



Planning,
Industry &
Environment

IRF21/3268

Plan finalisation report – PP-2020-637

Ku-ring-gai Local Environmental Plan 2015
(Amendment No 26)

September 2021



Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

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1 Introduction

Overview

1.1.1 Name of draft LEP

Ku-ring-gai Local Environmental Plan 2015 (Amendment No. 26).

As the Ku-ring-gai Local Environmental Plan (Local Centres) 2012 was repealed on 28 June 2021 and was replaced by the Ku-ring-gai Local Environmental Plan 2015, this draft LEP (Amendment No. 26) therefore seeks to amend the Ku-ring-gai Local Environmental Plan 2015.

The plan seeks to allow the development of a residential flat building wholly above the ground floor of a registered club and associated height of building and floor space ratio amendments at 62 (part of) and 64-66 Pacific Highway, Roseville.

1.1.2 Site description

The planning proposal (Attachment Proposal) applies to land at 62 part of), 64 and 66 Pacific Highway, Roseville referred to as the Roseville Memorial Club (**Figure 1**). The site is located within the Roseville Town Centre and is 160 metres south of Roseville Station (**Figure 2**).

Table 1 Site description

Site Description	<p>The site is legally described as:</p> <p>Part of 62 Pacific Highway: Part Lot 2 DP 202148 with a total area of 156.8 sqm</p> <p>64 Pacific Highway: Lot 1 202148 with a total area of 966.9 sqm</p> <p>66 Pacific Highway: Lot 2 DP 505371 with a total area of 251.8 sqm</p>
Type	Site
Council / LGA	Ku-ring-gai



Figure 1 Subject site - shaded in red (Source: Nearmap)



Figure 2: Site context and surrounding areas (Source: NearMap)

1.1.3 Purpose of plan

The draft LEP seeks to:

- rezone part of Lot 2 DP 202148 from RE1 Public Recreation to B2 Local Centre (since completed as part of PP-2020-553);
- increase the maximum floor space ratio (FSR) from part 2:1 under a designation of 'T1' and part 2.8:1 under a designation of 'U2', to 3:1 under a new designation of 'V';
- increase the maximum height of buildings from part 20.5m under a designation of 'Q' and part 14.5m under a designation of 'N' and part no height designation (for existing park), to 26.5m under a new designation of 'T'; and
- amend Schedule 1 Additional Permitted Uses to allow residential flat buildings on the site, if the consent authority is satisfied that the entire ground floor of any such building will be used only for the purpose of a registered club.

The proposal will support 40 additional dwellings and 8 full time jobs.

Council has prepared a site-specific DCP (**Attachment H5**) to accompany this planning proposal that will guide future development.

It is noted that the part of the site to be rezoned was reclassified from community to operational in 2016 under PP_2014_KURIN_003_00 (**Figure 3**).



Figure 3: Part lot that forms the site, reclassified as part of PP_2014_003_00) (Source: NearMap)

The table below outlines the current and proposed controls for the LEP.

Table 2 Current and proposed controls

Control	Current	Proposed
Zone* *(since completed as part of PP-2020-553)	RE1 Public Recreation	Part B2 Local Centre
Maximum height of the building	Part 20.5m (Q), part 14.5m (N) and part no height	26.5m (T)
Floor space ratio	Part 2:1 (T1) and part 2.8:1 (U2)	3:1 (V)
Number of dwellings	N/A	40 dwellings
Number of jobs	N/A	8+ full time jobs

Mapping

The proposal contains three mapping amendments, which are shown in **Figures 4,5 and 6 below.**



Figure 4: Existing and proposed height of building maps.

