

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

Property: 76-82 Gordon Crescent, Lane Cove North

DA No: DA 11/79 (2011SYE061)

Date Lodged: 20 May 2011

Cost of Work: \$11,500,000.00

Owner: Hyecorp Property Fund No 8 Pty Limited

Applicant: Hyecorp Property Group

DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION	Demolition of 4 existing dwelling houses and construction of a residential flat building comprising 48 dwellings and basement car park for 72 cars
ZONE	R4 – High Density Residential The site is also partly affected by a riparian zone.
IS THE PROPOSAL PERMISSIBLE WITHIN THE ZONE?	Yes
IS THE PROPERTY A HERITAGE ITEM?	No
IS THE PROPERTY WITHIN A CONSERVATION AREA?	No
DOES THE PROPERTY ADJOIN BUSHLAND?	No, However is opposite Batten Reserve.
BCA CLASSIFICATION	Class 2, 7a & 10b
STOP THE CLOCK USED	Yes – 79 days
NOTIFICATION	Neighbours: 512-538 Mowbray Road, 66-74 and 84-96 Gordon Crescent, Lane Cove North Ward Councillors: Councillor Gaffney, Longbottom, & McIlroy Progress Association: Stringybark Creek Residents Association, Lane Cove Bushland and Conservation Society.

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

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

because the proposed development has a capital investment value of greater than \$10 million and the application was lodged prior to 16 June 2011.

EXECUTIVE SUMMARY

The proposed development involves:

- Demolition of four existing dwelling houses and construction of a residential flat building comprising 48 dwellings and basement parking for 72 cars.
- The site is located within R4 – High Density Residential and the proposed development is permissible in accordance with Lane Cove Local Environmental Plan 2009 (the LEP). The design complies with the development standards of the LEP including the building height and the floor space ratio provisions.
- The site is also partly affected by a riparian zone which crosses the front of the allotments.
- The amended plans comply with the requirements of Lane Cove Development Control Plan (the DCP) with exceptions to the building depth and building width requirements.
- 13 submissions were received from the notification of the development proposal. The major concerns relate to the increase in housing density, increased traffic congestion, parking demands in the area, bushfire and the impacts to the nearby bushland.
- On 3 August 2011, the JRPP was briefed on the proposal.
- The site is located within Bushfire Prone Land and the proposal was referred to NSW Rural Fire Service in accordance with Section 79BA of Environmental Planning and Assessment Act 1979. The NSW Rural Fire Service (RFS) has endorsed the application and provided draft conditions.
- The Land and Environment Court have recently approved two development applications for residential flat building developments at 9-13 Mindarie Street, Lane Cove North and 554-560 Mowbray Road, Lane Cove North. The court, after considering additional expert advice considered that concerns relating bushfire evacuation were not reasons for refusal of the applications, and provided emergency management conditions for the management of the situation in the event of a bushfire emergency.
- Council's consulting architect stated that the initial proposed design did not comply with all the design principles of the SEPP65 and the non-compliances have been addressed by amended plans. The proposal is now satisfactory in terms of SEPP 65.
- Council's development engineer and environmental health officer have endorsed the proposal.

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

- The Bushland Manager, Landscape Architect and the Tree Assessment Officer do not support the proposal. They have advised that there is an Endangered Ecological Community of trees on the site and the proposed development would result in the removal of these trees. They have also advised that the proposal would create an adverse impact on the wildlife corridor linking between Mowbray Park and the Batten Reserve.
- The development application is recommended for refusal on the grounds that the proposal would facilitate the removal of large trees.

SITE

The site is located on the northern side of Gordon Crescent between Centennial Avenue to the east and Girraween Avenue to the west in Lane Cove North. It comprises four properties, being Lots 16, 17, 18 and 19 of DP 27911 and is known as 76-82 Gordon Crescent, Lane Cove North.

The site is an irregular shaped allotment and has a frontage to Gordon Crescent of 69.53m with depths varies from 27m to 41.75m. The site falls from its north-eastern corner at the rear to the south-western corner at the front by approximately 14m. The ground levels at the front boundary are elevated above the foot path levels by between 0.46m to 2.6m. The site has an area of 2288.8m².

