

SYDNEY NORTH PLANNING PANEL ASSESSMENT REPORT

Panel Reference	2018NH041
DA Number	DA0134/18
LGA	Ku-ring-gai
Proposed Development	Subdivision of land, demolish existing structures (including Roseville Memorial Club and retail tenancy) and construct mixed-use building comprising new ground floor Memorial Club, shop-top housing of 33 residential dwellings, basement parking and associated works
Street Address	62 to 66 Pacific Highway ROSEVILLE NSW 2069
Applicant	Roseville Returned Servicemen's Memorial Club Limited
Owner	Ku-ring-gai Council (62 Pacific Highway, Roseville) Roseville Returned Servicemen's Memorial Club Limited (64-66 Pacific Highway, Roseville)
Date of DA Lodgement	12 April 2018
Number of Submissions	68 submissions (11, 12 and 45 over the three respective notification periods)
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Works on land to which Council has an interest in excess of \$5 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • SEPP 55 – Remediation of Land • State Environmental Planning Policy No. 65 • SEPP (Infrastructure) 2007 • State Environmental Planning Policy (BASIX) • State Environmental Planning Policy (Vegetation in Non-Rural Areas) • SREP (Sydney Harbour Catchment) 2005 • Draft Environment State Environmental Planning Policy • Draft State Environmental Planning Policy (Infrastructure) 2007 • Draft Remediation of Land State Environmental Planning Policy • Ku-ring-gai LEP (Local Centres) 2012 • Ku-ring-gai Local Centres DCP 2016 • Ku-ring-gai Development Contributions Plan 2010 • Clause 92 (1)(B) of the Environmental Planning Assessment Regulation 2000 • Consolidating LEPs Planning Proposal

List all documents submitted with this report for the Panel's consideration	Attachment A1 – Zoning map for report Attachment A2 – Location Sketch Submitters map for report Attachment A3 – Architectural drawings Attachment A4 – Amended landscape plans Attachment A5 - Clause 4.6 written variation (Height of Building) Attachment A6 – Clause 4.6 written variation (FSR)
Report prepared by	Vince Hardy – Urban Planning Consultant, Cityscape Planning + Projects
Report date	4 February, 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

DEVELOPMENT APPLICATION

EXECUTIVE SUMMARY

Property	64 Pacific Highway, Roseville
Lot & DP	Lot 1 and 2 in DP 505371 and Lot 2 in DP 202148
Proposal	Demolish existing structures (including Roseville RSL Club and retail tenancy) and construct mixed-use building comprising new ground floor RSL Club, shop-top housing of 33 residential dwellings, basement parking and associated works
Development Application No.	DA 0134/18
Ward	Roseville
Applicant	Roseville Returned Servicemen's Memorial Club Limited
Owner	Roseville Returned Servicemen's Memorial Club and Ku-ring-gai Council
Date lodged	12 April 2018
Issues	Appropriateness of proposed subdivision, non-compliance with FSR development standard, non-compliance with Height of Building development standard, streetscape presentation, and potential impacts on existing vegetation in adjacent park.
Submissions	23 submissions (11 and 12 over the two respective notification periods)
Land & Environment Court	N/A
Recommendation	Refusal
Assessment Officer	Vince Hardy – Planning Consultant

LEGISLATIVE REQUIREMENTS:

Zoning	B2 Local Centre and RE1 Public Recreation
Permissible under	Ku-ring-gai Local Environmental Plan (Local Centres) 2012
Relevant legislation	SEPP 55, SEPP 65, SEPP (Infrastructure), SREP (Sydney Harbour Catchment) 2005, Ku-ring-gai LEP (local Centres) 2012, Ku-ring-gai Local Centres DCP.
Integrated development	No

History

DATE	EVENT
12/04/2018	DA 0314/18 was lodged
26/4/2018	Notification of application for a period of 30 days. Eleven (11) submissions were received.
05/09/2018	Briefing provided to Sydney North Planning Panel
20/09/2018	<p>Letter sent to applicant after initial assessment raising numerous concerns with the development proposal relating to:</p> <ul style="list-style-type: none"> - Proposed subdivision - Building setbacks to Larkin Lane - Activation of ground floor - Basement configuration - Impacts upon Memorial Park - Building Height - Floor space ratio - Ceiling heights - Cross ventilation - Storage - Water management - Parking - Waste management - Construction management - Geotechnical reporting - Tree impacts - BASIX Certification - Plan inadequacies - Acoustic impacts <p>This letter resulted in several phone calls between the applicant, applicant representatives and the independent planning consultant and Council planning staff.</p>
12/03/2019	Council receives formal letter of offer to enter into a Planning Agreement to acquire the Council owned land associated with the development proposal
09/04/2018	<p>At the April Ordinary meeting of Ku-ring-gai Council, Council resolves:</p> <ul style="list-style-type: none"> • To note receipt of formal letter of offer to enter into a Planning Agreement to acquire the Council owned land associated with the development proposal • Delegation is granted to General Manager to progress a draft planning agreement, • To approve the divestment of 156.8m² of Council owned land,

	<ul style="list-style-type: none"> • Subject to divestment of the Council lands approval be given to the acquisition of easements in favour to Council for the purpose of maintaining public access etc, and • Delegate to the General Manager and the Mayor all authority to execute the divestment of Council land, subdivision and acquisition of easements in favour of Council.
28/5/2019	Applicant and their project team of consultants attended a meeting with the independent planning consultant and Council planning staff.
10/7/2019	Applicant provided a written response to Council's request for further information which included "Concept Sketch" amended plans in an effort to address planning issues raised in the preliminary assessment.
27/8/2019	Letter sent to applicant outlining continuing concerns with the development proposal and "draft plans" including: <ul style="list-style-type: none"> I. Proposed consolidation of lots that include public assets. II. Non-compliance with building height standard. III. Non-compliance with FSR standard. IV. Poor street activation to Pacific Highway. V. Impact on trees in Memorial Park. VI. Engineering issues including insufficient car parking.
19/9/2019	Applicant provided amended DA package inclusive of plans and reports. These amended plans included: <ul style="list-style-type: none"> I. 6m building setback to cadastral boundary of Larkin Lane property. II. Proposal to build footpath along Larkin lane. III. Changes to ground floor plan in an effort to improve activation of park and street.
20/09/2019	The application is renotified for a period of 14 days. 12 submissions were received.
14/11/2019	The application is renotified for a periods of 14 days. 45 submissions were received.

THE SITE AND SURROUNDING AREA

The site:

Visual character study category:	N/A
Easements/rights of way:	No
Heritage Item:	No
Heritage conservation area:	No

In the vicinity of a heritage	Yes – No. 1 Maclaurin Parade, Roseville
Bush fire prone land:	No
Endangered species:	No
Urban bushland:	No
Contaminated land:	Council's records identify No. 66 Pacific Highway as potentially contaminated land: refer to the assessment of the application against the provisions of SEPP55 for comments in this regard

Site description:

The subject site consists of three allotments, being:

- 62 Pacific Highway, Roseville – Part Lot 2 in DP202148
- 64 Pacific Highway, Roseville – Lot 1 in DP202148
- 66 Pacific Highway, Roseville – Lot 2 in DP505371

The site incorporates part of Roseville Memorial Park and the Roseville Memorial Club. The Memorial Park is located at the north-western corner of the Pacific Highway and Maclaurin Parade and the proposed development is located to the north of that park. The site also has a frontage to Larkin Lane at its rear or western boundary.

The part of the Roseville Memorial Park that forms part of the development proposal is a small and narrow strip of land located adjacent to Larkin lane. This land currently provides at grade parking for the club as well as providing part of the Larkin Lane carriageway. Figure 1 provides an aerial photograph of the site, outlined in red highlighted yellow. Figure 2 provides an image of the existing cadastral arrangements.

The development site is an irregular shape with a total area of 1,375m² and frontages of 30.87 metres, 43.66 metres and 25.91 metres to the Pacific Highway, Roseville Park and Larkin Lane respectively. It has no significant slope, topographic or natural features. It currently provides a single level registered club building with loading and limited at-grade parking provided via Larkin Lane.



Figure 1: Aerial photograph of development site (outlined in red) and surrounds

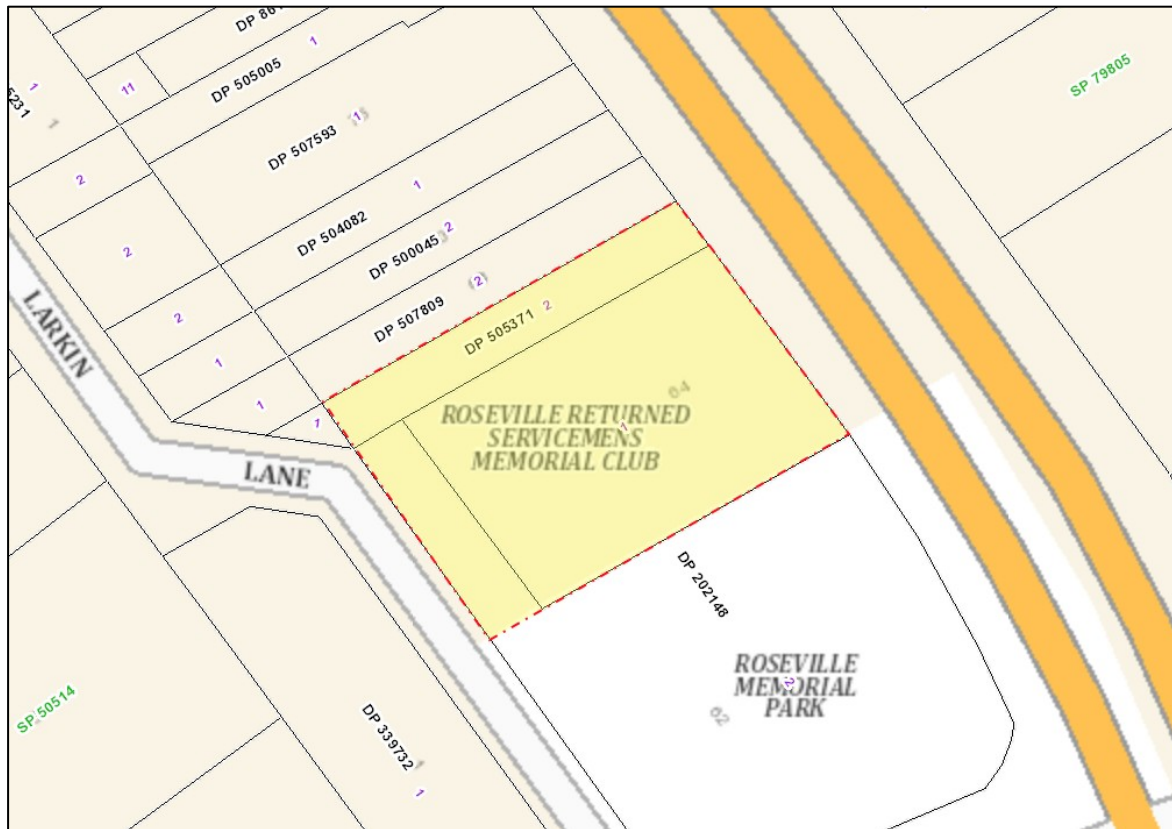


Figure 2: Cadastral arrangements

Surrounding development:

The site is located 150 metres south of the Roseville Railway Station and sits at the southern end of the Roseville retail strip.

The surrounding development is a mixture of commercial, retail and residential uses. Immediately adjoining the site to the south is Roseville Memorial Park, whilst lands to the west provide low-density residential suburban type development.

Larkin Lane also provides vehicle access to a large public car park that is located behind the Roseville retail strip. This car park is the primary car parking area for the Roseville retail area.

THE PROPOSAL

An application has been made to Council for both the subdivision of land and physical development in the form of a new mixed commercial / residential building.

Subdivision/consolidation development

The proposed subdivision seeks to excise that portion of the Roseville Memorial Park that is located to the rear of the existing club building and adjacent to Larkin Lane (being a strip of

land with an area of 156.8m²) and then have that parcel consolidated with the other two parcels of land currently owned by the club.

Physical development

This physical development involves the demolition of existing structures, and construction of a six (6) storey shop-top housing development with three (3) levels of basement car parking. The mixed-use development comprises a club on the ground floor and thirty-three (33) residential dwellings located above on Levels 1-5 inclusive of a roof top communal open space.

Vehicular ingress and egress are provided via Larkin Lane and includes the provision of an on-site loading bay for services and waste management.

A photomontage of the development proposal is provided at **Figure 3**.



Figure 3: Photomontage of development viewed from the Pacific Hwy (south east)

COMMUNITY CONSULTATION

In accordance with Volume C, Part 25 of the Ku-ring-gai Local Centres Development Control Plan, owners of surrounding properties were given notice of the application. As part of the first notification period, 11 submissions were received from residents and nearby businesses including one in support of the proposal. The second notification period generated 12 submissions including 6 submissions in support of the redevelopment. The third notification period generated 45 submission including 23 submissions in support of the development

proposal. One of these submissions was provided by the Memorial Club and included a petition that included over 150 signatures in support of the development.

The issues raised in the submissions are summarised and addressed as follows:

Club is integral to the Community and development is appropriate and of good design

The submitters noted that the Roseville Club is an important gathering place for the local community and has been suffering declining membership in recent years. The proposed development would will help to ensure that the club will be able to continue to provide that important community role. Some of these submissions also provided support for the proposed planning agreement, sale of Council land to the Club and appropriateness of the development proposal.

It is acknowledged that the Club plays an important community role however this does not remove the need to provide a suitable planning and development response.

Excessive scale and density of development and adverse impact upon heritage and local character values

The site has been zoned to accommodate a diverse mix of land uses and the development planning framework and associated development controls do generally contemplate development of the type, form and scale proposed. However, there are some legitimate concerns about proposed non-compliances with both building height and floor space ratio development standards.

There also remains some concerns about the poor streetscape presentation at the ground level interface with the Pacific Highway.

Adverse local traffic impacts and insufficient car parking provision

The car parking provision is technically consistent with the requirements of Council's DCP. However, this technical compliance primarily results from a context whereby the existing club facility currently does not provide any parking on their site, but relies upon public parking provided in nearby public car parks including 5 parking spaces provided directly adjacent to the site within Larkin Lane/Roseville Memorial Park lands.

Therefore, whilst the development does not address the historical shortfall in car parking associated with the club, it does meet the parking demand from the new residential elements of the development. Accordingly, the proposed development is not expected to exacerbate any existing parking problem in the local area.

Traffic modelling indicates that the development is not considered to generate additional traffic volumes that would have any adverse impact upon the operational efficiency of the surrounding road network and nearby intersections.

Insufficient setback to Larkin Lane

The proposed setbacks to Larkin Lane are inconsistent with those required under the DCP for other sections of Larkin Lane and therefore could jeopardise the realisation of planning outcomes sought to be delivered by that DCP.

Adverse noise, visual privacy, overshadowing and amenity impacts to adjacent residential development

The site is zoned for a mix of uses and, as such, the proposal seeks commercial and residential uses on the site, which are appropriate for such a land use zone. Noise from loading activities can be minimised by restricting hours of loading and requiring the loading dock door to be shut during unloading and loading.

Operational noise from the development is not considered likely to result in unacceptable impacts upon existing residential properties given the distance separation, however there is a need for further assessment of noise impacts upon adjacent development and potential future residential development of that site.

The site is located sufficient distance from residential properties that it is not expected to result in any unacceptable impacts in relation to shadowing, loss of privacy or loss of views.

Impacts upon Memorial Park including overshadowing and 'heritage' values of RSL memorials

There are legitimate and unresolved concerns about the impact that the development will have on the health of large mature trees that form an integral element of the Memorial Park.

The RSL Memorial is not a heritage item and the proposed overshadowing of that memorial is not considered to cause and adverse impact.

Inappropriate development response given the context of adjacent heritage item

The heritage item at No. 1 Maclaurin Parade, Roseville is located over 12 metres from the site and separated by a laneway. No important views to or from the heritage item have been identified and all existing views to the heritage item will be maintained. Therefore, the proposed development is considered to provide an acceptable response to the site location adjacent to a heritage item.

Construction impacts relating to traffic and noise

The noise impacts from the construction stage can be appropriately mitigated by conditioning hours of construction and the preparation of a Noise Management Plan, should the application be approved.

Potential for increase in local crime

The additional on-site population provided by the mixed use development is actually likely to reduce the potential for crime through the provision of passive surveillance of public domain areas.

Permissibility of development as 'shop top housing'

The development application seeks approval for *shop top housing* on the basis that the club element of the development can be defined as a 'shop'. However, a *registered* club is identified as a separate defined land use in the zone and the ground floor component clearly can be characterised as that land use. This does create some ambiguity regarding land use permissibility.

The application is accompanied by legal advice from the applicant that the ground floor component of the development may be characterised as both a registered club and retail premises (i.e. shop). Council has obtained its own legal advice which supports that legal opinion.

Accordingly, the development is permissible in the zone.

Appropriateness of Council land forming part of the development proposal and the public benefit to be derived.

The proposed subdivision and ultimate transfer of Council owned land to the club would result in existing public infrastructure, i.e. part of Larkin Lane inclusive of kerb and gutter, footpaths etc, being located within privately owned land.

There are serious concerns as to the suitability of that outcome and no public benefit expected to be derived from it.

Dilapidation impacts on adjoining premises

These impacts can be managed through the construction process and monitored through the undertaking of dilapidation reporting through that construction stage.

INTERNAL REFERRALS

Development Engineer

Council's Development Engineer provided the following comments in relation to the application, as originally submitted:

Water management

The site is located within the Roseville Local Centre and has two street frontages, to Pacific Highway to the east and Larkin Lane to the west. The site currently consists of 3 allotments. The amalgamated site forms a rectangular shape with a combined area of 1,375m². The site has a gradual fall of approximately 1.2 metres from its highest point at the north-eastern corner towards the south-western corner of the boundary.

The stormwater plans show all roof areas and impervious areas draining to an on-site detention tank located under the driveway entry to Larkin Lane in the north-western corner of the site. It is proposed to have the site discharge from the on-site detention (OSD) tank directed to a new kerb inlet pit (KIP) on the other side of Larkin Lane. This new KIP will connect to an existing KIP further down Larkin Lane via a proposed 375mm pipe extension to Councils network.

A completed Ku-ring-gai Council OSD calculation sheet has not been submitted therefore it is unsure if the on-site detention requirements described in Part 24C.5 of the Ku-ring-gai (Local Centres) DCP have been satisfied.

A thermal comfort and BASIX Assessment has been submitted, with the water commitments not requiring a rainwater tank. Whilst the BASIX water score has been achieved, there is no supporting hydraulic calculation submitted to demonstrate compliance with Part 24C.3 of the Ku-ring-gai Local Centres DCP that requires rainwater retention and re-use to be provided to achieve a 50% reduction in runoff days.

No analysis of how the captured stormwater will be treated to satisfy the pollutant load standards set out in Part 24C.6 of the Ku-ring-gai Local Centres DCP has been submitted. No MUSIC Modelling has been submitted.

The Stormwater Plans would need to be amended for them to be acceptable. Additional details are required as per the recommendations below.

