

Environmental Service Division Report Sydney East Joint Regional Planning Panel

Supplementary Report: Rural Fire Service Issues

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REPORT

Background

This supplementary report is provided as requested by the Joint Regional Planning Panel Secretariat, in relation to development applications before the Joint Regional Planning Panel and outstanding pending bushfire issues.

Council has provided development assessments for a number of properties in Mowbray Road, and Mindarie Street, Lane Cove North.

This is an area which was rezoned to R4 high density residential as part of the Lane Cove local Environmental Plan 2009 process.

All of the sites are within mapped bushfire prone areas.

Applications were referred to the Rural Fire Service for their comment pursuant to clause 79BA of the Environmental Planning and Assessment Act 1979, as amended.

An issue rose when the Rural Fire Service advised Council that they had not been consulted during the rezoning process for these sites and that they required a comprehensive traffic report of the area to be carried out dealing with the increased density and the ability to evacuate residents in the event of a bushfire emergency. Specifically, the Rural Fire Service advised:

“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.”

This matter was raised with the Department of Planning, who commissioned Urbanhorizon Pty Ltd to prepare a report.

During the time of preparation of the report the following reports were submitted to the Joint Regional Planning Panel for determination:

- DA10/198 – (2010SYE074) – 554-560 Mowbray Road, Lane Cove North (Deferred)
- DA10/200 – (2010SYE071) – 532 -534 Mowbray Road and 72-74 Gordon Crescent Lane Cove North (Deferred)
- DA10/246 – (2010SYE96) – 554-550 Mowbray Road, Lane Cove North (Refused)
- DA10/290 – (2010SYE108) – 31-39 Mindarie Street, Lane Cove North (Briefing provided).

The applications were recommended for refusal by Council based either solely on the Rural Fire Service issue or inclusive of that reason.

The first 2 abovementioned applications are being held pending the outcome of the Rural Fire Service issue and the third was refused at the last meeting of the Joint Regional Planning Panel.

The Council and the Joint Regional Planning Panel were provided with a copy of the Urbanhorizon - Lane Cove Bushfire Accessibility Final Report dated March 2011.

ISSUES ARISING

The initial comment is that the process for the rezoning of the land was clearly not carried out by the Department of Planning, if it had, the report would have been carried out objectively before the land was rezoned.

Council has serious concerns with the Urbanhorizon's report, including its comments in relation to work recommended as "options for amelioration" and section of the report which suggests:

- *"Removing lower limbs of trees abutting the southern side of Gordon Crescent and Kullah Parade up to a height of 4 metres above the ground"*
- *Reducing the tree canopy cover in Batten Reserve to between 15 and 30%*
- *Mowing the understorey of Batten Reserve along the southern side of Gordon Crescent and Kullah Parade"*

Council has not agreed to any of these works and the following is a report from Council's Executive Manager Open Space and Urban Services to the Council meeting of 21 March 2011. The Panel should note that the Council does not in anyway accept the report from Urbanhorizon. The report to Council is reproduced below:

"Executive Summary

The Lane Cove LEP 2010 was gazetted in February 2010. The gazetted LEP included the rezoning of the area bounded by Mowbray Road, Centennial Avenue, Batten Reserve and Willandra Street, now commonly referred to as the Mowbray Road Precinct, to high density residential, R4. The rezoning of this area was performed by the Department of Planning (DoP), against the resolution of Council.

Council strongly reinforced its view regarding the Mowbray Rd Precinct by resolving to seek a downzoning of the Precinct at its meeting of 16 December 2010.

Council Officers have since met with the DoP on 12 December to convey the resolution to downzone the area. The documentation required to be submitted to the Department's LEP Gateway panel was subsequently prepared following further discussions with the DoP in February-early March 2011. It is to be submitted at a meeting set for next Tuesday 22 March. This is the earliest possible date as Council had to take into account changes to the NSW Standard LEP, only announced on 25 February this year.

*One of the key issues with the increased development is the precincts proximity to bushland and the associated Bush Fire Risks. In response to concerns raised by the Rural Fire Service through the Joint Regional Planning Panel process of reviewing development applications for the Mowbray Road Precinct, the DoP engaged a consultant, Urbanhorizon Pty Ltd, to prepare the "Lane Cove Bushfire Accessibility" report. A Final Report, dated March 2011, is provided as **AT-1**.*

Council staff are concerned that this report is completely lacking in any meaningful research or analysis on the traffic implications and bushfire emergency evacuation procedures that will be required as a result of the DoP's decision to rezone the Mowbray Road Precinct, to high density residential, R4 through Council's Lane Cove LEP 2010.

