

JRPP No:	2010SYE096
DA No:	246/2010
PROPOSED DEVELOPMENT:	Demolition of 4 dwelling houses and erection of a 5 storey residential flat building containing 62 dwellings and basement parking for 100 vehicles - 544-550 Mowbray Road Lane Cove North
APPLICANT:	Hyecorp Property Group
REPORT BY:	May Li, Lane Cove Council

Assessment Report and Recommendation

Property: 544-550 Mowbray Road, Lane Cove North

DA No: 246/2010

Date Lodged: 10 October 2010

Cost of Work: \$14,000,000.00

Owner: L J & R B & A L Kapamadjian (544 Mowbray Road, Lane Cove North)
W R Pulley & D M Kern (546 Mowbray Road, Lane Cove North)
K Kamiya (548 Mowbray Road, Lane Cove North)
Y L K Ying & S K Yim (550 Mowbray Road, Lane Cove North)

Applicant: Hyecorp Property Group

DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION	Demolition of 4 dwelling houses with associated structures and construction of a 5 storey residential flat building comprising 62 dwellings with basement carpark for 100 cars
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
IS THE PROPERTY ADJACENT TO BUSHLAND?	No
IS THE PROPERTY WITHIN BUSHFIRE PRONE LAND?	Yes
BCA CLASSIFICATION	Class 2, 7a & 10b
STOP THE CLOCK USED	Yes – 86 days
NOTIFICATION	Neighbours: 534-542 & 552-560 Mowbray Road, 46-72 Gordon Crescent and 575-599 Mowbray Road (within Willoughby Local Government Area)

	<p>All councillors of Lane Cove Council</p> <p>Progress Association: Stringy Bark Creek Residents Association</p> <p>Other : Willoughby City Council</p>
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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 proposal involves demolition of four existing dwelling houses and associated buildings and the construction of a 5 storey residential flat building comprising 62 dwellings and basement parking for 100 cars.
- The proposed development is permissible within the zone and complies with the building height and floor space ratio (FSR) standards of Lane Cove Local Environmental Plan 2009 (the LEP).
- The proposal also complies with the requirements of Lane Cove Development Control Plan (the DCP) with exceptions to the building width and building depth requirements. The variations are supported given the building design meets the objectives of the DCP and SEPP 65.
- The proposed design complies with all of the ten design quality principles of State Environmental Policy No. 65 (SEPP 65).
- 7 submissions were received resulting from the notification of the proposal. The major concerns related to intensification of land use, increasing local traffic congestion, impact to nearby bushland and amenity impacts to the adjoining properties including the creation of an isolated site at 552 Mowbray Road between the site and a proposed residential flat building development at 554-560 Mowbray Road.
- As the site is bushfire affected, the development has been referred to NSW Rural Fire Service (RFS) for comment in accordance with Section 79BA of Environmental Planning and Assessment Act 1979. The RFS has advised that they are not in a position to properly assess the proposal and provide comment as:

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.

- A Traffic Study is currently being undertaken on behalf of the NSW Department of Planning.
- In view of the failure of the Rural Fire Service to provide endorsement of the development proposal, the proposal is not recommended for approval.

SITE:

The site is located at the southern site of Mowbray Road in Lane Cove North. It comprises four properties, being Lots 9, 8, 7 and 6 of DP 10892 and is known as 544-550 Mowbray Road, Lane Cove North.

The site is of a regular shape and has an area of 2786.8m². It has a frontage to Mowbray Road of 60.96m with a depth of 45.72m. The site falls from its north-eastern corner at the front boundary to the south-western corner at the rear boundary by approximately 5.5 metres.

Four dwelling houses are located on the site. Surrounding development consists predominantly of single and two storey dwelling houses. There are also residential flat buildings in the area.

A development application for the demolition of 4 existing dwelling houses and construction of a residential flat building comprising 58 dwellings at 554-560 Mowbray Road was considered by the JRPP on 10 February 2011. The JRPP deferred its decision of the application, requested amended plans and a traffic study relating to bushfire management in the area.

A dwelling house at 552 Mowbray Road is located between the site and the proposed residential flat building development at 554-560 Mowbray Road. The owner of this property has identified that they would be isolated by the proposal and the application already considered by the JRPP. The applicant has submitted documentary evidence to demonstrate the details of attempts made to purchase the adjoining site at 552 Mowbray Road. The purchase failed due to no agreement on price being reached.