Vehicle access and accommodation arrangements

The site is zoned 'B2' under the Local Centres LEP. The parking provisions have been determined using Ku-ring-gai Council Local Centres Development Control Plan for commercial and mix use. The site is located within 400 metres walking distance from Roseville Railway Station. According to the Ku-ring-gai Local Centres DCP Volume A Part 8B.2-15 'Car Parking Rates', the total parking spaces required for the residential component would be a minimum 29 spaces and maximum 45 spaces with 6 visitor spaces.

The retail component (696m²) would be a minimum 21 spaces and maximum 27 spaces.

The development seeks to provide 52 off-street parking spaces, comprising 5 spaces for the club (includes 1 accessible), 1 carwash bay, 6 residential visitor spaces (includes 1 accessible visitor), 40 residents' spaces (including 5 accessible spaces). The minimum parking spaces requirements have been met for the development but will require reallocation to cater for the parking demands created by the club component of the proposal.

A car wash bay space has been provided within the basement 1 and satisfies the minimum dimension of 3.5 metres x 6.5 metres as required in Part 8B.2 of the Local Centres DCP. This space also doubles up as a visitor space, which is acceptable.

The accessible visitor and commercial parking space width of 2.4 metres plus 2.4 metres shared area complies with AS2890.6:2009 as well as the dimensions of the designated accessible car space. The requirements referred to by the Access Consultant have been satisfied.

Vehicle access to the car parking facility is to be provided via a new 6 metres wide entry / exit driveway which satisfies the requirements of Volume C Part 22.2 of the DCP.

It is unclear whether adequate sight sightlines for oncoming vehicles and to pedestrians on Larkin lane as the layout of the driveway and footpath has not been finalised. This will be assessed when these details have been finalised.

In order to gauge traffic conditions, counts were undertaken during the weekday morning and afternoon peak periods at the following intersections: Pacific Highway/Maclaurin Parade; and Maclaurin Parade/Larkin Lane.

These intersections were analysed using the SIDRA software program. The SIDRA analysis found that the signalised intersection of the Pacific Highway and Maclaurin Parade operates with average delays of less than 40 seconds per vehicle during peak periods. This represents levels of service C, a satisfactory level of service.

The priority controlled intersection of Maclaurin Parade with Larkin Lane operates with average delays for the highest delayed movement of less than 14 seconds per

vehicle during peak periods. This represents level of service A, a good level of service.

The traffic generation rates nominated by The Roads & Maritime Services (RMS) 'Guide to Traffic Generating Developments (TDT)' provides updated rates for high density residential flat dwellings (2012 surveys) that are close to public transport services, at least six storeys and mostly residential in nature. TDT 2013/ 04 specifies an average AM peak hour trip generation for Sydney of 0.19 vehicles per hour per apartment (two-way). The PM peak hour trip generation rate is slightly lower at 0.15 vehicles per hour per apartment (two-way), accounting for a greater 'spread' over a longer peak period.

Based on the above, the 33 residential apartments would generate up to seven vehicles per hour two-way during weekday peak hours. The five club parking spaces would generate low volumes during peak periods. Overall, it is estimated that the proposed development would generate some 10 vehicles per hour two-way.

Therefore, the development would generate a net increase of 10 peak hour trips or 1 trip every 6 minutes.

Such a low traffic generation would not have noticeable effects on the operation of the surrounding road network. Intersections would continue to operate at their existing satisfactory levels of service, with similar average delays per vehicle.

Waste collection

The development shall allow garbage truck to enter and depart the garbage/room recycle storage area in a forward direction. The turning manoeuvrability has not been provided for the small waste collection vehicle.

A driveway longitudinal section shall be submitted to demonstrate the minimum head height of 2.6 metres to access the basement area. A 20% driveway grade is required to satisfy the requirements of Part 23.7(35) of the Local Centres DCP.

The areas provided for waste storage and collection have been assessed within the submitted operational waste management plan and deemed suitable for purpose.

Construction management

An indicative construction management plan has not been submitted. A Construction Traffic Management Plan shall be submitted prior to the commencement of any works on site to show truck turning path diagrams demonstrating how construction vehicles for all stages of development will turn into and out of the site.

A 'work zone' will not be permitted on Larkin Lane given the narrow street.

Impacts on Council infrastructure

Should the development be approved it is recommended that a condition be imposed requiring that detailed design drawings for the new kerb inlet pit and proposed 375mm diameter reinforced concrete pipe to cross the road in Larkin Lane be submitted and assessed by Council's Operations Department for approval under the Roads Act. This will require a road closure.

Geotechnical investigation

The submitted geotechnical report submitted presents the results of a desktop geotechnical assessment and site walkover observation for the project. No boreholes were completed and no detailed analysis of the site conditions have been provided.

A preliminary geotechnical report based on boreholes drilled to below basement level shall be submitted.

The report is to contain recommendations for excavation methods and support, vibration monitoring, dilapidation survey etc. If DA is to be approved, it would be recommended through condition that if groundwater is encountered, the basement is to be fully tanked to prevent unnecessary subsurface or groundwater extraction as per the requirement of the Ku-ring-gai Local Centres DCP Part 24C.3(8).

Response to submissions

Submissions has been received which raise traffic issues.

For mixed use development within a commercial area within 400 metres to a railway station Part 8B.2 allows a minimum rate in the range of 1 space per 26m² to 33m² of floor area for shops and restaurants. With a proposed floor area of 696m², this would then equate to at least 21 and up to 27 spaces, however only 5 are proposed.

Even though the minimum rates of parking has been provided, the allocation of parking, and in particular how many spaces are allocated to the club shall has not been adequately addressed Parking rates are specified in Council's planning controls so that adequate space is provided for residents and visitors within these developments and parking does not spill over into the surrounding streets. Further information has been requested that the off-street parking for both the residential and retail components satisfy Council's car parking rates.

Recommendations

The proposed development cannot be fully assessed until the following information has been submitted.

Water management

- A completed Ku-ring-gai Council OSD calculation sheet has not been submitted therefore it is unsure if the on-site detention requirements described in Part 24C.5 of the Ku-ring-gai (Local Centres) DCP have been satisfied.*
- There is no supporting hydraulic calculation submitted to demonstrate compliance with Part 24C.3 of the Ku-ring-gai Local Centres DCP that requires rainwater retention and re-use to be provided to achieve a 50% reduction in runoff days.*
- No analysis of how the captured stormwater will be treated to satisfy the pollutant load standards set out in Part 24C.6 of the Ku-ring-gai Local Centres DCP has been submitted. No MUSIC Modelling has been submitted.*

Parking

As per AS 2890 and in order to ensure adequate sight distances for pedestrians and traffic in Larkin Lane, sight triangles of 2m x 2.5m shall be provided on both sides of the proposed vehicular crossing.

- *Even though the minimum rates of parking has been provided, the allocation of parking, and in particular how many spaces are allocated to the club shall be justified by means of a revised traffic report. With a proposed retail floor area of 696m², this equates to at least 21 up to 27 spaces however 5 are provided.*

The submitted traffic report includes a traffic intersection movement survey for 1 day only. A revised intersection movement survey shall be submitted to consider a 3 day period.

Waste management

- *The development shall allow garbage truck to enter and depart the garbage/room recycle storage area in a forward direction. The turning manoeuvrability shall be provided for Council's small waste collection vehicle.*
- *In order to assess the susceptibility of vehicles to scraping as they pass over the proposed access driveway the applicant shall submit longitudinal sections along each side of the proposed vehicular access path drawn at 1:100 Scale. The design shall be prepared by a suitably qualified civil engineer using Council's standard vehicle profile. All driveway grades and transitions shall comply with AS 2890.1 -2004 and Council's specifications. The following details are significant:*
 - *Minimum head height of 2.6m for Councils waste collection vehicle to access the basement area.*
 - *A maximum 20% driveway grade is required to satisfy the requirements of Part 23.7(35) of the Local Centres DCP.*
 - *Maximum gradient of 5% is required for the first 6 metres from the property boundary.*

Construction management

- *An indicative construction management plan has not been submitted. A CTMP shall be submitted prior to the commencement of any works on site to show truck turning path diagrams demonstrating how construction vehicles for all stages of development will turn into and out of the site.*

Geotech

- *A preliminary geotechnical report based on boreholes drilled to below basement level shall be submitted. The report is to contain recommendations for excavation methods and support, vibration monitoring, dilapidation survey etc. If DA is approved, it would be conditioned that if groundwater is encountered, the basement is to be fully tanked to prevent unnecessary subsurface or groundwater extraction as per the requirement of the Ku-ring-gai Local Centres DCP Part 24C.3(8).*

In response to the amended application, Council's Development Engineer provided the following comments:

Water management

The site is located within the Roseville Local Centre and has two street frontages, to Pacific Highway to the east and Larkin Lane to the west. The site currently consists of 3 allotments. The amalgamated site forms a rectangular shape with a combined area of 1,375m². The site has a gradual fall of approximately 1.2 metres from its highest point at the north-eastern corner towards the south-western corner of the boundary.

The stormwater plans show all roof areas and impervious areas draining to an on detention tank located under the driveway entry to Larkin Lane in the north-western corner of the site. It is proposed to have the site discharge from the OSD tank directed to a new kerb inlet pit on the other side of Larkin Lane. This new KIP will connect to an existing KIP further down Larkin Lane via a proposed 375mm pipe extension to Councils network.

A completed Ku-ring-gai Council OSD calculation sheet has been submitted which shows an OSD tank requirement of 23.6m³, a PSD of 12.1l/s, and an orifice diameter of 74mm. However, dimensions of the OSD tank have not been provided on the stormwater plans

A water balance table has been submitted which suggests a "potential raintank volume" of 20m³, with connections for toilet flushing. The table shows reduction in runoff days of 50%, which satisfies Council's requirements. However, a rainwater tank has not been shown on the stormwater plans.

MUSIC analysis has been provided which shows a 10,000 litres rainwater reuse tank, stormfilter chamber, 4 PSorb (MCC). However, none of these devices have been shown on the stormwater plans.

The Stormwater plans are to be amended. Additional details are required as per the recommendations below.

Vehicle access and accommodation arrangements

The development seeks to provide 52 off-street parking spaces, comprising 5 spaces for the club (includes 1 accessible), 1 carwash bay, 6 Residential Visitor spaces (includes 1 accessible visitor), 40 residents' spaces (including 5 accessible spaces). The minimum parking spaces requirement has been met for the development.

Even though the minimum rates of parking has been provided, the allocation of parking, and in particular how many spaces are allocated to the club is not supported by Council. With a proposed retail floor area of 696m², this equates to at least 21 up to 27 spaces however only 5 are provided.

Revised SIDRA analysis has been provided for 3 days as previously requested. Revised results show levels of service C, a satisfactory level of service, the same as initial analysis.

Sightlines for oncoming vehicles and to pedestrians on Larkin Lane has been provided.

Waste collection

The turning manoeuvrability has been provided for waste collection vehicle access on the ground floor (commercial) and basement 1 (residential).

A driveway longitudinal section has been submitted to demonstrate the minimum head height of 2.6m to access the basement 1 area. A 20% driveway grade has been provided which satisfies the requirements of Part 23.7(35) of the Local Centres DCP.

A higher headroom has been provided to the commercial waste collection/loading dock on the ground floor.

Construction management

An indicative construction management plan has been submitted.

All site access is proposed via Larkin Lane

A 'work zone' is not proposed. All loading/unloading proposed for within the site boundary.

Geotechnical investigation

Boreholes were drilled at 2 locations. The boreholes were drilled to augur depth of 1.6 metres to 4 metres below ground level. They were bored to refusal on shale bedrock. SPT was carried out within the soils at 1.5 metres depth intervals.

Boreholes were continued to termination at 14 metres and 13.9 metres depth.

Subsurface conditions

Origin (m)	Description	Depth to top of unit (m)	Unit Thickness
Fill	Asphalt pavement	Ground surface	0.2-0.4
Residual	Clay	0.2-0.4	0.4-0.8
Bedrock	Shaley Clay	0.8-1.2	4.8-5.1
Bedrock	Shale	5.8-6	>7.9

Groundwater was not observed in the boreholes during augur drilling to depths of 1.6 metres to 4 metres below ground level. However, groundwater levels were measured twice after installation of the groundwater well; 1 day after (approximately RL 104.37m) and 1 week after (approximately RL 103.9m).

Based on investigations, the basement level of 101.2 metres AHD is at least 2.7 to 3.7 metres below the observed groundwater level and would be within shale bedrock and it is therefore recommended that the basement be tanked.

Recommendations

The proposed development cannot be fully assessed until the following information has been provided:

Water management

The Stormwater Plans are to be amended. Additional details are required as per the recommendations below.

- *The OSD tank dimensions are to be provided on the stormwater plans.*
- *A rainwater tank with connections for toilet flushing has not been shown on the stormwater plans.*
- *A 10kl rainwater reuse tank is to be shown on the stormwater plans.*

Parking

- *Even though the minimum rates of parking have been provided, the allocation of parking, and in particular how many spaces are allocated to the club is not supported by Council. With a proposed retail floor area of 696m², this equates to at least 21 and up to 27 spaces however only 5 are provided.*

Geotech

- *It is recommended that the basement is tanked as per the following condition of consent:*

The following Condition, should the application be approved is to be included as part of any draft Condition set:

Basement excavation to be fully tanked

Prior to issue of any Construction Certificate, the Principal Certifier is to be satisfied that the basement has been designed as a fully tanked structure as per the requirement of Part 24 C.3(8) of the Ku-ring-gai DCP.

If groundwater is encountered, a referral to the NSW DPI Water is required, due to the need for construction dewatering which would require an aquifer interference approval. All requirements of NSW DPI Water are to be met during design, excavation and construction.

Reason: *To protect the environment.*

Landscaping

Council's Landscape Assessment Officer provided the following comments in relation to the original application.

The proposal is not supported in the current form for the following reasons:

- *Adverse impacts on public domain and Memorial Park, and*
- *Further information is required to enable assessment*

Tree impacts - SEPP (Vegetation in Non-Rural Areas) 2017

An arborist report prepared by Margot Blues dated 15th February 2018 has been submitted with the application. Tree numbers refer to this report.

Tree to be removed

Tree 4/ Nageia falcata (Outeniqua Yellow Wood). This tree is located within Council land at the northwest corner of the site. The tree is not shown on the survey or the landscape plan and is incorrectly located on the tree location plan in the arborist report. The tree is proposed to be removed for the proposed building. The tree is 6m high with a 10 metre spread and is visually prominent within Larkin Lane. Council's Tree Management Coordinator does not consider the tree as a constraint to the development.

Trees to be retained

Tree 1/ Eucalyptus scoparia (Wallangarra White Gum). This tree is located on the southern boundary, within the adjoining Council park. The tree is directly adjacent Larkin Lane and is to be protected during construction.

Tree 2/ Eucalyptus microcorys (Tallowood). This tree is located on the southern boundary, within the adjoining Memorial park. The proposed basement has been offset from the trunk of this tree so that excavation will result in a 10.3% encroachment within the tree protection zone. Approximately 25% of the canopy extends above the Club. A pruning specification is to be submitted (refer below).

Tree 3/Liquidamber styraciflua (Liquidamber). This tree is located on the southern boundary, within the adjoining Memorial Park. The building is 4.85m from the tree and the proposed basement excavation will result in a 15.5% encroachment within the tree protection zone. The tree exhibits a deep cavity within the trunk. Approximately 25% of the canopy extends above the Club. A pruning specification would usually be requested however due to the condition of the tree, advanced testing through the trunk at the point of the cavity is to be carried out to determine the structural integrity prior to consideration of the pruning.

Trees 2 and 3 - Pruning required for building clearance

If pruning is required for the proposed development, a pruning specification is to be submitted to demonstrate that the tree(s) is will not be adversely affected by pruning in accordance with AS4373 Pruning of Amenity Trees. Consideration should be given to the species, health, age, condition and location of foliage to be removed and size of cuts. The potential impacts of the proposed pruning on the health, structure and amenity of the tree should also be considered. Care should be taken to avoid excessive pruning. Awning location and scaffolding design is also to be considered to minimise branch removal (Section 45.6 AS4970-2009 Protection of trees on development sites).

Communal open space - Part 8C.10 Volume A Ku-ring-gai (Local Centres) DCP, SEPP65

The development is required to provide at least 10m² of communal open space per dwelling (330m²) with at least one single area with a minimum area of 80m² and a minimum dimension of 8 metres. At least 50% of the communal open space must receive direct sunlight for at least 3 hours between 9am and 3pm on 21st June.

The development has provided 333m² as communal open space on the Roof. The architectural sections show podium planters that provide for soil depths for tree planting. The roof top accessible space provides areas of paving and planting as well as seating, tables and a BBQ with shade structure.

Memorial Park - Part 14F.3 and 14 F.9 Roseville Local Centre KDCP (Local Centres)

Council's policy for development on this site seeks to enhance Roseville Memorial Park through provision of a highly activated interface in association with its proposed upgrade by the Council to an urban park (Part 14F.3 and 14 F.9 Roseville Local Centre KDCP (Local Centres)). The existing level of activation between the building and Memorial Park relies on the building entrance and signage at the southeast corner of the Roseville Club fronting the park. The proposal will reduce this existing activation with the only entrance to the building being relocated further along Pacific Highway and away from the park.

The proposed elevated outdoor terrace to the Roseville Club provides little amenity to the park and adjacent war memorial. Appropriate amenity planting between the outdoor terrace and the existing access path, such as shown on the South Elevation (DA202 Issue B, PBD Architects, 5/04/18), is inconsistent with the landscape plan that shows no such planting.

In conclusion, the public domain interface is poorly resolved between the proposed building and the principle pedestrian links to the northwest corner of Memorial Park and to the public carpark in Larkin Lane (3C Apartment Design Guide). This is reflected by the absence of the ground floor level detail on the landscape plan and the inconsistencies of landscape treatment indicated on architectural elevations and landscape plans (South and West Elevation).

BASIX compliance - SEPP (Building Sustainability Index: BASIX) 2004

Common area landscape

The BASIX certificate is consistent with the landscape plan.

Dwellings landscape

The individual dwelling's area of garden and lawn shown on the certificate does not accurately reflect the areas of proposed roof top planters shown on the landscape plan (Unit 101, 102, 108, 406, 503). All podium planting adjacent building edges is to be maximum 1.5 metres width and planters that are not reasonably accessible should be deleted.

Landscape plan

The planting to Larkin Lane is to be within a 500mm depth podium planter created by a drop down slab over the basement. The proposed depth of soil and width of planting bed in association with the proposed awning over a large proportion of this area would restrict the viability of much of this planting.

Landscape plan is to be amended as detailed below.

Stormwater plan

No landscape issues.

Inadequate documentation

The survey is to be amended as detailed below.

CONCLUSION

1. Adverse impacts on public domain and Memorial Park

The public domain interface is poorly resolved between the proposed building and the principle pedestrian links to the northwest corner of Memorial Park and to the public carpark in Larkin Lane (3C Apartment Design Guide). This is reflected by the absence of the ground floor level detail on the landscape plan and the inconsistencies of landscape treatment indicated on architectural elevations and landscape plans (South and West Elevation).