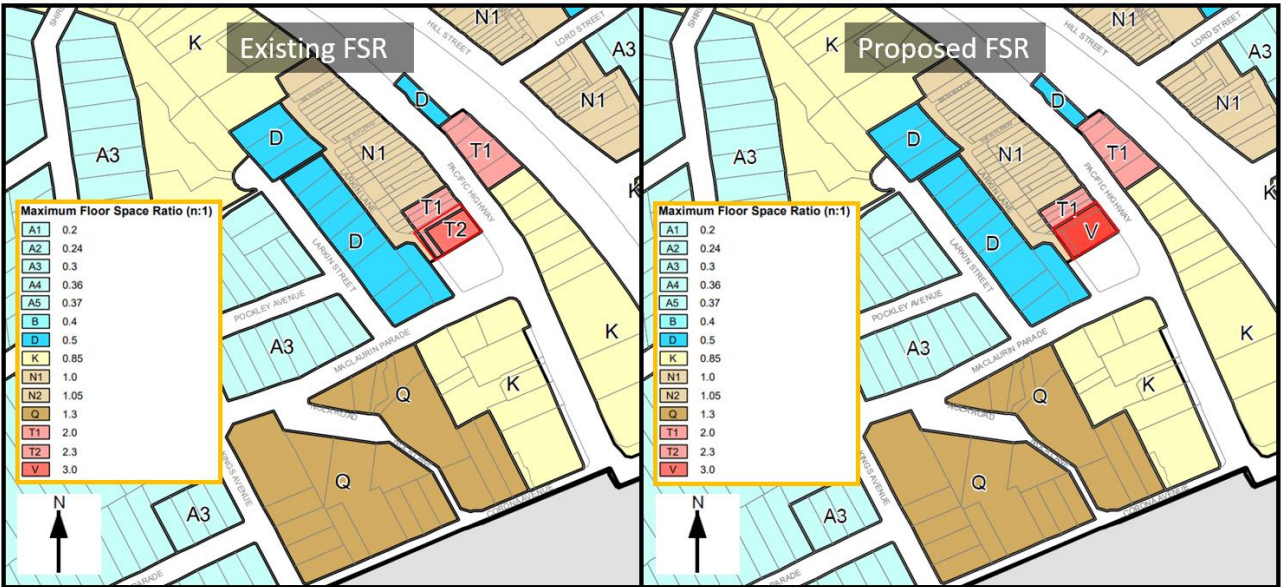


Figure 5: Existing and proposed floor space ratio maps.

