

JRPP No:	2010SYE071
DA No:	DA200/10
PROPOSED DEVELOPMENT:	Demolition of 4 dwelling houses and the erection of a 4 storey residential flat building containing 52 dwellings with basement parking - 532-534 Mowbray Road and 72-74 Gordon Crescent Lane Cove
APPLICANT:	Tony Jreige
REPORT BY:	Rajiv Shankar, Assessment Officer, Lane Cove Council

Assessment Report and Recommendation

Property: 532-534 Mowbray Road and 72-74 Gordon Crescent, Lane Cove North

DA No: D200/10

Date Lodged: 13 September 2010

Amended Plans: Notified on 10 November 2010

Cost of Work: \$12,500,000.00

Owner: J Haddad

Applicant: Urban Link Pty Ltd

Author: Rajiv Shankar

DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION	Demolition of existing four dwelling houses and construction of a four storey residential flat building with 46 dwellings and associated basement parking.		
ZONE	R4 High Density Residential		
IS THE PROPOSAL PERMISSIBLE WITHIN THE ZONE?	Yes		
IS THE PROPERTY A HERITAGE ITEM?	No		
IS THE PROPERTY WITHIN A CONSERVATION AREA?	No		
BUSHFIRE PRONE LAND?	Yes – Integrated Development		
BCA CLASSIFICATION	Class 2		
STOP THE CLOCK USED	Yes		
NOTIFICATION	Neighbours	522, 524, 526, 528, 530, 536, 536A, 538, 540, 542, Mowbray Road, 46, 62, 64, 66, 68, 70, 76, 78, 80, 82, 84, 86,	

		Gordon Crescent, 11 Johnston Crescent and properties in Willoughby Council Area.
	Ward Councillors	Clr W Gaffney, Clr I Longbottom, Clr K McIlroy.
	Association	Stringy Bark Creek Residential Association, Lane Cove Bushland & Conservation Society
	Others	Willoughby City Council, S Bashford, N Stevenson

REASON FOR REFERRAL:

This application has been referred to the Sydney East Joint Regional Planning Panel as per clause 13B of State Environmental Planning Policy (Major Development) 2005 because the proposed development has a capital investment value of greater than \$10 million.

EXECUTIVE SUMMARY:

- The site is irregular in shape with an area of 3110.95m². The site has a frontage of 36.58m to Mowbray Road and 43.125m to Gordon Crescent and a depth of approximately 82m. The site falls from north to south by approximately 17.84m.
- The proposal is for demolition of the existing four dwellings houses, removal of trees, relocation of an existing drainage easement and construction of a four storey residential flat building comprising of 46 dwellings and basement car parking for 80 cars.
- Amended plans, which were renotified on 10 November 2010, reduced the total number of proposed dwellings from the originally 52 dwellings to 46 dwellings.
- Other amendments include retention of Trees 13 & 14, increase the Gordon Crescent setback to 10m as required by the Rural Fire Service, improve amenity to the dwellings with regard to solar access and ventilation, reduce the height to comply with the 12m maximum height requirement, introduce garbage chutes and allow garbage trucks to collect garbage from collection areas in the basement.
- The amended proposal complies with the provisions of Lane Cove Local Environmental Plan 2009 and the requirements of the Lane Cove Development Control Plan.
- The amended proposal meets the objectives of the 10 design quality planning principles of State Environmental Planning Policy 65.
- 13 submissions were received in response to the original proposal and 7 submissions were received in response to the amended proposal. The major

concerns relate to intensification of land use, increasing local traffic and impact upon bushland.

- The proposal is considered integrated development in terms of being located in a mapped bushfire zone. The application was initially referred to the Rural Fire Service who indicated that an additional setback to Gordon Crescent was required and raised an issue in relation to a traffic study for the whole area that dealt with traffic volumes and the capacity of the existing road network to deal with traffic in a bushfire emergency situation.
- The applicant amended the proposal to meet the setback requirement and submitted a further traffic study, which dealt with the issues relating only to the specific site and development. Notwithstanding this, the Rural Fire Service has advised that they are not in a position to fully assess the proposal and provide comment as:

“The RFS notes that this development is part of a rezoning precinct which will increase the population density of the area. This increase in population density will cause an increased reliance on the existing road infrastructure. In light of this, an assessment which demonstrates that the surrounding road infrastructure can support the increase in population density should be provided.”