2. Further information is required to enable assessment:

a) Arborist report

- i. Tree 4 to be correctly located on the Tree Location Plan.*
- ii. Street tree at the southern end of the Larkin Lane carpark is to be identified and tree protection measures considered in relation to temporary site access for construction vehicles.*

Advanced testing of structure of Tree 3 prior to undertaking further investigations as described in iv and v.

- iii. A non-destructive assessment (resistograph or picus tomograph) of the tree structure at the level of the cavity is to be carried out to determine the structural integrity of the tree. Testing is to determine the significance of the extent of decay associated with the large cavity in the trunk.*
- iv. Root mapping of Tree 3*

The proposal will result in a major encroachment within the tree protection zone of Tree 3. Evidence of pavement lifting would indicate structural roots in the direction of the proposed excavation. To demonstrate that the tree would remain viable, root mapping investigation along the line of the proposed excavation in accordance with AS4970-2009 Protection of trees on development sites.

- v. Pruning of Trees 2 and 3 for building clearance*

A pruning specification is to be submitted for Trees 2 and 3 to demonstrate that they are not adversely affected by pruning in accordance with AS4373 Pruning of Amenity Trees. Consideration should be given to the species, health, age, condition and location of foliage to be removed and size of cuts. The potential impacts of the proposed pruning on the health, structure and amenity of the trees should also be considered. Care should be taken to avoid excessive pruning. Awning location and scaffolding design must be considered to minimise branch removal (Section 45.6 AS4970-2009 Protection of Trees on Development Sites).

Consideration of construction vehicle clearance for trees within the Larkin Lane carpark is also to be provided.

b) BASIX certificate

Dwellings landscape

The individual dwelling's area of garden and lawn shown on the certificate does not accurately reflect the areas of proposed roof top planters shown on the landscape plan (Unit 101, 102, 108, 406, 503). All podium planting adjacent building edges is to be maximum 1.5 metres width and planters that are not reasonably accessible should be deleted.

c) Survey plan

The survey is to be amended to include the following,

- *Tree 4 is to be shown.*
- *Details of the adjacent site to the north of the subject site is to be shown including fencing, gates, buildings.*
- *Spot levels at the base of existing trees in the vicinity of the site (Trees 1-4) are to be provided.*

d) Landscape plan

Landscape plan is to include the following;

- *Proposed existing trees to be retained and removed,*
- *Tree numbers in accordance with the arborist report,*
- *The correct extent of paving to the carpark including planter islands, car spaces and western and eastern loop road are to be shown. Similarly, existing fencing, planting, retaining walls, kerbs and gutter are to be shown,*
- *Proposed level of external areas including garden beds and terraces.*
- *The entire ground floor of development in relation to adjoining existing public domain,*
- *Detail of podium planting on the roof and to Larkin Lane showing depth of soil and drainage is to be provided. Proposed 500mm stepdown of the groundfloor slab is considered insufficient for the proposed planting of small trees that requires at least 800-100mm depth, and*
- *Planting along Larkin Lane under proposed awnings is not considered viable.*

e) Architectural plans

The architectural plans are to amended to include the following,

- *The site plan is inadequate and should be prepared in accordance with Council's DA Guide including the correct extent of paving to the carpark including planter islands, car spaces and western and eastern loop road are to be shown. Similarly, existing fencing, planting, retaining walls, kerbs and gutter are to be shown.*
- *The northern elevation should indicate existing fencing to no. 68 Pacific Highway,*
- *Existing levels to site boundaries to be shown, specifically at the northwest corner of the site,*
- *Section AA is to indicate correctly the proposed setdown for the planter as per the landscape plans,*
- *The southern elevation (DA202 Issue B, PBD Architects, 5/04/18) indicates planting forward of the deck which is inconsistent with the landscape plan that shows no planting between the outdoor terrace and the existing access path,*
- *The western elevation (DA203 Issue B, PBD Architects, 7/04/18) indicates small tree planting forward of the ground floor of the building which is inconsistent with*

the landscape plan that shows only shrub planting with a mature height of 1.5m between the building and Larkin Lane,

- The ground floor awnings are incorrectly shown on the sections and North and South Elevations and are inconsistent with the Level 1 Plan, Issue B, PBD Architects, 5/04/18,*
- A North/South section at the eastern end of the proposed outdoor terrace is to be provided to demonstrate sufficient clearance for deck structure within the tree protection zone of Tree 2. All sections to indicate natural ground line, and*
- Detail of the podium planting to Larkin Lane over basement showing depth of soil and drainage is to be provided. Proposed 500mm stepdown of the ground floor slab is considered insufficient for the proposed planting of small trees as proposed at the southwestern corner (minimum 100mm depth required).*

f) Environmental Site management plan

The ESMP is considered unsatisfactory for the following reasons,

- I. Temporary construction vehicle access is to be provided including swept path diagrams to enable assessment of likely impacts on the existing vegetation.*
- II. The ESMP is to indicate realistic dimensions of site sheds, waste and material stockpiles.*
- III. The temporary filter tubes (sandbags) at the driveway entrance will restrict cars exiting from Larkin Lane.*
- IV. Larkin Lane in the vicinity of the site entrance should be shown including the western kerbs/ drainage inlets, carparking and street trees with appropriate protection.*

Comment: In response to the amended application, Council's Landscape Assessment Officer has recommended several conditions of consent as a means of protecting existing trees on and near the site and ensuring a suitable landscaping response is provided. These are noted, notwithstanding recommendation of the application for refusal.

Environmental Health

Council's Environmental Health Officer provided the following comments in relation to the original application:

- 1. Gaming area - The acoustic report identifies potential noise impacts from the alfresco gaming area. The plans show operable louvered doors or windows to the exterior of the building adjoining the footway along the Pacific Highway. It is unclear if it is intended that this area be a smoking area however if these louvers are openable for ventilation purposes consequently there is potential for noise (from the machines and patrons) and smoke impacts to the residential units above.*

It is requested that the applicant clarify the above and if it is intended that the space be used as a smoking area within the club with openable windows to the facade that the acoustic consultant provide further assessment of the potential noise impacts at night to the residential units above and provide recommendations in relation to acoustic treatments.

- 2. Air conditioning units - The plans show an area on the fourth residential level of the building that is allocated for the installation of approximately 32 air conditioning condenser units. This area is along the boundary of the neighbouring property at 68 Pacific Highway and the plans show an uncovered area with a proposed barrier of 1.2 metres in height around the air*

conditioning units. The acoustic report does not include assessment of any potential noise impacts to the residential units on Level 4 or 5 from the operation of the air conditioning units.

It is requested that an assessment be provided by the acoustic consultant of the potential noise impacts from the air conditioning condensers proposed to be located on Level 4, particularly given that the plans do not indicate that the area is enclosed. The assessment needs to include night-time impacts assuming all units are operating simultaneously and provide recommendations in relation to any required acoustic treatments.

3. *Live music - The acoustic consultant has advised that “to meet the noise goals for live music no amplification of any kind is to be used. No acoustic drums, bass, brass, or woodwind instruments of any kind can be used”. It is noted that the current operation the RSL Club includes live music where the performers are using microphones. In addition the consultant has recommended that “during live music events the Club will need to employ a person qualified to take the octave band sound pressure level measurements to ensure the noise goals are met”. It would be preferable if other measures could be applied to the internal construction or similar to reliably achieve the project specific noise goals.*

It is requested that the applicant confirm that the Club understands the change that will occur to their live music events and if desired they can discuss further with the acoustic consultant what modifications they may be able to make to enable live music to continue with a small/limited amount of amplification. The acoustic consultant can provide further advice and recommendations where required.

Draft conditions in relation to live music have been included with other conditions related to the proposed commercial food business and residential noise controls and have been recommended and would need to be imposed, should the application be approved. Equally, resolution of the above matters may require or necessitate further conditions. .

In response to the amended application, Council's Environmental Health Officer provided the following comments:

The amended plans are largely supported, however the following points are noted:

- I. *An electromagnetic assessment of the substation room located on the ground floor has not been provided for potentially impacted individuals; and*
- II. *The noise assessment report by Noise and Sound Services dated 16 September 2019 recommends an acoustic barrier around the air conditioning condensers on level four with varying heights (2 metres, 1.8 metres and 1.2 metres). However the Daikin RZQS71AV1 condensers to be installed will be stacked two high, meaning air conditioning condensers will be higher than the proposed acoustic barriers in some cases as they will reach a height of approximately 2m. Additionally with an acoustic barrier of just 1.2 metres on the Larkin Lane side of the development, air conditioning condensers would be visible from the balconies of units 401 and 402 and appear to be less than 9 metres away from unit 401's bedroom.*

Comment: Should the application be approved, conditions could be imposed within the consent to address the above issues relating to EMR shielding and the design of the acoustic barrier.

Heritage

Council's Heritage Advisor has provided the following comments in relation to the original application.

Heritage status

The site is not in a heritage conservation area but is in the vicinity of a heritage item at 1 Maclauren Parade, Roseville as listed in the Local Centres Ku-ring-gai Local Environmental Plan (Local Centres) 2012.

Clause 5.10 of the Local Centres LEP requires that before granting consent to the proposed works Council must consider the effect of the works on the heritage item, nearby items or conservation area concerned.

Part 19 of Ku-ring-gai Development Control Plan (Local Centres) (KDCP) sets out objectives and controls for proposed development that may impact heritage places. Any future development proposal must be prepared with regard to the relevant provisions of Ku-ring-gai Development Control Plan.

Significance

No 1 Maclauren Parade is a c. 1938 two storey inter-war functionalist style building with art deco detailing. Features include a prominent semi-circular bay with horizontally proportioned strip windows, a second curved bay around the stairwell with a vertical glass brick opening and blonde face brick construction. Currently the house is in poor condition. There is an unsympathetic 2-storey addition above a double garage at the rear.

The primary curtilage for the house is its lot boundary curtilage. The broader visual setting of low density residential housing set in mature gardens, and a low scale (two storey) local shopping centre forms an appropriate setting for the house.

Assessment

The key issue is the impact of the proposal on the setting of the no. 1 Maclauren Parade, the heritage item.

The setting of no. 1 Maclauren Parade will be changed as the desired future character of the area is gradually established in response to the Council's planning controls that have upzoned the former low density residential area and two storey shopping strip. The proposal is acceptable with regard to its bulk and scale if it complies with Council's planning provisions for new development on the subject site as assessed by the planner.

The design of the proposed new building is not such that it would be a visually startling element in the visual setting of 1 Maclauren Parade.

No important views to 1 Maclauren Parade have been identified. Views to the front and side of the house will remain available from Maclauren Parade and across Roseville Memorial Park. This satisfies the requirements of KDCP control 19F.1.4.

The proposed new building is more than 12 metres from the house at 1 Maclauren Parade and therefore satisfies KDCP controls 19F.2.3.

Conclusion

The proposed development is acceptable with regard to its impact on the heritage values of 1 Maclauren Parade subject to the façades having acceptable materials, finishes and colours.

In response to the amended application, Council's Heritage Advisor provided the following comments:

The proposal involves such minor modifications to the original design and no further comments are made from a heritage perspective.

Strategic Planning

These following issues were raised by Council's Strategic Planning Officers in relation to the proposal:

Setback to Larkin Lane

1. *Rear setback of 3 metres to Larkin Lane is insufficient. Should be setback further to match the 6 metres requirement for the rest of the properties along Larkin Lane to facilitate future activation.*

Proposed landscaping along Larkin lane is not appropriate. It impedes pedestrian access, contrary to proposed activation of lane and pedestrianisation. Need to maintain pedestrian link along Larkin Lane as a continuation of the existing path flanking the western edge of the park.

Activation of ground floor

2. *Club entry – preference for it to be on the corner (as existing) to activate park. The relocation of the entrance would require internal reconfiguration to relocate lift and reception.*
3. *Outdoor terrace looking onto the park is a good idea however not extensive enough. DCP requires active frontage to the park. Suggest outdoor terrace along full length of southern façade with glass louvre windows to create a transition from internal air conditioned environment to semi-internal terrace. This will offer patrons greater flexibility and provide passive surveillance of the park. If this could be achieved, awning requirement to the park could be waived.*
4. *Smoking zone not appropriate on Pacific Highway frontage. Active frontage requirement of DCP – must be glass and see through.*
5. *Proposed footpath treatments need to be assessed with reference to the Public Domain Plan and existing site conditions.*

Basement configuration

6. *The public/visitor section of the basement car park would need to incorporate a form of parking management, to prevent commuters, employees of Roseville local centre and other long stay users from occupying those spaces for extended periods;*
7. *Bicycle parking for visitors/patrons should be provided close to the main entrance of the facility, and should be of a type in accordance with the provisions of Section 11.4*

of Austroads - Cycling Aspects of Austroads Guides AP-G88-17. Bicycle parking for visitors/patrons in the basement is generally not a suitable location.

Impacts on Park:

8. *Impact on existing trees to be assessed – noted that 2 large trees would be physically affected by the proposed structures including a Eucalyptus. microcorys and liquidamber. The basement car park is within root zone of these trees and the proximity of development to trees likely to require substantial lopping.*
9. *Impact on existing park plantings needs to be assessed - including viability on the retention of a lone pine memorial tree, rosemary hedges and roses due to loss of sunlight.*

Impact on memorials to be assessed – note there are approx. 7 memorials / plaques in the park with the majority being adjacent to the northern pathway / RSL property boundary and that 2 of these are listed on the NSW Register of War Memorials.

In response to the amended application, Council's Strategy officers provided the following comments:

Setback to Larkin Lane

The increase in the rear setback of 6 metres to Larkin Lane is supported and matches the requirement for the rest of the properties along Larkin Lane to facilitate future activation.

Activation of ground floor

The relocation of the club entry to the corner (as existing) is supported and will contribute to the better activation of the park.

Outdoor terrace looking onto the park should extend along the full length of southern façade with glass louvre windows to create a transition from internal air conditioned environment to semi-internal terrace. This will offer patrons greater flexibility and provide passive surveillance to park. If this could be achieved, awning requirement to the park could be waived.

Smoking zone not appropriate on Pacific Highway frontage. Active frontage requirement of DCP – must be glass and see through.

Proposed footpath treatments need to be assessed with reference to the Public Domain Plan and existing site conditions

Basement configuration

The public/visitor section of the basement car park would need to incorporate a form of parking management, to prevent commuters, employees of Roseville local centre and other long stay users from occupying those spaces for extended periods;

Bicycle parking for visitors/patrons should be provided close to the main entrance of the facility, and should be of a type in accordance with the provisions of Section 11.4 of Austroads - Cycling Aspects of Austroads Guides AP-G88-17. Bicycle parking for visitors/patrons in the basement is generally not a suitable location.

Reclassification of Land

The park and associated axe-handle of land along Larkin Lane was formally reclassified from Community land to Operational land in December 2016. The reclassification was necessary for the purposes of permitting the subdivision to excise the axe-handle from Memorial Park. Memorial Park itself is to revert to community classification following this subdivision in accordance with Council's original resolution in relation to the proposed reclassification dated 9 December 2014 which reads as follows:

- A. That the property of 62 Pacific Highway Roseville be reclassified from Community land to Operational land as per the planning proposal.*
- B. That the Council delegate authority to the General Manager to undertake all necessary requirements to effect a subdivision of 62 Pacific Highway Roseville to achieve the separation of the area that currently comprises Memorial Park from the axe handle currently utilised for car parking purposes generally along the zoning line between the RE1 zoned land and the B2 zoned land but primarily in a continuing line extended from the southern boundary of the property owned by the RSL, following the reclassification of the land to Operational Land.*
- C. That, upon registration of the subdivision of 62 Pacific Highway Roseville, referred to above, the new allotment which comprises Memorial Park be classified as community land and the new allotment which comprises the area utilised primarily for car parking retain an Operational classification.*

Planning Agreement

In March 2019 Roseville Memorial Club ("the Club") submitted a letter of offer to enter into a Planning Agreement associated with the current Development Application DA0134/18 inclusive of a formal notice of intention to acquire the land. The letter of offer includes provision for the creation of easements in gross for the public purpose of securing future public access in accordance with Council's Development Control Plan and Public Domain Plan.

Council considered this formal letter of offer from the Club at the OMC of 9 April 2019 and endorsed the formal commencement of the negotiation of the draft planning agreement inclusive of the intention in principle to ultimately divest the axe-handle land to the club, subject to formal valuation and the negotiation of an agreed price.

On 22 October 2019, Council resolved to place on public exhibition a draft Planning Agreement to facilitate the proposed divestment of a small parcel of Council land to the Club comprising an area of 156.80m² within Lot 2 DP 202148 at market value as part of DA0134/18. The subdivision of the land for divestment will also involve the concurrent creation of easements in favour of Council, in order to provide ongoing public access and place an obligation on the Club to maintain the land in a satisfactory condition to Council's satisfaction at its cost. At the completion of the statutory exhibition process, Council will be in a position to consider a resolution for the divestment of the subject land and the creation of the easements.

Right of footway, right of carriageway and Positive covenant

Both a right of footway and a right of carriageway is to be provided over the land that is to be subdivided and divested concurrent with the point of subdivision. This may be suspended during the construction phase only.

The benefits to be created under the Planning Agreement provides that the Memorial Club (and any successors in title including a future strata plan) is required to: maintain and repair any works on the Burdened Land, including any walkway constructed on the Burdened Land, to the reasonable satisfaction to of the Council; and to maintain sufficient public liability insurance covering the use of the Burdened Land, including any walkway constructed on the Burdened Land, as reasonably required by the Council; and to not place any structures, fixtures or articles (unless approved by Council) that might serve to impede access.

Design of the Area to be subject to the above provisions

As previously discussed, plans of the treatment of the area are to be submitted as part of the DA and duly conditioned as part of the Development Application.

Larkin Lane Dedications under the DCP and Public Domain Plan

Ku-ring-gai's suite of strategic planning documents collectively includes a significant number of laneway widenings in multiple local centres as part of a programme of activation and facilitation of pedestrian access. The cost of acquiring all the land involved across the LGA at market value would have been so prohibitive as to preclude the desired outcome.

Rather than forego the one-off potential to achieve the Urban Design outcomes as part of the current redevelopment phase facilitated by the rezoning under the Town and Local Centres LEPs, an innovative approach was incorporated across the suite of LEP, DCP, Public Domain Plan and Contributions Plan to achieve the desired public benefits for a lower cost. The LEP & DCP foreshadow that the value of the land inherent in its floorspace potential shall be retained by the development site. As such, the land to be dedicated retains no appreciable residual value and can be dedicated free of charge without unreasonable impost on the site owner; and therefore, without triggering a demand for unfunded financial compensation. The subject site, however, cannot access the same benefit as its northern neighbours on Larkin Lane because the floorspace potential of the comparable sliver of land is in public ownership through the Council and, therefore, cannot be incorporated in the development unless that right is purchased.

The Planning Agreement provides for the purchase of that land (and its development rights) but also for the provision of public access in such a manner as to also achieve the public domain outcome envisaged for Larkin Lane. It provides a financial benefit for a sliver of land that has effectively been subsumed into private usage for many years which supports the Council contribution to ongoing works in the area.