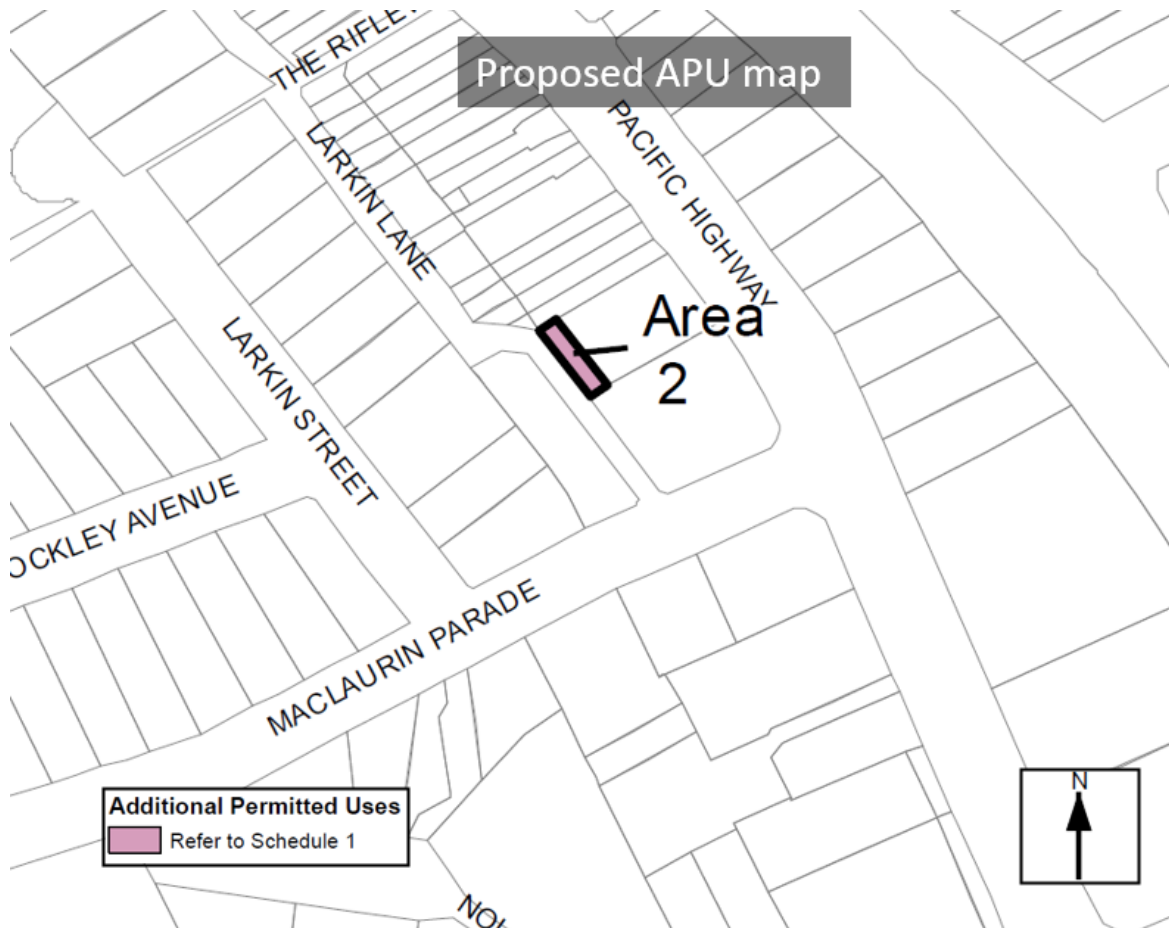


Figure 6: Proposed additional permitted use map, to allow residential flat buildings across the identified part lot.

1.1.4 State electorate and local member

The site falls within the Davidson state electorate. Jonathan O’Dea MP is the State Member.

The site falls within the Bradfield federal electorate. Paul Fletcher MP is the Federal Member.

To the team’s knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination

The Gateway determination issued on 1/06/2020 (**Attachment A**) determined that the proposal should proceed subject to conditions. Council has since met all the Gateway determination conditions.

Several of the conditions were required to be satisfied prior to exhibition of the Proposal. The revised planning proposal was re-submitted to the Department on 26/11/2020 for review and approval prior to exhibition. The endorsement by the Department that these conditions had been satisfied by Council was issued 10/3/2021 (**Attachment D**).

Council resolved to make the Plan 15/6/2021 (**Attachment E1 and E2**).

The proposal in accordance with the Gateway determination was due to be finalised by 1/06/2021.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 26/03/2021 to 23/04/2020, as required by section 29 of the *Local Government Act 1993*.

A total of twelve (12) community submissions were received, comprising of ten (10) objections and two (2) submissions supporting the proposal (**Attachments E1 and F1**).

A public hearing was not required, as clarified in the Gateway determination.

Submissions during exhibition

3.1.1 Submissions supporting the proposal

The two submissions of support identified the following aspects of the proposal:

- The need for a club to serve the community, particularly as there is currently no other similar licensed entertainment venue in the area of that size,
- The proximity to the train station,
- The club is part of the community's identity and holds historical importance, so it is important to retain it, and
- The club brings social benefits to the area by offering a recreation facility for all ages.

3.1.2 Submissions objecting to and/or raising issues about the proposal

The ten submissions of objection identified concerns around:

Heritage impact

The submissions include concerns about the impact that the proposed development would have on the heritage value of the area. The site and the wider Roseville local centre along Pacific Highway are not located within a Heritage Conservation Area. There is a local heritage item (I107 "Killiecrankie") located to the west of the site on the opposite side of Larkin Lane, as detailed in the Heritage Impact Statement (**Attachment H1**) and in **Figure 7**, below). The draft site-specific DCP contains built form and view considerations for the conservation of this item and also to ensure any future development is suitable to the surrounding area.

Department comment:

As the site is not located within or adjacent to a Heritage Conservation Area, the proposal will not have an adverse impact on these heritage values. Given the proposal is increasing the building height by 6 metres and envisaged in the proposal to be from 6 to 7 storeys (with a roof garden), the proposal is unlikely to have a significant impact on the local heritage item (I107 "Killiecrankie") located to the west of Larkin Lane. As part of a future development application, an assessment based on the provisions of draft site-specific DCP will need to further consider the built form and view impacts. The heritage impact is examined further in Section 4.1 of this report.