Four existing dwelling houses are located on the site. All four dwelling houses contain 3 bedrooms each and 82 Gordon Crescent also contains a granny flat.

Surrounding developments consist predominantly of single and two storey dwelling houses. Batten Reserve is located to the south of Gordon Crescent opposite the subject site.

The site has been recently rezoned from low density residential to R4 - High Density Residential since the gazettal of the Lane Cove LEP 2009 in February 2010. Council's Tree Assessment Officer has advised that there is an endangered ecological community species of Sydney Turpentine- Ironbark trees on the site.

PROPOSAL

The proposal involves demolition of 4 dwelling houses and construction of a residential flat building with 48 dwellings and basement car park for 72 cars.

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

The distribution of the dwellings is summarised in the following table:

Level	Studio	1 Bedroom	2 Bedroom	3 Bedroom	Total
Podium		6	1		7
Ground		4	2	2	8
1	1	5	4		10
2	1	5	5		11
3	1	3	3		7
4	1	2	1	1	5
Total	4	25	16	3	48

Note:

The additional living rooms on the split levels of G06 and G07 have been considered as additional bedrooms of the dwellings given their design and ease of adaptability.

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: 2288.8m²

Lane Cove Local Environmental Plan 2009

LEP 2009	Provision	Proposed	Complies/Comment
Zone	R4 – High Density Residential zone	Residential Flat Building	Yes
Maximum permitted FSR	2.1:1	1.72:1	Yes
Maximum permitted building height	12.0m	12.0m	Yes

**Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North**

Lane Cove Development Control Plan 2110

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 two pedestrian entrances from Gordon Crescent and all windows facing to Gordon Crescent are habitable room windows (bedrooms or living rooms)	Yes
B10- Cut & fill	Excavation for car parking should be kept to a minimum and should be provided within the footprint of the development above	The majority of the basement car park is located within the footprint of the proposed development	Acceptable

Part C3 – Residential Flat Buildings

Clause	Requirement	Proposed	Complies/ Comment
3.2 Density	Minimum site area 1500m ²	Area of site Approx 2288.8m ²	Yes
3.3 Building depth	18m exclusive of any balcony	21m	No, but meets the objectives of SEPP 65.
3.4 Building width	40m maximum fronting the street	64m (60% over the maximum permitted width)	No
3.5.3 Parking Podium Height			
Height adjoining front boundary	1.2m	1.2m	Yes
Height adjoining east boundary	1.2m	Nil	Yes
Height adjoining west boundary	1.2m	1.2m	Yes
Height adjoining rear boundary	1.2m	Nil	Yes

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

Clause	Requirement	Proposed	Complies/ Comment
3.6 Building separation within development	12m between habitable rooms /balconies up to 4 storeys.	There is only one building proposed 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	Minimum 45m ²	Yes
3.9 Private open space	Primary balconies - 10m ² with minimum depth 2m	Balconies meet minimum dimensions	Yes
	Primary terrace- 16m ² with minimum depth 4m	Private terraces meet minimum dimensions	Yes
3.10 Number of car parking, motorcycle and bicycle spaces	4xstudio dwellings = 2 spaces (4x0.5)		
	25x1 bedroom dwellings =25 spaces (1x25)		
	16x 2 bedroom dwellings = 24 spaces (1.5x16)		
	3x 3 bedroom dwellings = 6 spaces (2x3)		
	Visitor 1 per 4 dwellings = 12 spaces (48/4)		
	Required car parking 69 spaces (2+25+24+6+12)	72 car spaces proposed	Yes
	1 motor cycle space per 25 car spaces (3 spaces)	3 motor cycle spaces proposed on Basement Level 2.	Yes
	1 bike locker per 10 dwellings (5 lockers)	5 bike lockers proposed on Basement Level 2.	Yes

