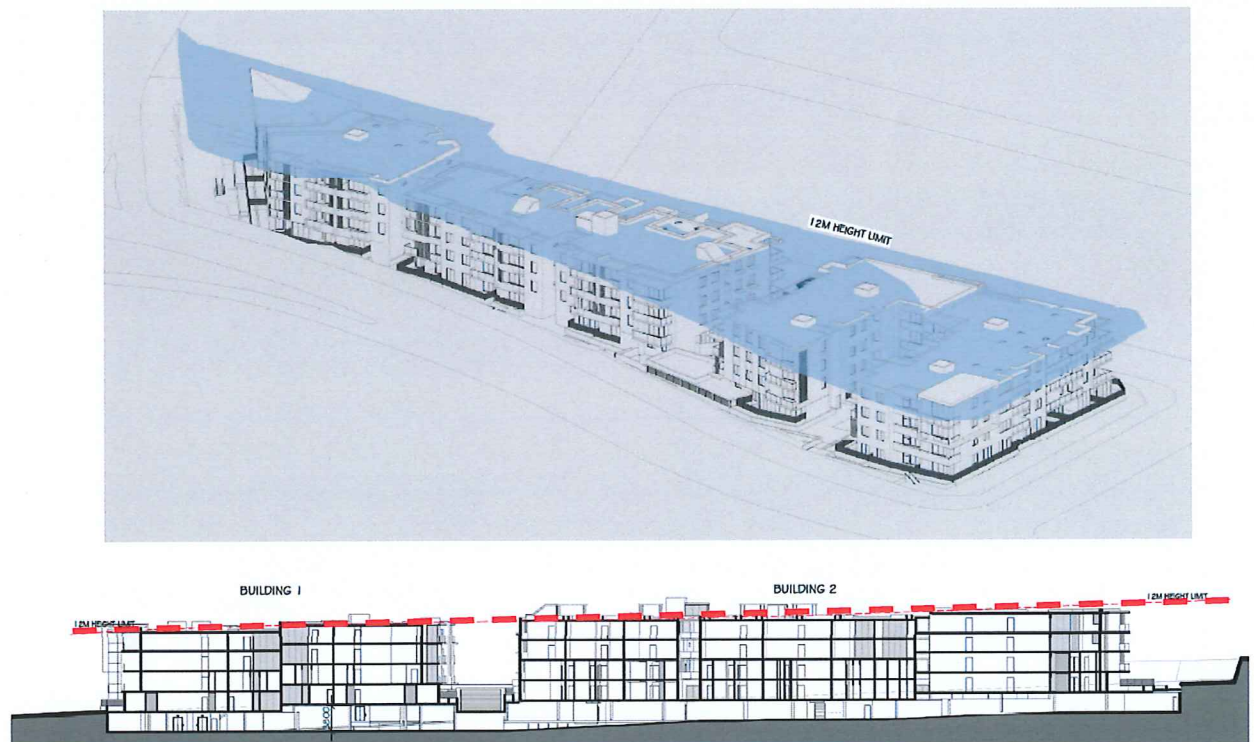


Figure 2 Extent of height variation (Source: Zhinar Architects, 2017)

The variations relate only to point encroachments to minor portions of the roof parapets, lift overruns and stairs providing access to roof top terrace. The portion of

the roof structures which exceed the height limit do not result in excessive bulk and scale and do not result in adverse shadow and amenity impacts on surrounding properties. The additional height does not result in any additional yield and does not result in an additional residential storey.

The 4 storey buildings are considered to be consistent with the 12 m height limit permissible on the site and the additional 2.9 m in height is therefore considered acceptable.

Given that the additional height does not result in any commercial gain for the developer (in terms of yield or number of storeys) and will result in a better designed building, it is considered that the proposed variation to the height standard should be supported in this instance.

b. Clause 4.6 assessment

The applicant has submitted a request for variation to the development standard pursuant to Clause 4.6 of the Growth Centres SEPP. The objective of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from the development by allowing flexibility in particular circumstances.

Clause 4.6 requires consideration of the following:

- i. *Has the applicant submitted a written request that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *That there are sufficient environmental planning grounds to justify contravening the development standard?*
- ii. *Is the proposed development 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?*
- iii. *Has the concurrence of the Director-General been obtained?*

The applicant's written request has adequately justified that compliance with the height development standard is unreasonable and unnecessary in this instance.

There are sufficient environmental planning grounds to justify varying this development standard. A copy of the applicant's written request is held at the end of **Attachment 4**.

The variation will not have unreasonable impacts on neighbouring properties or the character of the area. The proposal is also consistent with the objectives of the development standards and the R3 Medium Density Residential zone.

In accordance with Clause 64 of the *Environmental Planning and Assessment Regulation 2000*, a consent authority, in this case the Panel, has 'assumed concurrence' from the Secretary (formerly the Director-General) of the Department of Planning and Environment.

c. Justification for the variation

The proposal meets the Land and Environment Court's 5 part test. Refer to **Attachment 4** for an analysis against this test.

7.2 Communal open space

- a. The communal open space required under the Apartment Design Guide (ADG) requirement is 25% of the site area and the provided communal open space complies with this. Although it complies, the applicant seeks to utilise the front setback area facing Windsor Road as part of the total common open space. This is considered reasonable in this instance given that the site is 2 to 3 metres below the level of Windsor Road and Rouse Road in this location. Please refer to **Attachment 6** for more details.

7.3 Solar access

- a. Under the ADG, the maximum number of units receiving no sunlight access cannot exceed 15% of the total number of units. The proposed development provides 28 units, which equates to 20% of units which do not receive sunlight access. The ADG is to be used as a guide only. While it is considered desirable to maximise the number of dual/north orientated units within a development, it is considered that the provision of 7 south facing units on each level over the 2 buildings, on a site as long and narrow as this, is not excessive and should be supported in this instance.

8 Issues raised by the public

- 8.1 The proposed development was notified to property owners and occupiers within the locality between 7 December and 21 December 2016. The DA was also advertised in the local newspapers and a sign was erected on the site.
- 8.2 During the notification period no submissions were received.

9 External referrals

- 9.1 The DA was referred to the following external authorities for comment:

Section	Comments
Roads and Traffic Authority	Acceptable subject to conditions.
NSW Police	Acceptable subject to conditions.

10 Internal referrals

- 10.1 The DA was referred to the internal sections of Council and is considered acceptable subject to conditions, based on the following:
 - Concept engineering design meets Council' development standards.
 - The parking provision satisfies the DCP requirements.
 - The anticipated traffic movements generated as a result of the proposal are likely to be accommodated within the existing and proposed road network in the area.
 - Waste Service vehicles can satisfactorily service the development.

11 Conclusion

- 11.1 The proposed development has been assessed against all matters for consideration and is considered to be satisfactory. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. The site is considered suitable for the proposed development subject to conditions.

12 Recommendation

- 12.1 The development application be approved by the Sydney West Central Planning Panel subject to the conditions held at **Attachment 7**.



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