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|----------------------------------------------------------------------------------------------------|----------------------|-------------------------------------------|
| <b>Council:</b> LANE COVE COUNCIL - SYDNEY REGION EAST                                             |                      |                                           |
| <b>Current LEP:</b> LEP 2009 - notified 19 February 2010                                           |                      | <b>Proposed LEP:</b> LEP 2009 – Amendment |
| <b>Council ref:</b> 50978/11                                                                       | <b>Date:</b> 6 12 11 |                                           |
| <b>Location:</b> Precinct is bounded by Mowbray Rd, Centennial Av, Willandra St and Batten Reserve |                      |                                           |
| <b>Council Resolution Date:</b> 5 December 2011                                                    |                      | <b>Resolution. No:</b> 397                |
| <b>Resolution:</b> See AT 5.                                                                       |                      |                                           |

Planning proposal based on: NSW Department of Planning, *A Guide to preparing local environmental plans*, July 2009 - Figure 3 – Matters to be addressed in a planning proposal – including Director-General's requirements for the justification of all planning proposals (other than those that solely reclassify public land).

## PLANNING PROPOSAL 8/2011: MOWBRAY PRECINCT

*Note: Lane Cove Development Control Plan would be updated as appropriate for LEP amendments.*

### Attachments:

- AT 1: Strategic Review Report by Department and Council (49997/11)
- AT 2: Master Planning Study by JBA Planning Pty Ltd
- AT 3: Traffic Study by SMEC Australia Pty Ltd (50087/11)
- AT 4: Director-General of Planning & Infrastructure letter of 1 December 2011 endorsing the Strategic Review recommendations (50163/11)
- AT 5: Council Report & Minutes of 5 December 2011.
- AT 6: Site context of the Mowbray Precinct -aerial photograph, street numbers & adjacent council's draft LEP maps (51280/11)
- AT 7: Proposed Zoning Map (51408/11)
- AT 8: Current Zoning Map (51409/11)
- AT 9: Proposed FSR Map (51411/11)
- AT 10: Current FSR Map (51413/11)
- AT 11: Proposed Height Map (51414/11)
- AT 12: Current Height Map (51415/11)
- AT 13: Proposed Bushfire Asset Protection Zone Map (51416/11)
- AT 14: DLEP 2008 map showing correct E2 zoning for 18-24 Merinda St (51417/11)

### **1. A statement of the objectives or intended outcomes of the proposed local environmental plan. [Act s. 55(2)(a)]**

- (i) To downzone areas affected by bushfire asset protection zones (APZs) and other site constraints in proximity to Batten Reserve from high density to low density residential zoning, with height and floor space ratio reduced accordingly
- (ii) To introduce a range of area-specific heights in the high density zone to be more responsive to the context
- (iii) To reduce floor space ratios in the high density zone to improve their proportion to the height limits
- (iv) To introduce an asset protection zone for this precinct by a local clause and map.

### **2. An explanation of the provisions that are to be included in the proposed local environmental plan. [Act s. 55(2)(b)]**

The Department of Planning & Infrastructure and Council in partnership undertook in 2011 a Strategic Review of the Mowbray Precinct, focusing on the potential dwelling yield capacity, impact on the road network and identification of any necessary Section 94 infrastructure works.

Two studies by independent consultants were commissioned to provide the basis for the Strategic Review: a Master Planning Study and a Traffic Study.

## LEP Gateway Submission

Key recommendations relating to LEP amendments are to:-

Zoning: It is proposed to zone the Precinct to a combination of low density residential - throughout the bushfire asset protection zone along the southern area from Kullah Parade south-westwards, in the vicinity of Batten Reserve - with retention of high density residential for the major part of the Precinct's northern and eastern areas.

This reflects the constraints of bushfire asset protection zones (APZs) and requirements under legislation and riparian zone considerations.

FSR: In the high density R4 zone, the floor space ratio is to be reduced from FSR 2.1:1 to:-

- FSR 1.6 over the majority of the R4 zone and
- FSR of 1.8:1 west of Hatfield Street.