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

Clause	Requirement	Proposed	Complies/ Comment
	Bike rails – 4 (1 per 12 dwellings)	4 rails proposed on Basement Level 2.	Yes
3.11 Ceiling heights	Minimum 2.7m	2.7m	Yes
3.12 Storage	<p>6m³ per studio or 1 bedroom dwelling (29x6=174m³)</p> <p>8m³ per 2 bedroom dwelling (16x8=128m³)</p> <p>10m³ per 3 bedroom dwelling (3x10=30m³)</p> <p>Total required storage: 332m³</p> <p>50% of the storage volume within the dwelling</p>	<p>Designated storage areas equivalent to 253m³ provided on Podium & Garden Levels</p> <p>The internal space of the dwellings are sufficient to meet the requirements of storage volume</p>	<p>Yes</p> <p>Yes</p>
3.13 Solar access	<p>Living rooms and private open spaces of 70% of the units to receive 3 hours of direct sunlight between 9am – 3pm on 21 June</p> <p>Maximum 10% dwellings with a southerly aspect</p>	<p>71% of dwellings receive less than 3 hours solar access (34 dwellings)</p> <p>6.25% dwellings with southerly aspect (3 dwellings)</p>	<p>Yes</p> <p>Yes</p>
3.14 Natural ventilation	<p>Minimum 60% of the dwellings should have cross ventilation.</p> <p>Minimum 25% of kitchens have access to natural ventilation</p>	<p>65% (31 dwellings have cross ventilation)</p> <p>48% kitchens have access to natural ventilation</p>	<p>Yes</p> <p>Yes</p>
3.15 Visual privacy	Provide visual privacy between the adjoining properties	Balconies & terraces face towards the communal open space	<p>Yes</p> <p>Yes</p>

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

Clause	Requirement	Proposed	Complies/ Comment
		Privacy screens are proposed to balconies directly facing the adjoining sites	
3.16 Communal open space	Minimum 25%	29% provided	Yes
3.17 Landscaped area	25% provided at ground level and up to 15% provided on structures	35% provided at the ground level and 6% 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%)	10 (21%) adaptable dwellings	Yes
Provide 1 accessible parking space for each adaptable housing unit (13 spaces required)	11 accessible parking spaces provided	Yes

Note: The podium level is higher than the street footpath level and two chair lifts to the podiums of the building have been added by the amended plans. Equitable access has been provided to the pedestrian entries of the building.

REFERRALS

Manager Community Services

The Manager Community Services initially raised concern with the original proposed design in relation to the provision of equitable access to the development from the street. This was addressed in amended plans.

The amended proposal provides two chair lifts at the front of the building to provide access from the footpath level to the podiums of the building and is satisfactory. No other issues were raised from an access viewpoint.

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

Manager Environmental Health

The Manager of Environmental Health has endorsed the application and provided draft conditions relating to waste management of the development, in the event that the application may be approved by the JRPP.

Manager Urban Design and Assets

The development engineer has reviewed the proposal and advised that the stormwater concept plan provided has adequate OSD and a rainwater reuse system. The design is able to be conditioned to include a gross pollutant trap in accordance with Council's DCP.

The engineer has endorsed the application and provided draft conditions, in the event that the application may be approved by the JRPP.

Landscape Architect

The landscape architect has raised concern that the landscape plan does not reduce the intrusion of the development from Gordon Crescent in accordance with the Objectives of Part J1.4 of Council's DCP and has not supported the proposal.

Officer's comment: In relation to this matter, it is noted that the front section of the site is within an Asset Protection Zone within the meaning of the Bushfire Act. Vegetation and planting within this area is restricted and the objectives of this section, as with other similarly affected areas cannot be fulfilled. In the context of the site, this is considered satisfactory.

The Tree Assessment Officer

Council Senior Tree Assessment Officer has advised:

The developer's arborist report has essentially recommended the removal of all but two trees from the site (22 trees). Trees recommended for retention consist of one (1) Angophora costata (Tree 9) and one (1) Angophora tree located on the subject site at the rear of 78 Gordon Crescent (Tree 12).