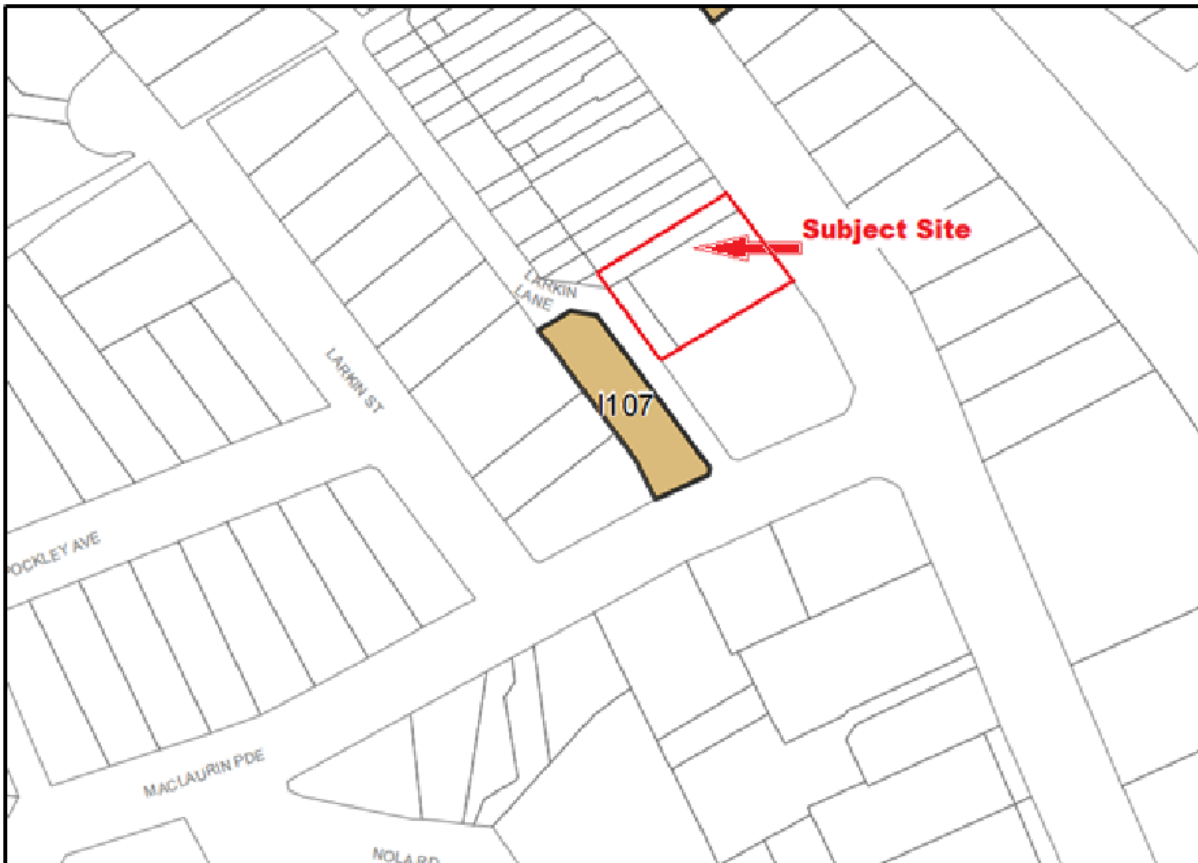


Figure 7: Site proximity to heritage item ‘Killiecrankie’ – item I107 from Ku-ring-gai LEP 2015 (Source: NSW Legislation).

Bulk and scale

Submissions also raised concerns over the bulk and scale of the development as well as overdevelopment. The current permitted height allows for 6 storeys across the majority of the subject site and 3 to 4 storeys for surrounding sites, as identified in the Urban Design Report (**Attachment H2**). The planning proposal report indicates that the transition between the proposed 7 storeys and 4 storeys on surrounding sites is not considered excessive. The proposed FSR of 3:1 corresponds to the increased height. The site is also identified as a landmark building under the existing Local Centres DCP as it is considered to be the southern gateway to Roseville Town Centre.