Urban design

Council's Urban Design consultant provided the following comments in relation to the original application:

Key Urban design issues

1. Height – KLEP 2012 cl 4.3 permits 20.5 metres maximum height for No 64 Pacific Highway. The proposed breaches are not supported for the following urban design reasons:
 - a) The permitted height already represents a bonus under the LEP that recognises the site as a landmark. This is demonstrated by the Height of Buildings Map that shows the site has significant uplift compared to all other sites within the Roseville Local Centre (14.5m at No 66 Pacific Highway, and 69-83 Pacific Highway to the east, and only 11.5m for all other lots.)
 - b) The additional height will be clearly visible when viewed from the public domain south along the highway and from the north due to the Memorial Park being open space and surrounding permitted height being significantly less than the subject site.
 - c) The component of height comprises primarily lift overrun, fire stair, and rooftop communal open space shade structure and to a lesser extent rooftop plant and therefore poorly integrated with the overall massing of the development.
 - d) Medium sized trees are being relied upon to provide screening, which cannot be guaranteed will be planted and adequately maintained over the life cycle of the development.
 - e) There are no site constraints that may help justify the variation, such as topography.
 - f) It is highly likely future telecommunications towers will be installed above the lift overrun further exacerbating visual impacts in the public domain experienced from significant distances contrary to KDCP_LC 8C.7(2).
 - g) There are alternative design options that will not reduce proposed residential yield while providing accessible rooftop communal open space elsewhere on the site such as:
 - (i) at Level 1 roof top that can be achieved with minor design changes and can address privacy of Units 101, 102 and 108).
 - (ii) at Level 5 for optimal communal amenity. Unit 501 will be deleted, which will ensure permitted building height is not exceeded and services and lift overruns are adequately integrated into the design of the building.

NOTE: Proposed floor-to-floor heights also have not demonstrated structure including required insulation up to R3.0 at upper levels, set downs for waterproofing and accessible private open space finished levels will achieve required minimum unobstructed floor-to-ceiling heights at ADG 4C-1 (1). A minimum 3.1m minimum floor-to-floor height is to be provided with construction details for slabs, falls to drainage and outdoor terrace methods to be submitted. This will result in a further increase to proposed height. It should also be noted that KDCP_LC 8C.13 (1)(iii) requires the first floor of mixed use development to achieve 3m unobstructed floor-to-ceiling height or min 3.4m floor-to-floor for future flexibility within a B2 zone; furthermore, ADG 4C-3 requires ceiling heights of lower level units in local centres to be greater than the minimum to allow flexibility, which if mandated would further breach the permitted height.

2. FSR – There appears to be lobby areas excluded from FSR calculations that should be included such as the residential main entry and lift lobbies above. These areas are not consistent with the interpretation of ‘open corridors’ (to be excluded from GFA) applied in Landmark Group Australia Pty Ltd v Sutherland Shire Council [2016] NSWLEC 1577 pars 31-39 and 49-65.
<https://www.caselaw.nsw.gov.au/decision/5840e1a3e4b0e71e17f55b5c>. This likely

would result in a non-compliance with KLEP_LC cl 4.4 that is beyond the technical non-compliance submitted as justifying the cl 4.6.

3. Street wall – KDCP_LC 14F.9(7) requires a consistent 3 storey (11.5 metres) street wall along the Pacific Highway. The proposed development builds to the boundary along the majority of the site frontage contrary to Ku-ring-gai's intended urban character. There are sound architectural merit arguments that can support this variation. However, support is dependent on aspects of the development that fail to achieve Ku-ring-gai's intended development being satisfactorily addressed.
4. Public domain interface – Impact of the gaming machines is contrary to local development standards and state legislation.

All gaming machines are to be located elsewhere in the development so machines are not seen or heard from the broader public domain, and all frontages requiring activation are adequately activated as follows:

- a) Street activation - KLEP_LC cl 6.6 (3)(b) requires activation of primary street frontage that:

will provide uses and building design elements that encourage interaction between the inside of the building and the external public areas adjoining the building.

Proposed gaming machines comprise over 50% of the frontage available to be activated along the Pacific Highway (once permissible fire stair, residential lobby and club entry are excluded). This does not achieve the intended activation, regardless that the frontage along the Roseville Memorial Gardens achieves an excellent level of activation, and that along Larkin Lane appears consistent with objectives of KDCP_LC 14F.9 (7)(iv).

- b) Location of gaming machines – Location of machines appears to be contrary to the requirements of separate legislation on 2 points: (i) physical location along a boundary with the public domain; and (ii) visual and audible requirements in proximity to the public domain.

The proposed location also includes a smoking area immediately adjacent to the general public walking past along the highway frontage.

Operable louvres addressing the Pacific Highway results in a poor interface with the public domain and appears to be contrary to the requirements of locations of gaming machines under the Gaming Machines Act 2001.

The louvres enable the machines to be highly visible and clearly audible being adjacent to the primary street frontage along the Pacific Highway. Proximity of gaming machines is in conflict with an inclusive and healthy public environment and contrary to the required location of gaming machines.

It should also be noted that Objects of the Gaming Machines Act 2001 at cl 3 (3) states:

In particular, due regard is to be had to the need for gambling harm minimisation when considering for the purposes of this Act what is or is not in the public interest.

The NSW Department of Industries also has requirements under the Gaming Machines Act 2001 for the location of gaming machines:

Gaming machines in hotels and clubs shouldn't be in a location that:

- *attracts the attention of people outside the venue*

- allows gaming machines to be easily seen or clearly heard from public areas outside the club.

Here are a few examples that may be seen as intending to attract the attention of people outside of your venue:

- placing gaming machines behind a clear glass wall or window where they can be seen by the public from outside the venue on public property
- placing gaming machines in an outdoor gaming or outdoor smoking area next to a public place where gaming machines can be heard
- placing a gaming machine where, at night time, its flashing lights and artwork can be clearly seen from a public place.

The Secretary of the Department of Industry can direct a hotel or club to move or screen its gaming machines, if necessary.

KDCP_LC 23.1 objectives 1 and 2 require development to minimise adverse social impacts and to pay particular attention to nearby residents and users of the site with particular attention to children, young people amongst others.

GANSW Policy Better Placed - Objective 3 - Better for Community

Streets and public spaces which are welcoming and accessible for all are more vibrant, interesting and safe.

Objective 4 - Better for People

The built environment must be designed for people with a focus on safety, comfort and the basic requirement of using public space. The many aspects of human comfort which affect the usability of a place must be addressed to support good places for people.

GANSW Policy Urban Design Guide – Achieving good urban design outcomes – Façade and interface:

The edge, where buildings meet the public domain, is vital to the quality and vitality of the street. Active edges provide a combination of transparency and privacy, encouraging interaction between the facade and the footpath.

5. Solar impacts to the Roseville Memorial Park – Shadow diagrams demonstrate that by 12pm the Memorial Park loses 50% of its current solar amenity, increasing to nearly 100% lost by 3pm. It is acknowledged Ku-ring-gai's existing development controls will have considered this impact.

It is therefore assumed from an urban design perspective, that the bonus Height and FSR already permitted on the site as a landmark site, achieves a maximum amount of development without unacceptably impacting on public solar amenity. In turn, this is the maximum impact before the functionality of the park in promoting its use as a place of reflection, enjoyment and respite from the challenging noisy highway environment is unacceptably impacted.

6. Floor-to-floor height – a minimum floor-to-floor height of 3.1 metres for all residential levels is required to facilitate construction systems that will accommodate SEPP 65 cl 6A (e) at ADG 4C-1 for 2.7 metres unobstructed floor-to-ceiling height and 4C-2; and to accommodate sufficient depth for structure and services of 0.4 metres at ADG 2C. Variations from 3.1 metres will need to submit construction details to demonstrate how 4C-1 is achieved, and how compliant setbacks for effective waterproofing of balconies and wet areas is accommodated.

7. Cross ventilation - Units 101, 201, 301 and 401 are identified as cross-ventilated. They are single aspect units with a bedroom window within a slot. Easterly breezes relied upon for cross-ventilation are prevented from ventilating these units by the massing of the adjacent part of the building to the north and east. This results in the loss of 4 units from the calculations for a total of 54.5% of the development being naturally cross-ventilated. This is inconsistent with SEPP 65 cl 6A (g) at ADG 4B-3 (1) for a minimum of 60% of units to be cross-ventilated. There are no site constraints preventing this standard being achieved as the site addresses open public domain on 3 sides, and future development on the neighbouring properties that is significantly less than that permitted on the subject site.

Actual cross ventilation being achieved will be further impacted due to the reliance on air-conditioning to address highway noise and air quality along the Highway exacerbated by the lack of implementation of noise barrier planning principles as a passive environmental design approach.

This has flow-on impacts to sustainability for building performance and energy demands over the life cycle of the development.

8. Storage – storage calculations include space in laundries required for laundry tub, washing machine and dryer. Fittings and fixtures prevent storage of items and therefore are to be excluded from all calculations. Amended diagrams with functional floor to ceiling storage suitable for linen and bulky household items is to be demonstrated within units to satisfy SEPP 65 cl 6A (h) at ADG 4G-1. Note the full allocation is to be accommodated within the unit or 50% within the unit where a maximum of 50% is located elsewhere in the development.
9. Platinum Level units – Note that a condition of consent (should the application be approved) should be included as follows:

Accessibility

As-Built (Final) Livable Housing certification of Platinum Level units is required prior to any occupation certification being issued.

Reason: Livable Housing provides 2-stage Certification – Design (Provisional) and As-Built (Final). As-built certification is required to ensure the Design certified units are constructed as Platinum Livable Housing consistent with the approval and Kuring-gai's policy requirements for inclusive and flexible housing.

10. Materials and finishes – submitted graphics for the digital version of all elevations is poor and does not enable an assessment of the proposed materials and finishes and their application. Higher quality digital copies are necessary.

In response to the amended application, Council's Urban Design consultant provided the following comments:

a) Information inconsistencies

- site boundary nominated on architectural documents incorporate Council's 6 metre strip of land adjacent to Larkin Lane. While this represents the applicant's sought outcome, this is inconsistent with the current land ownership and is not acknowledged in architectural documents.
- Section and Elevations – dwgs DA202, DA204, DA301 are inconsistent for the rooftop elements proposed to exceed the permitted height shown on the rooftop plan (see DA109).

b) Boundary encroachments

- Larkin Lane – there remain encroachments outside the existing western site boundary – Basement wall structure (and associated excavation), OSD tank and Ground Floor awning (see dwgs DA100 to DA103).
- Otherwise, the amended design now locates above-ground development within the existing site boundary.
- Hyecorp letter dated 17th September 2019 (p2) in regards to the Larkin Lane boundary states “A 6m setback has now been proposed for the building...” This is incorrect. There is no setback proposed in relation to the existing boundary conditions with the amended design built to the existing boundary (aboveground).

c) Traffic comments as regards urban design

- Letter dated 30 October 2018 (Colston Budd Rogers & Kafes) at items 5 and 6 refer to 5 x existing “on-site” car spaces, and that this “on-site parking supply” will now be relocated to the basement.
- This fails to recognise the existing parking is located on Council’s land and which the Club has derived a private benefit from the public-owned land.
- There currently is no on-site parking provided by the club.
- The 5 basement spaces for the Club are not proposed for patron parking.
- No future on-site parking for patrons is to be provided. While this is the current arrangement, it appears a questionable future public outcome over the long term where redevelopment of other properties along Larkin Lane/Pacific Highway is intended to increase commercial/retail activity. It is also assumed proposed redevelopment is intended to increase patronage levels from the current levels. The public expectation of all development is that parking provision to be provided by the proposed development to meet its intended needs.

d) Urban design as regards Ku-ring-gai’s public domain strategy objectives

As regards to Council’s strip of land, it would be generally considered inconsistent with sound urban design principles to sell a parcel of public-owned land into private ownership when:

- (a) it appears to be critical for enabling future identified public domain upgrades
- (b) its location is strategically important for those public domain upgrades
- (c) where all neighbouring sites are expected to make a land dedication of the same building line as the subject site’s boundary
- (d) its sale requires a future private owner to have the effect of returning that land back to ‘public use’ for intended public domain upgrades to occur
- (e) there appears no provision should a change occur where the existing club may not continue its operations into the future
- (f) it remains unclear why the required public domain upgrades along Larkin Lane could not be subject of a S94 contribution or other agreement that retains the existing land ownership and subdivision pattern and enables a compliant development within the applicant’s boundaries.
- (g) Mills Oakley letter dated 16th September 2019 at 2.12 notes Council’s strip of land is not subject to either a setback or any expectation of dedication. As regards urban design, there could be no requirement for dedication of land already in council ownership where proposed public domain upgrades can already occur.
- (h) The subject site is zoned B2 that does not permit residential use on the site unless as shop-top housing. Therefore, it remains a possibility that future retail use at ground level would be required should the current use as a registered club cease over the long term.

The comments from the Urban Design consultant also reiterate further detailed advice on the nature of the unresolved issues pertaining to:

- building height
- FSR
- street wall
- public domain interface
- solar impacts to the Roseville Memorial Park
- floor to floor height
- cross ventilation
- storage
- materials and finishes
- accessibility.

Technical Services

Council's Manager of Technical Services provided the following comments in relation to the original application:

In general terms it is considered that it is best for Council to remain in care and control of footpaths and other assets of this nature. However, proposals will still be considered on their merits. One of the issues with leasing of Council assets is that they can appear to be private or exclusive to residents and visitors therefore alienating people from the location. Therefore leasing or use of easement to protect easements would not be appropriate, unless a public benefit could be shown.

EXTERNAL REFERRALS

Roads and Maritime Service

The application was referred to the RMS under the provisions of clause 104 (traffic generating development) of the SEPP (Infrastructure). In response RMS provided the following comment to the original application.

Roads and Maritime has reviewed the submitted application and notes all vehicular access to the site is via Larkin Lane. Therefore Roads and Maritime raises no objections to the proposed development subject to certain conditions being incorporated in any consent issued by Council

Sydney Metro

The application was referred to Sydney Metro (the applicable railway authority) for comment in relation to potential impacts upon the North Shore rail corridor. However, there is no statutory requirement for this referral under the applicable legislation, including SEPP (Infrastructure) 2007. The authority has not provided any comment on the proposal to date.

STATUTORY PROVISIONS

Environmental Planning & Assessment (EP&A) Act, 1979

The EP&A Act has a number of objects with the following being the most relevant:

(c) to promote the orderly and economic use and development of land,

The development proposes the reconfiguration of the subject lands through the subdivision and consolidation of several land parcels inclusive of a lot that is currently publicly owned land and part of which provides public infrastructure, being part of Larkin Lane. Figure 4

provides an aerial photo which shows the property boundary in relation to Larkin Lane. The detailed survey provided as part of the application also confirms this outcome.



Figure 4: Aerial photo showing Larkin Lane extending into Lot 2 (Source: Sixmaps)

The subdivision therefore is problematic in that it would facilitate an outcome whereby existing public infrastructure, inclusive of road carriageway, kerb, gutter and road verge area would be located within privately owned lands.

There is no apparent public benefit derived from this outcome.

The applicant proposes to resolve any concern with the future ownership by granting an easement in favour of Council for the purpose of maintaining public access etc along that relevant part of Larkin Lane.

This is clearly a sub-optimal outcome compared to the existing arrangement where the public assets are owned and managed by Council.

Further, this subdivision is inconsistent with those sections of the Ku-ring-gai Local Centres DCP that seek to deliver important public domain outcomes for the Roseville Local Centre. Councils Strategic Planning Department have stated that the 6m setback of the building to Larkin Lane “...is supported and matches the requirement for the rest of the properties along Larkin Lane..” however this position represents an incorrect understanding of the plans as the development would actually result in a 0m setback to the Larkin Lane corridor which is entirely inconsistent with the DCP outcome sought for the rest of the properties along Larkin Lane.

The subdivision element of the development proposal is not supportable as it is not in the public interest and does not represent orderly development of the land as required by the Act.

If the subdivision is not supportable then the broader development, which relies upon that

subdivision, has limited utility.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The SEPP commenced on 25 August 2017 and replaced Clause 5.9 of Ku-ring-gai Local Environmental Plan (Local Centres) 2012, which aimed to preserve trees and vegetation. The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.

The proposed development has been reviewed by Council's Landscape Assessment Officer in this respect and is deemed to be satisfactory.

State Environmental Planning Policy No. 55 - Remediation of Land / Draft SEPP for The Remediation of Land and associated Draft Contaminated Land Planning Guidelines

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. Council's records indicate that No. 66 Pacific Highway or a property in the nearby vicinity has been used a dry cleaner and laundry during at least the period of 1954 to 1968. This land use is listed in "Managing Land Contamination Planning Guidelines" as an activity that may cause contamination.

A Preliminary Desktop Contamination Assessment has been prepared by Network Geotechnics. The Report concludes that *"the site is considered to be suitable, from a contamination perspective, for the proposed high-density residential land use with commercial land use on ground floor with no access to site soils."*

This assessment / investigation has not addressed the previous use of the site as dry cleaner and laundry and therefore has not adequately addressed the potential for the site to be contaminated.

SEPP 65 – Design Quality of Residential Apartment Development

As the proposal is for buildings containing three or more storeys and four or more residential apartments, the provisions of *SEPP 65* and the *Apartment Design Guide* are relevant to the assessment of the application. The Plan sets aims and design principles as well as standards that cannot be used as grounds for refusal. These design principles are detailed and discussed following, together with consideration of the requirements of the *Apartment Design Guide*. Ku-ring-gai Council does not have a design review panel referred to under Clause 27.

Nine design quality principles	Apartment Design Guide (Amendments required to satisfy ADG design objectives, criteria and/or guidance)
Principle 1 – Context and Neighbourhood Character <i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</i>	

Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Not Satisfactory.

1. Site appreciation - The Roseville Memorial Club is a gateway site with one of the best prospects of achieving a high-quality development.

Despite the exposure to the formidable noise source of the Pacific Highway (and to a lesser extent the railway line), very high levels of communal and private amenity are possible because the site enjoys frontages to two streets plus the important public space of the Memorial Park to the south (which also has a high cultural significance within the community).

There are no site constraints that would prevent full compliance with the development controls and achieving a high-quality design outcome.

The Memorial Park presents further opportunities with the large established trees that provide an important transition and treescape setting, and where the trees can be fully viewed both from the public domain and as pleasant outlook from proposed units in an otherwise highly exposed location.

2. Street wall – KDCP_LC 14F.9(7) requires *consistent 3 storey (11.5m) street wall* along the Pacific Highway. The proposed development builds to the boundary along the majority of the site frontage contrary to Ku-ring-gai's intended urban character. When balanced against other aspects of the design that fail to achieve the intended development for this site, the otherwise sound architectural argument in support the variation becomes not well-founded.
3. Public domain interface – Impact of the gaming machines is contrary to local development standards and state legislation.

- 1A Building types – Satisfactory in principle, subject to amendments
- 1B Local character and context – Not satisfactory. See Notes at Principle 2 Built Form and Scale
- 1C Precincts and sites - Satisfactory
- 3A Site Analysis - Satisfactory
- 3B Orientation - Satisfactory
- 3C Public domain interface - Satisfactory
- 3D Communal and public open space – See Notes at Principle 2 Built Form and Scale
- 3G Pedestrian access and entries - Satisfactory
- 3H Vehicle access - Satisfactory
- 4R Adaptive re-use – N/A
- 4S Mixed use - Satisfactory
- 4T Awnings and signage – Awnings Satisfactory (details for signage not submitted).