The arborist report suggests a determination on (whether) Tree 9 is retainable can be ascertained following excavation for the basement area of the development. In my opinion the proposed excavation line for the basement area is at the calculated edge of the tree's structural root zone (3m). The root loss calculation of 11.34% suggested in Appendix B of the additional information given to Council (dated 7/09/2011) is an assumption only and does not consider landscape works and other works that would be required around the tree as part of the development. It should be noted that no tree root investigations have been undertaken to determine the whereabouts of the tree roots associated with Tree 9. Retention and protection of Tree 9 would be very difficult given the scale of the proposed development and the proximity of the tree to the proposed building line. In my opinion the proposed development would heavily impact on this tree.

**Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North**

The primary reason for the removal of the 22 trees is either; they are within the footprint of the proposed building line (6 trees) or each individual tree exhibits structural defects or other soil related stability problems that render them unsafe for retention.

The arborist's assessment of each tree and its growing environment is difficult to argue on arboricultural grounds however it should be noted that residents have not had concerns relating to any of these trees in the past five years. Nor has there been any tree failure from any of the subject trees in the past five years. To condemn the trees as per the arborist's analysis is unreasonable given the trees should be considered as a stand of trees and each individual tree does not have to be a thoroughbred tree specimen.

Council staff recognizes that the subject trees form part of an Endangered Ecological Community EEC known as Sydney Turpentine Ironbark Forest. Trees within this identified EEC are protected under the Threatened Species Conservation Act (1995). The arborist report points out that "the tree protection measures would be extensive given the large size of the trees therefore retention of the trees would be problematic given the scale of the proposed development". Given the current design and the topography of the site, there is very little opportunity for negotiation. Either the trees go or the development does not move forward.

The loss of at least 22 mature trees and probably the additional loss Tree 9 will have a detrimental impact on the streetscape and the adjacent residential flat buildings to the rear, the adjacent bushland area and the wildlife corridor that these trees are part of and contribute to. Further, the removal of this stand of trees is in conflict with the principles and objectives of Section 5.9 'Preservation of Trees or Vegetation' within Council's LEP, the objectives of new development within Councils DCP (Section J 1.4), the Threatened Species Conservation Act (1995). The wildlife corridor is identified in the attachment.

The below list is a break down of the tree species that have been considered:

<i>Syncarpia Glomulifera (Turpentine) to be removed.....</i>	<i>6</i>
<i>Angophora costata (Smooth barked apple) to be removed.....</i>	<i>5</i>
<i>Eucalyptus piperita (Sydney peppermint) to be removed.....</i>	<i>3</i>
<i>Pittosporum undulatum (Sweet Pittosporum) to be removed.....</i>	<i>3</i>

The remaining 7 trees designated for removal consist of a number of exotic and native tree species not linked to the EEC.

Manager Bushland

The Assistant Manager Open Space has provided the following advice:

1. **Removal of Trees - Endangered Ecological Community, Wildlife Corridor**
 - *In 2009 Storm Consulting was employed to map the vegetation communities in major reserves of the Lane Cove Municipality. The section of Batten Reserve immediately south of the proposed development site was classified as Sydney Turpentine-Ironbark Forest, an Endangered Ecological Community (NSW Threatened Species Conservation Act 1995).*