PROPOSAL:

The proposal involves demolition of 4 existing dwelling houses and construction of a 5 storey residential building comprising 62 dwellings with basement car park for 100 cars. The distribution of the dwellings is summarised in the following table:

Level	Studio	1 Bed	2 Bed	3 Bed	Total dwellings
Garden		1	5		6
Street Garden	2	4	7		13
Level 1		6	8		14
Level 2	1	7	7		15
Level 3			2	6	8
Level 4			6		6
Total	3	18	35	6	62

PREVIOUS APPROVALS/HISTORY:

As the proposal is for the demolition of the existing dwelling houses, previous history is not relevant.

PROPOSAL DATA/POLICY COMPLIANCE:

Site Area: 2786.8m²

Lane Cove Local Environmental Plan 2009

LEP 2009	Provision	Proposed	Complies/
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			Comment
Zone	R4 – High Density Residential zone	Residential Flat Building	Yes
Maximum permitted FSR	2.1:1	1.86:1	Yes
Maximum permitted building height	12.0m	12.0m	Yes

Note: The original proposal did not comply with the building height standard of the LEP and the non-compliance has been addressed by amended plans.

Lane Cove Development Control Plan

Part B – General Controls

Clause	DCP	Proposed	Complies/ Comment
B8 – Safety & security	Ground floor dwellings have direct access or entries from the street and at least one habitable room with windows facing the street	The building has a pedestrian entry from Mowbray Road and all windows facing Mowbray Road are habitable room windows (bedrooms or living rooms)	Yes
B10- Cut & fill	1m maximum. Additional acceptable for parking for Residential Flat Buildings	More than 1m. However the extent of excavation has been provided for parking and has been minimised and generally within the footprint of the proposed building.	Yes (qualified)

Part C3 – Residential Flat Buildings

Clause	Requirement	Proposed	Complies/ Comment
3.2 Density	Minimum site area 1500m ²	Area of site Approx 2786.8m ²	Yes
3.3 Building depth	18m exclusive of any balcony	32m	No. However, meets the objectives & able to achieve compliance with all

Clause	Requirement	Proposed	Complies/ Comment
			requirements of SEPP 65
3.4 Building width	40m maximum fronting the street	50m	No However, building is well articulated & meets objectives of the DCP.
3.5 Setback			
Front	Minimum 7.5m	7.5m to Mowbray Road	Yes
Side	6m up to 4 storeys 9m above 4 storeys	6m to the east and west boundary 9m to the east and west boundary	Yes Yes
Rear	6m 9m above 4 storeys	6m 18.8m	Yes Yes
3.5.3 Parking Podium Height	1.2m (max)	Nil	Yes
Height adjoining front boundary	1.2m (max)	Nil	Yes
Height adjoining east boundary	1.2m (Max)	Nil	Yes
Height adjoining west boundary	1.2m (max)	Nil	Yes
Height adjoining rear boundary			
3.6 Building separation within development	12m between 4 storey buildings and 18m between 5 storey buildings	Not applicable as the proposed development is a single building on the site.	N/A
3.7 Design of roof top area	Detailed landscape plan required	Provided	Yes
3.8 Size of dwellings	Minimum 40m ²	41m ²	Yes
3.9 Private open	Primary balconies -	Balconies meet the	Yes

Clause	Requirement	Proposed	Complies/ Comment
space	10m ² with minimum depth 2m Primary terrace- 16m ² with minimum depth 4m	minimum size requirement. Private terraces meet minimum dimensions	Yes
3.10 Number of car parking, motorcycle and bicycle spaces	3xstudio = 1.5 car spaces (0.5x3) 18x1 bedroom dwellings = 18 car spaces (1x18) 35x2bedroom =52.5 car spaces(35x1.5) 6x 3 bedroom dwellings = 12 car spaces (2x6) Visitor 1 per 4 dwellings = 15.5 car spaces (62/4) Required car parking 99.5 = 100 car spaces 1 motor cycle space per 25 car spaces 4 spaces required (100/25) 1 bike locker per 10 dwellings (6 lockers required) Bike rails – 5 (1 per 12 dwellings)	100 car spaces proposed 4 motor cycle spaces provided 6 lockers on the Garden Level 6 rails proposed on Garden Level	Yes Yes Yes Yes
3.11 Ceiling heights	Minimum 2.7m	2.7m	Yes
3.12 Storage	6m ³ per 1 bedroom dwelling 8m ³ per 2 bedroom dwelling 10m ³ per 3 bedroom dwelling Total = 448m ³ 50% of the storage	8m ³ storage is proposed for each of the studios, 1 bedroom & 2 bedroom dwellings. 10m ³ storage is proposed for each of all 3 bedroom dwellings The internal space of	Yes Yes Yes