Current development applications for the high density R4 zone have been used to support the financial viability of the recommended moderation of FSR from 2.1:1 down to 1.6:1 -1.8:1

Height: In the high density R4 zone, the height is to be increased from 12 metres to:-

- 14.5 metres (4 storeys) and
- 17.5 metres (5 storeys).

Open space: IT is proposed to expand the open space RE1 zone to provide a larger park of 6,000m<sup>2</sup> on Mindarie Street

Lot size: The proposed low density zone will have the standard lot size of 550m<sup>2</sup> minimum for subdivision as applies throughout Lane Cove.

Bushfire: A bushfire Asset Protection Zone map for this Precinct is to be introduced to the LEP.

Background: A Strategic Review Report was prepared by the Department of Planning and Council on the basis of independent studies by JBA Planning Pty Ltd and SMEC Australia Pty Ltd (please see ATs 1, 2 and 3). Those recommendations have been endorsed by the Department of Planning (see letter of 1 December 2011 at AT 4) and by Council, subject to variations (see Council Minutes of 5 December 2011 at AT 5).

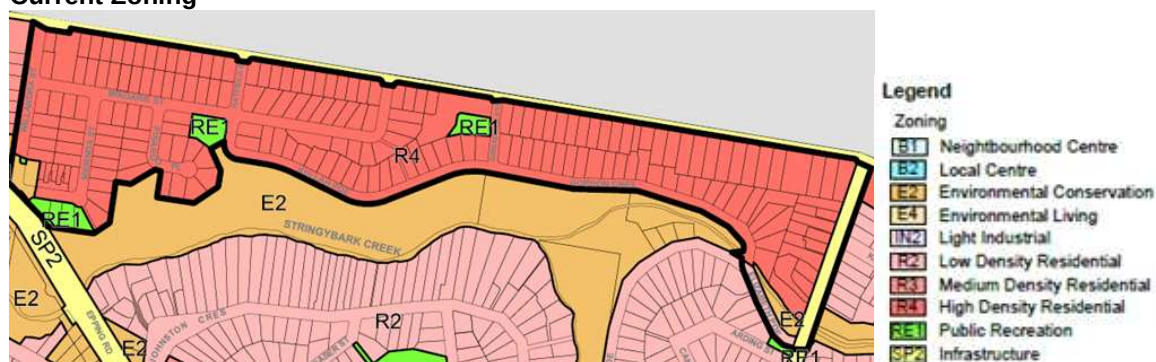
The explanations of the Planning Proposal's aims are provided in detail in the above studies, with Council's variations resolved upon on 5 December 2011 described below.

- (i) The low density housing zone in the south of the Precinct is requested to be Environmental Living E4 instead of Low Density Residential R2.
- (ii) 46-60 Gordon Crescent are proposed for an extension of the low density Environmental Living E4 Zone.
- (iii) The pocket park in Girraween St is to stay Public Recreation RE1 at least while agreement is sought from the NSW Housing & Property Group to the larger park on Mindarie St/ Pinaroo Place.