OTHER LEGISLATION and Policies

Objects of the Gaming Machines Act 2001 cl 3 (3) states:

In particular, due regard is to be had to the need for gambling harm minimisation when considering for the purposes of this Act what is or is not in the public interest.

The NSW Department of Industries also has requirements under the Gaming Machines Act 2001 for the location of gaming machines:

Gaming machines in hotels and clubs shouldn't be in a location that:

- *attracts the attention of people outside the venue*
- *allows gaming machines to be easily seen or clearly heard from public areas outside the club.*

a) Street activation - KLEP_LC cl 6.6(3)(b) requires activation of primary street frontage that:

will provide uses and building design elements that encourage interaction between the inside of the building and the external public areas adjoining the building.

Proposed gaming machines and other elements comprise 44% of the frontage available to be activated along the Pacific Highway (once permissible fire stair, residential lobby and club entry are excluded). This does not achieve the intended activation, regardless that the frontage along the Roseville Memorial Gardens achieves an excellent level of activation, and that along Larkin Lane appears consistent with objectives of KDCP_LC 14F.9 (7)(iv).

b) Location of gaming machines –

Location of machines appears to be contrary to the requirements of NSW Gaming Machines Act 2001 on 2 points: (i) physical location along a boundary with public domain; and (ii) visual and audible requirements in proximity to the public domain.

Operable louvres addressing the Pacific Highway enable the machines to be visible and audible from the public domain, is in conflict with an inclusive and healthy public environment, and contrary to the legislated requirements for location of gaming machines.

This same space contains a smoking area requiring the space to be open and is immediately adjacent to the general public walking along the highway frontage.

Gaming machines are to be located elsewhere in the development so machines are not seen or heard from

Here are a few examples that may be seen as intending to attract the attention of people outside of your venue:

- *placing gaming machines behind a clear glass wall or window where they can be seen by the public from outside the venue on public property*
- *placing gaming machines in an outdoor gaming or outdoor smoking area next to a public place where gaming machines can be heard*
- *placing a gaming machine where, at night time, its flashing lights and artwork can be clearly seen from a public place.*

The Secretary of the Department of Industry can direct a hotel or club to move or screen its gaming machines, if necessary.

GANSW Policy Better Placed –

Objective 3 - Better for Community

Streets and public spaces which are welcoming and accessible for all are more vibrant, interesting and safe.

Objective 4 - Better for People

The built environment must be designed for people with a focus on safety, comfort and the basic requirement of using public space. The many aspects of human comfort which affect the usability of a place must be addressed to support good places for people.

GANSW Policy Urban Design Guide – Achieving good urban design outcomes – Façade and interface:

The edge, where buildings meet the public domain, is vital to the quality and vitality of the street. Active edges provide a combination of transparency and privacy, encouraging interaction between the facade and the footpath.

Ku-ring-gai EPIs

KLEP LC cl 6.6 (3)(b) for street activation.

KDCP LC 14F.9(7) for consistent 3 storey (11.5m) street wall along the Pacific Highway.

KDCP LC 23.1 objectives 1 and 2 requires development to minimise adverse social impacts and to pay particular attention to nearby residents

<p>the broader public domain and that all required frontages are adequately activated.</p> <p>4. <u>Solar impacts to the Roseville Memorial Park</u> – Shadow diagrams demonstrate that by 12pm (on the winter solstice) the Memorial Park loses 50% of its current solar amenity, increasing to nearly 100% lost by 3pm. It is acknowledged Ku-ring-gai's existing development controls will have considered this impact.</p> <p>It is therefore assumed from an urban design perspective, that the bonus Height and FSR already permitted on the site as a landmark site, achieves the maximum amount of development without unacceptably impacting on public solar amenity. In turn, this is the maximum impact before the functionality of the park in promoting its use as a place of reflection, enjoyment and respite from the challenging noisy highway environment is unacceptably impacted.</p>	<p>and users of the site with particular attention to children, young people amongst others.</p>
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Principle 2 - Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Not Satisfactory.

<p>1. <u>Height</u> – KLEP_LC cl 4.3 permits 20.5m maximum height for No 64 Pacific Highway. The proposed breaches are not well-founded for the following urban design reasons:</p> <p>a) The permitted height already represents a bonus under the LEP that recognises the site as a landmark. This is demonstrated by the Height of Buildings Map that shows the site has significant uplift compared to all other sites within the Roseville Local Centre (14.5m at No 66 Pacific Highway, and 69-83 Pacific</p>	<ul style="list-style-type: none"> • 2A Primary DCP controls • 2B Building envelopes – Not satisfactory due to excessive height and street wall variations. • 2C Height – Not Satisfactory • 2D FSR – Not satisfactory Note GFA inclusion of 'open corridors' in <i>Landmark Group Australia Pty Ltd v Sutherland Shire Council [2016] NSWLEC 1577</i> pars 31-39 and 49-65. https://www.caselaw.nsw.gov.au/decision/5840e1a3e4b0e71e17f55b5c • 2E Building depth - Satisfactory • 2F Building separation - Satisfactory
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<p>Highway to the east, and only 11.5m for all other lots.)</p> <p>b) The additional height will be clearly visible when viewed from the public domain south along the highway and from the north due to the Memorial Park being open space and surrounding permitted height being significantly less than the subject site.</p> <p>c) The component of height comprises primarily lift overrun, fire stair, and rooftop communal open space shade structure and to a lesser extent rooftop plant and is poorly integrated with the overall massing of the development.</p> <p>d) Medium sized trees are being relied upon to provide screening, which cannot be guaranteed will be planted and adequately maintained over the life cycle of the development.</p> <p>e) There are no site constraints that may help justify the variation.</p> <p>It is highly likely future telecommunications towers will be installed above the lift overrun further exacerbating visual impacts in the public domain experienced from significant distances contrary to KDCP_LC 8C.7(2).</p> <p>f) There are alternative design options that will not reduce proposed residential yield while providing accessible rooftop communal open space elsewhere on the site such as:</p> <p>(i) at Level 1 roof top that can be achieved with minor design changes and can address privacy of Units 101, 102 and 108.</p> <p>(ii) at Level 5 for optimal communal amenity. Unit 501 will be deleted, which will ensure permitted building height is not exceeded (or minimised) and services and lift</p>	<ul style="list-style-type: none"> • 2G Street setbacks – Not satisfactory for the upper level 2m setback from the street wall along the Pacific Highway frontage. • 2H Side and rear setbacks - Satisfactory • 3F Visual privacy – Satisfactory • 4C-3 Ceiling Heights – Not satisfactory. • 4N Roof design – Not Satisfactory. See comments on excessive height. <p>Ku-ring-gai EPIs</p> <p><u>KLEP_LC cl 4.3</u> for permitted Height – Not satisfactory</p> <p><u>KLEP_LC cl 4.4</u> for permitted FSR – Not satisfactory</p>
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overruns are adequately integrated into the design of the building.

NOTE: Floor-to-floor heights that propose less than a minimum of 3.1m do not demonstrate adequate depth for structure and required insulation up to R3.0 for upper levels, set downs for waterproofing and accessible private open space finished levels are achieved. 3.1m minimum floor-to-floor heights are to be provided with construction details for slabs, falls to drainage and outdoor terrace methods to be submitted.

It should also be noted that KDCP_LC 8C.13 (1)(iii) requires the first floor of mixed use development to achieve 3m unobstructed floor-to-ceiling height (equating to min 3.4m floor-to-floor) for future flexibility within a B2 zone; furthermore, ADG 4C-3 requires ceiling heights of lower level units in local centres to be greater than the minimum – both intended to allow flexibility over time, which if mandated will further breach permitted height.

2. FSR – The amended development proposal provides 3523m² of GFA and an FSR of 2.89:1 which exceeds the relevant FSR development standard by 12.9% and demonstrates that it provides a built form that is significantly larger than what the planning framework had contemplated for those sites. The scale of this non-compliance has not been addressed by the written 4.6 request to vary a development standard.

Principle 3 – Density

Good design achieves high levels of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population.

Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Not Satisfactory.

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| <ol style="list-style-type: none">1. <u>Height</u> - Proposed density results in excessive height.2. <u>FSR</u> – The development proposal incorrectly calculates site area which in turn overestimates the available GFA available for the site and results in a density of development that is not appropriate to the site and its context.3. See comments at Principle 6 Amenity for further impacts indicative of excessive density. | <ul style="list-style-type: none">• 2D FSR – Not Satisfactory• Amenity 4B-3 Cross Ventilation – Not satisfactory• Amenity 4C-1 Ceiling Heights – Not satisfactory
4C-1(1) 3.1m minimum floor-to-floor height is required to ensure sufficient structural depth for slab set-downs at the external face that must be installed for effective balcony freeboard and internally for bathroom falls for tiling both necessary to help avoid future water damage internally or externally to the building.• Amenity 4A, 4C to 4L and 4O, 4P – Satisfactory• 4U Energy Efficiency – Not satisfactory due to inadequate cross ventilation and impacts of addressing noise and pollution attenuation. |
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Principle 4 – Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Not Satisfactory for cross ventilation.

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| <ol style="list-style-type: none">1. <u>Cross ventilation</u> - Units 101, 201, 301 and 401 are identified as cross-ventilated. They are single aspect units with a bedroom window within a slot. Easterly breezes relied upon for cross-ventilation are prevented from reaching these units by the massing of the adjacent part of the building to the north and east. This results in the loss of 4 units from the calculations for a total of 54.5% of the development being naturally cross-ventilated. This is inconsistent with SEPP 65 cl 6A (g) at ADG 4B-3 (1) for a minimum of 60% of units to be cross-ventilated. There are | <ul style="list-style-type: none">• 2C – Floor-to-floor height – Not satisfactory for sufficient depth for structure and services to achieve adequate unobstructed floor-to-ceiling height needed for adequate daylight and ventilation.• 4A Solar and Daylight Access - Satisfactory• 4B-3(1) Natural ventilation – Not satisfactory• 4D Apartment size and layout - Satisfactory• 4F Common circulation spaces - Satisfactory• 4J-1, 4J-2 Noise and Pollution – Not satisfactory• 4N Roof design – Satisfactory |
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<p>no site constraints preventing this standard being achieved as the site addresses open public domain on 3 sides, and future development on neighbouring properties permits significantly less than that permitted on the subject site. NOTE: further impacts due to air-conditioning being relied upon to provide adequate acoustic amenity and air quality for units facing the Pacific Highway, hence need to maximise the number of cross ventilated units elsewhere in the development.</p> <p>2. <u>Floor-to-floor height</u> – a <i>minimum</i> floor-to-floor height of 3.1m for all residential levels is required to facilitate construction systems that will accommodate SEPP 65 cl 6A (e) at ADG 4C-1 for 2.7m unobstructed floor-to-ceiling height and 4C-2; and to accommodate sufficient depth for structure and services of 0.4m at ADG 2C. Variations from 3.1m will need to submit construction documentation to demonstrate how 4C-1 is achieved, and how compliant setbacks for effective waterproofing of balconies and wet areas is accommodated. Therefore, future amendments to construction methods would be subject to a cl 4.55 modification (previously S96) under the EP&A Act.</p> <p>3. <u>Noise and pollution</u> – the site is fully exposed to high levels of noise and associated poor quality air from heavy traffic along the highway and lesser extent from the nearby railway line. Without implementing noise barrier planning principles (locating services rooms towards the noise source so that living rooms and bedrooms have an aspect away from the noise source), the development relies on air-conditioning to address both acoustic comfort and air-quality. This has significant implications to the life-cycle costs of energy demand that are inconsistent with ADG 4U-1 for</p>	<ul style="list-style-type: none"> • 4U-1, 4U-3 Energy efficiency – Not Satisfactory • 4V Water management and conservation • 4W-1 Waste management – Satisfactory - designed to minimise impacts on the streetscape, building entry and resident amenity. • 4X Building maintenance • 4X-1 Building design detail is required to demonstrate adequate protection from weathering (1:50 or 1:20 section drawings required showing the building edge and all major wall and floor junctions on the external face including balconies and at door thresholds). • 4X-2 and 4X-3 for ease of maintenance without scaffolding and durability of materials. Submitting 1:50 section drawings will further support this.
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passive environmental design and 4U-3 for building design to minimise the need for mechanical ventilation and 4J-1, 4J-2 for the siting and layout to minimise impacts of hostile environments.

4. Maintenance and waterproofing:

All basements are to provide a drained cavity between the internal wall skin and external retaining wall to ensure walls, floors, and internal areas remain dry over the expected life of the building. Water ingress causes damage to property and remediation is difficult to carry out and very costly.

1:50 or 1:20 section drawings are required to demonstrate adequate consideration of weathering, set-downs to balconies, falls to drainage, demonstrate adequate freeboard and waterproofing of openings and at all building joints (material junctions and at floor, wall, roof junctions (as well as all construction joints to be considered at CC). Waterproofing membranes often cannot physically bridge building movement that may be expected by the structural design but not coordinated in design details, which can be a cause of future failure that is either very costly and/or very disruptive to address. Generally, there is little or no recourse available to residents to recover costs.

Principle 5 – Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

Not Satisfactory.

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| <p>1. <u>Design and amenity</u> - Proposed rooftop communal open space is supported in principle as being the location that is most suitable for achieving required amenity and design features.</p> <p>2. <u>Issues impacting on proposed landscape</u> - See comments for Principle 1 Context and Neighbourhood Character, Principle 2 Built Form and Scale, and Principle 3 Density that identifies urban design issues that have a material impact on the proposed location of the rooftop communal open space. Amendments to the design are required.</p> | <ul style="list-style-type: none">• 3E Deep soil zones N/A• 4O Landscape design – amendments required to satisfy requirements of other principles.• 4P Planting on structures – potentially can achieve a good result subject to required amendments to address height, FSR. |
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Principle 6 – Amenity

Good design positively influence internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

Not Satisfactory

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| <p>1. <u>Cross ventilation</u> - Units 101, 201, 301 and 401 are identified as cross-ventilated. They are single aspect units with a bedroom window within a slot. Easterly breezes relied upon for cross-ventilation are prevented from ventilating these units by the massing of the adjacent part of the building to the north and east. This results in the loss of 4 units from the calculations for a total of 54.5% of the development being naturally cross-ventilated. This is inconsistent with SEPP 65 cl 6A (g) at ADG 4B-3 (1) for a minimum of 60% of units to be cross-ventilated. There are no site constraints preventing this standard being achieved as the site addresses open public domain on 3 sides, and neighbours development significantly less than that permitted on the subject site.</p> | <ul style="list-style-type: none">• 3F Visual privacy - Satisfactory• 3J Bicycle and car parking - Satisfactory• 4A Solar and Daylight Access - Satisfactory• 4B-3 Natural ventilation – Not satisfactory• 4C-1 Ceiling heights – Not satisfactory• 4D Apartment size and layout - Satisfactory• 4E Private open space and balconies - Satisfactory• 4F Common circulation spaces - Satisfactory• 4G Storage – Not satisfactory• 4H Acoustic privacy – Satisfactory between apartments• 4J-1 and 4J-2 Noise and pollution – Not satisfactory. However, it is accepted that some compromise can be acceptable where balanced with other important amenity and subject to |
|---|---|

<p>2. <u>Floor-to-floor height</u> – a <i>minimum</i> floor-to-floor height of 3.1m for all residential levels is required to facilitate construction systems that will accommodate SEPP 65 cl 6A (e) at ADG 4C-1 for 2.7m unobstructed floor-to-ceiling height and 4C-2; and to accommodate sufficient depth for structure and services at 2C of 0.4m. Variations from 3.1m will need to submit construction details to demonstrate how 4C-1 is achieved, and how compliant setdowns for effective waterproofing of balconies and wet areas is accommodated. Future amendments to construction method approved at DA would be subject to a cl 4.55 modification (previously S96) under the EP&A Act.</p> <p>3. <u>Storage</u> – storage diagrams include space in laundries required for laundry tub, washing machine and dryer. Fittings and fixtures prevent storage of items and therefore are to be excluded from all calculations. Amended diagrams with functional floor to ceiling storage suitable for linen and bulky household items is to be demonstrated within units to satisfy SEPP 65 cl 6A (h) at ADG 4G-1. Note the full allocation is to be accommodated within the unit or 50% within the unit where a maximum of 50% is located elsewhere in the development.</p> <p>4. <u>Noise and pollution</u> – the site is highly exposed to high levels of traffic noise and poor air quality from associated heavy vehicle traffic along the Pacific Highway and lesser extent from the nearby railway.</p> <p>It is always preferable to implement noise barrier planning principles as a starting point for a design so that service rooms are located towards the noise source to create a physical barrier, while living rooms and bedrooms are located</p>	<p>addressing identified urban design issues in this report.</p> <ul style="list-style-type: none"> • 4L Ground floor apartments - Satisfactory
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<p>away from the noise source and protected by the mass of service rooms. There is no mandated requirement to do so, however, and is always balanced with achieving outlook, solar amenity, adequate privacy. In this instance some variation will be acceptable where actual performance of cross ventilation is otherwise maximised.</p> <p>See comments for implications to Principle 4 Sustainability.</p>	
<p>Principle 7 – Safety</p> <p><i>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximize passive surveillance of public and communal areas promote safety.</i></p> <p><i>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	
<p>Not Satisfactory due to location and design resolution of gaming machines.</p>	
<p>1. <u>Gaming Machines</u> - See Principle 1 Context and Neighbourhood Character for comments on impacts of the gaming machines and smoking area located in the public domain interface along the boundary of the Pacific Highway.</p>	<ul style="list-style-type: none"> • 3G Pedestrian access and entries - Satisfactory • 3H Vehicle access - Satisfactory • 4D Apartment size and layout - Satisfactory • 4F Common circulation spaces - Satisfactory <p>Note: The materials palette must comply with the new Building Products (Safety) Bill 2017. Note aluminium composite panels are not permitted on buildings above 2 storeys. Ensure <u>all</u> materials comply with new testing requirements.</p> <p>Other EPIs</p> <p><u>Gaming Machines Act 2001</u> – Not satisfactory</p> <p><u>KDCP LC 23.1</u> – Not satisfactory</p>
<p>Principle 8 – Housing Diversity and Social Interaction</p> <p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</i></p>	

Satisfactory for diversity and with inclusion of a condition, should the development be approved.

Not satisfactory for impacts of gaming machines.

1. Proposed apartment mix - will provide adequate housing choice.
2. Communal open space - should be relocated to address excessive height. See comments at Principle 5 Landscape for options.
3. DA Condition - Platinum Level units – Note that a condition of consent (should one be granted) should be included as follows:

Accessibility

As-Built (Final) Livable Housing certification of Platinum Level units is required prior to occupation certification being issued.

Reason: Livable Housing provides 2-stage Certification – Design (Provisional) and As-Built (Final). As-built (Final) certification is required to ensure the Design (Provisional) certified units are constructed as Platinum Livable Housing consistent with the approval and Ku-ring-gai's policy requirements for inclusive and flexible housing.

