

# MINUTES OF THE SYDNEY EAST REGION JOINT REGIONAL PLANNING PANEL MEETING HELD AT LANE COVE COUNCIL ON WEDNESDAY, 18 MAY 2011 AT 5.00PM

## PRESENT:

John Roseth	Chair
David Furlong	Panel Member
Tim Moore	Panel Member
Win Gaffney	Panel Member
Michael Mason	Panel Member

## IN ATTENDANCE

Rajiv Shankar	Lane Cove Council
May Li	Lane Cove Council

## APOLOGY: NIL

1. The meeting commenced at 5.00pm

## 2. Declarations of Interest -

Nil

## 3. Business Items

***ITEM 1 - 2010SYE108 - Lane Cove - DA10/290 - Demolition of 5 dwelling houses and the erection of a 4-5 storey residential flat building containing 60 dwellings - 31-39 Mindarie Street Lane Cove***

## 4. Public Submission -

Frances Vissel	Addressed the panel <b>against</b> the item
Kylie Bryden-Smith	Addressed the panel <b>against</b> the item
Brian McDonald	Addressed the panel <b>against</b> the item
Tony Butteriss, Director Lane Cove Bush Regeneration Co-op	Addressed the panel <b>against</b> the item
Anne Clements, from Anne Clements & Associate, Senior Ecologist	Addressed the panel <b>against</b> the item
Mr Tony Jreige of Urban Link Pty Ltd	Addressed the panel <b>against</b> the item
Councillor Pam Palmer	Addressed the panel <b>against</b> the item
David Wolski	Addressed the panel on behalf of the applicant
Sonny Ooi	Addressed the panel on behalf of the applicant
Thomas O'Dwyer	Addressed the panel on behalf of the applicant

## 5. Business Item Recommendations

**2010SYE108 - Lane Cove - DA10/290 - Demolition of 5 dwelling houses and the erection of a 4-5 storey residential flat building containing 60 dwellings - 31-39 Mindarie Street Lane**

1. The Panel unanimously accepts the recommendation of the planning assessment report to refuse the application on the grounds that there is no expert opinion before it that provides satisfaction that the roads in the Mowbray Road Precinct are adequate to cope with likely evacuation traffic in a bush fire emergency. The events that led to this decision are as follows.
2. The Mowbray Road Precinct was rezoned to R4 high density residential in 2009. The zone allows a FSR of 2.1:1. It is a bushfire-prone area.
3. When council received the first application for the Mowbray Road Precinct, it referred it to the Rural Fire Service. The Service responded that it *“notes that this development is part of a rezoning precinct which will increase the population density of the area. The 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.”* In response to the Service's comment, a report *Lane Cove Bushfire Accessibility* was commissioned from independent consultants.
4. The report *Lane Cove Bushfire Accessibility* was completed in March 2011. The report found that the local roads in the area have lesser carriageway widths than required by the Rural Fire Service's publication *Planning for Bushfire Protection 2006*. However, the report also found that the roads could accommodate small and medium rigid truck fire fighting vehicles. The consultants suggested various ways for improving the traffic flow, including meeting all parking needs within the development sites, restricting parking to one side of several streets (where this is not already the case), and increase road widths over time. The report also commented that *the time taken to evacuate motorists from the precinct during a fire event is likely to be greater under a higher density residential situation than under the current low density situation by virtue of the increased vehicle generation.*
5. The council has not investigated or resolved to undertake any of the improvements suggested by the report, such as additional restrictions on parking or widening of roads. As for meeting all parking needs within development sites, the council's parking code, like all other such codes, relies on most visitors (and possibly some residents) parking in the surrounding streets. To meet all parking needs, on-site parking would have to be

substantially increased to a level that yet needs to be determined by research. The report is unclear about the impact of redevelopment on traffic in the Precinct in case its suggestions for improvements are not implemented.

