

JRPP No:	2010SYE108
DA No:	DA10/290
PROPOSED DEVELOPMENT:	Demolition of 5 dwelling houses and the erection of a 4-5 storey residential flat building containing 60 dwellings - 31-39 Mindarie Street Lane Cove
APPLICANT:	Arash Tavakoli – Land Mark Group
REPORT BY:	May Li, Lane Cove Council

Assessment Report and Recommendation

Environmental Services Division Report 8 Sydney East Joint Regional Planning Panel meeting of 18 May 2011 2010SYE108 - 31-39 Mindarie Street, Lane Cove North

Property: 31-39 Mindarie Street, Lane Cove North

Application No: DA290/2010, 2010SYE108

Date Lodged: 7 December 2010

Amended plans: 14 April 2011

Cost of Work: \$12,100,000.00

Owner: M E Singleton (31 Mindarie Street)
R Emery (33 Mindarie Street)
B J & K P Cook (35 Mindarie Street)
J C & R K Paper (37 Mindarie Street)
M Farac (39 Mindarie Street)

Applicant: Landmark Group Pty Ltd

DESCRIPTION OF PROPOSAL TO APPEAR ON DETERMINATION	Demolition of 5 existing dwelling houses and construction of a residential flat building containing 60 dwellings with basement car park for 104 cars
ZONE	R4 – High Density Residential
IS THE PROPOSAL PERMISSIBLE WITHIN THE ZONE?	Yes
IS THE PROPERTY A HERITAGE ITEM?	No
IS THE PROPERTY WITHIN A CONSERVATION AREA?	No
IS THE SITE ADJACENT TO BUSHLAND?	No
BCA CLASSIFICATION	Class 2, 7a & 10b

STOP THE CLOCK USED	Yes – 38 days
NOTIFICATION	<p>Neighbours: 616-640 Mowbray Road, 18-26, 23-29 and 41-47 Mindarie Street, 2-6 and 28-30 Pinaroo Place, 2-4 Merinda Street and 4 Kullah Parade, Lane Cove North</p> <p>Ward Councillors: Councillor Gaffney, Longbottom, & McIlroy</p> <p>Progress Association: Stringybark Creek Residents Association</p> <p>Other Interest Groups : Willoughby City Council</p>

REASON FOR REFERRAL:

This application has been referred to the Sydney East Joint Regional Planning Panel as per clause 13B of State Environmental Planning Policy (Major Development) 2005 because the proposed development has a capital investment value of greater than \$10 million.

EXECUTIVE SUMMARY:

The proposed development involves:

- Demolition of five existing dwelling houses and the construction of a 5 storey residential flat building comprising 60 dwellings and basement parking for 104 cars.
- The proposed development is permissible within the zone and the amended plans comply with the building height and floor space ratio provisions of Lane Cove Local Environmental Plan 2009 (the LEP).
- The amended proposal complies with the requirements of Lane Cove Development Control Plan (the DCP) with an exception to the building width requirement.
- Council's consulting architect has raised concerns relating to the compliance with the natural cross ventilation requirements of SEPP 65.
- Council's development engineers, environmental health officer, landscape architect and traffic engineer have provided a qualified endorsement to the proposal.
- 12 submissions were received from the notification of the initial proposal. The major concerns relate to the building design, increasing local traffic congestion and street parking demand, amenity impact to the adjoining properties and impact to adjoining bushland.
- On 2 March 2011, the JRPP was briefed on the proposal.
- 31 Mindarie Street 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 has endorsed the proposal on a condition requiring a traffic study to be carried out for the whole area and the assessment would demonstrate that the surrounding road infrastructure can support the increase in population density.

- The traffic study commissioned by the Department of Planning has been finalised and circulated in March 2011. It is noted that the report has been based on a number of actions by Council indicated as “options for amelioration” and Council has not endorsed any of those “options for amelioration” or any of the other suggestions in the report such as reducing the tree canopy of Batten Reserve by 15-30%.
- Council raised objections to the traffic report and the concerns raised by Rural Fire Service have not been satisfied.
- Council and the Department of Planning have commissioned a further traffic study for the Mowbray Road Precinct that seeks to specifically address existing road infrastructure upgrade and evacuation in the event of a bushfire emergency situation. It is anticipated that the commissioned report, when complete, would place Council staff and the Panel in an informed position to determine this application.
- The application is recommended for refusal.