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

- *In 2009, the Sydney Metropolitan Catchment Management Authority mapped the section of Batten Reserve immediately south of the proposed development site (in draft), they also classified the area as Sydney Turpentine- Ironbark forest.*
- *The Turpentine and Angophoras on the properties are part of the original Turpentine-Ironbark Community of Batten Reserve and surrounds. The trees on private property pre-date the original houses and link directly to the location of the Turpentine - Ironbark community on the reserve. Refer to the 1943 RTA aerial map of the area for further information. The Department of Environment and Heritage: Final Determination for Sydney Turpentine/Ironbark – ‘The structure of the Community was originally forest, but may now exist as woodland or remnant trees’. Therefore, the remnant trees on 76-82 Gordon Crescent are considered as part of the Endangered Sydney Turpentine- Ironbark Forest.*
- *The development will result in the loss of major trees, including 14 trees which are part of the Threatened Turpentine-Ironbark Vegetation Community: 6 Turpentine (Syncarpia glomulifera), 5 Smooth barked Apples (Angophora costata) and 3 Sweet Pittosporums (Pittosporum undulatum). In addition, 3 Sydney Peppermints (Eucalyptus piperita) will be removed.*
- *Threatened species such as Powerful Owls and Grey-headed Flying Foxes have been recorded in Batten Reserve. These species frequently use large native trees on bushland margins for foraging/hunting. The fact that the Powerful Owls (Threatened species) have frequently been sighted in Turpentine trees on private property adjacent to the reserve highlights the need to retain large trees on the proposed development site. A recent survey by Birds Australia identified the presence of a Powerful Owl roosting site in Batten Reserve. Local residents have also provided a tape recording of a Powerful Owl call to Council officers, which they have advised was in Batten Reserve.*
- *During a recent fauna survey (by Council’s consultant Zoologist) 3 Grey-headed Flying-foxes were seen feeding in blossoming Turpentine trees in the reserve. The Turpentine on the proposed development site are also flowering at present. The Grey-headed Flying Foxes would almost certainly feed from the Turpentine trees in private property. It is likely that this tree species is an important food source for the Flying-fox at this time of year.*
- *The NSW Scientific Committee, in their website publication “Grey-headed flying foxes – vulnerable species listing” has identified habitat loss as the primary reason for the decline of Grey-headed Flying Fox populations. The major threat to the Powerful Owl is also the loss and degradation of habitat.*
- *These trees provide a key link in the wildlife corridor from Lane Cove National Park, through Mowbray Park (Willoughby Council) to Batten Reserve and the lower reaches of Stringybark Creek and foreshore of the Lane Cove River. Removal of the trees will result in fragmentation of the wildlife corridor and a reduction in important habitat trees.*
- *Lane Cove Council is currently working with Willoughby Council to improve the wildlife corridor from Mowbray Park (WCC) through to Batten*

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

Reserve and onto the foreshore of the Lane Cove River. As the protection of native trees on private property is paramount to the success of the wildlife corridor, the proposal to remove a substantial number of significant trees in the corridor will be detrimental to establishment of the corridor.

2. Fire Hazard Issues – building in fire prone area

- *The Rural Fire Service has proposed a 25m separation (Asset Protection Zone) from the building to the bushfire hazard.*
- *The proposed building has a 7.5m setback from the southern site boundary. The footpath and road are 15m wide to the kerb on the southern side of the road. Therefore a further 2.5m of the APZ will be contained within the road reserve adjoining Batten Reserve.*
- *The road reserve is vegetated with native plants and is managed as part of Batten Reserve.*
- *The development would place increased pressure on the native vegetation. In the future it is very likely that the Rural Fire Service will instruct Council to clear an Asset Protection Zone in the road reserve adjoining Batten Reserve in order to protect the buildings.*
- *An Asset Protection Zone in Batten Reserve would result in the loss of native trees and shrubs, including damage to the Endangered Turpentine-Ironbark Vegetation Community.*
- *An Asset Protection Zone would also result in the loss of wildlife habitat, including habitat for Threatened Species such as the Powerful Owl and the Grey-headed Flying Fox.*

Conclusion

- *I do not recommend that the development proceeds, due to substantial impacts on the native flora and fauna habitat, including the Threatened Turpentine-Ironbark Vegetation Community.*
- *There are likely to be significant impacts on the Threatened Turpentine-Ironbark Vegetation Community. Therefore: Species Impact Statement and an Assessment of Significance are required if this application is to proceed further.*
- *Due to the fact that part of the Asset Protection Zone is contained in the road reserve adjoining Batten reserve, the Rural Fire Service may require Council to clear an APZ in the future. The clearing would result in the loss of native vegetation and wildlife habitat.*

Officer's comment: The applicant has been made aware of these comments and has advised that reports that they have submitted refute the above comments. By letter dated 27 September 2011, the RFS have confirmed that as the proposal provides a 25m separation from the bushfire hazard, allowing a construction to BAL 40, the development complies with Planning for Bush Fire Protection 2006 and this level is satisfactory, without any modification or work to Batten Reserve.

Further comments of the RFS are below:

**Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North**

NSW Rural Fire Service

The subject site is located within Bush Fire Prone Land and the application was referred to NSW Rural Fire Service seeking advice regarding bush fire protection for the proposed land use in accordance with Section 79BA of the "Environmental Planning and Assessment Act 1979".