6. The Rural Fire Service has received the report *Lane Cove Bushfire Accessibility*. In a letter of 10 May 2011 it states that it accepts *that the report has been completed by traffic experts and therefore accepts their findings and recommendations within that context. This is predicated on the appropriateness of all inputs used and assumptions made, as well as the report's addressing all heads of consideration given by the Joint Regional Planning Panel (JRPP)*. Further, the Service states that it does not consider itself to be an expert authority on traffic and roads. The Service has not commented directly on the subject application.
7. On the question of the Rural Fire Service's position in case on-site parking is not increased and/or on-street parking is not prohibited, it states that *then the report's conclusions would be considered to be out of context and a reassessment of the existing road network's ability to adequately cater for fire access and evacuating traffic would need to be undertaken and provided for review and approval*.
8. Given the fact that the Service has not commented directly on the application (other than to say that it endorses the report *Lane Cove Bushfire Accessibility*), the Panel has no alternative but to base its decision on the report *Lane Cove Bushfire Accessibility*. For the reasons mentioned above, the report does not provide confidence that, in the absence of the improvement measures it suggests, the existing road network is able to adequately cater for fire access and evacuating traffic in a bushfire emergency.
9. The Panel is aware that refusal of the application involves a degree of unfairness towards the applicant. Applicants are generally entitled to assume that, when land is zoned for a certain development potential, that potential, or something near it, is achievable. However, when faced with the choice between a decision that is unfair to the applicant and one that may lead to unsafe conditions in bushfire emergencies, the Panel has opted for the former.
10. The above reasoning applies to the whole of the Mowbray Road Precinct and therefore to other applications within it. It may be that developments that have vehicular access only from Mowbray Road do not add to traffic problems in emergencies. It may be also that pedestrian evacuation from sites that have a boundary to Mowbray Road is adequate in a bushfire emergency. There is no expert opinion before the Panel on this question.

11. The Panel notes that the council's website indicates that the council has met with the Department of Planning on 12 April 2011 to request that the Department undertake a second more comprehensive traffic study and that at the meeting it was agreed that the report *Lane Cove Bushfire Accessibility* has raised significant issues, the implications of which should now be examined in detail jointly by the Department and Council. It was further agreed that the council has a responsibility to facilitate the assessment of DAs lodged under the current LEP controls, and that council's resolution of 6 December 2010 to rezone the precinct to lower density is a separate process from the DA assessment and related traffic study.
12. In order to approve development within the Mowbray Road Precinct, the Panel needs credible independent expert opinion that provides confidence that the roads in the Precinct are adequate to cope with likely evacuation traffic in a bush fire emergency after the Precinct is developed under the current zoning. The second more comprehensive traffic study referred to on the council's website may provide the Panel with this confidence.
13. The Panel notes that some of the objectors have commented on the impact of the proposal on the fauna and flora of Batten Reserve. Now that this issue has been raised, it will need comment from the planning assessment officer before any future applications are determined.

## 6. Business Items

***ITEM 2 - 2010SYE071 - Lane Cove - DA10/200 - 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***

## 7. Public Submission -

Clinton Downs	Addressed the panel <b>against</b> the item
Josephine Tucker	Addressed the panel <b>against</b> the item
Kylie Bryden-Smith	Addressed the panel <b>against</b> the item
Brian McDonald	Addressed the panel <b>against</b> the item
Tony Butteriss, Director Lane Cove Bush Regeneration Co-op	Addressed the panel <b>against</b> the item
Anne Clements, from Anne Clements & Associate, Senior Ecologist	Addressed the panel <b>against</b> the item
Theresa Cox	Addressed the panel <b>against</b> the item
Francis Vissel	Addressed the panel <b>against</b> the item
Nick Stevenson	Addressed the panel <b>against</b> the item
Councillor Pam Palmer	Addressed the panel <b>against</b> the item

Leah Thomas	Addressed the panel <b>for</b> the item
Mr Tony Jreige of Urban Link Pty Ltd	Addressed the panel on behalf of the applicant