- On 16 December 2010, the JRPP was briefed on the proposal.
- In view of the refusal of the Rural Fire Service to provide endorsement of the integrated development proposal, it cannot be supported and cannot be recommended for approval.

SITE:

The site is located on the southern side of Mowbray Road and northern side of Gordon Crescent. The site consists of four lots being Lot 2A in DP 400225, Lot 3A in DP 396637 and Lots 14 and 15 in DP 27911. The site is irregular in shape with an area of 3110.95m². The site has a frontage of 36.58m to Mowbray Road and 43.125m to Gordon Crescent and a depth of approximately 82m. The site falls from north to south by approximately 17.84m.

The site features four brick, tiled and metal roofed dwelling houses varying from single storey to three storeys in height. Vehicular and pedestrian access to the site is from Mowbray Road and Gordon Crescent.

Existing vegetation on the site includes large mature trees and shrubs. There is a substantial cluster of trees towards the east of the site. There are two significant trees along the eastern boundary close to Mowbray Road. The site is affected by a drainage easement through the site.

Neighbouring towards the east and fronting Mowbray Road is a four storey brick residential flat building. Towards the east and facing Gordon Crescent is a two storey brick and tiled dwelling house. Neighbouring towards the west are two brick and tiled

dwelling houses one fronting Mowbray Road and the other Gordon Crescent. The land east and west of the subject site is zoned R4 High Density Residential.

To the north across Mowbray Road are residential flat buildings and a five storey aged care facility which includes a public library. Towards the south across Gordon Crescent is a reserve and bushland area. (Stringy Bark Creek)

PROPOSAL:

Proposed Development:

- Demolition of existing four dwelling houses.
- Removal of a number of trees.
- Construction of a four storey residential flat building with basement car-parking levels.
- Relocation of the existing drainage easement towards the western side of the subject site.

Dwellings:

The residential flat building would contain a total of 46 dwellings:

- 8 X 1 bedroom dwellings.
- 35 X 2 bedroom dwellings.
- 3 X 3 bedroom dwellings.

The original proposal included 52 dwellings. Following a preliminary assessment the applicant reviewed the proposal and the proposal was amended. The most significant amendments included:

- Reduction of the number of dwellings to 46 dwellings (reduction of 6 dwellings).
- Retention of trees 14 and 13 which were considered worthy of retention.
- The front setback along Gordon Crescent increased to 10m being an asset protection zone required by the Rural Fire Service.
- Solar access, cross ventilation and amenity of dwellings improved.
- Height of the building reduced to comply with the 12m maximum building height requirement.
- Waste management improved by introducing garbage chutes to serve most of the dwellings and provision made for garbage collection trucks to collect bins from collection areas in the basement.
- Amendments to car parking layout to reflect Council Engineer's concerns which relate to car parking design and compliance with Australian Standards.

PREVIOUS APPROVALS/HISTORY:

As the proposal seeks to demolish the existing four dwelling houses on the site, previous approvals are not relevant.

PROPOSAL DATA/POLICY COMPLIANCE:

Lane Cove Local Environmental Plan 2009

Site area - 3110.95m².

Clause	LEP	Proposed	Complies/ Comment
Clause 2.2- Zoning	R4 – High Density Residential	Proposed Residential Flat Building.	Yes
Clause 4.3 - Height of Buildings	12.0m	12.0m.	Yes
Clause 4.4 - Floor Space Ratio	2.1:1 (6533 m ²)	1.52:1(4736.93 m ²)	Yes

Lane Cove Development Control Plan

Part B – General Controls

Clause	DCP	Proposed	Complies/ Comment
B7 – Development near busy Roads and Rail Corridors	LAeq levels: (i) In any bed room 35dB(A) 10.00pm to 7.00am. (ii) anywhere else 40dB(A)	An Acoustic report has not been provided.	Verification that acoustic impacts are addressed would be required to be submitted with the Construction Certificate, if the development is approved.
B8 – Safety & security	Required	Crime Prevention Through Environmental Design (CPTED) principles considered and satisfactory.	Yes
B10- Cut & fill	1m maximum. Additional acceptable for parking for Residential Flat Buildings	More than 1m. The excavation is considered essential to provide for basement parking. The extent of excavation has been minimized and generally within the footprint of the proposed building.	Yes