Unless the State Government, DoP, or Rural Fire Service ensure a more meaningful study is undertaken immediately, Council and the local community will be left to deal with a possible catastrophic event in the Mowbray Road Precinct should a significant bushfire occur.

It is proposed that Council undertake significant lobbying of the responsible government authorities and political parties for urgent attention to be given to this matter, and for a meaningful study to be

undertaken on the traffic implications and bushfire emergency evacuation procedures required for the Mowbray Road Precinct as a matter of urgency.

Background

The result of the Mowbray Road Precinct rezoning by the Minister of Planning is that the area could be redeveloped with up to 2500 additional dwellings (when a FSR of 2.1:1 is applied; about 1800 additional dwellings with an FSR of 1.5:1) in addition to the existing flats there. As a result of this, Council requested from the DoP any background study information that they had used to determine the application of these FSR's for the Mowbray Road Precinct. The Department was not forthcoming with any information.

Following the rezoning, developers began to lodge significant applications to construct apartments (high density residential) with a capital investment value over \$10 million. As of 1 February 2011, Council had received the following applications for within the Mowbray Road Precinct:-

1. 532-534 Mowbray Road and 72-74 Gordon Crescent;
2. 544-550 Mowbray Road;
3. 554-560 Mowbray Road;
4. 9-13 Mindarie Street (not for JRPP); and
5. 31-39 Mindarie Street.

These proposals account for over 250 apartments and were referred to the Joint Regional Planning Panel (other than 9-13 Mindarie Street). During this process, the Rural Fire Service (RFS) required that they would not be in a position to provide comment or their sign off, until a traffic assessment was provided for the whole precinct.

This requirement for a traffic assessment was referred by Council to the DoP in late 2010. In January 2011, the DoP issued a draft document to Council that called for tenders to prepare a "Mowbray Road Traffic Assessment". In the main, this tender brief required a suitably qualified consultant to "undertake a traffic assessment to determine whether the existing road infrastructure can support the planned increase in population density in this area."

Council pointed out to the DoP that this draft document did not address the bushfire emergency evacuation issue for the Mowbray Road Precinct. From this, the DoP somehow managed to morph the brief and remove the need for the traffic assessment based on the increased population density and only required "comment on the suitability of the current road network to cater for vehicular movement during a bushfire given planned increases in density provided for in the Lane Cove LEP 2010" and "recommend appropriate vehicular access changes or emergency access requirements."

This highlights the fact that the DoP is either ignorant to the obvious serious traffic implications that will occur in the Mowbray Road Precinct and adjoining street network as a result of the significant increase in dwellings and population density, or that it is another example of a State Government department offloading its responsibility to local government. Subsequent correspondence from the Department's representative appears to indicate the latter.

Discussion below will further highlight the indifference of the DoP and RFS to the major traffic implications and bushfire emergency evacuation issues as a result of accepting the "Lane Cove Bushfire Accessibility-Final Report, dated March 2011" that was prepared by Urbanhorizon Pty Ltd. This report has been found by Council staff (and others) to be totally inadequate at addressing the real issues and simply attempts to transfer the responsibility for undertaking the necessary studies to account for an emergency evacuation of large scale proportions in the event of a bushfire in Batten Reserve to Council.

Discussion

After considerable input from numerous Council staff in preparing a meaningful brief, the Department of Planning chose a company called Urbanhorizon Pty Ltd to undertake the "Lane Cove Bushfire Accessibility" study. It would appear from correspondence from the DoP that no tender or expressions of interest process was used in selecting Urbanhorizon Pty Ltd for this study.

Based on the Final Report provided to Council, it is questionable if this company was qualified to undertake a study of such importance, and that will have serious ramifications on the potentially significant numbers of people that could end up living in the Mowbray Road Precinct.

In the main, the report regurgitates requirements straight from the Rural Fire Service "Planning for Bushfire Protection, 2006" document. The report makes no meaningful conclusions, other than requiring Council's Emergency Management Committee to update its' Displan, with involvement from the RFS.