## 8. Business Item Recommendations

### **2010SYE071 - Lane Cove - DA10/200 - 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**

1. The Panel unanimously accepts the recommendation of the planning assessment report to refuse the application on the grounds that there is no expert opinion before it that provides satisfaction that the roads in the Mowbray Road Precinct are adequate to cope with likely evacuation traffic in a bush fire emergency. The events that led to this decision are as follows.
2. The Mowbray Road Precinct was rezoned to R4 high density residential in 2009. The zone allows a FSR of 2.1:1. It is a bushfire-prone area.
3. When council received the subject application, it referred it to the Rural Fire Service. The Service responded that it *“notes that this development is part of a rezoning precinct which will increase the population density of the area. The 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.”* In response to the Service’s comment, a report *Lane Cove Bushfire Accessibility* was commissioned from independent consultants.
4. The Panel first considered the subject application on 10 February 2011. As the planning assessment report found the proposal acceptable on all aspects except the capacity of the roads in the Precinct to cope with bushfire emergency, the Panel resolved that it would approve the application provided certain design changes were made and provided the Rural Fire Service indicates that it is satisfied with the application. The applicant undertook the required design changes to the satisfaction of the council’s assessment officer.
5. The report *Lane Cove Bushfire Accessibility* was completed in March 2011. The report found that the local roads in the area have lesser carriageway widths than required by the Rural Fire Service’s publication *Planning for Bushfire Protection 2006*. However, the report also found that the roads could accommodate small and medium rigid truck fire fighting vehicles. The consultants suggested various ways for improving the traffic flow, including meeting all parking needs within the development sites, restricting parking to one side of

several streets (where this is not already the case), and increase road widths over time. The report also commented that *the time taken to evacuate motorists from the precinct during a fire event is likely to be greater under a higher density residential situation than under the current low density situation by virtue of the increased vehicle generation.*

6. The council has not investigated or resolved to undertake any of the improvements suggested by the report, such as additional restrictions on parking or widening of roads. As for meeting all parking needs within development sites, the council's parking code, like all other such codes, relies on most visitors (and possibly some residents) parking in the surrounding streets. To meet all parking needs, on-site parking would have to be substantially increased to a level that yet needs to be determined by research. The report is unclear about the impact of redevelopment on traffic in the Precinct in case its suggestions for improvements are not implemented.
7. The Rural Fire Service has received the report *Lane Cove Bushfire Accessibility*. In a letter of 10 May 2011 it states that it accepts *that the report has been completed by traffic experts and therefore accepts their findings and recommendations within that context. This is predicated on the appropriateness of all inputs used and assumptions made, as well as the report's addressing all heads of consideration given by the Joint Regional Planning Panel (JRPP)*. Further, the Service states that it does not consider itself to be an expert authority on traffic and roads. The Service has not commented directly on the subject application.
8. On the question of the Rural Fire Service's position in case on-site parking is not increased and/or on-street parking is not prohibited, it states that *then the report's conclusions would be considered to be out of context and a reassessment of the existing road network's ability to adequately cater for fire access and evacuating traffic would need to be undertaken and provided for review and approval.*
9. Given the Panel's resolution of 10 February 2011 that, for approval, it requires the Rural Fire Service to be satisfied with the application, and given the fact that the Service has not commented directly on the application, the Panel has no alternative but to base its decision on the report *Lane Cove Bushfire Accessibility*. For the reasons mentioned above, the report does not provide confidence that, in the absence of the improvement measures it suggests, the existing road network is able to adequately cater for fire access and evacuating traffic in a bushfire emergency.
10. The Panel is aware that refusal of the application involves a degree of unfairness towards the applicant. Applicants are generally entitled to assume that, when land is zoned for a

certain development potential, that potential, or something near it, is achievable. However, when faced with the choice between a decision that is unfair to the applicant and one that may lead to unsafe conditions in bushfire emergencies, the Panel has opted for the former.