Part C3 – Residential Flat Buildings

Clause	DCP	Proposed	Complies/ Comment
3.2 Density	Minimum site area 1500m ²	Area of site 3110.95m ²	Yes
3.3 Building depth	18m exclusive of balcony	Up to 18m.	Yes
3.4 Building width	40m maximum fronting the street	Gordon Cr - 31m Mowbray Rd - 24.5m	Yes Yes
3.5 Setback <u>Front</u> <u>Gordon Cr</u> Building Front terrace <u>Mowbray Rd</u> Building Front terrace <u>Side</u> Eastern side Western side	7.5m 6.9m 7.5m 6.9m 6.0m up to 4 storeys 6.0m up to 4 storeys	10.0m 8.0m 7.5m 7.5m 6.0m 6.0mm	Yes Yes Yes Yes Yes Yes
3.5.3 Parking Podium Height <u>Front</u> <u>Gordon Cr</u> <u>Mowbray Rd</u> <u>Side</u> Eastern side Western side	Maximum 1.2m Maximum 1.2 m Maximum 1.2 m Maximum 1.2 m	Nil Nil Nil Nil	Yes Yes Yes Yes
3.8 Size of dwellings	Minimum 40m ²	> 40m ²	Yes
3.9 Private open space	Primary balconies - 10m ² with minimum depth 2m Primary terrace- 16m ² with minimum depth 4m	Areas 10, 15, 20, 29m ² with depths 2.0m and 2.5m Areas 23, 25, 40m ² with 4m depth for ground floor dwellings	Yes Yes
3.10 Car parking, motorcycle and bicycle spaces	Car parking – 8x1 bedroom (8x1.0)=8 spaces 35x2 bedroom	Total 80 car spaces.	Yes

Clause	DCP	Proposed	Complies/ Comment
	<p>(35x1.5)=52.5 spaces</p> <p>3x3 bedroom (3x1.5)=4.5 spaces</p> <p>Visitors - 1 per 4 dwellings (46÷4) = 11.5 spaces</p> <p>Total 77 car spaces.</p> <p>Motor cycle @ 1 per 25 cars – 3 spaces</p> <p>Bike Lockers.- 4</p> <p>Bike rails – 4 (1 per 12 dwellings)</p>	<p>3</p> <p>4 (bike store room provided)</p> <p>4</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
3.11 Ceiling heights	Minimum 2.7m	> 2.7m	Yes
3.12 Storage	<p>1 bed 6m³</p> <p>2 bed 8m³</p> <p>3 bed 10m³</p>	<p>Min 6m³</p> <p>Min 8m³</p> <p>Min 10m³</p>	Yes
3.13 Solar access	<p>Living rooms and private open spaces of 70% of the units to receive 3 hours of direct sunlight.</p> <p>Single aspect dwellings with southerly aspect (SW-SE) to 10% (5 dwellings)</p>	<p>71.1% receive 3 hours of direct sunlight.-</p> <p>80.4% receive 2 hours of direct sunlight.-</p> <p>4.3% (2 dwellings)</p>	<p>Yes</p> <p>Yes</p>
3.14 Natural ventilation	<p>60% of the dwellings should have cross ventilation.</p> <p>25% of the kitchen</p>	<p>67% of the dwellings have cross ventilation.</p> <p>26% of the kitchen</p>	<p>Yes</p> <p>Yes</p>

Clause	DCP	Proposed	Complies/ Comment
	to have access to natural ventilation	have access to natural ventilation	
3.15 Visual privacy	Provide visual privacy between balconies internally and externally	Privacy issues between balconied addressed.	Yes
3.16 Communal open space	Minimum 25%	32%	Yes
3.17 Landscaped area	25% provided at ground level and up to 15% on structures	25% + 15%	Yes
3.18	Planting on structures	Provided	Yes