Clause	Requirement	Proposed	Complies/ Comment
	volume to be within the dwelling	the dwellings would be sufficient to meet the requirements of storage volume	
3.13 Solar access	Living rooms and private open spaces of 70% of the units to receive 3 hours of direct sunlight between 9am – 3pm on 21 June Maximum 10% dwellings with a southerly aspect	73% of the dwellings would receive less than 3 hours solar access (45 dwellings) 10% dwellings with southerly aspect (6 dwellings)	Yes Yes
3.14 Natural ventilation	Minimum 60% of the dwellings should have cross ventilation. Minimum 25% of kitchens have access to natural ventilation	65% (40 dwellings) More than 25% kitchens have access to natural ventilation	Yes Yes
3.15 Visual privacy	Provide visual privacy between the adjoining properties	Planter boxes have been provided to the perimeter of the roof top terraces. Substantial trees are to be retained at the rear of the site and setbacks comply with the DCP.	Yes
3.16 Communal open space	Minimum 25%	28% provided	Yes
3.17 Landscaped area	25% provided at ground level and up to 15% provided on structures	28% provided at the ground level and 15% on the elevated private terraces at the rear of the building	Yes

Part F - Access and Mobility

DCP	Proposed	Complies/ Comment
Adaptable housing to be provided at the rate of 1 dwelling per 5 dwellings (20%)	A mix of 13 (20%) adaptable dwellings provided	Yes

DCP	Proposed	Complies/ Comment
(13 dwellings required)		
Provide 1 accessible parking space for each adaptable housing unit (13 spaces required)	14 accessible parking spaces provided (13 spaces for the adaptable dwellings and 1 space for the visitors)	Yes

Note: The applicant has also agreed to provide additional planter boxes on the top level at the western edges to address the over looking impact to 552 Mowbray Road, Lane Cove North.

REFERRALS:

Building Surveyor

Council's Building Surveyor has reviewed the proposal and advised that the proposed development may be constructed to generally comply with the DTS provisions of the BCA without major design modification.

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

The building surveyor has endorsed the proposal and draft conditions have been provided in the event that the application is supported.

Manager Community Service

The Community Development Officer has reviewed the proposal and advised that the proposed development complies with the requirements of Part F – Access and Mobility of the Lane Cove DCP and has endorsed the application.

Manager Environmental Health

The environmental health manager has endorsed the application and provided draft conditions if the application is to be approved. It is noted that the applicant has provided garbage chutes in the development, compactor rooms and on site collection for garbage.

Manager Urban Design and Assets

The proposal was referred to Council's development engineer for assessment. The engineer has advised that the proposed stormwater system requires the creation of a private drainage easement to burden 56 Gordon Crescent, Lane Cove North. The applicant has provided Council with an option contract to acquire the property as proof that the easement is achievable. As the purchase of the subject property has not reached a settlement and settlement is not guaranteed. A deferred commencement is suggested to expedite the application if the application is to be approved.

A draft condition of deferred commencement consent would require documentary evidence regarding the creation the easement over Lot 6 DP27911 in favour of Lots 6,7,8,9 DP 10892.

Manager Open Space

The tree preservation officer has reviewed the proposal and has advised:

“The proposed development necessitates the removal of 8 trees with 2 mature existing trees having been designated for retention. The arborist report considers transplanting of one semi-mature Bullbay Magnolia. However the transplanting of this tree is not practical. The tree is currently growing in a position where the root system would have developed according to the existing adjacent infrastructure and the root system would not be reliable or suitable for transplanting.

The proposed Landscape concept plan incorporates a number of locally indigenous tree species with the main feature trees at the front of the property being Red Bloodwood. The landscape plan compiled by Iscape Landscape Architecture dated October 2010 should be adopted as part of the development consent.

I have concerns about the proximity of landscape works to the Lemon Scented gum and the Flooded gum tree located at the rear of the site designated for retention. This work should be supervised by the site arborist who must ensure the landscape works do not damage the above and/or below ground parts of the two trees.

The site arborist has calculated tree protection zones for the two trees to be retained and these setback distances and tree protection measures will be conditioned. The 3 Bottlebrush street trees must be retained and protected for the duration of the proposed development.”

