

Sydney East Joint Regional Planning Panel meeting of 17 May 2012

Property: 7, 7A, 9, 9A, 11, 11A, 11B & 13 Centennial Avenue, 92, 94, & 96 Gordon Crescent, Lane Cove

DA No: 2012 SYE008, DA 11/233

Date Lodged: 23 December 2011

Cost of Work: \$47,000,000

Owner: J C Hsu (7 Centennial Avenue, Lane Cove)
M Abolakian (7A, 9A Centennial Avenue & 94 Gordon Crescent, Lane Cove)
S A & N D Saravanamuthu (9 Centennial Avenue, Lane Cove)
J M Belfort & M Ilijin (11 Centennial Avenue, Lane Cove)
I P & J S Franco (11A Centennial Avenue, Lane Cove)
D M & M Rosswick (11B Centennial Avenue, Lane Cove)
L M Parker (13 Centennial Avenue, Lane Cove)
P J & S Lorrimer (92 Gordon Crescent, Lane Cove)
P R & J A Miller (96 Gordon Crescent, Lane Cove)

(All landowners' consents have been submitted along with the development application).

Applicant: Hyecorp Property Group

DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION	Demolition of 11 dwelling houses and construction of a residential flat building complex containing 186 dwellings, a shop and basement car park for 295 cars
ZONE	R 4 – High Density Residential - Lane Cove Local Environmental Plan 2009
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?	Yes. The site is also located within a Bush Fire Prone Land
BCA CLASSIFICATION	Class 2, 6 & 10b
STOP THE CLOCK USED	Yes – 110 days
NOTIFICATION	Neighbours: 1A-5, 15-19, 2-20 Centennial Avenue, Lane Cove 2-20, 15 & 21 Elizabeth Parade, Lane Cove 82-90 Gordon Crescent, Lane Cove 7, 9 & 12 Kariola Street, Lane Cove 508-520 Mowbray Road, Lane Cove Ward Councillors: Councillor Gaffney, Longbottom, & Mcllory

	Progress Association: Stringy Bark Creek Residents Association Lane Cove Bushland & 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 because the proposed development has a capital investment value greater than \$20 million.

EXECUTIVE SUMMARY

- The subject site is located within R4 - High Density Residential zone and residential flat buildings are permissible within the zone in accordance with Lane Cove Local Environmental Plan 2009 (the LEP).
- The proposed development complies with the zoning objectives of the LEP and complies with the floor space ratio (FSR) standard for the site.
- The proposed development does not comply with the building height standard of the LEP. The proposed development seeks an exception to the building height standard under Clause 4.6 of the Lane Cove Local Environmental Plan in Block C and the variation is significant. While Blocks A and B comply with the overall building height requirement, the existing ground has been excavated and lowered to create a new ground level lower than the existing ground level to accommodate more dwellings.
- The original design did not comply with the building separation, excavation and the minimum dwelling size requirements of the Lane Cove Development Control Plan (the DCP). However, these non-compliances have been addressed by amended plans, which now comply.
- Council's consulting architect has not endorsed the application with regards to State Environmental Planning Policy No. 65 (SEPP 65) principles. However, the applicant has demonstrated that the proposal meets the minimum SEPP 65 design quality principles by subsequently making amendments, which included deletion of 3 dwellings.
- 29 submissions were received resulting from the notification of the proposal. The major concerns relate to non-compliance with the building height standard of the LEP, intensification of land use, increase in local traffic congestion, impact to nearby bushland and amenity impacts to the adjoining properties.
- As the site is bushfire affected, the proposed development has been referred to NSW Rural Fire Service (RFS) for comment. The RFS has not endorsed the development application and has advised Council that the applicant has been requested to demonstrate how the proposed building A would meet the asset protection zone requirements of the Planning for Bush Fire Protection 2006.

- Given that Rural Fire Service has not endorsed the proposed development and compliance with the bushfire protection requirements may require a redesign of the proposal, the application is not recommended for approval.

SITE

The subject site is located at the western side of Centennial Avenue and the eastern side of Gordon Crescent in Lane Cove North.