4. Gaming machines – Location is inconsistent with encouraging healthy and positive social interaction required for inclusive engagement of the development with the public. See comments at Principle 1 Context and Neighbourhood Character and Principle 7 Safety; and *Better Placed* for Objective 4 Better for People.

- 4K Apartment mix - Satisfactory
- 4Q Universal design – Satisfactory subject to additional DA Condition – see comments.

Other EPIs

Gaming Machines Act 2001 – Not satisfactory

KDCP LC 23.1 – Not satisfactory for objective 2 and control (1) for particular consideration to be given to children, young people, women, older people, people with a disability, from culturally and linguistically diverse background, and of Aboriginal & Torres Strait descent.

GANSW *Better Placed* – Not satisfactory for objective 4 Better for People for *The built environment must be designed for people with a focus on safety, comfort and the basic requirement of using public space. The many aspects of human comfort which affect the usability of a place must be addressed to support good places for people.*

Principle 9 – Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Not Satisfactory for roof design impacts of lift overrun, foreseeable additional impacts from future telecommunications infrastructure requirements, and resolution of the Pacific Highway elevation; and quality of graphics to assess the materials and finishes

<p>1. <u>Architectural quality</u> - The architectural resolution of the proposed development has the potential to achieve a development that will make an important and positive impact to the Roseville Local Centre, which is consistent with the ADG and new objects of the EP&AA Act, and supporting policies Better Placed.</p> <p>However, the development is let down by the resolution of the variation to permitted height that is not adequately resolved as a building element within the overall composition.</p> <p>2. <u>Pacific Highway elevation</u> – framed elements that aligned with the highway boundary are inconsistent with achieving the expression of the street wall required at 14F.9 (7).</p> <p>3. <u>Architectural character</u> – resolution of construction details defines the building edge and overall building character. Construction details demonstrate adequate control of weathering and minimising life-cycle maintenance costs often associated with large areas of rendered and painted finishes. See comments at Principle 4 Sustainability for maintenance and waterproofing.</p> <p>4. <u>Materials and finishes</u> – submitted graphics for the digital version of all elevations is poor. They are to be resubmitted to enable an assessment of the proposed materials and finishes and their application. Higher quality digital copies are to be submitted.</p>	<ul style="list-style-type: none"> • 4M Facades – Resubmission of higher quality graphics for elevations required to assess materials and finishes; and amendments to framing elements along the eastern (Pacific Highway) elevation required. • 4N Roof design – Not satisfactory – see comments Principle 2 Built Form and Scale • 4T Awnings and signage - Satisfactory • 4X Building maintenance – To be confirmed with additional detail. See comments at Principle 4 Sustainability.
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State Environmental Planning Policy (Infrastructure) 2007

Clause 102 requires Council to take into consideration the impact of road noise and vibration upon the amenity of dwellings when assessing an application for residential development that adjoins a road that carries more than 20,000 vehicles per day, which is applicable in this

case.

A road traffic noise assessment was prepared by Noise and Sound Services and this report concludes that, so long as identified recommendations are implemented as part of the construction of the development, then the residential units will not experience adverse amenity impacts from noise or vibration.

The application was referred to the RMS under the provisions of clause 101 (site with frontage to a classified road) and 104 (traffic generating development) of SEPP (Infrastructure). The RMS raised no objection to the development proposal subject to the imposition of certain conditions.

State Environmental Planning Policy (BASIX) 2004

All housing in NSW is required to meet a designated target for energy and water reduction.

A BASIX Certificate was submitted with the amended application, which indicates that the proposal meets the required reduction targets and an appropriate condition of consent may be imposed to ensure future compliance with these targets.

Concerns have been raised in relation to the consistency between the BASIX Certified plans and the amended plans the subject of this report (see landscape comments).

Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005

Matters for consideration under SREP 2005 include biodiversity, ecology and environmental protection, public access to and scenic qualities of foreshores and waterways, maintenance of views, control of boat facilities and maintenance of a working harbour. The proposal is not in close proximity to, or within view, of a waterway or wetland and is considered satisfactory.

Soil and sedimentation controls implemented during the construction process would ensure that there will be no adverse impact on downstream waterways during construction.

Draft Environment SEPP

The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways and urban bushland areas. Changes proposed include consolidating a number of SEPPs, which include:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2 1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal is not inconsistent with the provisions of the draft SEPP.

Ku-ring-gai Local Environmental Plan (Local Centres) 2012

Zoning and Permissibility

The subject site is zoned as follows under Ku-ring-gai Local Environmental Plan (Local Centres) 2012:

- Part B2 Local Centre
- Part RE 1 Public Recreation

The spatial extent of each zone across the site is identified at Figure 5 and demonstrates that the RE1 zone only applies to the south-eastern corner of the site.

Both a 'registered club' and 'shop top housing' are identified as being a permissible land use in the B2 Local Centre zone. The development application seeks approval for *shop top housing* on the basis that the club element of the development can be defined as a 'shop'.

The application is accompanied by legal advice that the ground floor component of the development may be characterised as both a registered club and retail premises (i.e. shop) and Council has reviewed this advice and accepts that legal position.



Figure 5: Extract of LEP zoning map

A registered club is identified as permissible development in the RE1 Public Recreation zone, but shop top housing is prohibited. However, there is no physical development proposed on the Zone RE1 Public Recreation lands so there are no issues of land use permissibility in relation to those lands.

Accordingly, all elements of the development are permissible in the relevant zone and could be subject to a development consent.

Objectives of the Zone

The objectives of the B2 Local Centre zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide for residential housing close to public transport, services and employment opportunities.*

- To encourage mixed use buildings that effectively integrate suitable business, office, residential, retail and other development.

The proposal is generally consistent with the objectives, providing for a retail facilities and residential accommodation in proximity to public transport opportunities. However, it is not accepted that the development suitably integrates the proposed built form with other development, for the reasons discussed in this report.

Part 4 Principal Development Standards

Development Standard	Proposed	Complies
Cl. 4.1 Minimum subdivision lot size – no minimum	1375m ²	Yes
Cl. 4.3 Building Height – 14.5m and 20.5m	23.77m	No
Cl. 4.4 Floor Space ratio – 2.0:1 and 2.8:1	2.56:1	No
<p>Note: The site is subject to two different FSR standards as reflected in the map extract provided at Figure 6. However, the development provides an integrated built form across both sites and as such a single gross GFA calculation can be applied to the site. The applicant acknowledges that this causes a technical breach of the FSR standard as it exceeds the GFA provided on that part of the site that enjoys an FSR of just 2:1.</p> <p>However, there are further complications associated with the manner with which Site area is calculated which has implications for the maximum GFA and FSR allowed under the LEP.</p> <p>When these calculations are correctly undertaken the <u>development proposal provides 3523m² of GFA and an FSR of 2.89:1 which exceeds the relevant FSR development standard by 12.9% and demonstrates that it provides a built form that is significantly larger than what the planning framework had contemplated for the subject site.</u></p>		



Figure 6: Extract of LEP FSR MAP

Clause 4.6 – Exceptions to development Standards

Height of Buildings Clause 4.3 of LEP 2012 sets a maximum height control of 14.5 metres and 20.5 metres.

The height blanket study and elevations that accompanies the DA demonstrates that a section of the balconies at Level 4 of the development proposal exceeds the 14.5 metres height limit as applied to that respective part of the site.

However, almost the entire component of the roof level and roof terrace area exceeds the 20.5m height limit as applied to the respective part of the site. The development provides a maximum building height of 23.7 metres at the lift overrun and stairs, which exceeds the development standard by 3.25 metres or 15.9%.

Figure 7 demonstrates the extent of the building that exceeds the relevant development standard and shows that the communal open space (COS), lift overrun, stairs and service risers all sit above that maximum building height.

The applicant has submitted a written Clause 4.6 variation request to the height control applicable to the site. Clause 4.6 permits variations to development standards, subject to a written request from the applicant satisfying the provisions of the clause. The building height control is a numerical development standard, being consistent with the definition of “*development standards*” contained within Section 1.4(1) of the Environmental Planning and Assessment Act and is not a prohibition.



Figure 7: Extract of maximum building height non-compliance

The clause 4.6 variation request provided by the applicant offers the following justification (summarised) for the breach of the height control:

- *The proposed variation to the standard relates to the provision of COS located on the roof of the building and providing for equitable access (including disabled persons) to this area of the building. The communal area is located above ground level, which is considered suitable in the context of the Local Centre particularly given Council's desire to have commercial/retail activation at ground level. The provision of communal open space that achieves high levels of amenity, and that is accessible to all residents of the*

building, is a better planning outcome than if compliance were to be achieved and this area to be removed/deleted.

- *Much of the area that exceeds the development standard is not discernible as viewed from the public domain as it has been setback from the edges of the building, and the lift over-run and fire stairs (which exceeds the standard the greatest) have been located more centrally on the roof. The proposed elements that breach the height standard does not contribute to distinguishable bulk, scale or density of the building;*
- *Various elements that breach the standard are related to providing high levels of amenity to the communal open space area, such as planter boxes, and shade structures.*
- *There will be no adverse amenity impacts to the surrounding properties or the public park as a result of the proposed variation.*
- *The proposal does not result in any unacceptable overshadowing impacts to adjoining properties other than what is anticipated by Council's controls.*
- *Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development because the development is consistent with the objectives of the development standard and the objectives of the B2 zone, notwithstanding the variation.*

Assessment of variation request

Clause 4.6 has objectives as follows:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(3) requires the clause 4.6 variation request to justify contravention of the development standard by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Further, clause 4.6(4) requires the consent authority must not grant consent to a development that contravenes a development standard unless it is satisfied that:

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

and concurrence has been received. In this case the Panel does not need the concurrence of the Secretary and can assume concurrence. However, clause 4.6(5) requires consideration of the following when considering whether to grant concurrence:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

In assessing whether the proposal with significant breaches in the height control, of up to 3.25 metres seeks an appropriate degree of flexibility and achieves a better planning outcome, the reasons for the variation are relevant.

The applicant primarily relies upon the position that the COS provided at the roof space is the best and only location available for its provision and that this therefore represents a better outcome than if it were to be removed.

However, analysis by the urban design consultant has demonstrated that there are alternative design options for the location of the COS that would not cause a breach of the building standard development standard.

Further, it is not accepted that the non-compliant elements of the development will have limited visibility from the public domain. Firstly, the non-complying built elements such as the stairs and lift overrun are relatively large elements that are not integrated into the broader development and built form. Some of the other non-complying elements such as planter boxes that provide a perimeter to the COS are located close to the outer edge of the roof area and therefore will have clear legibility from numerous locations with the public domain.

Secondly, the site occupies a key viewing location within the Pacific Highway corridor and has lengthy view lines along that corridor on both the southern and northern approaches. The length of these view corridors would likely result in those non-complying built elements being discernible from numerous vantage points along that corridor.

In this context, it is considered that the current development proposal does not make the case that there are sufficient environmental planning grounds to justify contravening the development standard.

Floor Space Ratio (FSR)

Clause 4.4 of LEP 2012 sets a maximum FSR of 2.0:1 and 2.8:1 over different land parcels.

The development proposal provides a single built form over the subject site and therefore it is not practical to apply the different FSR controls to the respective parts of the site and the proposed built form. A consolidated FSR standard has therefore been applied to the site which has been calculated utilising the respective FSR and proportional areas of the sites to which it applies.

Nevertheless, the applicant acknowledges that the development still causes a technical non-compliance with that part of the site that provides an FSR of just 2:1 and the suitability of this needs to be addressed pursuant to clause 4.6 of the LEP.

The clause 4.6 variation request provided by the applicant offers the following justification (summarised) for the breach of the FSR standard:

- *The proposed variation is a consequence of the strict interpretation of how FSR of a building is measured relative to a development's site area. However, the proposed development has a total GFA that would not exceed the permissible GFA of the land should it be developed separately as two sites, as opposed to one site as proposed.*
- *The proposed development has re-distributed GFA away from the northern and western boundaries of the site where the lower FSR standard (2:1) applies. This has been done to respond to the adjoining/adjacent properties, which permit lower density development, and to provide an appropriate built form relationship to these properties and maintain*

amenity between the properties.

- *Compliance with the standard would require the entire development to have a maximum FSR of 2:1, which would be significantly under the 2.8:1 standard for the remainder of the site. This would reduce the size of the building on the site, and it would not achieve the desired character for the land of a 'gateway' building.*
- *The breach of the standard does not result in any adverse environmental impacts to adjoining properties, and the building has been designed to respond to the existing and future built form character of the area.*

The underlying principle of the submission made by the applicant is generally well founded and it agreed that typically this would likely represent sufficient grounds to justify the technical non-compliance. However, there are a number of additional issues that make compliance with the FSR development standard problematic.

The FSR calculations rely upon the site area associated with the total land area being calculated from the consolidated lots. Should that subdivision not be supportable as countenanced by this assessment, the site area would be reduced and therefore the proposed FSR from the development would significantly exceed the nominal FSR allowed under the LEP.

In this regard, it is also important to note that the maximum GFA identified by the applicant is derived from a site area calculation of 1375m² that includes a 156.8m² of land that currently forms part of Roseville Memorial Park/Larkin Lane (which is proposed to be consolidated with the Memorial Club site) together with the Club site and the third land parcel to the north of the club.

However, the development does not seek to provide any built forms on the Larkin Lane lot and as such loads all the GFA budget of all three sites onto just two lots. These two lots by themselves have a site area of only 1218m² and therefore would yield a maximum GFA of just 3210.52m². Accordingly, the amended development proposal provides a GFA of 312m² beyond what would be otherwise allowed on just those two sites and results in an FSR non-compliance of 12.9% above what would otherwise be expected to be delivered from just those two sites site.

Whilst, the abovementioned outcome could be dismissed as a notional or theoretical planning problem, the configuration of the subject site is such that it actually also translates to a statutory planning non-compliance. In this regard, the joint operation of the Local Government (LG) Act 1993 and *Clause 4.5 Calculation of floor space ratio and site area* of KLEP 2012 actually serves to exclude the calculation of the Larkin Lane land from the Site area and subsequent FSR calculations.

In this regard the following sections of Clause 4.5 are relevant:

(4) Exclusions from site area *The following land must be excluded from the site area—*

(b) community land or a public place (except as provided by subclause (7)).

(7) Certain public land to be separately considered *For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.*

(11) Definition *In this clause, **public place** has the same meaning as it has in the Local Government Act 1993.*

The definition of Public Place as provided by the LG Act is provided below:

public place means:

- (a) a public reserve, public bathing reserve, public baths or public swimming pool, or*
- (b) a public road, public bridge, public wharf or public road-ferry, or*
- (c) a Crown reserve comprising land reserved for future public requirements, or*
- (d) public land or Crown land that is not:*
 - (i) a Crown reserve (other than a Crown reserve that is a public place because of paragraph (a), (b) or (c)), or*
 - (ii) a common, or*
 - (iii) land subject to the Trustees of Schools of Arts Enabling Act 1902, or*
 - (iv) land that has been sold or leased or lawfully contracted to be sold or leased, or*
- (e) land that is declared by the regulations to be a public place for the purposes of this definition.*

Sections of that 156.8m² strip of land currently accommodate Larkin Lane including bitumen road surface, kerb and gutter and footpath area. This clearly forms a 'public place' and as such must be excluded from the site area and subsequent FSR calculations.

Even if this interpretation of the LG Act is not accepted, the following section of Clause 4.5 of KLEP 2012 is still relevant:

(6) Only significant development to be included *The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.*

As previously indicted the amended development proposal does not provide any built form development on the Larkin Lane strip of land or the larger Memorial Avenue lot which it currently forms part. Accordingly, that 156.8m² cannot be used as part of the site area and subsequent FSR calculations.

Therefore, when the correct underlying Site area calculation is used the site can accommodate a maximum GFA of 3210.52m² and FSR of 2.63:1. The amended development proposal provides 3523m² of GFA and an FSR of 2.89:1 which exceeds the relevant FSR development standard by 12.9% and demonstrates that it provides a built form that is significantly larger than what the planning framework had contemplated for those sites.

In this context, it is considered that the current development proposal does not make the case that there are sufficient environmental planning grounds to justify contravening the development standard.

Part 5 Miscellaneous Provisions

Heritage Conservation Clause 5.10 of LEP 2012 requires consideration to be given to the impact of development within the vicinity of items of heritage. The impact of the proposal upon the adjoining heritage item has been assessed by Council's Heritage Advisor and is considered to represent an appropriate development response for the site in terms of impacts upon the adjacent heritage item.

Part 6: Additional Local Provisions

Earthworks Clause 6.1 of LEP 2012 provides the following matters for consideration in relation to applications for earthworks:

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) the effect of the development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavate, or both,*
- (d) the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material.*
- (f) the likelihood of disturbing relics.*

Excavation is proposed in conjunction with the redevelopment of the site. A Geotechnical Report has been prepared by Asset Geo which provides details of the subsurface conditions and notes that the site is not situated in an area with known Acid Sulfate Soils risk or Salinity potential. The report provides recommendations for excavation, noting that the maximum depth of excavation is anticipated to be 11m. Recommendations are also provided for vibration management, subgrade preparation, filling and batter slopes.

The development is unlikely to have any detrimental impacts upon adjoining properties, subject to appropriate building methods being used. Dilapidation reports would be required by a condition of consent for adjoining sites and infrastructure.

The site is not likely to contain any archaeological relics due to its location and disturbed nature.

The site is not located in proximity to any waterway, drinking water catchment or environmentally sensitive area and subject to appropriate erosion measures during construction will not detrimentally impact any such area.

Stormwater and Water Sensitive Urban Design Clause 6.2 of LEP 2012 provides the following matters for consideration in relation to applications:

- (a) water sensitive urban design principles are incorporated into the design of the development, and*

The stormwater design has been assessed by Council's Development Engineer who is not satisfied with the water sensitive urban design aspects of the proposal.

- (b) riparian, stormwater and flooding measures are integrated, and*

The site is not in proximity to riparian land and is not flood prone.

- (c) the stormwater management system includes all reasonable management actions to avoid any adverse impacts on the land on which the development is to be carried out, adjoining properties, native bushland, waterways and groundwater systems, and*

The site is not located adjacent to and does not include native bushland or waterways. The stormwater design has been assessed by Council's Development Engineer who is not satisfied with the amended stormwater plans and therefore cannot be satisfied that the amended development proposal will not have an unacceptable impact upon adjoining properties or the groundwater system.

- (d) if a potential adverse environmental impact cannot be feasibly avoided, the development minimizes and mitigates the adverse impacts of stormwater runoff on adjoining properties, native bushland, waterways and groundwater systems.

No inconsistency caused - See above comments.

Ground Floor Development in Business Zones Clause 6.6 of LEP 2012 applies to land zoned B2 and requires that consent shall not be granted to development for the purposes of a commercial premises unless the ground floor of the building will not be used for the purposes of residential accommodation or a car park and *“will provide uses and building design elements that encourage interaction between the inside of the building and the external public areas adjoining the building”*. This provision does not apply to parts of the building that provide a lobby for residential or commercial components of the building, access for fire services, vehicular access or faces a service lane that does not require active street frontages. The objective of the control is as follows:

“To ensure that active uses are provided at the street level in business zones to encourage the presence and movement of people.”