Part F - Access and Mobility

Clause	DCP	Proposed	Complies/ Comment
3.3 Public spaces and link to private properties	Development on public and private properties must provide and maintain accessible links and path of travel between class 2 to Class 10 buildings and to adjacent public spaces or pedestrian networks	Accessible links from the proposed open spaces to public spaces provided	Yes
3.5 Parking Provide 1 space for each adaptable housing unit.	DCP requires 9 adaptable dwellings and therefore 9 disabled car spaces.	10 disabled car spaces have been provided.	Yes
3.6 Adaptable and Visitable housing	Adaptable housing to be provided at the rate of 1 dwelling per 5 dwellings which would be 9 dwellings.	9 adaptable dwellings have been provided	Yes
	Adaptable housing to be equitably distributed throughout all types and sizes of dwellings.	One bed and two bed room dwellings are provided as adaptable.	Yes
	80% of the dwellings are to be visitable	All dwellings are visitable	Yes
3.7 Access to and within buildings	Access is required to common areas and all dwellings.	Access too common areas available	Yes

REFERRALS:

State Environmental Planning Policy 65 – Design Quality of Residential Flat Development

Council's consulting architect has confirmed that the amended proposal meets the objectives all of the 10 planning principles of SEPP 65. A copy of the consulting architect's report is contained in **AT1**.

Manager Community Services

Council's Manager Community Services has reviewed the original plans and advised that the total number of adaptable dwellings required would be 12 dwellings. However, in the amended proposal, the total number of dwellings has been reduced and 9 adaptable dwellings are required. This has been provided.

A total of 10 accessible car spaces have been provided which exceeds the minimum DCP requirements

There is a continuous path of travel to all adaptable units on all floors from both entrances. The common areas are accessible through out the development.

The pedestrian entry ramps from Gordon Crescent and Mowbray Road shall be to a minimum 1:14 gradient. All ramps would need handrails and tactile ground surface indicators as per AS 1428.1.

Manager Urban Design and Assets

Council development engineer has reviewed the proposal and has provided the following advice:

"The proposed stormwater concept plans propose to divert the existing Council stormwater easement and overland flow path. The proposed easement width has been conditioned to 2.5m wide, proposed plans indicate 2.44m. The proposal also includes a 41.6m³ OSD system and a 3m³ rainwater reuse system.

A new driveway is required for access to the basement car park. The entire frontages of the site have been conditioned for the applicant to reinstate new footpaths and kerb and gutter to Council's specification.

The bulk excavation has been conditioned accordingly."

No objection has been expressed subject to conditions.

Traffic Manager

Council's Traffic Manager raised concerns following the assessment of the original proposal and the applicant amended the proposal to address the concerns of the Traffic Manager.

The amended details have been assessed and are satisfactory. Draft conditions have been provided, in the event that the application is supported.

Manager Open Spaces

Council's Tree Assessment Officer raised concerns in the original proposal and the applicant amended the proposal to address the concerns of the Tree Assessment Officer.

The Tree Assessment Officer has reviewed the amended proposal and has provided the following advice:

"Trees numbered 1, 2, 7, 8, 9, 10,11,12,13 and 14 must be retained and protected for the duration of the proposed development as per the applicants Arborist Report prepared by Adrian Swain dated 06/09/2010. I have no objections to the removal of all other trees on the allotment designated for removal.

The relevant sections of the Arborist Report pertaining to the protection of the 10 trees to be retained are Section 5 Recommendations, Section 6 Tree Management and Section 10 general Tree Protection Notes. These three sections of the report must be followed during all stages of the proposed development and under the supervision of the Consultant Arborist Adrian Swain who prepared the Arborist Report. It should be noted that the two trees known as Tree 13 and Tree 14 will now be retained and must also be protected.

The proposed Landscape Plan is to the satisfaction of Council and must be adopted as part of the development consent. The plant material used in the landscape design consists of a mixture of locally indigenous trees, non-local natives and exotic shrub species. It is assumed Rural Fire Service recommendations govern the species used on the Gordon Crescent side of the complex which is adjacent to bushland area. The landscape design will be incoherently juxtaposed with the bushland area opposite the allotment."

No objection has been expressed subject to conditions.

Manager Environmental Services (Waste Management)

The Manager Environmental Services raised concerns in the original proposal and the applicant amended the proposal to address the concerns of the Manager Environmental Services.

The Manager Environmental Services has reviewed the amended proposal. No objection has been expressed subject to conditions.