The tree preservation officer has endorsed the application and provided draft conditions if the application is approved.

Traffic Engineer

Council's traffic manager has reviewed the application and traffic study submitted. The traffic manager has endorsed the application. Draft conditions have provided in the event if the application is approve.

Rural Fire Service (RFS)

The site is located within Bush Fire Prone Land and the application was referred to NSW Rural Fire Service in accordance with Section 79BA of the Environmental Planning and Assessment Act 1979.

The RFS advised Council on 22 November 2010 that the service was not in a position to properly assess the application as submitted on the basis of the information provided. They required the following additional information 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 Department of Planning and Council are currently undertaking the required traffic study for the area. However, the study has not been completed.

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (SEPP 65) (Section 79C (1) (a))

Part 2 of SEPP 65 sets out ten design quality principles as a guide to assess a residential flat development. The 'Residential Flat Design Code' (The Code) is referred to as an accepted guide as to how the principles are to be achieved.

Council's consulting architect has assessed the application and advised that the proposed design complies with all of the ten design principles. The architect has advised that the amenity and accessibility issues in this proposal have been well handled and the objectives of the principles of good design have been met.

State Environmental Planning Policy (Building Sustainability Index) 2004

A BASIX report has been submitted along with the application. 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 the Principal Certifier Authority prior to issue of the Final Occupation Certificate.

Lane Cove Local Environmental Plan 2009

Clause 2.2 - Zoning

The subject site is zoned R4 – High Density Residential under the provisions of the LEP. The proposed development meets the zone objectives and is permitted with development consent.

In particular, the development seeks to provide for the housing needs of the community within a high density residential environment and provides a variety of housing types.

The issue of site isolation is discussed later in this report, as is neighbour amenity. A number of substantial trees on the site are proposed to be retained and the landscape plan proposed has been endorsed by Council's Tree Preservation Officer.

Clause 4.3 - Height of Buildings

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

The original proposal exceeded the building height standard of the LEP by approximately 2.6m. The non-compliance section was located in the centre of the building and has been addressed by amended plans. The amended proposal complies with the building height standard of the LEP.

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 1.86:1 which is well below the maximum permissible.

OTHER PLANNING INSTRUMENTS

Lane Cove Development Control Plan

The preceding DCP assessment table identifies those controls that the proposal does not comply with. Each departure is discussed below:

Site amalgamation

The objectives of Part B.3 of the DCP encourage site consolidation of allotments for development in order to promote the desired urban design outcomes and the efficient use of land and to avoid the creation of isolated sites. An objective of the LEP is also to avoid the creation of isolated sites.

The following provisions in the DCP have been enforced to avoid the creation of isolated sites:

- a) *Development for the purpose of residential flat buildings and high density housing should not result in the isolation of sites such that they cannot be developed in compliance with the relevant planning controls, including Lane Cove LEP 2009 and this DCP.*
- b) *Where a property is likely to be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.*
- c) *Where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. Council will require appropriate documentary evidence to demonstrate that a genuine and reasonable attempt has been made to purchase an isolated site based on a fair market value. At least one recent independent valuation is to be submitted as part of that evidence and is to account for reasonable expenses likely to be incurred by the owner of the isolated site in the sale of the property.*
- d) *The level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.*
- e) *Where amalgamation of the isolated site is not feasible, the applicant will be required to demonstrate that an orderly and economic use and development of the separate site can be achieved as part of their Development Application.*

A dwelling house is located at 552 Mowbray Road between two proposed residential flat building developments at the subject site and 554-560 Mowbray Road. The development application at 554 -560 Mowbray Road was lodged with Council in September 2010 and the current application was lodged in October 2010. The site area of 552 Mowbray Road is less than 1500m² which would not meet the minimum site area requirement for a residential flat building development.

The applicant has submitted detailed documentary evidence demonstrating their negotiations with the owners of 552 Mowbray Road for their acquisition of the property. The documentary evidence includes:

- Two independent valuations dated September 2010.
- A copy of the email from the real estate agent to the owner of 552 Mowbray Road dated 30 April 2010.

- A copy of the letter from Hycorp sent to the owner of 552 Mowbray Road via registered post, dated 26 May 2010. The letter had included the developer's proposed acquisition price.
- A copy of a letter to the owners of 552 Mowbray Road, Lane Cove North from Hycorp inviting neighbouring residents to a community consultation.
- The negotiation was not successful due to an agreed price not being reached.