The site is made up of 11 lots, namely:

- Lot 200, DP 1002700, 7 Centennial Avenue
- Lot 201, DP 1002700, 7A Centennial Avenue
- Lot 100, DP 850741, 9 Centennial Avenue
- Lot 101, DP 850741, 9A Centennial Avenue
- Lot 1, DP 363679, 11 Centennial Avenue
- Lot 1, DP 525748, 11A Centennial Avenue
- Lot 2, DP 525748, 11B Centennial Avenue
- Lot 3, DP 525748, 13 Centennial Avenue
- Lot 23, DP 27864, 92 Gordon Crescent
- Lot 24 DP 27864, 94 Gordon Crescent
- Lot 25, DP 27864, 96 Gordon Crescent

The site is irregular in shape with a 100m frontage to Centennial Avenue and a 34m frontage to Gordon Crescent and has an area of 8100.3m². There are 11 existing dwelling houses on the site.

The site has a natural steep embankment to Wilson Creek. There is a history of a former sandstone quarry on the southern part of the site which forms the existing dwelling house locations of 11A, 11B and 13 Centennial Avenue. The ground level of the existing houses on 11A, 11B and 13 Centennial Avenue, on the excavated part of the site vary 4m to 9m below the footpath level on Centennial Avenue and up to 8m below the unexcavated northern part of the site.

With regard to the landform, the site can be divided into three distinct sectors:

The northern sector contains 7, 7A, 9, 9A and 11 Centennial Avenue and occupies a higher ground level of the site with an average 10% south-west slope.

The southern sector contains 11A, 11B and 13 Centennial Avenue, occupies the lower ground level of the site with a relatively level area and is approximately 8m below the existing ground level of 11 Centennial Avenue.

The western sector contains 92, 94 and 96 Gordon Crescent and occupies an average steeper 28% south western slope, which descends, towards Wilson Creek.

Surrounding development comprises a mixture of dwelling houses and residential flat buildings including:

To the north: A dwelling house and a swimming pool at 5 Centennial Avenue and a dwelling house at 90 Gordon Crescent. The adjoining properties located to the north of the site are within R4 – High Density Residential zone.

To the south: A dwelling house at 15 Centennial Avenue with Stringybark Creek reserve beyond. 15 Centennial Avenue is within R4 – High Density Residential zone.

To the east: Centennial Avenue with dwelling houses along the eastern side of Centennial Avenue. Properties located to the eastern side of Centennial Avenue are within R2 – Low Density Residential zone.

To the west: Gordon Crescent with Stringybark Creek reserve beyond. Properties in Gordon Crescent area within R4 – High Density Residential zone.

PROPOSAL

The original proposal involves demolition of 11 dwelling houses and construction of a residential flat building complex comprising 189 dwellings, a shop and basement car park for 295 cars.

The amended plans have deleted 3 dwellings and converted the space into storage area on the lower ground level in Block B (Plan 5).

The amended dwellings schedule is as follows:

Dwelling Type	Studio	1 bedroom	2 bedroom	3 bedroom	Total
	7	91	74	14	186

The proposed development also includes a shop with a gross floor area of approximately 93m².

PREVIOUS APPROVALS/HISTORY

The previous development applications lodged with Council for the alterations and additions to the existing dwelling houses on the site are not relevant to the current development proposal because the proposal involves demolition of all existing structures.

PROPOSAL DATA/POLICY COMPLIANCE

Site Area (8100.3m²)

Lane Cove Local Environmental Plan 2009

LEP 2009	Provision	Proposed	Complies/ Comment
Zone	R4 – High Density Residential zone	Residential Flat Building	Yes – permissible
		Shop	Yes - permissible
Maximum permitted FSR	2.1:1	1.88:1 (GFA-15422 m ²)	Yes
Maximum permitted building height	12.0m	19.17m	No However, the applicant has submitted a request for an exception of the building

			height standard under Clause 4.6 of the LEP. The request is considered to be well founded and supported. Refer to Attachment 1
--	--	--	---

Lane Cove Development Control Plan

Part B – General Controls

Clause	DCP	Proposed	Complies / Comment
B.3 - Site Amalgamation & Development on Isolated sites	To 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.	<p>Consolidation of 11 allotments for a residential flat building complex which would avoid multiple driveways</p> <p>The adjoining site at 15 Centennial has a site area of 1530m², which meets the minimum site area requirement for a residential flat building development. Notwithstanding the ability to meet the minimum site area requirement, this lot would have significant development constraints with regards to slope, construction, bushland etc.</p> <p>The site area of 5 Centennial Avenue is 834m² which could be amalgamate with the existing dwelling houses towards the north.</p> <p>The proposed development would not create an isolated site.</p>	Yes
B.4 – View Sharing	To ensure that public view corridors between buildings are retained	<p>Residents of the proposed development would share their outlook to bushland.</p> <p>The proposed development would not cause a loss of view to the bushland from the adjoining houses.</p>	Yes
B8 – Safety & security	Ground floor dwellings to have direct access from the street and at least	The proposed building has pedestrian access from Centennial Avenue and Gordon	Yes

	one habitable room window to face the street.	Crescent and all windows facing Centennial Avenue and Gordon Crescent are habitable room windows (bedrooms or living rooms). The shop has frontage to Centennial Avenue.	
--	---	---	--