Department comment:

Given the current permitted height control allows for a 6 storey development, the proposed change to 7 storeys (with a roof garden) is therefore not considered a significant change or excessive for this local centre. It is anticipated that the scale of the remaining Roseville Town Centre is also likely to increase in the future as illustrated in the Urban Design Report (**Attachment H2 and Figure 8**). Due to the site’s proximity to the train station and suitability for a landmark building under the existing Local Centres DCP, the subject site is considered suitable for increased height and density.



Figure 8: Existing Built Form with additional massing shaded yellow based on the current LEP controls (Source: Urban Design Report).

Traffic and parking

Submissions raise concerns around parking and traffic congestion. The Traffic and Transport Study (**Attachment H3**) concluded that the proposed development would generate a low increase in traffic and would have a minimal effect on the surrounding road network. Car parking is subject to a future development application (DA) and the site-specific DCP. The Larkin Lane public car park is not part of this proposal.

The car park is limited to a small area behind the club that currently provides five to six informal parking spaces (**Figure 9 and 10**) that will be removed to allow for a footpath that has been planned since 2012 under the Local Centres DCP and Public Domain Plan. This 3 metre wide footpath is part of a plan to connect the Memorial Park to the Rifleway (walkway) at the northern end of Larkin Lane, resulting in an increased community benefit as explained in **Attachment F1**.

Department comment:

The Traffic and Transport Study indicates that there will be an additional 1 to 2 vehicles per hour two-ways during weekday peaks. This is considered to be a minor increase on the existing local road network. The proposal includes removal of only the strip of land immediately behind the club used for informal parking spaces to facilitate the 3 metre wide footpath, and the Larkin Lane public car park is not impacted. Further analysis of the impact on the local road network can be undertaken during the development assessment process.



Figure 9: Streetview of informal car park along Larkin Lane and adjacent to Roseville Memorial Club (Source: Google Maps).



Figure 10: Proximity of Larkin Lane car park and informal car park adjacent to Roseville Memorial Club (Source: NearMap).

Rezoning of the park

Submissions included concerns about rezoning of part of the park and the sale of community land. The rezoning of part Lot 2 has already been finalised as part of the Ku-ring-gai LEP 2015 (Amendment No. 21) which came into effect on 28 June 2021. The Memorial Park was not rezoned nor it is intended to be under this proposal, with the exception of an anomaly in the RE1 zoning boundary that applied to a very small part of RE1 zoned land.

Department comment:

The Department is satisfied that the rezoning as pictured in **Figure 11** was finalised under the Ku-ring-gai LEP 2015 (Amendment No. 21) as a separate planning proposal, no further assessment is required.

Additional permitted uses setting a precedent for shop top housing

A submission raised concerns over the amendment to Schedule 1 Additional Permitted to permit a residential flat building above a registered club on the ground floor. This proposal will not set a precedent as shop top housing is already permitted with consent within the B2 Local Centre zone. The amendment is only applicable to the subject site and any future planning proposals will be assessed according to strategic and site-specific merit. The amendment will ensure the sustenance of the club as described in the statement from Roseville Memorial Club (**Attachment H4**).

Department comment:

The proposal facilitates a development that does not change the ground floor use of the site, and shop top housing is already permitted on the subject site within the B2 zoned land. No further assessment of this issue is required.



Figure 11: Recent rezoning of part of the site under PP-2020-553 (Source: Ku-ring-gai Council Report).

Concurrent planning actions

Submissions expressed concern around previous submissions made in response to the concurrent Development Application and draft Planning Agreement for the site. This Planning Proposal is independent to the existing development application and draft Planning Agreement. A new development application for future development is still required, which would enable opportunity to further consideration and comment.

Department comment:

Any future development application that acts on the outcomes of this planning proposal (once made) will be subject to a separate development application in accordance with the proposed revised development controls.

Advice from agencies

In accordance with the Gateway determination, Council was required to consult with agencies listed below:

- Transport for NSW (TfNSW);
- Transport for NSW (Roads and Maritime Branch);
- Ku-ring-gai Council;
- Sydney Water;
- Endeavour Energy;
- NSW Environment, Energy and Science (EES); and
- Other relevant infrastructure service providers.