The report states a potential for 1200-1500 potential dwellings in the rezoned area (based only on the Department based growth data). However, based on Council's data, the potential dwelling size could be up to 2500 apartments. This would create significantly more traffic than that identified in the Urbanhorizon report. Without any justification, the Urbanhorizon report states the additional 4800-6000 trips per day is "not considered a threat to RFS access and operation during a fire event". However, the report goes on to state that "the increased volume of traffic and parking in the precinct may increase delays in the event of an evacuation." The two statements contradict each other, both without any factual quantification of the problem. There is no discussion of the significant traffic movements that occur on both Mowbray Road and Centennial Avenue (Regional Roads). There is no discussion about the gradients or narrowness of Girraween Road, Kullah Parade, Mindarie Street or Willandra Street. There is no discussion about how Elizabeth Parade would be used in the event of a bushfire. In fact, there is little discussion about any of the major traffic issues that would occur in the event of a bushfire emergency evacuation of the Mowbray Road Precinct.

It is incredible that the author of the report then has the audacity to conclude with the statement:-

"Any supplementary traffic investigation will need to be undertaken in a manner that does not delay development assessment and approval in the precinct."

Further to the traffic comments (or lack thereof) made in the report, Urbanhorizon also has provided some less than constructive comments to make in relation to how Council could reduce the fire risk in Batten Reserve, and improve the RFS accessibility and operations. The suggestions made by the author include:-

- Removing lower limbs of trees abutting the southern side of Gordon Crescent and Kullah Parade up to a height of 4 metres above the ground;
- Reducing the tree canopy cover in Batten Reserve to between 15% and 30% (**This is not a misprint, the author is definitely telling Council that we should seriously consider removing up to 85% of the tree canopy for the whole of Batten Reserve.** This would definitely negate any bushfire risk. In fact, this would result in virtually the total removal of the bushland from Batten Reserve, and would definitely ensure the area is no longer bushfire prone land and be in direct conflict with SEPP 19 and other bushland protection legislation; and
- Mowing the understorey of Batten Reserve along the southern side of Gordon Crescent and Kullah Parade. (Again, it must be pointed out that this is not a misprint. The author does not stop at mowing the grass, but any understorey along the south side of the road carriageway. With the 85% removal of tree canopy and mowing the understorey, Council would struggle to retain 10% of the existing bush reserve.)

These suggestions may satisfy the RFS Asset Protection Zones requirements and the needs of the developers in undertaking residential developments in Gordon Crescent and Kullah Parade, but

they are ludicrous in the context of what this report was required to investigate, analyse and make recommendations on.

Batten Reserve is a highly valued community asset. Bush regeneration has been actively undertaken in the area for over 40 years and as well as its innate value to our community it is an acknowledged wildlife corridor. Council and community would not accept such environmental vandalism as an option.

In all, Council staff have reviewed the Urbanhorizon report and find it to be completely unsatisfactory and an insult to the Council and Lane Cove community. It not only provides no meaningful analysis of the real issue of bushfire emergency evacuation of the Mowbray Road Precinct, but it is suggested that the conclusions have been written to simply allow the DoP and the RFS to tick boxes and allow the substantial overdevelopment of the area to be moved along.

Of real concern is that if this report is accepted by DoP and possibly the RFS in progressing the high density residential development in the Mowbray Road Precinct, then Council and the Lane Cove community will be left with a seriously unaddressed bushfire emergency evacuation issue.

Community Consultation

Statement of Intent

The consultation is designed to inform the community of Council's stance and major concerns on the Lane Cove Bushfire Accessibility report prepared by Urbanhorizon Pty Ltd, particularly relating to the unaddressed bushfire emergency evacuation issue. It is also designed to notify the State Government and the Opposition of Council's major concerns in this respect.

Method

Level of Participation	Inform
Form of Participation	Open
Target Audience	Lane Cove Community and community groups
Proposed Medium	Press release, E-newsletter and Website information
Indicative Timing	Immediate, and for as long as required

Conclusion

The Urbanhorizon report only serves to reinforce that council was correct in its initial decision in 2008 not to seek significant upzoning of this area of the Mowbray Road Precinct. It serves also to reinforces council's decision in December 2010 to seek a downzoning of the current R4 zone.

The total inadequacy of the research and analysis undertaken both prior to and since this enforced rezoning by the DoP and the serious implications particularly by bushfire, need to be urgently highlighted to the Premier and Opposition Leader.