The service has not raised objection to the proposal and has provided the following draft conditions:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. *At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.*

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. *Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.*

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

3. *Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.*

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

4. *New construction on the southern and western elevations shall comply with section 8 (BAL 40) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.*

**Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North**

5. *New construction on the northern and eastern elevations shall comply with section 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.*

The draft conditions proposed by the Rural Fire Service should be imposed in the event that the JRPP may approve the application.

LANE COVE LOCAL ENVIRONMENTAL PLAN 2009 (Section 79C(1)(a))

Aims and objectives

The particular aims of this plan are as follows:

- (a) *to establish, as the first land use priority, Lane Cove's sustainability in environmental, social and economic terms, based on ecologically sustainable development, inter-generational equity, the application of the precautionary principle and the relationship of each property in Lane Cove with its locality,*
- (b) *to preserve and, where appropriate, improve the existing character, amenity and environmental quality of the land to which this Plan applies in accordance with the indicated expectations of the community,*
- (c) *in relation to residential development, to provide a housing mix and density that:*
 - (i) *accords with urban consolidation principles, and*
 - (ii) *is compatible with the existing environmental character of the locality, and*
 - (iii) *has a sympathetic and harmonious relationship with adjoining development,*

The objectives of R4 zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a high concentration of housing with good access to transport, services and facilities.*
- *To ensure that the existing amenity of residence in the neighbourhood is respected.*
- *To avoid the isolation of sites resulting from site amalgamation.*
- *To ensure that landscaping is maintained and enhanced as a major element in the residential environment.*

The site has been rezoned from low density residential to high density residential by the LEP 2009 since February 2010. The proposed development would increase the housing density of the site. The dwelling types of the development comprise studio, 1 bedroom, 2 bedroom and 3 bedroom dwellings. More than 20% of the dwellings are adaptable dwellings varies from 1 bedroom to 3 bedrooms.

**Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North**

The proposed development is not compatible with the existing low density single dwelling house housing character of the locality, however, it would meet the future housing character of the area and meets the objectives of the R4 zone.

The site is located adjacent to an Environmental Conservation zone (Batten Reserve). The development would result in the removal of significant trees on the subject site which, Council's Assistant Manager Open Space has advised would affect the wildlife corridor. Accordingly, it would not be a sustainable development for the local environment.

Clause 4.3 – building height and Clause 4.4 – floor space ratio

The proposed development complies with the development standards.

Clause 6.3 – Riparian land

The objective of this clause is to ensure that the development does not adversely impact on riparian land.

The clause also states that development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the impact of the proposed development on the land and any opportunities for rehabilitation of aquatic and riparian vegetation and habitat on that land.

The site is located within on the fringe of the Riparian zone as identified in the Riparian Land Map of the LEP. Clause 6.3 of Lane Cove LEP requires that Council consider the impact of the proposed development on the land and any opportunities for rehabilitation of aquatic and riparian vegetation and habitat on that land.

There are four dwelling houses on the site and the proposed development is located well away from the bank of Stringybark Creek, and it is not anticipated that the proposal would affect any opportunities for future rehabilitation of the in-stream and riparian habitat. The proposed development is unlikely to affect any aquatic and riparian vegetation and habitat. The proposal is therefore considered to be satisfactory in this aspect. There do however remain other ecological matters raised previously in this report.

OTHER PLANNING INSTRUMENTS

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

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 advised that the original proposed design did not comply with three out of ten design principles relating to context, built form and amenity.

**Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North**

The applicant has submitted additional information and amended plans to address the issues raised by Council's consulting architect.

The consulting architect has reviewed the amended plans and additional information and has not raised further issues relating to SEPP65.

Lane Cove Development Control Plan

As stated in the compliance table, the proposed complies with the requirements of the DCP except the building depth and building requirements. The non-compliance will be discussed in the following section of the report.

VARIATIONS TO COUNCIL'S CODES/POLICIES (SECTIONS 79C(1)(a), (1)(b), and (1)(c))

The preceding policy assessment table identifies these controls that the proposal does not comply with. Each of the departures is discussed below.