The amended development provides a significant component (44%) of blank walls or non-active frontages to the Pacific Hwy at the ground floor level as a consequence of the siting of lift well, stairs and a gaming machine room at this location. This is a poor urban design response and is inconsistent with the objectives and requirements of this clause.

Consolidating LEPs Planning Proposal

The Planning Proposal is on public exhibition from 25 October 2019 to 22 November 2019. The purpose of the Planning Proposal is to consolidate the Ku-ring-gai Local Environmental Plan (Local Centres) 2012 and Ku-ring-gai Local Environmental Plan 2015. The Planning Proposal is an amendment to KLEP 2015 and will correct site specific mapping errors, resolve the status of deferred areas, remove an existing land reservation in Gordon and amend heritage listings.

The Planning Proposal seeks to address a zoning irregularity within the area of land at the rear of 64 Pacific Highway. A small area of this land is currently zoned RE1 – Public Recreation under the KLEP (Local Centres) 2012. The planning proposal seeks to address this by rezoning this small piece of land to B2 – Local Centre under the consolidated LEP. This is shown in the diagram below:



Site 103	Existing	Proposed
LZN	 <p>Part RE1 Public Recreation and Part B2 Local Centre</p>	 <p>Adjust zone boundary to align with edge of Lot 1 DP 202148</p>

Figure 8: Proposed rezoning under the Planning Proposal

The proposal remains permissible within this proposed zoning.

The planning proposal also seeks to introduce a building height limit of 14.5m in this location where currently no limit exists. As outlined within this report, the height of the proposal is not acceptable with regard to the maximum set under KLEP (Local Centres) 2012 and as such, is also unacceptable with regard to the draft instrument.

The application is acceptable with regard to the remainder of the planning proposal.

Planning Agreement

The Applicant is proposing to enter into a Planning Agreement whereby that part of the site that currently provides the Larkin Lane carriageway, kerb, gutter and verge would be granted an easement in favour of Council for the purpose of maintaining public access.

Whilst this Planning Agreement does provide a potential alternative for maintaining public access to those important community assets, it is a sub-optimal outcome compared to the existing arrangement where the public assets are owned and managed by Council.

There is no public benefit evident or offered by the applicant to justify the proposed alteration of those existing cadastral and tenure arrangements.

POLICY PROVISIONS

Ku-ring-gai Local Centres Development Control Plan 2016

The developments compliance with the relevant requirements of this DCP is addressed below:

Development Standard	Proposal	Complies
Section A Part 3 – Land Consolidation and Subdivision		
3B Land Consolidation	The development seeks to consolidate several lots into a single large parcel.	No
Objectives:		

<p>1 To encourage lot size and shape that supports a practical and efficient layout to meet the intended use</p> <p>2 To ensure consolidation patterns create usable allotments which relate^[1]_[SEP] to the site conditions and allow for development which is suited to the site, its context and strategic intent.</p> <p>3 To achieve orderly and economic development</p> <p>4 To prevent sites from becoming isolated and unable to be developed in accordance with KLEP 2015</p> <p>5 To encourage consolidation of sites to enable efficiency through shared facilities and services, such as car parking, recycling and waste collection.</p> <p>6 To consolidate corner lots into sites large enough to create corner buildings with a cohesive built form.</p> <p>7 To provide workable building footprints that allow future development that meets the requirements of this plan.</p>	<p>One of the lots proposed to be consolidated is publicly owned land (KMC) that currently provides important public assets including part of the carriageway of Larkin Lane, Kerb and gutter and the road verge (footpath area).</p> <p>The consolidation of that public infrastructure into a single and larger private land holding does not represent orderly and economic use of that land.</p> <p>The applicant is now proposing to enter into a Planning Agreement whereby that part of the site that currently provides the roadway etc would be granted an easement in favour of Council for the purpose of maintaining public access etc.</p> <p>Whilst this Planning Agreement does provide a potential alternative for maintaining public access to those important community assets, it is clearly a sub-optimal outcome compared to the existing arrangement where the public assets are owned and managed by Council.</p> <p>There is no public benefit evident or offered by the applicant to warrant the proposed alteration of those existing cadastral and tenure arrangements.</p> <p>Larkin Lane also provides the sole vehicle access to the primary public car park for the Roseville Local Centre. The DCP proposes significant improvements to that access and public domain space. This is addressed in more detail at Part 14F of the DCP.</p> <p>The proposed subdivision jeopardises the realisation of that outcome and is therefore clearly inconsistent with the DCP objective which seeks to "...allow for development which is suited to the site, its context and strategic intent."</p>	
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	In the absence of any compelling grounds offered by the applicant or obvious community benefit derived from the ultimate privatisation of those lands through consolidation and sale, it is considered that the proposed subdivision that underpins the development proposal is not supportable on planning grounds.	
Section A Part 8 – Mixed Use Development		
<u>8A.1 – Local Character and Streetscape</u> 1. Must be designed by architect. 2. Design based on existing high quality characteristics of neighbourhood. 3. Visual character to be maintained by consideration of visibility from street and adjoining sites and relationship to scale, layout and character of streetscape. 4. Consider predominant high quality characteristics in site analysis. 5. Integrate with surrounding sites by appropriate scale, minimising overshadowing, integrating built form and soft landscaping. 6. Visually prominent sites to be: <ul style="list-style-type: none"> • of high architectural and aesthetic design, • avoid tall and bulky structures through integration with landscaping, • use colours and finishes sensitive to locality, • retain significant landscaping, • consider view impact, and • soften visual impact with extensive landscaping. 	The proposal is designed by an architect. The development is generally of an appropriate design quality, other than in relation to its height, FSR, rear setback to Larkin Lane and ground level interface to the Pacific Hwy. Further detail and information is however required to obtain a full understanding of the design quality of the development proposal. There is also considered to be a need to amend the framing elements of the buildings eastern or Pacific Hwy elevation. Relationship at ground level to streetscape is unacceptable. See above comments. Height and FSR are not acceptable and the design does not allow for achievement of public domain outcomes contemplated for Larkin Lane. The site is visually prominent and it proposes a building height that exceeds the development standard. Those elements that exceed the height standard are	Yes No No No No No


	<p>not well integrated into the broader built form.</p> <p>The ground level/public domain interface to Larkin Lane and the Pacific Hwy has not been appropriately resolved.</p>	
<p><u>8A.2 Site Layout</u></p> <p>1. Site layout to demonstrate clear and appropriate design strategy.</p> <p>4. Building to address street.</p> <p>5. Where more than one street frontage the building shall address and provide entry points from all streets.</p> <p>9. Single pedestrian entry point from street.</p>	<p>The site layout is problematic it relies upon a lot consolidation and subdivision that is not supportable on planning grounds.</p> <p>The development provides a poor street level address to the Pacific Hwy.</p> <p>The development provides a limited address to Larkin Lane, however, this forms a rear lane access so this is an appropriate response.</p> <p>The development provides separate pedestrian entries from the Pacific Hwy for the club and residential components of the development.</p>	<p>No</p> <p>No</p> <p>Yes</p> <p>Yes</p>
<p>1. 8A.3 Building Setbacks</p> <p>2. In B2 zone zero setback from street unless identified otherwise in Part 14.</p> <p>3.</p> <p>4. In B2 zone no setback required to rear or side unless identified otherwise in Part 14.</p> <p>5. Where building separation is provided for residential component requires compliance with Part 8A.4.</p>	<p>Zero setback provided to ground floor at the Highway frontage.</p> <p>See assessment of setbacks to Larkin Lane in relation to Part 14 of DCP later.</p> <p>Overridden by SEPP 65.</p>	<p>Yes – Pacific Highway</p> <p>Yes</p> <p>N/A</p>
<p><u>8A.4 Building Separation</u></p> <p>6. Sets separation requirements consistent with ADG for residential components.</p>	<p>See assessment under SEPP 65.</p>	<p>N/A</p>
<p><u>8A.5 Wind Impact</u></p> <p>1. Location and design of buildings to ensure public pedestrian areas, COS and terraces are protected from wind generation and speed.</p>	<p>The application does not provide any information in relation to wind impacts. There is some potential that the COS may be adversely impacted by winds.</p>	<p>No</p>

<u>8C.3 Room Sizes</u> Residential to comply with ADG	See assessment under provisions of SEPP 65.	Yes
<u>8C.4 Apartment Mix and Accessibility</u> 1. A range of 1, 2 and 3 bedroom apartments to be provided. 2. All apartments designed to Silver Level. 3. Minimum 15% apartments designed to Platinum Level. 4. Minimum 70% of apartments to be visitable.	The development provides an appropriate mix of dwellings. 100% of apartments are designed to a Silver Level or higher. 15% of apartments are designed to a Platinum Level. 100% of apartments are visitable.	Yes Yes Yes Yes
<u>8C.5 Building Entries</u> 1. Comply with DDA. 2. Buildings to provide level and direct main entrances to lift/building. 3. Buildings with street frontage >18m to have multiple entries. 4. Buildings entries from principal active street frontages to provide flush transition with adjoining frontages. 5. Street footpath levels are not to be changes, with level adjustments to occur on site. Ramping and stairs to be positioned such that access and interface from the street is maximised and street activation is preserved. 6. Entries to residential to be separate from commercial. 8. Entries to be well lit and designed to avoid concealment.	The design provides suitable at grade entries to both the residential and club elements of the development.	Yes
<u>8C.6 Internal Common Circulation Areas</u> Residential to comply with ADG	See assessment under provisions of SEPP 65.	Yes
<u>8C.7 Roof Forms and Podiums</u> 1. Upper storeys to be articulated with differentiated roof forms. 2. Service elements to be integrated into overall design of roof so not visible from public domain.	The roof top form and COS on podium is not appropriate as it exceeds the height of building standard will be visible form the public domain. The non-complying built elements such as lift overrun and stairs etc	No No


	are not well integrated into the built form.	
<u>8C.8 Communal Open Space</u> 1. Accessible in accordance with AS1428. 2. Located and designed for active and passive use with solar access and shade and not impact privacy of adjoining residents. 3. Incorporate shared facilities, wind screens, sun shade and landscaping. 4. Avoid concealment areas. 5. Separate from non-residential uses. 6. Provided with casual surveillance. 7. Garden maintenance storage areas to be provided. 8. 10m ² COS per dwelling. 9. At least one area minimum 80m ² and minimum dimension 8m with minimum 2 hours solar access between 9am and 3pm at midwinter and directly accessible from internal lobby. 10. Other areas of COS minimum dimension 5m.	The roof top COS has appropriate accessibility. The location and solar access/shade is acceptable when considered in isolation of other design issues. The COS provides suitable shared facilities inclusive of sun and shade treatments and soft landscaping. No concealment areas provided. Separated from non-residential uses. Casual surveillance is provided. No storage area is provided. COS requirements are determined by SEPP 65.	Yes Yes Yes Yes Yes Yes No NA
<u>8C.9 Building Facades and Articulation</u> 1. In B2 provide consistent street wall façade along Pacific Highway. 4. Continuous length of residential component not >36m. 5. Length of component of building facing side or rear may exceed 36m if recessed adequately to appear as distinctive bays or wings. 6. Facades at street level to engage with activates on street through using glazed shop fronts. 7. Above awning facades to be more solid than glazed. 8. Facades to be modulated and articulated. 9. Elevations to be well composed in terms of proportions and rhythms. 11. Passive surveillance of street required. 13. Façade material to minimise ongoing maintenance.	Consistent street wall façade provided The residential component addressing highway does not exceed 36m. Length of residential component addressing Roseville Park does not exceeds 36m and is appropriately modulated. The development provides poor street frontage to Pacific Hwy. Facades are appropriately finished and building appropriately modulated. Inadequate activation of Pacific Highway. Further detail and information is required to obtain a full	Yes Yes Yes Yes No Yes Yes Yes No Yes Yes

<p>14. Don't use single predominant finish/material.</p> <p>15. Façade to achieve desired future character.</p> <p>18. Integrate signage, drainage, awnings, etc.</p> <p>19. Air-conditioning in basement or roof with appropriate screening.</p> <p>20. Balconies not to run full length of façade.</p> <p>21. Balconies not to project more than 1.5m from outermost wall of façade.</p> <p>22. Corner sites to be emphasised.</p> <p>23. Corner buildings to address both streets.</p>	<p>understanding of the maintenance requirements and durability of proposed materials and finishes.</p> <p>Good built character achieved through façade.</p> <p>No signage proposed. No information provided, however acoustic analysis indicates 2m high screening required to condenser units at level 4.</p> <p>Balconies stepped across façade in line with the built form.</p> <p>No unacceptable projection of balconies. The development provides a curved corner to the highway and park frontage, which is considered to provide a good design response and address to that location.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Unknown</p> <p>No</p> <p>Yes</p> <p>Yes</p>
<p>8C.10 Ground Floor Commercial Uses</p> <p>1. Building entries to individual commercial premises are to be level with adjoining footpath and have windows/doors with direct visual connection to the street.</p> <p>2. Building slabs to be stepped to ensure ground level does not exceed 0.3m from footpath level.</p> <p>3. Ground floor street activation to be provided.</p> <p>4. Buildings on principal active street frontages are to have 80% activation, have facades that address the street and provide awnings.</p> <p>6. Ground level dark alcoves or entrapment areas to be avoided.</p> <p>7. Sill heights of street front windows not > 1.2m above street paving.</p> <p>8. Graffiti resistant material at street level.</p> <p>9. Clear glazing to all windows of active street frontages.</p> <p>10. Security roller shutters not permitted eternally.</p>	<p>The development provides stand alone and at-grade entry for the club component.</p> <p>No grade change across slab.</p> <p>The development provides some ground floor activation.</p> <p>However, activation of streetscape is just 56% of frontage to highway due to location of lift well, stair and gaming machine room at this location.</p> <p>No alcove provided Where glazing is provided it is at full height.</p> <p>No info provided on graffiti resistance. Operable aluminium louvers proposed to Gaming machine room.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes</p> <p>Unknown</p> <p>No</p> <p>Yes</p>

	No roller shutters proposed	
<u>8C.11 Awnings</u> Continuous awning to be provided along full length of active street frontage in the form of suspended steel box section type awning 3m-3.5m above the footpath and setback 0.6m from the kerb.	An appropriate awning is proposed to the Pacific Hwy and part of the adjacent park and Larkin Lane.	Yes
<u>8C.13 Internal Ceiling Heights</u> In B2 zone minimum 3.3m for ground floor retail/commercial. Residential to comply with ADG.	Ground level floor to ceiling is 4m. See assessment under provisions of SEPP 65.	Yes No
<u>8C.14 Visual Privacy</u> 1. Buildings design to maintain privacy between developments. 3. Continuous transparent balustrades not permitted on lower 3 storeys. 5. Compliance with ADG	This has been addressed previously in relation to the ADG and is satisfactory.	Yes
<u>8C.15 Acoustic Privacy</u> Design buildings to minimise impacts from noise and of noise. 7. Commercial uses in B2 to operate only between 7am and 10pm weekdays and Saturdays and 8am and 9pm Sundays and public holidays. 8. Loading docks associated with uses in B2 to operate between 6am-8pm weekdays. 8am to 5pm Saturdays and 8am to 2pm Sundays and public holidays.	This issue has been addressed previously in relation to the ADG and is not considered satisfactory The proposed operating hours of the club do not comply, however any adverse impacts mitigated by suitable management measures. A condition of consent should be provided to limit use of the loading area, including for garbage collection, to the hours required by the DCP.	No Yes Yes
<u>8C.16 Late Night Trading</u> 1. Development for late night trading premises are to be designed to minimise the impacts of noise production on nearby and adjoining premises. 4. Development applications for late night trading premises are to be accompanied by a detailed plan of management which addresses amenity, safety and security and	Council's environmental health officers have identified matters that could be addressed by condition or management responses. The development has not provided a detailed management plan however the existing club has operated in the area without	Yes Yes

demonstrates a strong commitment to effectively managing potential noise impacts on adjoining and surrounding land uses.	adverse impact to residential amenity of adjacent premises.	
<p>8C.17 External Air Clothes Drying Facilities</p> <p>Each apartment is to have access to a screened balcony area for external clothes drying.</p>	No information provided.	Unknown
Section B Part 14F – Roseville Local Centre		
<p>14F.3 Proposed Community Infrastructure</p> <p>1. All development within the Roseville local centre is to be designed to support the planned future character of the centre through the provision of Key Community Infrastructure as stated in the Ku-ring-gai Contributions Plan 2010 and outlined in <i>Figure 14F.3-1</i>. This is to be done through the Proposed Community Infrastructure requirements for each precinct as stipulated in this DCP.</p>  <p>Figure 14F.3-1: Key community infrastructure plan.</p> <p>Legend</p> <ul style="list-style-type: none"> - Footpath embellishment - New or existing park to be upgraded - New/realigned road • Proposed Community Infrastructure 	The amended development proposal seeks to provide a footpath in Larkin Lane.	Yes
<p>14F.4 Setbacks</p> <p>1. All development within the Roseville local centre, as outlined in <i>Figure</i></p>	The DCP does not provide a land dedication or setback requirement	No

<p>14F.4-1, is to be designed to support and enhance the planned future character of the centre. This is to be done through the Setback requirements for each Precinct as stipulated in this DCP.</p>	<p>to that portion of the subject site located to the west of the Club that currently forms part of the Memorial Park site.</p> <p>Discussions with Council planning staff suggests that its exclusion has only occurred because that land was currently in public ownership (by Council) and therefore there was not considered to be any necessity for the DCP to identify and dedicate those lands to Council.</p> <p>Rather than dedicate the widened section of Larkin Lane to Council, the subject development actually seeks to consolidate the relevant portion of the site into a private land holding.</p> <p>Further, the development provides a 0m to that widened Larkin Lane corridor whereas the DCP seeks a 6m setback.</p> <p>Whilst it is acknowledged that the realisation of the outcomes sought by the DCP are problematic, the subject site forms the entry point to that precinct and the proposed development would therefore likely jeopardise the realisation of the strategic planning outcome represented in the DCP.</p>	
<p><u>14F.5 Built Form</u></p> <p>1.All development within the Roseville local centre, as outlined in <i>Figure 14F.5-1</i>, is to be designed to support and enhance the planned future character of the centre. This is to be done through the Built Form requirements for each Precinct as stipulated in this DCP.</p> <p>The site is identified as requiring to provide the following built form outcomes:</p> <ul style="list-style-type: none"> • Create a consistent 3 storey (11.5m) street wall that is built parallel to the Hwy. 	<p>The proposed development provides a 5 storey 16.86m street wall height at the Pacific Hwy frontage.</p> <p>There are sound architectural merit arguments that can support this variation. However, that support is dependent on other fundamental aspects of the development being achieved. The development fails to achieve those other fundamental aspects and therefore variation to the DCP control is not warranted</p>	<p>No</p>

<ul style="list-style-type: none"> • 2m upper level setback above street wall height • Landmark building • Principal active frontage to Pacific Highway, and Larkin Lane.  <p>Legend</p> <ul style="list-style-type: none"> - Principal active frontage - Supporting active frontage - 3 storey street wall - 2m upper level setback above street wall height - Landmark building - Precinct R2 	<p>A 2m upper level setback is provided</p> <p>The development provides a suitable design building that would represent a landmark type built form at that location</p> <p>The development does not provide appropriate active frontages to the Pacific Hwy, Memorial Park or Larkin lane.</p>	<p>Yes</p> <p>Yes</p> <p>No</p>
Section B Part 19 Heritage Items and Conservation Areas –		
<p><u>19F Development in the Vicinity of Heritage Items or Heritage Conservation Areas</u></p> <p>1. All development in the vicinity of a Heritage Item or HCA is to include a Heritage Impact Statement (HIS). The HIS is to address the effect of the proposed development on a Heritage Item or HCA and demonstrate that the proposed works will not adversely impact upon significance, including any related heritage features within the identified curtilage and setting.</p>	<p>See assessment by Council's Heritage Advisor.</p>	<p>Yes – subject to conditions</p>
Section C Part 21 – General Site Design		
<p><u>21.2 Landscape Design</u></p> <p>The site planning and design must:</p> <ul style="list-style-type: none"> i) Retain and enhance indigenous vegetation and visually prominent trees ii) retain significant and visually prominent trees and vegetation that contribute to neighbourhood character 	<p>Initial assessment has revealed significant concern as to the long-term health of the significant trees currently located within Memorial Park. After detailed assessment, Council's Landscape Assessment Officer has identified numerous conditions of consent to protect the health of those trees.</p>	<p>Yes</p>
Section C Part 22 – General Access and Parking		

<u>22.2 General vehicle Access</u> 1. Car park entry and access must be provided from secondary streets	Access and egress provide from Larkin Lane.	Yes
Section C Part 23 – General Building Design and Sustainability		
<u>23.3 Sustainability of Building Materials</u> Maximise the use of sustainable building materials.	The proposed materials are generally acceptable.	Yes
<u>23.4 Materials and Finishes</u> Materials and finishes to be heavy weight, high quality and durable. Avoid highly reflective materials or large areas of one material. Base colours should be used for major areas of the building façade with contrasting colours to be restricted to small areas.	The proposed materials are generally acceptable.	Yes
<u>23.5 Roof Terraces and Podiums</u> Roof and terrace COS to incorporate facilities and shading and screening devices. Must contain soft landscaping to complement the buildings. Robust and drought tolerant species are to be used.	The roof terrace and COS design is acceptable when considered in isolation of other site planning concerns. However, the location of the COS at that location and its visual impact is not acceptable.	Yes
<u>23.7 Waste Management</u> Appropriate facilities are to be provided for waste management, storage and collection.	See assessment by Council's Development Engineer	Yes,
Section C Part 24 – Water Management		
Appropriate stormwater management is to be provided for the development	See assessment by Council's Development Engineer	No

LIKELY IMPACTS

The proposed development will result in several unacceptable impacts.