11. The above reasoning applies to the whole of the Mowbray Road Precinct and therefore to other applications within it. It may be that developments that have vehicular access only from Mowbray Road (unlike the subject application, which has access from Gordon Crescent) do not add to traffic problems in emergencies. It may be also that pedestrian evacuation from sites that have a boundary to Mowbray Road is adequate in a bushfire emergency. There is no expert opinion before the Panel on this question.
12. The Panel notes that the council's website indicates that the council has met with the Department of Planning on 12 April 2011 to request that the Department undertake a second more comprehensive traffic study and that at the meeting it was agreed that the report *Lane Cove Bushfire Accessibility* has raised significant issues, the implications of which should now be examined in detail jointly by the Department and Council. It was further agreed that the council has a responsibility to facilitate the assessment of DAs lodged under the current LEP controls, and that council's resolution of 6 December 2010 to rezone the precinct to lower density is a separate process from the DA assessment and related traffic study.
13. In order to approve development within the Mowbray Road Precinct, the Panel needs credible independent expert opinion that provides confidence that the roads in the Precinct are adequate to cope with likely evacuation traffic in a bush fire emergency after the Precinct is developed under the current zoning. The second more comprehensive traffic study referred to on the council's website may provide the Panel with this confidence.
14. The Panel notes that some of the objectors have commented on the impact of the proposal on the fauna and flora of Batten Reserve. Now that this issue has been raised, it will need comment from the planning assessment officer before any future applications are determined.

## 9. Business Items

***ITEM 3 - 2010SYE074 - Lane Cove - DA10/198 - Demolition of 4 dwelling houses and erection of a 4 storey residential flat building containing 58 dwellings and basement parking - 554 -560 Mowbray Road, Lane Cove***

## 10. Public Submission -

Kylie Bryden-Smith  
Brian McDonald

Addressed the panel **against** the item  
Addressed the panel **against** the item

Tony Butteriss, Director Lane Cove Bush Regeneration Co-op	Addressed the panel <b>against</b> the item
Anne Clements, from Anne Clements & Associate, Senior Ecologist	Addressed the panel <b>against</b> the item
Francis Vissel	Addressed the panel <b>against</b> the item
Councillor Pam Palmer	Addressed the panel <b>against</b> the item
Kenta Kamiya	Addressed the panel <b>for</b> the item
Leah Thomas	Addressed the panel <b>for</b> the item
David Wolski	Addressed the panel on behalf of the applicant
Sonny Ooi	Addressed the panel on behalf of the applicant
Thomas O'Dwyer	Addressed the panel on behalf of the applicant

## 11. Business Item Recommendations

### ***2010SYE074 - Lane Cove - DA10/198 - Demolition of 4 dwelling houses and erection of a 4 storey residential flat building containing 58 dwellings and basement parking - 554 -560 Mowbray Road, Lane Cove***

1. The Panel unanimously accepts the recommendation of the planning assessment report to refuse the application on the grounds that there is no expert opinion before it that provides satisfaction that the roads in the Mowbray Road Precinct are adequate to cope with likely evacuation traffic in a bush fire emergency. The events that led to this decision are as follows.
2. The Mowbray Road Precinct was rezoned to R4 high density residential in 2009. The zone allows a FSR of 2.1:1. It is a bushfire-prone area.
3. When council received the subject application, it referred it to the Rural Fire Service. The Service responded that it *"notes that this development is part of a rezoning precinct which will increase the population density of the area. The 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."* In response to the Service's comment, a report *Lane Cove Bushfire Accessibility* was commissioned from independent consultants.
4. The Panel first considered the subject application on 10 February 2011. As the planning assessment report found the proposal acceptable on all aspects except the capacity of the roads in the Precinct to cope with bushfire emergency, the Panel resolved that it would approve the application provided the Rural Fire Service indicates that it is satisfied with the application.