SITE:

The site is located at the northern side of Mindarie Street between Hatfield Street and Willandra Street in Lane Cove North. It comprises five properties, being Lots 59, 60, 61, 62 and 63 of DP 35865 and is known as 31-39 Mindarie Street, Lane Cove North.

The site has frontages to Mindarie Street of 76.2m with a depth of 36.575m. The site falls from its north western corner at the rear of the site to the south eastern corner at the front of the site by approximately 9.5 metres. The site is rectangular in shape and has an area of 2787.02m².

Five existing dwelling houses are located on the site. Surrounding development consist predominantly of single and two storey dwelling houses.

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.

PROPOSAL:

The proposal involves demolition of five existing dwelling houses and construction of a residential building comprising 60 dwellings with basement car park for 104 cars.

Level	1 Bed	2 Bed	3 Bed	Total dwellings
Lower Ground	3	2		5
Ground	3	5	1	9
Upper	4	10		14

Ground				
1 st Floor	4	10		13
2 nd Floor	3	10		12
3 rd Floor	1	1	3	5
Total	18	38	4	60

PREVIOUS APPROVALS/HISTORY:

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

PROPOSAL DATA/POLICY COMPLIANCE:

Site area: 2787.02m²

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	1.88:1	Yes
Maximum permitted building height	12.0m	12.0m	Yes

Lane Cove Development Control Plan

Part B – General Controls

Clause	DCP	Proposed	Complies/ Comment
B8 – Safety & security	Ground floor dwellings have direct access or entries from the street and at least one habitable room with windows facing the street	The building has 2 pedestrian entries from Mindarie Street and most windows facing Mindarie Street are habitable room windows (bedrooms or living rooms)	Yes
B10- Cut & fill	1m maximum. Additional acceptable for parking for Residential Flat Buildings	Excavation for basement car park and storage area	Acceptable

Part C3 – Residential Flat Buildings

Clause	Requirement	Proposed	Complies/ Comment
3.2 Density	Minimum site area 1500m ²	Area of site approx 2787m ²	Yes
3.3 Building depth	18m exclusive of any balcony	23m	No
3.4 Building width	40m maximum fronting the street	64.3m fronting Mindarie Street	No
3.5 Setback Front	Minimum 7.5m	7.5m	Yes
Side	6m up to 4 storeys	6m	Yes
Rear	6m	6m	Yes
3.5.3 Parking Podium Height			
Height adjoining front boundary	1.2m	Nil	Yes
Height adjoining east boundary	1.2m	Nil	Yes
Height adjoining west boundary	1.2m	Nil	Yes
Height adjoining rear boundary	1.2m	Nil	Yes
3.6 Building separation within development	12m between 4 storey buildings and 18m between 5 storey buildings	Not applicable as the proposed development is a single building on the site.	N/A
3.7 Design of roof top area	Detailed landscape plan required	No roof top garden proposed	N/A
3.8 Size of dwellings	Minimum 40m ²	Minimum 53.82m 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 minimum dimensions Private terraces meet minimum dimensions	Yes Yes
3.10 Number of car parking, motorcycle and bicycle spaces	18 x 1 bedroom dwellings =18 spaces (1x18) 38 x 2 bedroom	104 car spaces proposed	Yes

Clause	Requirement	Proposed	Complies/ Comment
	<p>dwellings =57 spaces (1.5x 38)</p> <p>4 x 3 bedroom dwellings =8 spaces (3x2)</p> <p>Visitor 1 per 4 dwellings = 15 spaces (60/4)</p> <p>Required car parking space: 98</p> <p>1 motor cycle space per 25 car spaces (4 spaces required)</p> <p>1 bike locker per 10 dwellings (6 lockers)</p> <p>1 Bike rail per 12 dwellings (5 rails)</p>	<p>4 motor cycle spaces proposed on the Basement Levels</p> <p>6 bike lockers proposed on the Ground Level</p> <p>Rails proposed on Lower Ground Level</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
3.11 Ceiling heights	Minimum 2.7m	2.8m	Yes
3.12 Storage	<p>6m³ per 1 bedroom dwelling</p> <p>8m³ per 2 bedroom dwelling</p> <p>10m³ per 3 plus bedroom dwelling</p> <p>Total = 452m³</p> <p>50% of the storage volume within the dwelling</p>	<p>Designated storage areas equivalent to 226m³ are proposed on the Basement and the Lower Ground Floor Levels</p> <p>Internal storage area are proposed within the dwellings and the internal space of the dwellings would be sufficient to meet the requirements of storage volume (226m³)</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	44 dwellings would receive more than 3 hours solar access (73%)	Yes