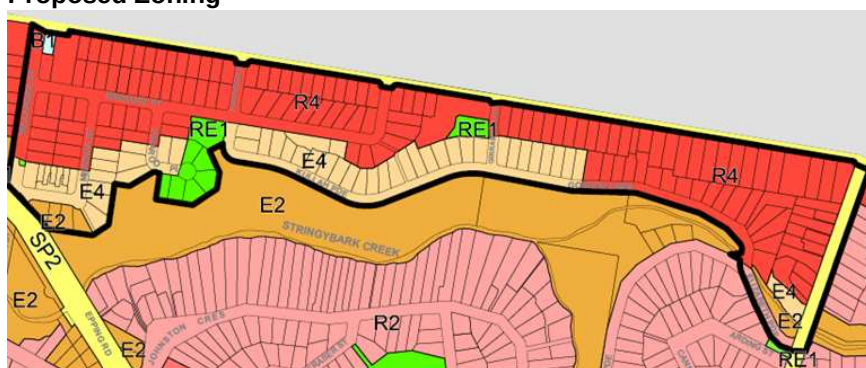
## (1) Maps

## Zoning

## Current Zoning



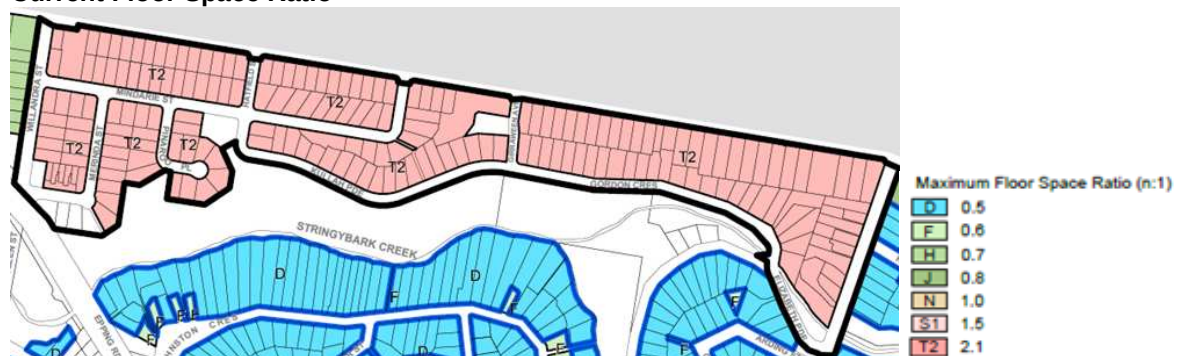
## Proposed Zoning



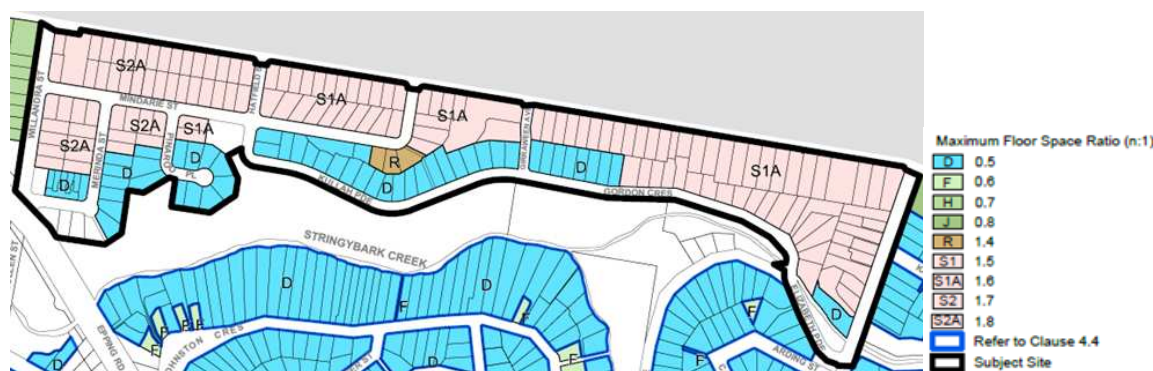
| From                        | To                            | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| High Density Residential R4 | Environmental Living E4       | <ul style="list-style-type: none"> <li>* The proposed E4 properties are identified as being in a bushfire APZ and unsuitable for high density development</li> <li>* The E4 zone suits low density housing in a bushfire APZ (rather than Low Density R2 which permits child care, hospitals etc.) and includes sites also affected by a Riparian Zone.</li> <li>* Property owners in 46-60 Gordon Crescent asked to be added to the E4 downzoning, as the redevelopment potential of their sites is marginal due to the APZ and steep topography, and so paying R4 rates would be inequitable.</li> </ul> |
| High Density Residential R4 | Neighbourhood Centre B1       | <ul style="list-style-type: none"> <li>* The shops uses at 656 Mowbray Rd are confirmed.</li> <li>* Shoptop housing is permissible in the proposed B1 zone, so that the site will not lose its potential to development for apartments as well.</li> </ul>                                                                                                                                                                                                                                                                                                                                                 |
| High Density Residential R4 | Public Recreation RE1         | <ul style="list-style-type: none"> <li>* To increase open space provision for the growth in residents</li> <li>* This would be sought on house lots currently owned by NSW Housing &amp; Property Group at 10-20 Pinaroo Place, in response to the upzoning of its properties elsewhere in the precinct.</li> </ul>                                                                                                                                                                                                                                                                                        |
| Public Recreation RE 1      | Environmental Conservation E2 | <ul style="list-style-type: none"> <li>* Correction of mapping error by Council, after DLEP exhibition, on bushland at 18-24 Merinda St. (There were no submissions to alter the zoning to R2.) The correct E2 zoning is shown in the exhibited DLEP 2008 map at AT 14.</li> </ul>                                                                                                                                                                                                                                                                                                                         |