Council provided a copy of the planning proposal to all of these authorities and responses were received from Ausgrid, Sydney Water, TfNSW and EES as seen at **Attachment F2**. It is noted that Ausgrid is the provider (not Endeavour Energy) within the Ku-ring-gai area, so the proposal was referred accordingly for comment.

Sydney Water raised issues concerning water and wastewater servicing and trade wastewater requirements. Council noted Sydney Water's concerns and explained that these issues would be considered at the development application stage.

The Department considers Council has adequately addressed matters raised in submissions from public authorities.

Post-exhibition changes

3.1.3 Council resolved changes

At Council's Ordinary Meeting on 15/06/2021, Council resolved to proceed with the planning proposal with the only amendment made being to the draft site-specific DCP (**Attachment E1 and E2**). This involves reference to residential car parking rate to be in accordance with existing DCP provisions for mixed used development at section 8.2 of the Local Centres DCP.

3.1.4 Justification for post-exhibition changes

The Department notes that the post-exhibition change is minor and does not require re-exhibition. It is considered that the post-exhibition change to the DCP merely adds clarity to the proposal.

4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination report (**Attachment A**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report (**Attachment G**), the planning proposal submitted to the Department for finalisation:

- Remains consistent with the regional and district plans relating to the site
- Remains consistent with the Council's Local Strategic Planning Statement
- Remains consistent with all relevant Section 9.1 Directions
- Remains consistent with all relevant SEPPs

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1

Table 3 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Table 4 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Detailed assessment

The following section provides details of the Department's assessment of key matters.

The Planning Proposal seeks to rezone a portion of the site (since completed as part of PP-2020-553, amend the height of buildings and floor space ratio standards, and amend Schedule 1 Additional Permitted Uses to allow a residential flat building on the site, provided that the ground floor be used solely for the purposes of a registered club. It is noted the proposal was considered through the Gateway assessment process to have strategic and site-specific merit.

Rezoning of part Lot 2 in DP 202148

The rezoning of part Lot 2 has already been finalised as part of the Ku-ring-gai LEP 2015 (Amendment No. 21) which came into effect on 28 June 2021 (**See Figure 3, above**).

Increased height of buildings

The existing maximum building height allows for 6 storeys across most of the site and 3 to 4 storeys for surrounding sites. Given that the Local Centres DCP identifies the subject site as a Landmark building, the envisaged increased height to 7 storeys is considered appropriate for this site and the increase would not have an adverse impact on the surrounding area. This is also considered appropriate due to the subject site's location within walking distance of the Roseville Station and as the site is positioned at the entrance to the local centre heading northbound.

Overshadowing

The additional overshadowing impact of the proposed height is considered to be minor and does not have a significant impact. The site is bound by Pacific Highway, Larkin Lane and Roseville Memorial Park which provide additional separation for reduced overshadowing. 1 MacLaurin Parade is considered to maintain solar access all afternoon (**Figures 12-15**).