RECOMMENDATION

That Council:-

1. Write to the Premier and Opposition Leader:-
 - a) Detailing Council's deep concerns regarding the totally inadequate research and analysis that was undertaken prior to and since this enforced rezoning with respect to traffic, bushfire including emergency evacuation and environmental implications.
 - b) Requesting the urgent funding needed for the necessary expert reports required should the incoming State Government insist on maintaining the current zoning, and
 - c) Implore the incoming State Government to treat Council's request for a downzoning of

this section of the Mowbray Road Precinct as a matter of extreme urgency.

2. *Issue a press release highlighting the above issues and in particular the shortfalls of the Urbanhorizons report."*

Having regard to the report from Council's Executive Manager Open Space and Urban Services, Council resolved:

OPEN SPACE AND URBAN SERVICES DIVISION REPORTS

OPEN SPACE AND URBAN SERVICES DIVISION REPORT NO. 9

SUBJECT: MOWBRAY ROAD PRECINCT - TRAFFIC & BUSHFIRE EMERGENCY EVACUATION

76 RESOLVED on the motion of Councillors Palmer and Forrest that Council:-

1. Write to the Premier, Opposition Leader and the Federal Minister for the Environment:-
 - a) Detailing Council's deep concerns regarding the totally inadequate research and analysis that was undertaken prior to and since this enforced rezoning with respect to traffic, bushfire including emergency evacuation and environmental implications;
 - b) Requesting the urgent funding needed for the necessary expert reports required should the incoming State Government insist on maintaining the current zoning; and
 - c) Implore the incoming State Government to treat Council's request for a downzoning of this section of the Mowbray Road Precinct as a matter of extreme urgency.
2. Issue a press release highlighting the above issues and in particular the shortfalls of the Urbanhorizons report.

For the Motion were Councillors Bennison, Brooks-Horn, Forrest, Gaffney, Longbottom, Mcilroy, Palmer and Smith (Total 8).
Against the Motion was Nil (Total 0).

MATTER ARISING

77 RESOLVED on the motion of Councillors Bennison and Brooks-Horn that:-

1. A request be made to the new minister for all correspondence between DoP and Urbanhorizon; and
2. A report come back to Council regarding the matter.

For the Motion were Councillors Bennison, Brooks-Horn, Forrest, Gaffney, Longbottom, Mcilroy, Palmer and Smith (Total 8).
Against the Motion was Nil (Total 0).

Council following the receipt of the Urbanhorizon report, referred the outstanding applications to the Rural Fire Service and requested that they confirm that the Urbanhorizon report adequately addressed their issue notwithstanding that Council had not agreed to any of the works/measures outlined in the report, which is devoid of recommendations and contains only unsupported suggestions.

In the event that the Rural Fire Service accepted the report, it was requested that conditions of consent be provided to enable the applications to be finalised.

Council has received a number of responses from the Rural Fire Service including the following email and formal letter:

*“The RFS, not being a qualified traffic authority has relied upon the expert advice of the Lane Cove Bushfire Accessibility Report prepared by Urbanhorizon dated March 2011.
In this regard, the RFS endorses all the findings and recommendations of the Accessibility Report, which will provide a better outcome to the existing road infrastructure in the event of a bush fire.
It is noted from your email, that council does not support all the recommendations of the report.
The extent to which Council accepts the recommendations and how these are staged and implemented with the development approval process is a matter between council and the JRPP.
In this regard, I support Eddie's recommendation that the Council provide a supplementary report to the JRPP of its position in respect the report, and the extent to which Council agrees or disagrees with the findings.
Hope this clarifies the RFS position.”*

All communications to be addressed to:

Headquarters
NSW Rural Fire Service
Locked Mail Bag 17
GRANVILLE NSW 2142

Headquarters
NSW Rural Fire Service
15 Carter Street
LIDCOMBE NSW 2141

Telephone: (02) 8741 5555
e-mail: development.assessment@rfs.nsw.gov.au

Facsimile: (02) 8741 5550



Mr Peter Thomas
Manager Development Assessment
Lane Cove Municipal Council
PO Box 20
Lane Cove
NSW 1595

Your ref: DA10/198/DA10/266 DA10/307
Our ref: D10/1691 D10/2141 D11/0004

RECEIVED

22 MAR 2011

RECORDS

21 March 2011

Dear Mr Thomas

Re: Lane Cove North Traffic Study

I refer to your correspondence dated 14 March 2011 advising that Lane Cove Council have not endorsed any of the options and amelioration recommendations within the Lane Cove Bushfire Accessibility Report prepared by Urbanhorizon dated March 2011.