The statement of environmental effects accompanying the application states that the site at 552 Mowbray Road has a 15m frontage to Mowbray Road and an area of 685m². It could be developed for variety of viable uses, e.g. boarding house, childcare centre, neighbourhood shops and shop top housing.

Officer's comment:

The applicant has provided evidence satisfying that a genuine and reasonable attempt had been made to purchase the adjoining site based at a fair market value prior to the lodgement of the development application.

The land use table of the LEP lists the other permissible uses which do not require a minimum site area requirements for the adjoining site in R4 zone including:

Bed and breakfast accommodation; Boarding houses; Child care centres; Community facilities; Earthworks; Exhibition homes; Home businesses; Home industries; Neighbourhood shops; Places of public worship; and Shop top housing.

A limited opportunity also remains for an amalgamation of this property with the sites to the rear.

The application meets the provisions of the DCP.

Building length and width

The DCP states that the maximum overall width of the building fronting the street should not exceed 40m and the maximum depth should not exceed 18. The proposal seeks to amalgamate and develop 4 sites, having a total frontage to Mowbray Road of 60.96m. The proposed building width/frontage is 50m. The façade to Mowbray Road is broken into 3 sections which modulates the façade and decreases the visual bulk of the building.

It is considered that the design of the proposed building meets the objective of the DCP and is acceptable.

Building depth

The DCP states that the maximum overall depth of the building should not exceed 18m. The proposed building depth is 32m.

The objectives of the DCP were set to ensure that the bulk and the scale of residential flat building development is consistent with the desired context and provides adequate amenity for building occupants in terms of sun access, daylight and natural ventilation.

The side elevations of the proposed building have been broken to into two sections on each side and the proposed building meets all requirements of SEPP 65, including energy efficiency.

It is considered that the proposed building meets the building depth objectives of the DCP and the variation is supported.

Section 94 Contribution Plan

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

The Section 94 contribution is calculated in the following manner:

The population of the existing dwelling houses:

Property address	No. of bedrooms	Average occupation rate (persons/dwelling)
544 Mowbray Road	3	2.8
546 Mowbray Road	3	2.8
548 Mowbray Road	3	2.8
550 Mowbray Road	3	2.8
Total existing population		11.2

The development as proposed requires the following Section 94 Contribution.

No. of bedrooms	Average occupation rate	Population
3 x Studio	1.2	3x1.2=3.6
18 x 1 bedroom	1.2	18x1.2=21.6
35 x 2 bedroom	1.9	35x1.9=66.5
6 x 3 bedroom	2.4	6x2.4=14.4
Total proposed population		106.1

The Section 94 contribution applicable is for 94.9 persons (106.1-11.2) at the current rate of \$8595.00/person is therefore \$815,665.50 (or \$13,155.90 per dwelling). The required Section 94 contribution is less than \$20,000 per dwelling and it would not exceed the cap of the Reforms of the Local Development Contributions.

Note: The Section 94 Contribution will be required and conditioned according by if the application is approved.

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

The proposed development would likely in the short term impact on the residential amenity of the locality. However, the proposal would be in accordance with the emerging scale and future character of the area.

Privacy

The privacy of the adjoining properties has been addressed by the design. Louvers are included to all balconies on the east and west elevations. Planter boxes are proposed to the eastern and western edges of the roof top terraces to reduce the overlooking impact to the adjoining properties.

Given the proposed building meets the side setback requirements, any future proposed residential flat building adjacent to the site (on eastern side) would be able to achieve a minimum of 12m separation between two residential flat buildings.

Overshadowing

The proposed building would not adversely affect the solar access to the dwelling house at 552 Mowbray Road. However, it would have an over shadowing impact to the rear yards and the north facing windows of the properties to the south of the site in Gordon Crescent. The building complies with the rear boundary setback of 6m. The over shadowing is a result mainly of the topography and orientation of the sites, which feature a fall from north to south. The development of any residential flat buildings complying with the LEP and DCP, would likely impact on solar access to similarly located blocks.

Impact of traffic

The traffic study submitted with the development application stated that overall the proposal would result in an increase of approximately 28 peak hour vehicle trips over the existing circumstance with minimum impact on the surrounding road network or nearby intersections and junctions. Traffic generation would have no significant impact on the amenity of the local street system. Council's traffic engineer did not raised objections to the traffic study submitted by the applicant.