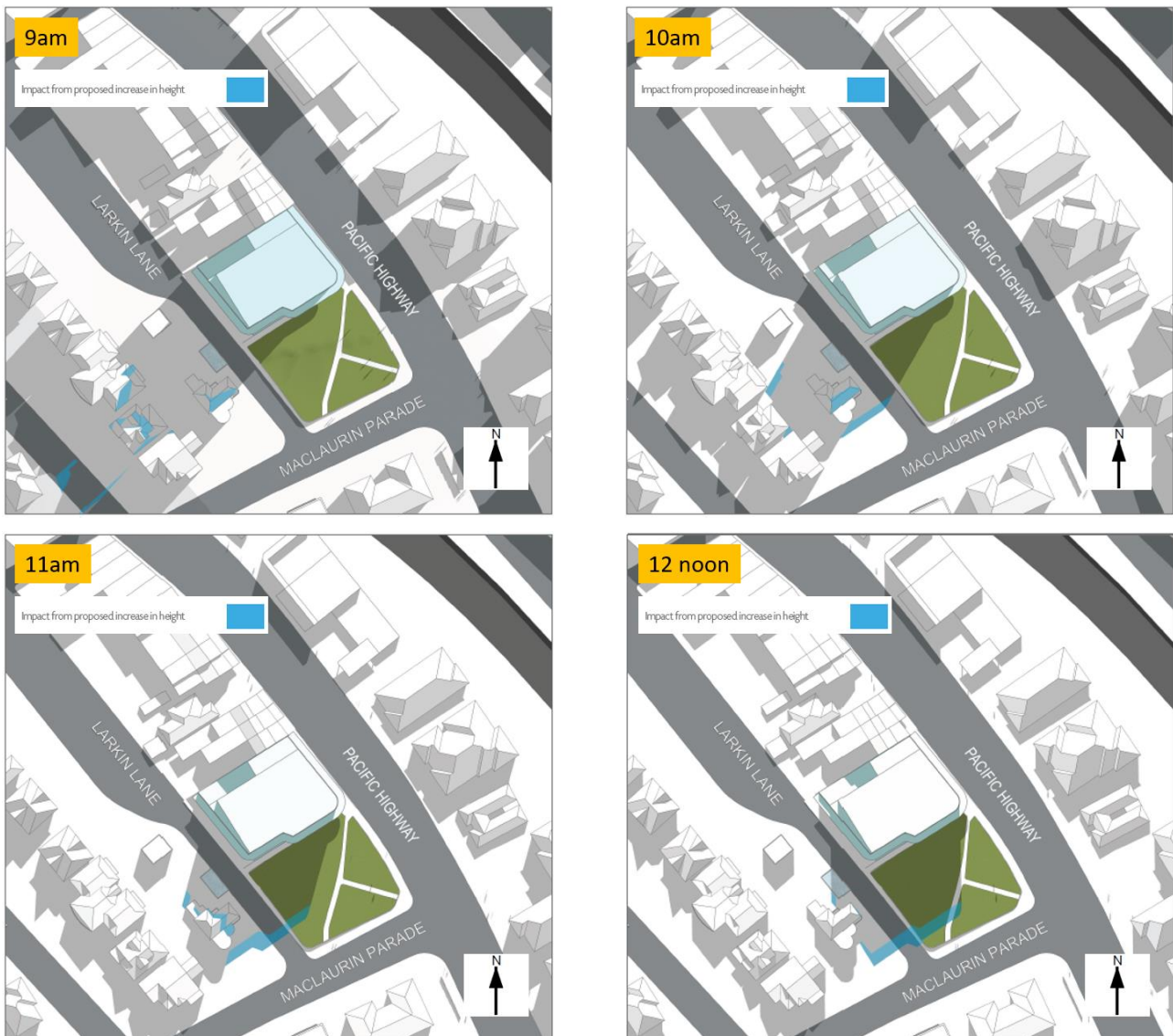


Figure 12-15: Impact of overshadowing, with areas shaded blue showing the additional impact of the proposed increase in height (Source: Urban Design Report – pg 35).

Economic and Employment

The proposal allows for the upgrade and continued use of the existing club within the Roseville town centre. The continued operation of the club is also expected to create 4 additional full-time

jobs. The additional housing within the town centre will generate increased expenditure at local shops.

Increased floor space ratio

The proposed increased FSR responds to the proposed increased height and the site's identification as a Landmark building in the Local Centres DCP, allowing for a viable residential development above the ground floor club use that is appropriate for increased density.

Additional permitted uses

The proposed amendment to Schedule 1 Additional Permitted Uses to permit a residential flat building above a registered club at ground floor seeks to ensure the continued use of the club and therefore maintain the objectives of the B2 Local Centre zone. Shop top housing is permitted with consent within the B2 zone and the provision of housing within the local centre will provide residents with access to housing, local and community services, and public transport.

Social

The planning proposal will allow for the continued use of the club as a place of interaction for the community. The provision of additional housing contributes to housing supply and diversity within the locality and offers housing close to employment. The proposal provides housing that is close to public transport, encouraging a reduced reliance on private vehicles. The proposal also seeks to improve site activation, particularly along the Memorial Park and Larkin Lane frontages.

Heritage

The proposal and the change from 6 to 7 storeys will not have a significant impact on the setting of the local heritage item 'Killikrankie'. The former Bank Building and former Station Master's Residence is separated physically from the subject site by the Pacific Highway. The proposal is considered to be consistent with the heritage objectives of the Ku-ring-gai LEP 2015 and the Ku-ring-gai DCP.