Building Surveyor

Council's Building Surveyor has reviewed the proposal and has provided the following advice:

"The proposed development may be constructed to generally comply with the DTS provisions of the BCA without major design modification.

Note: The new Disability (Access to Premises – Buildings) Standards 2010 was tabled on 15 March 2010, to commence on 1 May 2011. The applicant should be made aware of these requirements."

No objection has been expressed subject to conditions.

Manager Strategic Planning

Council's Strategic Planner raised concerns in the original proposal that the proposed development would exceed the maximum permissible height limit and would require removal of a substantial number of trees.

The applicant amended the proposal to meet the maximum permissible height limit and retain additional significant trees as required by Council's Tree Assessment Officer.

Rural Fire Service

The original proposal was referred to Rural Fire Service which has provided the following advice:

"The NSW Rural Fire Service does not support the locating of balconies or any other part of the residential building within the asset protection zone. The applicant is requested to review the siting of the development to ensure the asset protection zone is not encroached upon by any part of the building.

An increase in population density in the bush fire interface will cause a greater impact on the existing infrastructure to support evacuating occupants. The RFS needs to be satisfied that the existing road infrastructure in the area can handle the increase in usage brought upon by the entire rezoning process. As a result, the RFS is to be provided an assessment of the impact of this development on the surrounding road infrastructure in an emergency situation whilst taking into account existing and future road users on surrounding properties."

The proposal was amended so that no part of the proposed building, including balconies is within the Gordon Crescent front setback 10m asset protection zone.

The amended proposal was referred to Rural Fire Service which has provided the following advice:

"The service is still not in a position to properly assess the application as submitted by Lane Cove Municipal Council on the basis of the information provided. The following will need to be provided for further assessment:

An increase in population density in the bush fire interface will cause a greater impact on the existing infrastructure to support evacuating occupants. The RFS needs to be satisfied that the existing road infrastructure in the area can handle the increase in usage brought upon by the entire rezoning process. As a result, the RFS is to be provided an assessment of the impact of this development on the surrounding road infrastructure in an emergency situation whilst taking into account existing and future road users on surrounding properties”.

The applicant has provided additional information, including a traffic study in relation to their site, in response to which the Rural Fire Service has provided the following condition:

“The RFS notes that this development is part of a rezoning precinct which will increase the population density of the area. This increase in population density will cause an increased reliance on the existing road infrastructure. In light of this, an assessment which demonstrates that the surrounding road infrastructure can support the increase in population density should be provided.”

Officer’s Comment: As the proposal comprises integrated development, for the application to be recommended for approval, the Rural Fire Services is required to endorse the proposal. The RFS have provided comment twice on the proposal; however, have failed to endorse the proposal. Accordingly, approval cannot be recommended. Having regard to the comment from the RFS, Council’s legal advice is such that the comment from the RFS cannot be construed to be a deferred commencement condition.

The traffic study required by the RFS is being undertaken jointly by Council and the Department of Planning. The traffic study will address the issues raised by the RFS.

The applicant’s traffic study for the proposal in relation to his specific site indicates:

“The development proposes 46 new dwellings at the subject location. If it is assumed that a fire emergency occurred at the worst possible time, when the majority of the residents are at home, it would reasonably be expected that 1 vehicle trip per dwellings would be generated as part of an evacuation procedure, i.e. 46 vehicle trips

... In conclusion, there is ample midblock capacity for vehicles in Gordon Crescent to cater for the additional vehicles that may be generated by this proposed development during an emergency fire event”.

79 (C) (1) (a) the provisions of any Environmental Planning Instrument

Lane Cove Local Environmental Plan 2009

Clause 2.2 - Zoning

The subject site is zoned R4 – High Density Residential under the provisions of Lane Cove Local Environmental Plan 2009. The proposed development meets the zone objectives and is permitted with development consent.

Clause 4.3 - Height of Buildings

The maximum permissible height limit is 12m. The proposed development is within the maximum permissible height limit.

Clause 4.4 - Floor Space Ratio

The proposed development is within the maximum permissible floor space ratio. The maximum permitted floor space ratio is 2.1:1 and the proposed is 1.52:1 which is well below the maximum permissible.

The proposed development complies with the objectives and provisions of Lane Cove Local Environmental Plan 2009.