Clause	Requirement	Proposed	Complies/ Comment
	between 9am – 3pm on 21 June Maximum 10% dwellings with a southerly aspect	Nil with southerly aspect	Yes
3.14 Natural ventilation	Minimum 60% of the dwellings should have cross ventilation. Minimum 25% of kitchens have access to natural ventilation	55% dwellings would have cross ventilation More than 25% kitchens have access to natural ventilation	No Yes
3.15 Visual privacy	Provide visual privacy between the adjoining properties	Balconies & terraces face towards the communal open space Privacy screens are proposed to windows directly facing each other in the building	Yes Yes
3.16 Communal open space	Minimum 25%	25% provided	Yes
3.17 Landscaped area	25% provided at ground level and up to 15% provided on structures	30% provided at the ground level and 10% on the structure	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%)	12 (20%) adaptable dwellings including 1 bedroom and 2 bedroom dwellings	Yes
Provide 1 accessible parking space for each adaptable housing unit (12 spaces required)	13 accessible parking spaces provided	Yes

REFERRALS:

Building Surveyor

Council's building surveyor has endorsed the amended plans and provided draft conditions.

Manager Community Service

Council's community development officer has advised that the applicant has considered the access issues that may arise for people with disabilities and endorsed the proposal.

Manager Urban Design and Assets

The Manager Urban Design and Assets has reviewed the proposal and provided the following advice:

A new driveway on Council property is proposed to the basement carpark. The driveway conflicts with an existing street tree. This referral is subject to Council approving the removal of the street tree.

Officer's comment:

The tree preservation officer, later in this report, has indicated no objection to the removal of the street tree to facilitate the new driveway.

The applicant is proposing an OSD system generally in accordance with Council's DCP. A gross pollutant trap could be conditioned.

The bulk earthworks associated with the proposal would be conditioned.

New footpath, kerb and gutter and nature strips would be conditioned.

Should the JRPP issue an approval, conditions of consent would be provided for the determination.

Manager Open Space

Council's Tree Assessment Officer has provided the following advice:

This site does not contain a great number of trees that are worthy of retention given the scale of the proposed development. The position of the new driveway crossing will necessitate the removal of one Water gum street tree and the removal of the tree would result in having a negligible negative impact on the streetscape. The proposed Landscape Plan shows enhancement of the street nature strip area with additional street tree plantings however the proposed species (Waterhousia) is not appropriate adjacent to bushland and conditions will be set to change the species to suit the streetscape.

The tree known as no: 8 in the arborist report is worthy of retention and this tree must be retained and protected for the duration of the proposed development. I have no objections to the removal of the remaining trees on the site. There are only three trees that would normally be worthy of retention however the three trees are within the footprint of the proposed building footprint.

Officer's comment:

Tree 8 is a Eucalyptus tree which is located at the rear of 31 Mindarie Street. This tree shall be retained.

The proposed Landscape Plan compiled by Wallman Partners PTY LTD is to the satisfaction of Council and must be adopted as part of the development if it were to proceed. The proposed Waterhousia street trees must be replaced with Eucalyptus haemastoma (Scribbly gum).

Should the JRPP issue an approval, conditions of consent would be provided for the determination.

Environmental Health Service

The Environmental Health Service Manager has provided the following advice:

The waste management arrangements for the development appear to be largely in line with Council's DCP. Conditions would need to be imposed upon any consent requiring on-site collection of all waste.

Should the JRPP issue an approval, conditions of consent would be provided for the determination.

NSW Rural Fire Service

NSW Rural Fire Service raised concern that the increase in population density in the bush fire interface would cause a greater impact on the existing infrastructure in the event of a bushfire evacuation. The RFS requested the applicant to provide an assessment of the impact of this development on the surrounding road infrastructure in an emergency situation whilst taking into account existing and future road users for further assessment.

The applicant has not provided a traffic study to address the concerns of NSW Rural Fire Service.