Part C3 – Residential Flat Buildings

Clause	Requirement	Proposed	Complies/ Comment
3.2 Density	Minimum site area 1500m ²	Area of site 8100.3m ²	Yes
3.3 Building depth	18m exclusive of any balcony	33m (Block A)	No However, the design meets the objective of this requirement.
3.4 Building width	40m maximum fronting the street	33m	Yes
3.5 Setback			
Front	Minimum 7.5m	7.5m to Centennial Avenue and Gordon Crescent	Yes
Side Block A	6m up to 4 storeys	6m to the northern boundary	Yes
		6m to the western boundary	Yes
	9m for 5-8 storey	9m to the western boundary at RL61.10	Yes
Block B	6m up to 4 storeys	6m to the northern boundary	Yes
	9m for 5-8 storey	9m to the northern boundary at RL63.65	Yes
Block C	6m up to 4 storeys	10m for 1-5 storey	Yes
	9m for 5-8 storey	15m at RL 63.45	Yes

Clause	Requirement	Proposed	Complies/ Comment
Rear Setback	6m	The site has two street frontages	N/A
3.5.3 Parking Podium Height			
Height adjoining front boundary	1.2m	Below the existing ground level	Yes
Height adjoining east boundary	1.2m	Below the existing ground level	Yes
Height adjoining west boundary	1.2m	Below the existing ground level	Yes
Height adjoining rear boundary	1.2m	Below the existing ground level	Yes
3.6 Building separation within development	12m between 4 storey buildings and 18m between 5-8 storey buildings	A-C, 1-4 storey, 12m A-B, 1-4 storey, 12m B-C, 1-4 storey 12m B-C, 5-6 storey 12m	Yes Yes Yes No However, privacy screens are proposed to address the privacy and acoustic impacts
3.7 Design of roof top area	Detailed landscape plan required	Provided	Yes
3.8 Size of dwellings	Minimum 40m ²	Minimum dwelling size 40m ²	Yes
3.9 Private open space	Primary balconies - 10m ² with minimum depth 2m Primary terrace- 16m ² with minimum depth 4m	Balconies meet the minimum size requirement. Private terraces meet the minimum dimensions	Yes Yes
3.10 Number of car parking, motorcycle and bicycle spaces	7xstudio = 3.5 spaces (7x0.5) 91x1 bedroom dwellings = 91 spaces (91x1) 74x2 bedroom = 111 spaces (74x1.5)		

Clause	Requirement	Proposed	Complies/ Comment
	<p>14x 3 bedroom dwellings = 28 spaces (14x2)</p> <p>Visitor 1 per 4 dwellings = 46.5 spaces (186/4)</p> <p>Shop with 93m² = 2.3 spaces (93/40)</p> <p>Required car parking 282.3 = 282 spaces</p> <p>1 motor cycle space per 25 car spaces</p> <p>11 spaces required (282/25)</p> <p>1 bike locker per 10 dwellings 19 required (186/10)</p> <p>1 Bike rails per 12 dwellings 16 required (186/12)</p>	<p>295 car spaces proposed</p> <p>14 motor cycle spaces proposed on Basement P2, P3 & P4.</p> <p>19 lockers on P2</p> <p>16 rails proposed on P2</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
3.11 Ceiling heights	Minimum 2.7m	2.7m	Yes
3.12 Storage	<p>6m³ per 1 bedroom & studio dwelling</p> <p>8m³ per 2 bedroom dwelling</p> <p>10m³ per 3 bedroom dwelling</p> <p>Total required = 1344m³</p> <p>50% of the storage volume within the dwelling</p>	<p>The storage areas on P2 and P3 are approximately 876m³. Additional storage area is provided in amended plans on P5. More than 50% of the required storage volume is provided on the basement levels.</p> <p>The internal space of the dwellings would be sufficient to meet the storage volume requirements</p>	<p>Yes</p> <p>Yes</p>
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	71% of the dwellings would receive more than 3 hours solar access (131 dwellings)	Yes