Lane Cove Development Control plan

The preceding DCP assessment table indicates that the amended proposal complies with all the controls of the Development Control Plan.

OTHER PLANNING INSTRUMENTS

Section 94 Contribution Plan

Lane Cove Section 94 Contribution Plan applies to the proposed development for the increase of population in the area as a consequence of the development.

The Section 96 Contribution is calculated in the following manner:

The population of the existing dwelling houses:

Property address	No. of bedrooms *	Average occupancy rate (persons/dwelling)
532 Mowbray Road	3	2.8
534 Mowbray Road	3	2.8
72 Gordon Crescent	3	2.8
74 Gordon Crescent	4	3.6
Total Existing Population		12.0

* Note: The information with regard to the number of bedrooms, has been provided by the applicant.

The population of the proposed building:

No. of bedrooms	Average occupancy rate (persons/dwelling)	Population
8 x 1 bedroom	1.2	8 x 1.2 = 9.6
35 X 2 bedroom	1.9	35 x 1.9 = 66.5
3 X 3 bedroom	2.4	3 x 2.4 = 7.2
Total Existing Population		83.3

The Section 94 contribution applicable is for 71.3 persons (83.3 - 12.0) at a rate of \$8595.00 persons which is therefore \$612,823.50 (or 13,322.25per dwelling). The required section 94 contribution is less than \$20, 000 per dwelling and would not exceed the cap of the Reforms of Local Development Contributions.

State Environmental Planning Policy (Building Sustainability Index) 2004

A BASIX report has been submitted along with the application. The Basix report has been amended subsequent to the amendments to the proposal. No issues are raised with regard to water, thermal comfort and energy targets. If approved, a BASIX Completion Certificate will be required to be issued to Council prior to issue of the Final Occupation Certificate.

THE LIKELY IMPACTS OF DEVELOPMENT (Section 79C (1) (b))

The proposed development is unlikely to adversely impact on the residential amenity of the locality and is in accordance with the emerging scale and future character of the area.

THE SUITABILITY OF THE SITE (Section 79C (1) (c))

The site was recently rezoned to high density residential. Given the location of the site and surrounding development, the site is considered suitable for the proposed development, provided the traffic study identified by the Rural Fire Service indicates that the surrounding road infrastructure can support the increase in population density in an emergency situation.

RESPONSE TO NOTIFICATION (Section 79C (1) (d))

The original proposal was advertised in accordance with Council's notification policy and 13 submissions have been received. The amended proposal was readvertised and 7 submissions have been received.

The issues raised in the submissions can be summarised as follows:

- The rezoning of the land to R4 High Density Residential is inappropriate and had been opposed by the residents during the preparation of the LEP 2009.

Officer's Comment: This application is considered under the provisions of Lane Cove Council's Local Environmental Plan 2009 and the requirements of Council's Development Control Plan. The rezoning of land is a matter for consideration during the Local Environmental Plan preparation process which has already been completed.

- The rezoning of land to R4 High Density Residential would impact upon the existing infrastructure requirements which are considered inadequate. There are inadequate amenities within the area.

Officer's Comment: The subject site is rezoned R4 high Density Residential by LEP 2009. As part of the rezoning process (section 62 consultation), public authorities

were consulted. The developer would be responsible for any amplification required by the redevelopment.

- Impact upon views from the residential flat building towards the east.

Officer's Comment: The views likely to be affected are not *high value* in that they are not iconic or of grand vistas, but offer more of an ambient general openness to the west. The views being impacted are across the side boundaries rather than from the front or rear of the property and are thus recognised as being difficult to protect. The proposal complies with all relevant planning controls. In this respect view impact of a complying development is considered acceptable.

- The proposed 52 dwellings are excessive and the proposed development is excessive in bulk and scale.

Officer's Comment: In the amended plans, the number of proposed dwellings has been reduced to 46 dwellings. The building design is articulated to protect the existing strand of trees towards the east of the site. The proposed development complies with the floor space ratio, building height control and setbacks. The bulk and scale of the proposed development is considered acceptable.

- Impact of overshadowing on the residential flat building towards the east and west of the proposed development.