From the outset of the rezoning of the Mowbray Precinct allowing high density development within the locality, the NSW Rural Fire Service (RFS) has worked with Lane Cove Council in appreciating their concerns regarding the preservation of the environmentally significant bushland of Stringybark Creek Reserve and in ensuring any new development in the rezoned area can be afforded appropriate bush protection measures for compliance with *Planning for Bush Fire Protection 2006*. This was reinforced from our meeting of 22 July 2011, where potential constraints and parameters were explored and incorporated into future design considerations within the precinct, with the aim of council forwarding this advice to applicants at the pre lodgement stage.

Subsequently, the RFS forwarded its generic advice to council in its letter dated 3 September 2011 detailing the need to satisfy the performance requirements of *Planning for Bush Fire Protection 2006* which includes the consideration of adequate asset protection zones, public roads, property access, water and other services. Additionally, the fact that the rezoned precinct relied on the existing road infrastructure for access and egress in a bush fire emergency, council needed to be satisfied that the existing road infrastructure was capable of supporting the potential increased usage. For this reason, it was recommended that council should consider a traffic report demonstrating how the existing and any proposed road infrastructure would cope in an emergency situation. This recommendation was not based on an identified deficiency by the RFS, rather the need for the council to be satisfied with access and egress when considering increased residential density when approving development within the precinct. On the basis of this recommendation, it is my understanding that the

1 of 2

NSW Department of Planning (DOP) commissioned an independent traffic report for the rezoned area.

Comments in respect of the final report produced by Urbanhorizon, '*Lane Cove Bushfire Accessibility Report*', dated March 2011 were forwarded by email to Ms Stephanie Bashford of council and the DOP on 9 March 2011. The RFS advised that it recognised that it is was not a traffic authority, and has relied on the expert advice and endorsed all the findings and recommendations of the report, which will provide a better outcome to the existing road infrastructure in the event of a bush fire.

The extent to which council accepts the recommendations of the report and the method by which these recommendations are staged and implemented within the development approval process is a matter between council and the Joint Regional Planning Panel.

In respect of comments forwarded for the development proposals at Nos. 554-560 Mowbray Road Lane Cove North, 9 -13 Mindarie Street Lane Cove and 532/4 Mowbray Road & 72/4 Gordon Crescent Lane Cove North (copies attached), the RFS considers condition No. 1 and condition No. 2 respectively of its recommendations now having been met. Revised recommendations in respect of asset protection zones, design and construction standards within AS 3959-2009 *Construction of buildings in bush fire prone areas* will now be forwarded to council and should be included in any approval considered by the Joint Regional Planning Panel.

If you have any further questions regarding these issues please contact Ms Nika Fomin on 8741 5424.

Yours sincerely



Lew Short
Group Manager
Community Resilience

c.c. NSW Department of Planning
GPO Box 39
Sydney NSW 2001

The RFS has made getting additional information easier. For general information on *Planning for Bush Fire Protection 2006*, visit the RFS web page at www.rfs.nsw.gov.au and search under *Planning for Bush Fire Protection 2006*.

CONCLUSION

The applications before the Joint Regional Planning Panel have been deferred pending the finalisation of the Traffic/ Bushfire report. The report has been provided to Council and the Rural Fire Service.

Given the response from the Rural Fire Service and the issues resolved by Council at its meeting of 21 March 2011, in relation to the Urbanhorizon report, Council remains of the view that the original issue raised by the Rural Fire Service remains unresolved, that the status of the report is unclear, and an independent critique of the brief and report should be carried out before any applications are determined.

RECOMMENDATION

1. This report is submitted to the Joint Regional Planning Panel to be received and noted.
2. Council remains of the view that the applications:
 - DA10/198 – (2010SYE074) – 554-560 Mowbray Road, Lane Cove North and
 - DA10/200 – (2010SYE071) – 532 -534 Mowbray Road and 72-74 Gordon Crescent Lane Cove North

Should not be approved on the basis that Council has resolved that the Lane Cove Bushfire Accessibility Report prepared by Urbanhorizon is unsatisfactory and fails to adequately address traffic and bushfire including emergency evacuation and environmental implications.