Clause	Requirement	Proposed	Complies/ Comment
	Maximum 10% dwellings to have a southerly aspect	5% dwellings have a southerly aspect (9 dwellings)	Yes
3.14 Natural ventilation	Minimum 60% of the dwellings to have cross ventilation.	61% of the dwellings have cross ventilation (114 dwellings).	Yes
	Minimum 25% of the kitchens to have access to natural ventilation	More than 25% of the kitchens have access to natural ventilation	Yes
3.15 Visual privacy	Provide visual privacy between the adjoining properties	Balconies & terraces face towards the communal open space	Yes
		Privacy screens to the balconies on the north elevation of Block B are proposed to minimise the over looking impact upon 5 Centennial Avenue.	Yes
3.16 Communal open space	Minimum 25%	44% provided	Yes
3.17 Landscaped area	25% provided at ground level and up to 15% provided on structures	31% provided at the ground level and 12% 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%) (38 dwellings required)	20% (38) adaptable dwellings proposed	Yes
Provide 1 accessible parking space for each adaptable housing unit (38 spaces required)	38 accessible parking spaces provided to the adaptable dwellings + 2 accessible visitor's spaces	Yes

REFERRALS

Senior Building Surveyor

Council Senior Building Surveyor has assessed the proposal in accordance with the Building Code of Australia and the Premises Standards 2010 and provided draft conditions to be imposed in the event that JRPP approve the application.

Development Engineer

The applicant has prepared a flood study and stormwater concept plan to meet the requirements of Part O – Stormwater Management of the Lane Cove DCP.

Council's development engineer has endorsed the application and provided draft engineering conditions to be imposed in the event that JRPP approve the application.

Manager Community Services

Council Community Services Manager has endorsed the application and provided draft conditions to be imposed in the event that JRPP approve the application.

Traffic Engineer

Council traffic engineer has endorsed the application and provided draft conditions to be imposed in the event that JRPP approve the application.

Tress Assessment Officer

Council's Senior Tree Assessment Officer has assessed the application and provided the following advice:

Trees on the site consist of a mixture of exotica and native tree species. The arborist report discusses the possibility of the retention of a Turpentine tree known as Tree 2. Tree 2 is a good specimen and retention of this prominent tree would be preferred. Excavation is in close proximity to the tree and the site arborist can make a recommendation during excavation as to the viability of retention. A condition of consent would be applied for its retention.

The generic tree protection measures mentioned in the arborist report is not adequate to ensure the trees on site; designated for retention, are protected for the duration of the propose development. All trees on site shown on the plans for retention including the street trees directly adjacent to the site and all trees within Council land on the south side of the site must be protected in accordance with the principles of AS4970 'Protection of trees on development sites. The site arborist must ensure all tree protection measures are in place prior to commencement of demolition works on site.

The proposed Landscape Plan is to the satisfaction of Council and must be adopted as part of the development Consent if the JRPP approves the application.

Draft conditions have been provided in the event that JRPP approve the application.

Manager Bushland

The site is adjacent to bushland. Council's Bushland Manager's advice is that part of the proposed Asset Protection zone (APZ) is on Council land, which is part of Batten Reserve bushland. Council does not support an APZ on Council bushland, as maintaining an APZ on bushland would have an adverse environmental impact upon

the existing bushland area. The maintenance of an APZ on Council land would also be a considerable financial burden to Council.

This development application should not proceed unless the applicant is able to contain the required APZ within private land upto the lower kerb of Gordon Crescent. (Refer to **Attachment 2**)

NSW Rural Fire Service (RFS)

The subject site is located within Bush Fire Prone Land and the proposal has referred to NSW Rural Fire Service for bush fire management in accordance with Section 79BA of the Environmental Planning and Assessment Act 1979.

RFS has not endorsed the application and stated that the development is required to meet a radiant heat of no more than 29kW/m².

The proposed Building A in its current form exposes the western elevation to a radiant heat exceeding 29kW/m². The applicant would need to do one of the following to satisfy the requirements of Planning for Bushfire Protection 2006 and a radiant heat of no greater than 29kW/m²:

- *Increase the separation distance from the hazard by increasing the front setback; or*
- *Arrange for an agreement with Council under Section 88B of the Conveyancing Act 1919 to provide for a restriction on the land owned by Council to the west to create an easement on their land to form part of the required Asset Protection Zone.*
- *Obtain a Plan of Management from Council stating that a portion perpetuity as part of the Asset Protection Zone required for the development.*

Refer to **Attachment 3** for the advices from the RFS.