The NSW Rural Service then provides the following recommended conditions:

1. *The RFS notes that this development is part of a rezoning precinct which will increase the population density of the area. This increase in population density will cause an increased reliance on the existing road infrastructure. In light of this, an assessment which demonstrates that the surrounding road infrastructure can support the increase in population density should be provided.*
2. *Subject to the terms of Condition 1 being met, the RFS recommends the following conditions:*

Asset Protection Zones

- i. *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'.*

Design and Construction

- ii. *New construction shall comply with section 5 (BAL 12.5) 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'.*

A Traffic Report commissioned by the Department of Planning has been finalised and circulated in March 2011. It is noted that the report has been based on a number of actions by Council indicated as “options for amelioration” and Council has not endorsed any of these “options for amelioration” or any of the other suggestions in the report such as reducing the tree canopy of Batten Reserve by 15-30%.

The concerns relating to bushfire management raised by NSW Rural Fire have not been fully addressed and proposal is not supported based on the current circumstances.

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 complies with eight of the ten principles relating to context, scale, density, landscape, amenity, safety and security, social dimensions and aesthetics.

The proposal does not comply with two principles relating to the built form and resource, energy and water efficiency. The large footprint in the development in the built form would not achieve good amenity. Only 28 apartments out of 60 would have cross ventilation. The minimum rule of thumb is 60% of units with cross ventilation or 36 units in this case.

The following table summarizes the compliance to the principles of the SEPP.

DESIGN QUALITY PRINCIPLES

	Principle	Compliance the objectives
1	Context	Yes.
2	Scale	Yes.
3	Built form	No. The large footprint of the development results in a built form that does not achieve good amenity. The recommended maximum width is 18m, and the building has a deep building footprint is 24m. More than half of the apartments have a single orientation.
4	Density	Yes
5	Resource, energy and water efficiency	No. The proposal just achieves the 70% rule of thumb for daylight access. However, there are some units that have a poor outlook onto walls. Only 47% of the units have cross ventilation. The minimum rule of thumb is 60%. The proposal has 9 units orientated to the south. The maximum rule of thumb is 10% or in this case 6 units.
6	Landscape	Yes
7	Amenity	Yes.

8	Safety and security	Yes
9	Social dimensions	Yes
10	Aesthetics	Yes

Officer's comment:

The original proposed design did not achieve a good design in term of natural cross ventilation and with respect to the number of units facing south. It also could not achieve a satisfactory solar access solution for its future occupants. Council's consultant architect recommended that the design be modified to address these issues.

The applicant modified the design and submitted amended plans along with a SEPP 65 amenity compliance report prepared by Mr. S King on 14 April 2011.

Council's consultant architect has reviewed the amended plans along with the report. He has raised concerns with regard to the natural cross ventilation of Units G01, UG01, UG14, 101, 114, 201 and 213. The proposed building would not provide adequate cross ventilation and would not achieve good amenity to its future occupants.

A copy of the SEPP65 assessment reports is contained in **AT1**.

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

The subject site is located within a R4 High Density Residential zone in accordance with the LEP 2009 which was gazetted on 19 February 2010. As outlined in the compliance table, the proposed development complies with the zoning objectives of the LEP 2009 and the building height and FSR standards.

The original proposal exceeded 12m high building height standard of the LEP and the non-compliance has been addressed in the amended plans submitted to Council on 14 April 2011.

OTHER PLANNING INSTRUMENTS

Lane Cove Development Control Plan

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

Building width

The DCP states that the maximum overall width of the building fronting the street should not exceed 40m. The proposal seeks to amalgamate and develop 5 sites, having a total frontage to Mindarie Street of 76.2m. The proposed building width is 64.3m.

The façade to Mindarie Street is articulated by a series of vertical forms which breaks up the width of the building into 5 sections. The articulation would decrease the visual bulk and improve appearance of the building from Mindarie Street.

The front setback at the centre section of the building would be 11.8m and the rear setback of the centre section would be 11.0m. The rear façade has been articulated into 3 sections.

However, the width of the rear centre section of the building is only 7.7m which is considered inadequate to break the bulk of the rear elevation. The width should be further increased to reduce the visual impact to the rear of the properties.

Solar access and cross ventilation

The amended plans have minor improvement to the solar access and cross ventilation of the building. However, Council's consulting architect has expressed his concerns relating to the compliance with cross ventilation requirement of SEPP 65.

Car Parking

The DCP requires 98 parking spaces for the development in its current form. 104 car spaces are proposed in the basement. There are 28 study areas proposed in the building. These study areas are proposed in 47% of the total dwellings. The proposed study areas would have a potential to be used as additional bedrooms which would increase the on site parking demand. It is recommended that a condition requiring study areas to remain open to the living areas with a minimum 1.5m wide opening, be included in the event that the JRPP is of the opinion to approve the application.