Officer's Comment: Clause 3.13 (c) of the DCP requires that the *"adjoining properties are to receive a minimum 3 hours of sunlight in living rooms and in at least a reasonable portion of the private open space between 9.00am to 3.00pm on 21 June"*. The shadow diagrams indicate that the adjoining dwellings would receive 3 hours of sunlight between 9am & 3pm and in this regard it is considered that solar access would be retained in accordance with the requirements of the DCP.

- Impact upon privacy of the residential flat building towards the east due to close proximity of the northern part of the building.

Officer's Comment: The proposed development meets the side setback requirements. Privacy screens have been provided along the eastern side of the proposed balconies towards the northern part of the building. Two existing trees along the eastern boundary towards the north are being retained which would provide additional privacy to the east.

- The proposed building is excessive in height. The height of the proposed building is 13m which is in excess of the maximum permissible height limit of 12m.

Officer's Comment: In the amended plans, the height of the proposed building has been reduced to comply with the 12m maximum permissible height limit.

- Increase in local traffic, particularly on Gordon Crescent, as a result of the proposed development. The traffic impacts would be exacerbated due to the inadequacy of the existing Public Transport for commuters to the city.

Officer's Comment: The transport infrastructure is considered to be adequate to cater to the increase in traffic because of the proposed development. All vehicles would enter and exit the site in a forward direction. If approved, a construction management plan would be required to address construction parking and vehicle movement. It should also be noted that the area has been recently rezoned to allow for this type of development.

The issue however remains valid in relation to whether the road infrastructure can handle traffic in the event of a bushfire situation. The additional traffic report required by the RFS will address this issue.

- Increase in on street parking. The proposed parking and visitor parking is considered inadequate.

Officer's Comment: Car parking, including visitor car spaces, has been provided in accordance with the requirements of the Development Control Plan.

- Impact of privacy upon the rear private open space of the dwellings towards the west particularly in relation to the west facing balconies of the proposed building.

Officer's Comment: The proposed development meets the side setback requirements. Privacy screens have been provided along the western side of the proposed balconies. In this respect it is considered that a reasonable level of privacy is maintained between the adjoining properties.

- The proposed building is not in accordance with the existing streetscape of Gordon Crescent. Proposed development would set a negative precedent for the future development on Gordon Crescent.

Officer's Comment: The proposed development would present a four storey elevation towards Gordon Crescent. The proposed development has a 10m front setback along Gordon Crescent which is more than the minimum of 7.5m as required by the DCP. The proposed building would be higher than the adjoining buildings. The maximum permissible height limit is 12m which would accommodate a 4 storey development and would be the emerging character and streetscape of the area following the rezoning of the area.

- A large number of trees would have to be removed.

Officer's Comment: The trees proposed for removal are substantially within the foot print of the proposed development. The proposed building has been designed to retain the cluster of significant trees towards the eastern side of the site. In the amended plans, trees T13 and T14 within the cluster of trees would be retained. The two significant trees T1 and T2 along the north eastern side of the site would also be retained.

- Adverse impact upon the adjoining bushland and increased bushfire risk.

Officer's Comment: In the amended plans a 10m front setback for the proposed building including the balconies, being as asset protection zone on Gordon Crescent has been provided as required by Rural Fire Service. The impact is not so much an increase in fire risk, but rather the ability to adequately respond to a fire event, as detailed in the submission from the RFS.

- Effect of increased stormwater runoff upon the properties towards the south and the bushland. The stormwater drainage system should include a detention system and large capacity rain water tanks to reduce stormwater run off. The proposed 6000l rainwater tank is inadequate.

Officer's Comment: Council Engineer has indicated that the proposed stormwater concept plan includes a 41.6m² OSD system and a 3m² rainwater reuse system to Council's satisfaction.

- Impact of noise from the balconies of the proposed building.

Officer's Comment: The proposed development meets the side boundary setback requirements. An additional side setback has been provided towards the eastern side of the property. Privacy screens have been provided along the proposed balconies. In this respect it is considered that the impact of noise between the adjoining properties would be reasonable.

- The impact of the proposed development would be further exacerbated by the proposed residential flat building development nearby on Mowbray Road. Cumulative effects should be considered in determination of the application.

Officer's Comment: The cumulative effect of development along Mowbray road, as a consequence of rezoning of the land, is a matter of consideration during the Local Environmental Plan preparation process which has already been completed.