4.1.1 Section 9.1 Directions

The inconsistency with section 9.1 Direction 6.3 Site Specific Provisions was considered minor and was resolved when the proposed amendment to Clause 1.8A of the Instrument was removed from the Planning Proposal as part of the pre-exhibition endorsement (**Attachment D**). No further assessment of the issue is required.

4.1.2 District Plan

As detailed in the table below, the Planning Proposal is consistent with the relevant planning priorities of the North District Plan.

Table 5: Assessment of the proposal against the relevant North District Plan priorities.

Planning Priority	Response
N1: Planning for a city supported by infrastructure	The proposal is situated within close proximity to Roseville Station and a number of bus services, resulting in the population growth being balanced by the convenience and proximity to this and other infrastructure within the centre. There is also capacity for the proposal within the existing road network.
N3: Providing services and social infrastructure to meet people's changing needs	The proposal seeks to ensure the future viability and continued use of the club at this location due to its social benefit. The proposal will result in the provision of housing accessible by public transport.

Planning Priority	Response
N4: Fostering healthy, creative, culturally rich and socially connected communities	The proposal will ensure the continued use of the club and will enhance the Roseville local centre by locating housing and community services together.
N5: Providing housing supply, choice and affordability, with access to jobs, services and public transport	The Planning Proposal provides diversity in housing types and prices within walking distance of local services, public transport, and employment. This is particularly evident as the locality is predominantly comprised of detached dwellings.
N6: Creating and renewing great places and local centres, and respecting the District's heritage	The proposal will contribute to the activation of the local centre by providing housing close to open space, services, and public transport.
N10: Growing investment, business opportunities and jobs in strategic centres	The proposal seeks to co-locate commercial and residential uses within the Roseville town centre. The operation of the club will promote employment within the town centre and the additional housing provides housing close to jobs.
N12: Delivering integrated land use and transport planning and a 30-minute city	The proposal is located within 30 minutes of Chatswood, Hornsby, Macquarie Park and Sydney CBD by train; therefore, contributing to the 30-minute city.
N20: Delivering high quality open space	The site is positioned adjacent to the existing Memorial Park and it is considered that the increased height and density of the proposal will not have any adverse impact to the park.
N21: Reducing carbon emissions and managing energy, water and waste efficiently	The proposed development, as part of a future DA, will seek to optimise solar access, natural cross-ventilation thereby reducing carbon emissions and also to include on-site stormwater detention.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 6 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	<p>Three (3) maps have been prepared by the Department's ePlanning team and meet the technical requirements:</p> <ul style="list-style-type: none"> • Height of Buildings Map – HOB_015 • Floor Space Ratio Map – FSR_015. • Additional Permitted Use map – APU_015. 	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, see below for details</p>

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Council	Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> . Council confirmed on 27/08/2021 that it approved the draft and that the plan should be made (Attachment C).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	On 16/09/2021, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- it will provide a community benefit by maintaining the Roseville Memorial Club land use;
- it provides housing within close proximity to a local centre, services, and public transport (railway station and bus services).
- it contributes to the 30-minute city;
- it is consistent with the North District Plan and Ku-ring-gai Local Strategic Planning Statement;
- it is consistent with the Gateway Determination; and
- as the issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal.



21 September 2021

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28 September 2021

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Attachments

Attachment	Document
PC	Parliamentary Counsel Opinion – 16 September 2021
Proposal	Final Planning Proposal – November 2020
Maps	Draft LEP maps
MCS	Map Cover Sheet
LEP	Draft LEP – 16 September 2021
Council	Letter to Council advising of the decision
A	Gateway Determination – 1 June 2020
B	Finalisation Request – 17 June 2021
C	Council agreement to make the plan – 15 September 2021
D	Pre-Exhibition Endorsement Letter to Council – 10 March 2021
E1	Council Report – 15 June 2021
E2	Council Resolution – 15 June 2021
F1	Summary of Submissions
F2	Response from Agencies
G	Gateway determination report – 1 June 2020
H1	Heritage Impact Statement
H2	Urban Design Report
H3	Traffic and Transport Study
H4	Statement from Roseville Memorial Club