Officer's comment:

There is no agreement between the applicant and the Council for the use of the Council land as part of an APZ to meet the RFS requirements. Council's bushland manager does not support an APZ located within Council road reserve. The second option, indicated in the RFS response, is not considered feasible.

Increasing the front setback of the building would require amendments to the design. At this stage, the applicant has not submitted amended plans with increased setback to meet the RFS requirements relating to bushfire protection management.

Waste Co-ordinator

The proposal complies with the waste management requirements of the DCP. Council Waste Service Co-ordinator has endorsed the application and provided draft conditions to be imposed in the event that JRPP approve the application.

Roads and Maritime Services (RMS)

The proposal was referred to the Roads and Maritime Services under 'Schedule 3 Traffic Generating Development to be referred to RTA' of the State Environmental Planning Policy (Infrastructure) 2007.

The referral response from Roads and Maritime Services (RMS) has still not been received. This matter has been scheduled for consideration in their meeting on 9 May 2012, after which the RMS would be able to respond. Any draft conditions suggested by RMS would be included in the consent in the event the development application is approved.

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 building 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 original design, the amended design and raised concerns that the original proposal did not fully comply with eight of the ten design principles.

Design Quality Principles	Complies	Consulting architects response	Officer's comment
1. Context	No	The area is characterised by a mixture of dwelling houses and some 3-4 storey residential flat buildings nearby on Mowbray Road. The buildings will represent a substantial and seemingly impermeable building frontage to Centennial Avenue, which is out of context with both the existing and the desired future character.	The proposed development may appear to be out of context with the existing development. However, LEP 2009 has set a new desired context of R4 High Density Residential. The proposed development would be in keeping with the character and set out the context for future development.
2. Scale	No	The buildings do not appear to follow the height plane restrictions with respect to the existing levels of the site and are generally 5-6 storeys (18m) instead of 3-4 storeys (12m)	<p>Building A and B meet the building height requirements. The height of Building C exceeds the maximum height requirements. However the increase in building height has been dealt with later in the report.</p> <p>It is agreed that the proposed development is 5 storeys and the building separation is only 12m instead of 18m, the applicant has addressed the privacy concerns by providing privacy screens on the 5th storey.</p> <p>The amended plans comply with the setbacks, building separation and communal open space requirements.</p>

3. Built form	No	The proposed built form does not meet the setback, building separation or building depth requirements of the SEPP	Plans have been amended to comply with the setbacks and building separation requirements. The proposed building would meet the minimum solar access and cross ventilation requirements of the SEPP
4. Density	No	Development would result in too many dwelling with poor amenities. The number and configuration of the units needs to be altered.	The proposed FSR is 10% below the maximum permitted FSR control of the LEP. In the amended plans, 3 dwellings in building B, have been deleted.
5. Resource, energy and water efficiency	Yes (Partly)	The proposed building meets the cross ventilation requirements of the SEPP. There is too much excavation. Not enough units will received the required sun in winter and will require heating	The applicant has demonstrated that at least 71% of the dwellings would receive a minimum of 3 hours of solar access in mid winter which is the minimum required. Three dwellings below the existing ground level in Building B have been deleted and the excavation has been reduced along the northern boundary.
6. Landscape	No	The excavation at the boundary lines does not allow for the retention of trees, or the planting of significant trees. Except for the western corner, the site will be largely without trees.	Disagree with the advice. The proposal would increase the number of the trees on the site by 71%. The proposal also meets the deep soil planting and the planting on structures requirements of the DCP.
7. Amenity	No	There are too many units under natural ground level, notably on the eastern and northern sides of the proposal. The inadequate setbacks and building separations within the development will cause considerable visual and acoustic	Detailed information has been submitted to demonstrate that the proposal would meet the minimum solar access and the minimum cross ventilation requirements of the SEPP. 3 dwellings below existing ground level in Building B,

		amenity issues	have been deleted which reduces the number of poor amenity dwellings.
8. Safety and security	Yes	Safety and security appear to be adequately handled by the design.	No objections were raised to the assessment
9. Social dimensions	No	<p>The proposed mix of dwellings is appropriate to the area and should accommodate a range of occupants.</p> <p>Much of the communal open space is provided on the roof terrace. There is little attempt to provide the residents with the spaces necessary to form a sense of community</p>	<p>Agree with the advice.</p> <p>Disagree with the advice.</p> <p>The proposal provides 44.11% common open space.</p> <p>32.72% of the common open space is provided on the ground floor and a further 11.7% is provided on the roof top levels.</p>
10. Aesthetics	No	The design does not respond sympathetically to the environment of Lane Cove.	The precinct has been rezoned to high density residential. The proposal is in keeping with the desired future character of this part of Lane Cove.