Parking

100 car spaces including 14 accessible spaces would be provided on site for the proposed building. The parking provision meets the parking requirements of the DCP and is considered acceptable.

Trees

The proposed building has been designed to retain two significant existing trees on the site. Additional setbacks are proposed to the centre of the building for the retention of two gum trees located at the rear of the site. The site arborist calculated the tree protection zones for the tree retention and Council Tree Preservation Officer has endorsed the tree assessment report and provided draft conditions for the retention of these trees.

Views and Vistas

The proposed development would have no impact on the view to the bushland reserve enjoyed by occupants on the southern side of Mowbray Road and Gordon Crescent. However, it would obstruct the southern views currently enjoyed by occupants of the four dwelling houses at 577-583, on the northern side of Mowbray Road. The loss of view impact is considered unavoidable because the LEP has rezoned the area for high density residential developments which would change the character of the existing streetscape.

Social and Economic Impacts

The proposed development comprises 62 dwellings mixed of studio, 1 bedroom, 2 bedroom and 3 bedroom dwellings. It would contribute to housing choice and promote local economy in the Lane Cove Local Government 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 the objectives of the LEP, 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 and raises no objection to the proposed land use or density.

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

The application was notified in accordance with Council's notification policy. 7 submissions were 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 must be considered under the provisions of Lane Cove Local Environmental Plan 2009 and the requirements of Council's Development Control Plan. The land has been rezoned to R4 high density, and the application must be assessed against current criteria.

- 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:

See comment above. The subject site is zoned 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. It is agreed that there is limited access to shops in the immediate area. The area is relatively close to Lane Cove and Chatswood Shopping areas; however access would depend upon the use of private and public transport.

- 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. 100 car spaces in total have been provided for the proposal, including visitor parking at the required rate.

- Increase in local traffic. The traffic impacts would be exacerbated due to the inadequacy of the existing Public Transport for commuters to the city.

Officer's comment:

It is agreed that the proposal would result in an increase in traffic flows. All access to and from the site is via a driveway located on the eastern side of the property onto Mowbray Road. Council's Traffic Engineer has considered the traffic study submitted with the application and is of the view that the proposed development is within the capacity standards for the existing road system.

Public transport infrastructure is limited to buses, which residents in their objections consider an inadequate service. 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 remains valid in relation to the 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.

- 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 traffic impacts and evacuation of development in the area as required by the RFS in consideration of the impact of traffic and people in a fire event.

- 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 by the proposed development. Council's Tree Preservation Officer has not raised objection to the proposal.

- Isolation of a site.

Officer's comment:

This issue has been discussed previously in the previous sections of the report.

- Non-compliance with the development standards of the LEP

Officer's comment:

It is agreed that the original proposed development did not comply with the building height provision of LEP 2009. However, the proposal was amended to comply.

- Removal of dangerous material such as asbestos.

Officer's comment:

The removal of asbestos shall be carried out in accordance with Work Cover requirements, if the application was approved.

- Rear boundary fence

Officer's comment:

The owners of 62 Gordon Crescent in their submission requested a 2m high solid boundary fence/wall be erected between the site and their property on the developer's expense. The cost of the erection of a boundary fence is a private matter between property owners. The height and the building materials of the rear boundary fences are not specified on the plans. Council approval would be required for the erection of such a fence if it was of masonry construction.

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

The proposed development meets the provisions of Lane Cove Council's Local Environmental Plan 2009 and the requirements of the Development Control Plan. The proposed development would not create major environmental impacts subject to the concerns and requirements of the 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 have been considered and are considered to be adequate and satisfactory with the exception of the requirements of NSW Rural Fire Service being met.

The amended proposal has been designed to comply with the provisions of Lane Cove Local Environmental Plan 2009 and the requirements of Lane Cove 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 issues in relation to 552 Mowbray Road have been addressed in the report.

The proposed development meets the objectives of Lane Cove LEP 2009 and the DCP. However, in view of the requirement of the Rural Fire Service to be provided with a Traffic Study which demonstrates that the surrounding road infrastructure can support the increase in population density of the area, particularly in times of bushfire emergency, the proposal, which otherwise is supported, is not 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 10/246 for the demolition of existing four dwelling houses and construction of a four storey residential flat building with 62 dwellings and associated basement parking on Lot 9,8, 7 and 6 in DP 10892 and is known as 544-550 Mowbray Road, Lane Cove for the following reasons:

1. The Rural Fire Service has declined to assess and endorse the 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.