## Floor Space Ratio

### Current Floor Space Ratio



### Proposed Floor Space Ratio



| From                 | To                                      | Explanation                                                                                                                        |
|----------------------|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| 2.1:1 in the R4 zone | 1.4/ 1.6/ 1.8:1 in the R4 zone          | * Realistic development standard relative to the height controls for Apartments, more responsive to site context in the each area. |
| 2.1:1 in the R4 zone | 0.5 in the Environmental Living E4 Zone | * To match the standard height for houses throughout the Municipality in the R2 Zone.                                              |

## Height

## Current Height



## Proposed Height



| From      | To                      | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12 metres | 11.5m/ 14.5m/<br>17.5m  | <ul style="list-style-type: none"> <li>* The slight reduction to 11.5m for 8-14 Mindarie St reflects these sites' interface with the low density housing on Kullah Pde.</li> <li>* The increase to 14.5m over most of the R4 areas aims to minimise excavation for parking, and setting of lower level apartments into the ground (while retaining the 4-storey limit by DCP controls).</li> <li>* The increase to 17.5m in the western R4 area allows for housing mix with lifts for some apartments (with the 5-storeys being limited to 50% of the top level in the DCP).</li> </ul> |
|           |                         | * Note: Height and FSR over open space have not been changed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| ---       | Bushfire APZ introduced | * Text clause added also.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

## Lot Size

### Current Lot Size



### Proposed Lot Size



| From                                                | To                                          | Explanation                                                                                                                                                                                                              |
|-----------------------------------------------------|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 550m <sup>2</sup> minimum over miscellaneous sites. | 550m <sup>2</sup> minimum over the E4 zone. | The proposed E4 low density housing zone will have the same standard lot size of 550m <sup>2</sup> minimum for subdivision as applies throughout Lane Cove LGA as a whole in the comparable R2 low density housing zone. |

## Bushfire

### Bushfire Asset Protection Zone map



#### (2) Text

Add a new Clause 6.6 to the effect that: “Properties identified as being within an Asset Protection Zone on the Lane Cove Bushfire Asset Protection Zone Map are to comply with Planning for Bushfire Protection 2006 and AS3959 – Construction of Buildings in Bushfire Prone Areas”.

### 3. Justification for those objectives, outcomes and provisions and the process for their implementation. [Act s. 55(2)(c)]

#### A. Need for the planning proposal.

##### (1) Is the planning proposal a result of any strategic study or report?

Yes – please see details in 2.

##### (2) Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes – as advised by the independent studies listed in 2.

##### (3) Is there a net community benefit?

Yes – the proposals have been accepted by the Department and Council as balancing community concerns regarding bushfire, environmental, economic and other factors, through amended zoning and other planning controls for the area.

#### B. Relationship to strategic planning framework.

##### (1) Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

#### LEP Gateway Submission

Yes – as advised by the Master Planning Study by JBA Planning Pty Ltd, the majority of the Precinct will retain high density zoning, and the Precinct will contribute 1,200 new dwellings net to Lane Cove's residential target (30% of the 3,900 target to 2031) in the Draft Inner North Subregional Strategy.

**(2) Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?**

Yes – the Lane Cove Community Strategy's goal of providing liveable localities is assisted by the moderation in planning scale.

**(3) Is the planning proposal consistent with applicable state environmental planning policies?**

Yes: See Appendix A below.

**(4) Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

Yes: See Appendix B below.