Refer to the SEPP 65 assessment advices. Refer to **Attachment 4**.

The applicant also submitted further amended plans and additional information to demonstrate that the proposal would meet the minimum solar access and minimum cross ventilation requirements.

The consultant architect has been unable to provide further comment on the additional information at the stage of the completion of the assessment report.

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.

The amended design would require an amended BASIX report which would be a condition of consent. If approved, an amended BASIX Certificate would be required prior to issue of the Construction Certificate.

LANE COVE LOCAL ENVIRONMENTAL PLAN 2009

The Lane Cove LEP has rezoned the site and its surrounding adjoining properties to R4 – High Density Residential. The objectives of the zone are to provide housing

needs of the community within a high density residential environment and to provide facilities or services to meet the day to day needs of residents.

The proposal is for a residential flat building complex and a shop, which meets the zone objectives. The character of the area, which is currently dominated by low density residential dwelling houses, would change to accommodate high density residential flat buildings in future. The proposed development would meet the future desired character of the area.

As stated in the compliance table, part of the proposed building exceeds the maximum permitted building height standard of the LEP.

The maximum permitted building height for the site is 12m and the maximum proposed building height is 19.7m.

While the building height is measured from the existing ground level, the existing ground has been excavated and lowered to create a new ground level lower than the existing ground level to accommodate more dwellings.

Blocks A and B comply with the 12m height limit. Block C located on the lower section of the site (the former quarry) exceeds the maximum permitted building height.

Three existing dwelling houses on 11A, 11B and 13 Centennial Avenue are built on the excavated part of the site. The existing ground levels of these properties are lower than the existing ground level of the adjoining property at 11 Centennial Avenue by approximately 8m and are also lower than the footpath levels on Centennial Avenue by approximately 4m. The existing ground level, which is the excavated level of the site, is used for the assessment of the building height of the proposed development. Block C exceeds the building height standard by approximately 7m.

The applicant has lodged a written request for the exception to the building height standard in accordance with Clause 4.6 of the LEP. Refer to **Attachment 1**.

The definition of the existing ground level in the LEP includes any modifications to the landform caused by the previous activity on the site, which may have had significant changes to the natural ground level of the site. In this instance, the previous quarrying activity resulted in part of the site significantly lower than the street level and the natural ground level of the adjacent northern part of the site.

- (1) The dwelling on the lower level (RL48) of Building C, facing towards 15 Centennial Avenue, would improve the visual appearance of the building to the adjoining property and the reserve.
- (2) The car park level on RL 48 of Building C is proposed on a level above the existing ground level.
- (3) Compliance with the 12m height limit measured from the existing ground level would result in the Building C being 3 storeys lower than the Building B. Building C would be in an incompatible height with Building B.
- (4) Compliance with the building height standard would compromise solar access to the dwellings in Building C.

- (5) The building elements which exceed the height standard would not have any additional overshadowing to the site and the property to the south at 15 Centennial Avenue.
- (6) The proposed Building C has adequate setback (10m) to its southern boundary adjacent to 15 Centennial Avenue.
- (7) The contravention of the height standards would not have an adverse impact on the existing views from the residences on the eastern side of Centennial Avenue.
- (8) An appropriate degree of flexibility in applying to the building height standard is considered reasonable.

The application seeks a 7m variation to the building height standard, which is considered a significant variation. However, the previous activities of the site should be taken into consideration for the variation of the building height standard.

Given that the breach of the overall height limit would not have an adverse impact upon the amenity of the adjoining developments, the submission is considered to be well founded and supported.

LANE COVE DEVELOPMENT CONTROL PLAN

The amended design complies with the objectives of the DCP. The application seeks variations to two DCP requirements:

Building separation

Part C Clause 3.6 of the CDP states that separation between five to eight storeys up to 25m height should be 18m between habitable rooms/balconies. Building A and C are five storey buildings and the separation between balconies of the top levels of these two buildings is 12m.