5. The report *Lane Cove Bushfire Accessibility* was completed in March 2011. The report found that the local roads in the area have lesser carriageway widths than required by the Rural Fire Service's publication *Planning for Bushfire Protection 2006*. However, the report also found that the roads could accommodate small and medium rigid truck fire fighting vehicles. The consultants suggested various ways for improving the traffic flow, including meeting all parking needs within the development sites, restricting parking to one side of several streets (where this is not already the case), and increase road widths over time. The report also commented that *the time taken to evacuate motorists from the precinct during a fire event is likely to be greater under a higher density residential situation than under the current low density situation by virtue of the increased vehicle generation*.
6. The council has not investigated or resolved to undertake any of the improvements suggested by the report, such as additional restrictions on parking or widening of roads. As for meeting all parking needs within development sites, the council's parking code, like all other such codes, relies on most visitors (and possibly some residents) parking in the surrounding streets. To meet all parking needs, on-site parking would have to be substantially increased to a level that yet needs to be determined by research. The report is unclear about the impact of redevelopment on traffic in the Precinct in case its suggestions for improvements are not implemented.
7. The Rural Fire Service has received the report *Lane Cove Bushfire Accessibility*. In a letter of 10 May 2011 it states that it accepts *that the report has been completed by traffic experts and therefore accepts their findings and recommendations within that context. This is predicated on the appropriateness of all inputs used and assumptions made, as well as the report's addressing all heads of consideration given by the Joint Regional Planning Panel (JRPP)*. Further, the Service states that it does not consider itself to be an expert authority on traffic and roads. The Service has not commented directly on the subject application.
8. On the question of the Rural Fire Service's position in case on-site parking is not increased and/or on-street parking is not prohibited, it states that *then the report's conclusions would be considered to be out of context and a reassessment of the existing road network's ability to adequately cater for fire access and evacuating traffic would need to be undertaken and provided for review and approval*.
9. Given the Panel's resolution of 10 February 2011 that, for approval, it requires the Rural Fire Service to be satisfied with the application, and given the fact that the Service has not commented directly on the application, the Panel has no alternative but to base its decision on the report *Lane Cove Bushfire Accessibility*. For the reasons mentioned above, the

report does not provide confidence that, in the absence of the improvement measures it suggests, the existing road network is able to adequately cater for fire access and evacuating traffic in a bushfire emergency.

10. The Panel is aware that refusal of the application involves a degree of unfairness towards the applicant. Applicants are generally entitled to assume that, when land is zoned for a certain development potential, that potential, or something near it, is achievable. However, when faced with the choice between a decision that is unfair to the applicant and one that may lead to unsafe conditions in bushfire emergencies, the Panel has opted for the former.
11. The above reasoning applies to the whole of the Mowbray Road Precinct and therefore to other applications within it. It may be that developments that have vehicular access only from Mowbray Road do not add to traffic problems in emergencies. It may be also that pedestrian evacuation from sites that have a boundary to Mowbray Road is adequate in a bushfire emergency. There is no expert opinion before the Panel on this question.
12. The Panel notes that the council's website indicates that the council has met with the Department of Planning on 12 April 2011 to request that the Department undertake a second more comprehensive traffic study and that at the meeting it was agreed that the report *Lane Cove Bushfire Accessibility* has raised significant issues, the implications of which should now be examined in detail jointly by the Department and Council. It was further agreed that the council has a responsibility to facilitate the assessment of DAs lodged under the current LEP controls, and that council's resolution of 6 December 2010 to rezone the precinct to lower density is a separate process from the DA assessment and related traffic study.
13. In order to approve development within the Mowbray Road Precinct, the Panel needs credible independent expert opinion that provides confidence that the roads in the Precinct are adequate to cope with likely evacuation traffic in a bush fire emergency after the Precinct is developed under the current zoning. The second more comprehensive traffic study referred to on the council's website may provide the Panel with this confidence.
14. The Panel notes that some of the objectors have commented on the impact of the proposal on the fauna and flora of Batten Reserve. Now that this issue has been raised, it will need comment from the planning assessment officer before any future applications are determined.

The meeting concluded at 7.15pm

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Endorsed by

John Roseth  
Chair, Sydney East  
Joint Regional Planning Panel  
18 May 2011