Building width

The DCP states the objectives for building width are:

1. *To avoid large continuous building bulk and massing.*
2. *To ensure that residential flat building responds to the character of the area.*

Provisions

- a) *The maximum overall width of the building fronting the street shall be 40m. Greater widths may be permissible if the proposed building articulation is satisfactory in the streetscape.*

The width of the proposed building is 64m and it exceeds the maximum width requirement of the DCP.

The applicant seeks a variation to the requirement and states that the façade is articulated by alternative segments of recessed balconies and face brick or rendered wall planes punctured by windows.

Officer's comment:

The proposed building width exceeds the maximum building width requirement by 64%. The building has recessed balconies at the front and used different external finishes. However, it has a large frontage to the streetscape and the application seeks a high degree of variation to the DCP requirement. It is considered that in the event that the application be approved, additional articulation and the breaking up of the front façade of the building would be necessary. This would need to be in the form of architectural modulation which breaks the façade into a number of vertical elements or segments.

Building depth

The DCP states that the objectives for building depth are:

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

- 1 *To ensure that the bulk of the development is in scale with the existing or desired future context.*
- 2 *To provide adequate amenity for building occupants in terms of sun access, daylight and natural ventilation.*
- 3 *To provide for dual aspect dwellings*

Provisions

- a) *The maximum residential flat building depth is to be 18m.*

The proposed building depth is 21m which exceeds the maximum building depth requirement of the DCP.

Officer's comment:

Whilst exceeding the building depth requirement, the proposal is satisfactory in terms of the objective of the requirement. The building design complies with solar access, natural cross ventilation requirements of the DCP and the number of single south aspect dwellings is less than 10% of the total proposed dwellings. The proposed building would provide an acceptable level of amenity to its future residents. It meets the objectives of the DCP and the variation to the building depth requirement 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)
76 Gordon Crescent	3	2.8
78 Gordon Crescent	3	2.8
80 Gordon Crescent	3	2.8
82 Gordon Crescent	3 + a granny flat	4.3 (2.8+1.5)
Total existing population		12.7

The development as proposed requires the following Section 94 Contribution.

No. of bedrooms	Average occupation rate	Population
4 x Studio	1.2	4.8
25 x 1 bedroom	1.2	30 (25x1.2)
16 x 2 bedroom	1.9	30.4(16 x 1.9)
3 x 3 bedroom	2.4	7.2 (3 x2.4)
Total proposed population		72.4

The Section 94 contribution applicable is for 59.7 persons (72.4 – 12.7) at the current rate of \$8844.26/person is therefore \$528002.32 (or \$11,000.05 per dwelling). The required

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

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.

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

The proposed development was notified in accordance with Council's notification policy. 13 submissions were received in response to the notification of the development application. The issues raised in the submission are summarised as follows.

- Impact to the adjoining bushland and nearby creek

Officer's comment:

Council Assistant Manager Open Space has advised that threatened species such as Powerful Owls and Grey-Headed Flying Foxes have been recorded in Batten Reserve. The removal of significant trees on the site would affect the wildlife corridor linking between Mowbray Park in Willoughby Council area and Batten Reserve. The proposed development would result in adverse impacts to Batten Reserve. The proposal would also result in the removal of trees on the site, which have been identified as being an Endangered Ecological Community.

- Increase of housing density

Officer's comment:

The land was rezoned from low density single dwelling house character to R4 High density. As a result of this the proposed development would increase the housing density of the site which complies with the R4 zoning objectives of the LEP 2009.

- Increase of local traffic congestion and increase street parking demand

Officer's comment:

The proposed development would increase local traffic movement by the increasing the housing density of the site. The proposal is able to comply with the parking requirements of the DCP. Council's engineer has provided draft conditions to ensure the design of the car parking comply with the relevant standards.

- Large excavation

The proposal would involve a large excavation for the construction of the basement parking area. The applicant has submitted a geotechnical report with the development application. The report stated that there are no significant geotechnical constraints to the proposed development.