The amended plans have included privacy screens to the balconies on the top floors of the buildings to minimise the over looking impact between the dwellings and provide visual and acoustic privacy for the future residents.

Comment: While provision of privacy screens would not satisfy the prescriptive measure of separations between dwellings, but would meet the objective of providing adequate amenity achieved in terms of visual and acoustic separation.

Building depth

The maximum depth of Building A is 33m, which exceeds the building depth requirements of the DCP.

Comment: The objective of a maximum building depth requirement is to provide for adequate solar access and cross ventilation. The proposal meets the minimum solar access and minimum cross ventilation requirements of the DCP. It is considered that the proposal meets the objectives of the building depth requirements of the DCP.

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:

There are 11 dwelling houses on the site. All existing dwelling houses comprise 3 bedrooms each except the dwelling house on 92 Gordon Crescent, which contains 4 bedrooms. The average occupation rates of dwelling houses are 2.8 persons per a 3 bedroom house and 3.6 persons per a 4 bedroom house. The population of the existing dwelling houses is calculated as:

$$10 \times 2.8 + 1 \times 3.6 = 28 + 3.6 = 31.6 \text{ (persons)}$$

The development as proposed requires the following Section 94 Contribution.

No. of bedrooms	Average occupation rate	Population
7 x Studio	1.2	7x1.2=8.4
91 x 1 bedroom	1.2	91x1.2=109.2
74 x 2 bedroom	1.9	74x1.9=104.6
14 x 3 bedroom	2.4	14x2.4=33.6
Total proposed population		255.8

The Section 94 contribution applicable for additional 224.2 persons (255.8-31.6) at the current rate of \$8844.26/person is therefore \$1,982,883.00 (or \$10,660.66 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.

The Section 94 contribution applicable for the additional retail space at the current rate of \$94.87/m² of the gross floor area is \$8,822.91 (93 x \$94.87).

The total Section 94 contribution applicable for the development is \$1,991,705.90.

Note: The Section 94 Contribution payment would be a condition imposed in the event that JRPP approve the application.

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

The preceding policy assessment table identifies those controls that the proposal does not comply with. Each of the departures had been discussed in the previous sections of the report.

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

The development proposal was notified in accordance with Council's notification policy. 29 submissions were received in response to the notification of the development application. The issues raised in the submission can be summarised as follows.

- *The proposed development exceeds the maximum permissible building height standard*

Officer's comment:

It is agreed that the proposal does not comply with the building height standard of the LEP. However, Clause 4.6 of the LEP provides a degree of flexibility in applying certain development standards to particular development. The applicant sought an exception to the building height standard and has demonstrated that the proposal meets the objectives of the clause. The exception is considered reasonable, well founded and supported in the present circumstances.

- *Impact of noise during the period of construction.*

Officer's comment:

The noise impact from the construction of the proposed development would be a short term impact. The concern would be addressed by way of imposing conditions of development consent should JRPP approve the development application.

- *The proposed development would adversely overshadow the adjoining properties.*

Officer's comment:

The adjacent property to the south of the site, 15 Centennial Avenue, Lane Cove, would receive more than 3 hours of sunlight between 9am and 3pm on 21 June. The proposal meets the minimum solar access requirements of the DCP.

- *The proposed development would increase traffic movements within the area.*

Officer's comments:

The proposal would increase traffic movements in the area. The Council's traffic engineer has endorsed the traffic report submitted with the development application. However, the RMS is yet to provide its comments.

- *The proposed development does not meet the side boundaries setbacks requirements*

Officer's comment:

The amended proposal complies with the boundaries setbacks of the DCP. However, it does not comply with the setback requirements for bushfire protection. The proposed development does not meet the APZ setback requirements, which is a fundamental issue that needs to be resolved.

- *The proposed development is very large and excessive*

Officer's comment:

The proposal would result in an amalgamation of 11 properties with more than 8000m² of the site area. The proposed development is below the maximum permissible FSR. The proposed development meets the overall height standards with the exception of building C, the breach of which is justified.

The proposed development has a variety of building types, frontages scale and materials. The scale and size of the development is considered acceptable with respect to the site area.

- *The proposed development provides for Insufficient parking*

Officer's comment:

The proposal meets the parking requirements of the DCP. The proposed number of car parking spaces is considered adequate.