It is agreed that an assessment is required of the cumulative impact of development in the area as required by the RFS in consideration of the impact of traffic and people in a fire event.

- Tightly clustered dwellings would have limited solar access and natural light.

Officer's Comment: Council's consulting architect has confirmed that the amended proposal meets the objectives all of the 10 planning principles of SEPP 65. The principles include provision of adequate amenity to the dwellings with regard to solar access and natural ventilation.

- The proposed small sized one and two bedroom units would change the residential demographic of the area.

Officer's Comment: The proposal would provide a variety of dwellings, of various sizes which increases housing choice in the area, as well as providing a housing and density that accords with Urban Consolidation principles, and the objectives of the zone.

- There would be insufficient street frontage for waste collection.

Officer's Comment: Waste collection would not be carried out along the street. The waste collection vehicles would enter into the basement of the proposed building, collect waste and exit the premises in a forward direction.

- There would be excessive noise and dust during the process of construction.

Officer's Comment: If approved a construction management plan would be required to address construction related issues at the construction certificate stage.

- Excessive excavation along Mowbray Road would change the underground water table flows into Batten Reserve which would impact critical vegetation and would impact upon flora and fauna.

Officer's Comment: Council's DCP for residential flat buildings, excavation would be essential to provide for basement parking. The extent of excavation has been minimized and generally within the footprint of the proposed building. There is no evidence of any critical vegetation that would be impacted upon the proposed development which is supported by Council's Manager Open Spaces.

- The lower part of the properties on Gordon Crescent is in a Riparian Zone or in the vicinity of a Riparian Zone.

Officer's Comment: The subject site is physically separated from the Riparian Zone by Gordon Crescent. The proposed development has a front setback along Gordon Crescent more than the minimum required by the DCP. It is considered that the proposed development would not have an adverse impact upon the Riparian zone.

- The proposed development is integrated which has not been acknowledged by the applicant.

Officer's Comment: The application was referred to the Rural Fire Service as integrated development, and the application is assessed as integrated development.

- Isolation of sites.

Officer's Comment: The proposed development would not result in the adjoining properties being rendered "isolated site" under the provisions of the Development Code Plan if the proposed development was to be approved.

- Removal of dangerous material such as asbestos.

Officer's Comment: The removal of asbestos shall be carried out in accordance with Work Cover requirements as a condition of consent.

THE PUBLIC INTEREST (Section 79C (1) (e))

The proposed development meets the requirements of Lane Cove Council's Local Environmental Plan 2009 and the provisions of Development Control Plan. The proposed development would not create major environmental impacts. Subject to the concerns and requirements of Rural Fire Service being met, it is considered that the proposed development is in the public interest.

CONCLUSION

The matters under Section 79C of the Environmental Planning and Assessment Act 1979 Act have been considered and are considered to be adequate and satisfactory with the exception of the requirements of Rural Fire Service being met. The application is for integrated development, and as such the endorsement of the Rural Fire Service is required.

The amended proposal has been designed to comply with the provisions of Lane Cove Council's Local Environmental Plan 2009 and the requirements of Council's Development Control Plan. The amended proposal has addressed concerns raised by Council and meets the 10 planning principles of SEPP 65. The issues raised by neighbours have been discussed in the body of the report.

The proposed development meets the objectives of Lane Cove Council's Local Environmental Plan 2009 and associated Development Control Plan. However, in view of the requirement of the Rural Fire Service to provide an assessment which demonstrates that the surrounding road infrastructure can support the increase in population density of the area, the proposal, which otherwise is supported, cannot be recommended for approval.

RECOMMENDATION

That pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended, the Sydney East Joint Regional Planning Panel refuse development consent to Development Application D200/10 for the demolition of existing four dwelling houses and construction of a four storey residential flat building with 46 dwellings and associated basement parking on lot 2A in DP 400225, Lot 3A in DP 396637 and Lots 14 and 15 in DP 27911 and known as 532-534 Mowbray Road and 72-74 Gordon Crescent, Lane Cove North for the following reasons:

1. The Rural Fire Service has declined to assess and endorse the integrated development proposal, and has required a comprehensive traffic study for the area in relation to the ability of the existing road infrastructure to handle evacuating occupants in an emergency situation.