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

- Non-compliances with the requirements of the DCP

Officer's comment:

The proposal does not comply with the building depth and building width requirements of the DCP. The variation to the building depth is supported and a condition relating to the design of the building frontage to Gordon Crescent would be required in the event of the JRPP approving the application.

- Loss of trees

Officer's comment:

The proposed development would remove significant trees on the site which are not supported by Council assessment officers. Please refer to the officers comments in the preceding section.

- Over looking to the adjoining properties

Officer's comment:

Privacy screens have been proposed the east and the west façade balconies. Planters would be included to the eastern edges of terraces on the Second Floor Level. Given the proposed development complies with the setback requirements of the DCP, the over looking impact is considered acceptable. It is noted that by its nature the development will result in an increase in overlooking of adjoining properties, more so than a group of single dwelling houses. However in accordance with the zone, this increase in density is the new future character for the area.

- Overshadowing impacts

Officer's comment:

The submissions from the residents from the residential flat buildings or the town houses to the north of the subject site along Mowbray Road raised concerns that the proposed building would create over shadowing impact to their properties. The objections are not supported because the existing ground level of the subject site is lower than its adjoining sites to the north. The proposed development would not create shadowing impacts to its adjoining neighbours to the north.

- The area should not be rezoned for high density residential development

Officer's comment:

The LEP 2009 was gazetted on 19 February 2010 and proposed development is permissible in accordance with the LEP 2009. The application must be assessed in accordance with the LEP which is in place.

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

- The road ways in the area are inadequate to cope with a substantially increased population.

Officer's comment:

The recent Land and Environment Court decisions revealed that some roads in the Mowbray Road precinct might require road widening for bushfire emergency evacuations. Given Gordon Crescent is opposite Batten Reserve and might require a road widening in the future, it is recommended that a payment for a fund similar to the requirements of the relevant Land and Environment Court decisions to be required by conditions of consent in the event the JRPP approves the application.

All submissions were taken into consideration during the development assessment process.

CONCLUSION

The development application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

The proposed design complies with the development standards of the LEP with two non-compliances to the requirements of the DCP. The applicant seeks a significant variation to the building width requirement of the Lane Cove Development Control.

Council's Open Space officers have raised objections to the removal of large trees, which are endemic to Lane Cove, on the site and advised that the proposed development would create adverse impacts to the local environment. Accordingly, the proposal is not supported and the application is recommended for refusal on this basis.

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 refuses development consent to Development Application DA 11/79 for the demolition of 4 dwelling houses and construction of a residential flat building with 48 dwellings and basement car park for 72 cars on Lot 16, 17, 18 and 19 of DP 27911 and is known as 76-82 Gordon Crescent, Lane Cove North for the following reasons:

1. The proposed development does not meet the aims of the Lane Cove Local Environmental Plan 2009 (the LEP) and would not promote a sustainable development in Lane Cove area.

Particulars:

- a. The proposed development would result in the removal of large trees, endemic to Lane Cove, including a number of Angophoras and Sydney Turpentine-Ironbark Forest from the site.
- b. The Sydney Turpentine and Angophoras are an essential part of the Endangered Sydney Turpentine Ironbark Forest Ecological Community.

Sydney East Joint Regional Planning Panel meeting of 13 October 2011
2011SYE061 – 76-82 Gordon Crescent, Lane Cove North

- c. The native trees on the site forms part of the wildlife corridor and the removal of these trees would create a detrimental impact to the establishment of the wildlife corridor from Lane Cove National Park, through Mowbray Park to Batten Reserve and the lower reaches of Stringybark Creek and foreshore of the Lane Cove River.
 - d. The proposed development does not comply with Clause 5.9 of the LEP relating to the preservation of trees or vegetation.
2. The proposed development does not comply with the provisions of the Threatened Species Conservation Act 1995 as it does not contain a 7 Part Test for the Endangered Sydney Turpentine- Ironbark Ecological Community.

Particulars:

- a. The proposal involves removal of trees which form part of an Endangered Ecological Community (EEC) known as Sydney Turpentine Ironbark Forest.
- b. Trees within this identified EEC are protected under Biodiversity Conservation Act 1995.