- *The proposed development shall be incompatible with the character of the existing development*

Officer's comment:

The proposal meets the zoning objectives of the LEP. The character of the area, which is currently dominated by low-density residential dwelling houses, would change to accommodate high-density residential flat buildings in future. The proposed development would meet the future desired character of the area.

- *The propose development would have an adverse impact upon Stringy bark Creek Reserve*

Officer's comment:

The proposed setback is based on an APZ in such a manner that part of the Council road reserve would be part of the APZ. Council does not support the proposed APZ on Council's road reserve. The proposed APZ in Council's road reserve would have significant environmental impacts. In addition, the maintenance of an APZ would be a considerable financial burden to Council. In order to meet the APZ requirements the proposed development would need to be redesigned after providing additional setback to Gordon Crescent.

- *Impact on the amenities of the existing adjoining dwelling houses*

Officer's comment:

The precinct has been rezoned from low density residential to high density residential. Any current and future proposed residential flat building developments in the precinct will inevitably create a degree of impact to the amenity of the existing dwelling houses. However, the amenities of the adjoining dwelling houses had been addressed by the design of the proposed development.

Privacy screens are proposed to the balconies of Building B on the north elevation to minimise the over looking impact to the adjoining property to the north on 5 Centennial Avenue.

All submissions have been taken into considered during the assessment.

CONCLUSION

The matters under Section 79C of the Environmental Planning and Assessment Act 1979 have been considered. The proposal does not adequately satisfy the requirements of NSW Rural Fire Service.

Blocks A and B comply with the overall building height requirement. Block C exceeds the overall building height requirement. The existing ground has been excavated and lowered to create a new ground level lower than the existing ground level to accommodate more dwellings.

The proposed development complies with the zoning objectives of Lane Cove Local Environmental Plan 2009 and the amended plans have addressed the requirements of Lane Cove Development Control Plan.

The amended plans and additional information have been submitted to address concerns raised by Council and consultant architect relating to the compliance with the requirements of the SEPP 65. The proposal meets the minimum requirements of solar access and cross ventilation. The proposed development meets the numerical requirements of building separation by the provision of privacy screens. However does not meet the objective of providing adequate amenity achieved in terms of visual and acoustic separation.

The proposal meets the minimum solar access and minimum cross ventilation requirements of the DCP. It is considered that the proposal meets the objectives of the building depth requirements of the DCP.

The issues raised by neighbours have been discussed in the body of 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, the proposal may need to be redesigned, the proposal 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 11/233 for the demolition of 11 dwelling houses and construction of a residential flat building complex containing 186 dwellings, a shop and basement car park for 295 cars on

- Lot 200, DP 1002700, 7 Centennial Avenue
- Lot 201, DP 1002700, 7A Centennial Avenue
- Lot 100, DP 850741, 9 Centennial Avenue
- Lot 101, DP 850741, 9A Centennial Avenue
- Lot 1, DP 363679, 11 Centennial Avenue
- Lot 1, DP 525748, 11A Centennial Avenue
- Lot 2, DP 525748, 11B Centennial Avenue
- Lot 3, DP 525748, 13 Centennial Avenue
- Lot 23, DP 27864, 92 Gordon Crescent
- Lot 24 DP 27864, 94 Gordon Crescent
- Lot 25, DP 27864, 96 Gordon Crescent

for the following reasons:

1. The Rural Fire Service has not endorsed the development proposal, and the development in its current form fail to meet the requirements of Planning for Bushfire Protection 2006.

2. The proposal includes Council land as an Asset Protection Zone (APZ). There is no agreement between the applicant and Council to use Council land, as part of Asset Protection Zone and Council does not have a plan of management for the APZ.
3. The proposed development seeks an exception to the building height standard of the Lane Cove Local Environmental Plan in Block C and the variation is significant. While Blocks A and B comply with the overall building height requirement, the existing ground has been excavated and lowered to create a new ground level lower than the existing ground level to accommodate more dwellings.
4. The proposal has not been endorsed by Council's consulting architect with regards to good design principles of the SEPP 65. Provision of privacy screens would not satisfy the prescriptive measure of separation between buildings.
5. The comments from Roads and Maritime Services have not been received.

- Attachment 1 -** A request for an exception of the building height standard under Clause 4.6 of the LEP.
- Attachment 2 -** Council's Bushland Manager's advice
- Attachment 3 -** Advises from the Rural Fire Service
- Attachment 4 -** Consulting Architect's SEPP 65 assessment advises