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 applicant advised Council that the average bedroom number of the existing dwelling house is 4. The average occupation rate of a 4 bedroom dwelling is 3.6 persons in accordance with the Section 94 Plan.

The population of the existing dwelling houses is calculated as the follows:

$$5 \times 3.6 = 18 \text{ (persons)}$$

The development as proposed requires the following Section 94 Contribution.

No. of bedrooms	Average occupation rate	Population
18 x 1 bedroom	1.2	18x1.2=21.6
38 x 2 bedroom	1.9	38x1.9=72.2
4 x 3 bedroom	2.4	4x2.4=9.6
Total proposed population		103.4

The Section 94 contribution applicable is for 85.4 persons (103.4-18) at the current rate of \$8595.00/person is therefore **\$734,013.00** (or \$12,233.55 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 S94 contribution would be required by a condition of development consent if the JRPP approve the application.

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

The land has been zoned R4 high density residential in LEP2009. The proposal would be in accordance with the future character of the area. The likely impacts of the development are discussed as follows:

Privacy

The privacy of the adjoining properties has been addressed in the amended design. Privacy screens are included to all balconies on the east and west elevations. However, there are privacy measures proposed on the terraces on the second floor level. Planter boxes would be constructed at the eastern edges of the terraces to reduce the overlooking impact to the adjoining properties.

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

Potential solar access impact

The surrounding area has been recently rezoned for high density residential developments. The adjoining sites to the north are likely to be developed for residential flat buildings.

Shadowing impact on the site from potential developments on the adjoining sites to the north might affect the compliance with solar access to the building.

Concerns relating to over shadowing impact from potential developments were raised to the applicant and the applicant's consultant Mr. King has provided a solar access assessment report to address this concern. The report is summarized as the follows:

- A modelling was developed to examine a notional 3 to 4 storey apartment block being developed on the site to the north.
- The model as described was then located on the site to the north at the minimum allowable rear setback, and the maximum allowable height, and the impact on solar access compliance of the subject development was examined on June 21.
- The analysis suggested that such a worst case scenario would effectively curtail midwinter solar access to the lowest storey of the subject development.
- The north-east corner apartment would significantly reduce solar access for the first and second storeys above ground level.
- A minimum of two hours of sun (close to three hours) is maintained to four of the six of the living areas on the first and second floor levels in the subject development.
- Given that the scenario of the adjacent sites both being fully developed the medium rise higher density constitutes a closely built up context as envisage by the Residential Flat Designed Code, these apartments would be considered to be complying with the relevant control.

- Further inspection of the model made clear that the affectation on the remaining four apartments on the first and second floors, and on the corner apartment on the lowest floor on the subject building is caused by the top of the hypothetical neighbouring building.
- To preserve complying solar access for the lowest floor would required the moving of the entire subject building some 4 to 5m to the south.
- To achieve the same result only requires moving the top floor of the hypothetical building to the north to achieve a similar result. The resulting massing would have the same stepped section as appear to be the inevitable design solution for other similar sites in the locality, to address the same over shadowing issue.

Refer to **Attachment 2** for Mr. King's report.

Officer's comment:

Future residential flat developments to the northern adjoining sites would inevitably increase shadowing impact to the subject development. The compliance with the solar access requirements of the DCP are able to be achieved and maintained by the design of adjoining future developments. It is therefore considered that the development on the subject site is unlikely to create an unacceptable burden to the future developments on the adjoining sites to the north.

Impact of traffic

The traffic study submitted with the development application stated that the proposal would result in an increase of approximately 26 peak hour vehicle trips over the existing situation with minimum impact on the surrounding road network or nearby intersections and junctions.

Traffic generation would have no significant impact on the amenity of the local street system. Council's traffic engineer did not raised objections to the traffic study submitted by the applicant. However these comments and assessment has not considered traffic implications in a bushfire emergency situation.

Parking

104 car spaces including 13 accessible spaces would be provided on site for the proposed building. The proposal meets the parking requirements of the DCP and is considered acceptable.

Trees

The proposed building would require the removal all existing trees on the site. Council Tree Preservation Officer has stated that the Eucalyptus tree (T8) located at the rear of 31 Mindarie Street should be retained and raised no objection for the removal of the remaining trees on the site. The proposed development would not cause loss of any significant trees.