**C. Environmental, social and economic impact.**

**(1) Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The impacts of urban development in proximity to Batten Reserve are reduced by the planning proposal and actions within the supporting studies.

**(2) Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

The principal impact would be traffic and measures have been identified as viable in the SMEC study.

**(3) How has the planning proposal adequately addressed any social and economic effects?**

Please see the independent studies listed in 2.

**D. State and Commonwealth interests.**

**(1) Is there adequate public infrastructure for the planning proposal?**

Yes - Please see the independent studies listed in 2 for the traffic, stormwater, environmental, pedestrian links and other works identified to be undertaken with Section 94 and other funding by Council and other agencies.

**(2) What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal? (Note: The views of State and Commonwealth Public Authorities will not be known until after the initial gateway determination. This section of the planning proposal is completed following consultation with those public authorities identified in the gateway determination).**

This would be addressed following consultation in accordance with Gateway approval.

**4. Details of the community consultation that is to be undertaken on the planning proposal.  
[Act s. 55(2)(e)]**

This would be in accordance with Gateway approval and Council's Consultation Policy.

## **Appendix A**

### **State Environmental Planning Policies – Consistency**

- re Gateway Question 3B(3)

Comment: There are no SEPPs that are relevant.

## **Appendix B**

### **Section 117 Directions – Consistency**

- re Gateway Question 3B(4)

| <b>S. 117 Direction: Objectives</b> | <b>Comment</b> |
|-------------------------------------|----------------|
|                                     | <b>PTO</b>     |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| <p><b>1.1 Business and Industrial Zones</b></p> <p>(1) The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>(a) encourage employment growth in suitable locations,</li> <li>(b) protect employment land in business and industrial zones, and</li> <li>(c) support the viability of identified strategic centres.</li> </ul>                                                                                                                                                                                                                                                                           | <p>Not relevant to this Proposal.</p>                                                                                    |
| <p><b>2.1 Environment Protection Zones</b></p> <p>(1) The objective of this direction is to protect and conserve environmentally sensitive areas.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>Not altered by this Proposal.</p>                                                                                     |
| <p><b>2.3 Heritage Conservation</b></p> <p>(2) The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>Not altered by this Proposal.</p>                                                                                     |
| <p><b>3.1 Residential Zones</b></p> <p>(1) The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</li> <li>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</li> <li>(c) to minimise the impact of residential development on the environment and resource lands.</li> </ul>                                                                                                               | <p>The Director-General has endorsed the Strategic Review Report on which the Planning Proposal is based (see AT 4).</p> |
| <p><b>3.4 Integrating Land Use and Transport</b></p> <p>(1) The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances</li> </ul> | <p>The Director-General has endorsed the Strategic Review Report on which the Planning Proposal is based (see AT 4).</p> |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(d) travelled, especially by car, and supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                   |
| <p><b>4.1 Acid Sulfate Soils</b></p> <p>(1) The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>                                                                                                                                                                                                                                                                         | <p>Not relevant to this Proposal.</p>                                                                                                                                                                                                                                                                             |
| <p><b>4.3 Flood Prone Land</b></p> <p>(1) The objectives of this direction are:</p> <p>(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>, and</p> <p>(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p> | <p>Not relevant to this Proposal.</p>                                                                                                                                                                                                                                                                             |
| <p><b>4.4 Planning for Bushfire Protection</b></p> <p>(1) The objectives of this direction are:</p> <p>(a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) to encourage sound management of bush fire prone areas.</p>                                                                                                                                           | <p>The Planning Proposal introduces a Bushfire Asset Protection Zone Map and text clause to strengthen the LEP's response to this Direction.</p>                                                                                                                                                                  |
| <p><b>7.1 Implementation of the Metropolitan Plan for Sydney 2036</b></p> <p>(1) The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.</p>                                                                                                                                                                                                             | <p>As advised by the Master Planning Study by JBA Planning Pty Ltd. the majority of the Precinct will retain high density zoning, and the Precinct will contribute 1,200 new dwellings net to Lane Cove's residential target (30% of the 3,900 target to 2031) in the Draft Inner North Subregional Strategy.</p> |