Views and Vistas

The proposed development would obstruct the southern views currently enjoyed by occupants of the five dwelling houses at 624-632 Mowbray Road, on the southern side of

Mowbray Road. The loss of view impact is considered unavoidable because the LEP has rezoned the area for high density residential developments which would change the character of the area.

Social and Economic Impacts

The proposed development comprises 60 dwellings comprising of 1 bedroom, 2 bedroom and 3 bedroom dwellings. It would contribute to housing choice and promote local economy in the Lane Cove Local Government Area.

THE SUITABILITY OF THE SITE (Section 79C (1) (c))

The site was recently rezoned to high density residential. Given the location of the site and the objectives of the LEP, the site is considered suitable for the proposed development, subject to the Rural Fire Service and Council being satisfied that the surrounding road infrastructure can support the increase in population density in an emergency situation.

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

The development proposal was notified in accordance with Council's notification policy. 12 submissions were received in response to the notification of the proposal. The issues raised in the submissions can be summarised as follows.

- 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 provisions of LEP at the time of lodgement of the application.

- Increase housing density

Officer's comment:

The land has been zoned R4 high density residential in LEP2009. The proposed development would increase the housing density of the site and complies with the zoning objectives of the LEP 2009.

- Non-compliance with the development standards of the LEP

Officer's comment:

The original proposal exceeded the building height standard and the non-compliance has been addressed in the amended plans.

- Non-compliance 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 non-compliances have not been addressed in the amended plans.

- Increase of local traffic congestion and increase of street parking demand

Officer's comment:

The land has been zoned R4 high density residential in LEP2009. The increase in traffic as a result of the rezoning is a matter for consideration during the Local Environmental Plan preparation process which has already been completed. Car parking, including visitor car spaces has been provided in accordance with the requirements of the Development Control Plan.

- Loss of trees

Officer's comment:

Council's tree assessment officer advised that the site does not contain significant trees worthy of retention. However, the proposed new driveway crossing would necessitate the removal of a Water gum street tree. The loss of the street tree could be addressed by a condition requiring a replacement tree in an appropriate location. A gum tree located at the rear of 31 Mindarie Street would be retained as a condition if the JRPP was of the view to approve the application.

- Over looking to the adjoining properties

Officer's comment:

Privacy screens have been proposed to all east and 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.

- Impact to the adjoining bushland and a nearby creek

Officer's comment:

These issues had been assessed at the draft LEP preparation stage. The possible upgrade of the existing road infrastructure and bush fire management would address adverse impact on the nearby bushland.

CONCLUSION

The matters under Section 79C of the Environmental Planning and Assessment Act 1979 have been considered.

The amended proposal complies with the provisions of Lane Cove Local Environmental Plan 2009 and the requirements of Lane Cove Development Control Plan with an exception of the building width requirement.

The large footprint of the development would result in a built form that would not achieve adequate amenity in terms of cross ventilation. The proposal does not sufficiently comply with the design principles of SEPP 65.

The issues raised by neighbours have been discussed in the body of the report.

The traffic study commissioned by the Department of Planning has not fully addressed the concerns raised by NSW Rural Fire Service. Council is not satisfied that the surrounding road infrastructure can support the increase in population density of the area or evacuate vehicles, particularly in the event of a bushfire emergency situation.

The proposal in its current form is not supported and the application is recommended for refusal.

RECOMMENDATION

That pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended, the Sydney East Joint Regional Planning Panel refuse development consent to Development Application 10/290 for the demolition of existing five dwelling houses and construction of a four storey residential flat building with 60 dwellings and associated basement parking on Lots 59, 60, 61, 62, and 63 in DP 35865 and is known as 31-39 Mindarie Street, Lane Cove for the following reasons:

1. Council and the author are not satisfied that the existing road infrastructure is capable of supporting the potential increased usage and that the road infrastructure would cope in a bushfire emergency situation.
2. The proposal does not provide for adequate natural ventilation and would not comply with the two design principles of State Environmental Planning Policy No. 65. Therefore the internal amenity of the proposed development would be inadequate.
3. The proposed development does not provide adequate amenity to its future occupants.
4. The proposal does not comply with the building width and building depth requirements of Lane Cove Development Control Plan. The proposed development would create an adverse visual impact to the adjoining properties to the north of the site.