The proposed height and FSR of the proposed development does not comply with the relevant development standards and is excessive, resulting in a development that is inconsistent with the desired future character of the area and the LEP and DCP controls for the Roseville Local Centre.

The site occupies a key viewing location within the Pacific Highway corridor and has lengthy view lines along that corridor on both the southern and northern approaches. The length of these view corridors would likely result in those non-complying building height elements being discernible from numerous vantage points along that corridor. This would result in adverse visual impact upon the local built environment.

The development does fails to satisfy numerous objectives provided by the SEPP 65 Apartment Design relating to bulk, scale and building height as well as design criteria including cross ventilation, noise and ceiling heights. These will result in unacceptable adverse impacts upon the internal amenity of future residents.

The interface of the private and public domain along the Pacific Highway of the site is poor given that it presents blank walls or non-active frontages to the Pacific Highway at the ground floor level as a consequence of the siting of lift well, stairs and a gaming machine room at this location. This is a poor urban design response.

SUITABILITY OF THE SITE

The development proposes the reconfiguration of the subject lands through the subdivision and consolidation of several land parcels inclusive of a lot that is currently publicly owned land and part of which provides public infrastructure, being part of Larkin Lane.

The subdivision therefore is problematic in that it would facilitate an outcome whereby existing public infrastructure, inclusive of road carriageway, kerb, gutter and road verge area would be located within privately owned lands.

If the subdivision is not supportable then the broader development, which relies upon that subdivision, has limited utility.

Accordingly, the proposed development is not considered to be suitable for the development site.

ANY SUBMISSIONS

A total of 68 submissions were received in response to the notification and have been addressed in the assessment report.

PUBLIC INTEREST

The proposed subdivision element of the development would facilitate an outcome whereby existing public infrastructure, inclusive of road carriageway, kerb, gutter and road verge area would be located within privately owned lands.

There is no apparent public benefit derived from this outcome.

The applicant proposes to resolve any concern with the future ownership by granting an easement in favour of Council for the purpose of maintaining public access etc along that relevant part of Larkin Lane.

This is clearly a sub-optimal outcome compared to the existing arrangement where the public assets are owned and managed by Council.

Further, this subdivision is inconsistent with those sections of the Ku-ring-gai Local Centres DCP that seek to deliver important public domain outcomes for the Roseville Local Centre.

The subdivision element of the development proposal is not supportable as it is not in the public interest and does not represent orderly development of the land as required by the Act.

The built form element of the development proposal results in non-compliances with building height and FSR development standards which result in the development providing a bulk and scale that is inconsistent with desired future character of the local area and will create an adverse visual impact. The applicant has not demonstrated that these non-compliances are in the public interest as required by Clause 4.6 of the LEP.

CONCLUSION

Having regard to the provisions of section 4.15(1) of the Environmental Planning and Assessment Act 1979, the development application is considered to be unsatisfactory and is therefore recommended for refusal for the reasons given below.

RECOMMENDATION

PURSUANT TO SECTION 4.16(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

- A. THAT the Sydney North Planning Panel, as the consent authority, is of the opinion that the request submitted under Clause 4.6 of the Ku-ring-gai Local Environmental Plan (Local Centres) 2012 to vary Clause 4.3 - Building Height and Clause 4.4 Floor Space Ratio has not met the requirements of Clause 4.6(3). The Panel is also of the opinion that there are insufficient environmental planning grounds to vary the development standards and that the written requests are not well founded.
- B. THAT the Sydney North Planning Panel, as the consent authority, refuse development consent to DA0134/18 for the demolition of existing structures (including Roseville Memorial Club and retail tenancy) and construct mixed-use building comprising new ground floor Memorial Club, shop-top housing of 33 residential dwellings, basement parking and associated works, for the following reasons:

Proposed subdivision does not promote orderly development of land or use of infrastructure

- 1. The subdivision element of the proposed development is not consistent with the following object of the EP&A Act:
“(c) to promote the orderly and economic use and development of land.”
- 2. The proposed development is inconsistent with the following aims of Clause 1.2 Aims of the LEP:
*“(h) to achieve land use relationships that promote the efficient use of infrastructure.
(i) to facilitate good management of public assets and promote opportunities for social, cultural and community activities.”*

Particulars

- a) Larkin Lane provides an important publicly accessible roadway that provides vehicular and pedestrian access to a major public car park and rear lane access for the retail and business development that have a frontage to the Pacific Highway.
- b) The development proposes the reconfiguration of the subject lands through the subdivision and consolidation of several parcels of land inclusive of part of a lot that is currently publicly owned land and part of which provides public infrastructure, being part of Larkin Lane.
- c) The proposed subdivision therefore would facilitate an outcome whereby existing and important public infrastructure, inclusive of road carriageway, kerb, gutter and road verge area would be consolidated within privately owned lands.
- d) The consolidation of that public infrastructure into a single and larger private land holding does not represent orderly and economic use of that land.
- e) Orderly development and use of land would result in Larkin Lane and its important public road infrastructure being wholly maintained in public ownership and as a separate parcel of land from a mixed-use development.
- f) Efficient use of infrastructure and good management of public assets would result in Larkin Lane and its public road infrastructure being wholly maintained in public ownership and as a separate parcel of land from that of a mixed-use development.

Draft Planning Agreement does not provide a public purpose

- 3. The Draft Planning Agreement is not consistent with section 7.4 of the EP&A Act as it does not provide a 'public purpose'.

Particulars

- a) The Applicant is proposing to enter into a Planning Agreement whereby that part of the Site that currently provides that an easement would be granted over the Larkin Lane carriageway, kerb, gutter in favour of Council for the purpose of maintaining public access.
- b) Whilst this Planning Agreement does provide a potential alternative for maintaining public access to those important community assets, it is a sub-optimal outcome compared to the existing arrangement where the public assets are owned and managed by Council.
- c) There is no public benefit evident or offered by the Applicant to justify the proposed alteration of those existing cadastral and tenure arrangements.

The development will jeopardise the realisation of the planned strategic outcomes of the Precinct

4. The proposed development is inconsistent with Part 3A of the DCP and in particular with objective 1 of Section 3A.1 which is as follows: *“To ensure consolidation and subdivision create usable and regularly shaped lots that relate to the site conditions and the context.”*
5. The proposed development is inconsistent with the following sections of the DCP: *Section A, Part 3A-General Controls for Consolidation and Subdivision, Section B, Part 14F- Urban Precincts and Sites – Roseville, 14F.4 Setbacks.*

Particulars

- a) Council's strategic vision for the Roseville Urban Precinct seeks to widen Larkin Lane and provide a 6m setback to that Lane to provide for footpaths and street tree planting to support and enhance the planned future character of the centre.
- b) The DCP does not provide a land dedication or setback requirement to that portion of the Site, located to the west of the Club, that currently forms part of the Memorial Park site.
- c) This exclusion has only occurred because that land was already in public ownership and therefore there was no foreseen necessity to identify and set aside those lands for public purposes.
- d) Rather than dedicate the widened section of Larkin Lane to Council, the proposed development actually seeks to consolidate the relevant portion of the Site into a private land holding.
- e) Further, the proposed development provides a 0m setback to Larkin Rd whereas the DCP requires a 6m setback.
- f) The proposed development would therefore jeopardise the realisation of the strategic planning outcome represented in the DCP.
- g) The Site also forms part of the sole vehicle entry point to the primary public car park for the Roseville Local Centre.
- h) The proposed development is therefore clearly inconsistent with the DCP objective for land consolidation, which seeks to *“...allow for development which is suited to the site, its context and strategic intent.”*

Building Height Exceeds the Development Standards

6. The proposed development does not comply with clause 4.3 of the LEP as it proposes a building height in excess of 20.5m.

Particulars:

- a) Clause 4.3 of the LEP sets a maximum height control of 14.5 metres and 20.5 metres for the respective parts of the Site.
- b) The height blanket study and elevations that accompanies DA0134/18 demonstrates that a section of the balconies proposed at Level 4, will likely exceed the 14.5 metres height limit insofar as it applies to that respective part of the Site.
- c) Almost the entire component of the roof level and roof terrace area exceeds the 20.5m height limit insofar as it applies to the respective part of the Site.
- d) The proposed development provides a maximum building height of 23.7 metres at the lift overrun, plant room and stairs, which exceeds the development standard by 3.25 metres or 15.9%.
- e) The non-complying built elements as proposed, such as the plant room, stairs and lift overrun are relatively large elements that are not well integrated into the broader development and built form. Other non-complying elements as proposed, such as planter boxes that provide a perimeter to the communal open space are located close to the outer edge of the roof area and therefore will have clear legibility from numerous locations with the public domain.
- f) The Site occupies a key viewing location within the Pacific Highway corridor and has lengthy view lines along that corridor on both the southern and northern approaches. The length of these view corridors would likely result in those non-complying built elements being readily discernible from numerous vantage points along that corridor.
- g) The application is accompanied by a Clause 4.6 request to vary this development standard however, this request is not well founded as it does not demonstrate that, despite the non-compliance with the maximum height of building standard:
 - i. The proposed development will achieve better outcomes for and from the development,
 - ii. There are sufficient environmental planning grounds to justify contravention of standard,
 - iii. The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the relevant zone within which the development is to be carried out.

Floor Space Ratio Exceeds the Development Standards

7. The development proposal does not comply with Clause 4.4 as it proposes a Floor Space Ratio (FSR) of 2.89:1.

Particulars:

- a) Clause 4.4 of the LEP sets a maximum FSR control of 2.0:1 and 2.8:1 for respective parts of the Site.
- b) A single built form is proposed over the Site and therefore it is not practical to apply the different FSR controls to the respective parts of the Site and the proposed built form.
- c) A consolidated FSR standard has therefore been applied to the Site, which has been calculated utilising the respective FSR and proportional areas of the sites over which it applies.
- d) Clause 4.5(6) of the LEP states that only lots that provide 'significant development' are to be included in the calculation of the site area and FSR.
- e) No built form is proposed to be provided on Lot 2 DP202148 and therefore that portion of the Site should be excluded from the FSR calculations.
- f) The joint operation of the *LG Act* and Clauses 4.5(4), (7) and (11) of the LEP exclude any 'public place' from the calculation of site area and FSR.
- g) The definition of a 'public place' as provided by the *LG Act* includes a public road.
- h) Lot 2 DP202148 currently provides part of Larkin Lane which is 'public place'.
- i) For the reasons outlined at paragraphs d)-h) of this Contention, that section of the Site that includes Lot 2 DP202148 is not to be included as part of Site area and FSR calculations.
- j) The resultant Site area (for the purpose of the FSR calculations) is therefore 1218.5m².
- k) When respective FSR controls are applied to the each of the respective lots, the maximum GFA allowed and FSR for the Site is 3210.52m² and 2.63:1 respectively.
- l) The proposed development provides 3523m² of GFA and an FSR of 2.89:1, which exceeds the relevant FSR development standard by 12.9%.
- m) The application is accompanied by a Clause 4.6 request to vary this development standard however, the Clause 4.6 request does not acknowledge the full extent of the resultant non-compliance which is likely to arise.
- n) The Clause 4.6 request is not well founded as it does not demonstrate that, despite the non-compliance with the FSR standard:
 - i. The proposed development will achieve better outcomes for and from the development,
 - ii. There are sufficient environmental planning grounds to justify contravention of standard,

- iii. The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the relevant zone within which the development is to be carried out.

Development does not provide active uses at the street level

- 8. The proposed development does not comply with Clause 6.6(3)(b) of the LEP as it does not provide uses and building design elements “*that encourage interaction between the inside of the building and external public areas adjoining the building*”.
- 9. The proposed development is inconsistent with DCP, *Section B, Part 14F.9 Precinct R2; Pacific Highway Shops, Control 7, iii*) which requires that development ‘*provides active street frontages along the Pacific Highway and the frontage to Memorial Park.*

Particulars:

- a) The proposed development provides a significant component (being 44%) of blank walls or non-active frontages to the Pacific Highway at the ground floor level, as a consequence of the proposed siting of the lift well, stairs and a gaming machine room at this location.
- b) These building design elements and uses do not allow for any interaction between the inside of the building and those external public spaces at the Pacific Highway street frontage.
- c) Larkin Lane is likely to be dominated by the substation, a fire stair aligned along the street boundary, the TAB and the car park entry. This leaves only a small component at the southern corner which would effectively activate this important street frontage area.

Non-compliance with DCP street wall height requirement

- 10. The development is inconsistent with built form controls provided by *Part 14F.5 Built Form, Precinct R2 – Pacific Highway Shops* of DCP, which requires a 3-storey (11.5m) street wall height to the Pacific Highway and 2m upper level setback above the street wall height.

Particulars:

- a) The proposed development provides a 5-storey 16.86m street wall height at the Pacific Highway frontage.

Non-compliance with Vegetation SEPP

11. The proposed development is inconsistent with the Aims of Vegetation SEPP, which are to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Particulars:

- a) The neighbouring Roseville Memorial Park accommodates several large and mature trees that contribute to the character, landscape setting and amenity of the park, the Site and the neighbourhood.
- b) These trees are located adjacent to the southern boundary of the Site.
- c) The health of these trees is likely to be adversely impacted as a consequence of:
- The location of the proposed basements, which are likely to extend into the root zones of those trees, and
 - The requirement for significant pruning of those trees, to accommodate the proposed built form.

Non-compliance with SEPP No 55 – Remediation of Land

12. The proposed development is inconsistent with the Objectives and provisions of SEPP 55, which requires the Council to consider potential site contamination.

Particulars:

- a) Council's records identify No. 66 Pacific Highway as potentially contaminated land.
- b) The Applicant's Preliminary Desktop Contamination Assessment did not identify or address this matter.

Floor-to-floor height

13. The proposal fails to satisfy the development standard at clause 30(1)(c) of SEPP 65, which requires compliance with the minimum unobstructed floor-to-ceiling heights set out in the ADG at Part 4C.

Particulars

- a) Proposed floor-to-floor height of 3.04 metres is less than the required minimum of 3.1m required by Part 4C-1 of the ADG. SEPP 65 requires the minimum unobstructed floor-to-ceiling height in habitable rooms of 2.7m plus 0.4m allowance for structure (see figure 4C.5 and as described at Objective 2C of the ADG), including set-downs in slabs, drainage and waterproofing, insulation, lighting, flush balcony thresholds for accessible, and the like.
- b) Section drawing DA303 (C) does not confirm how the proposed development is to be constructed and how the development standard is satisfied (included floor/ceiling insulation, freeboard, flush transitions complying with the NCC, Australian Standards and Codes, and the like) and coordinated with the hydraulic design and structural design, particularly where balconies and terraces are proposed to be located above the habitable rooms of units below.
- c) To comply with Schedule 1 clause (2) subclause (5) of the Environmental Planning and Assessment Regulation 2000, detailed section drawings must be provided.

Natural Light and Ventilation

- 14. The study in proposed Unit 403 will likely have no access to natural light or ventilation, contrary to Part 4D-1 (2) of the ADG, which requires every habitable room to have a window in an external wall.

Particulars

- a) Habitable spaces with no access to natural light or ventilation provide low levels of resident amenity over the life-time of the development.
- b) Habitable rooms with no access to natural light or adequate ventilation rely on mechanical ventilation and electric lighting for every day comfort and function. This is contrary to the requirements to minimise energy demands over the life cycle of a building, as set out at the Aims in clause 2 (3) (e) of SEPP 65 and Part 4U-3 of the ADG.
- c) Increased energy demands are likely to result in otherwise avoidable operational costs over the life-cycle of the development.

Balconies

- 15. The proposed fully glazed balcony balustrading does not satisfy Part 4E-3 of the ADG.

Particulars

- a) Fully transparent glazed balustrading at proposed Levels 4 and 5, provides little visual privacy for the private open spaces of all units proposed to be located in a highly visible and exposed location.
- b) As a result of the non-compliance with Part 4E-3 of the ADG, the architectural form will likely be adversely impacted over the long-term because residents may install ad-hoc and unattractive screens to achieve desired levels of privacy.

Section 4.15(1)(b), (c) and (e) of the *Environmental Planning and Assessment Act 1979* and the public interest.

- 16. The development application should be refused because the Site is not suitable for the proposed development.

Particulars:

- a) The Site includes important community infrastructure, which is represented as a part of the Larkin Lane carriageway and its verge.
- b) This important community infrastructure is not suitable for consolidation within a private and developable land parcel.
- c) The subdivision element of the proposed development is inconsistent with those sections of the DCP that seek to deliver important public domain outcomes for the Roseville Local Centre.

Access and Car Parking

- 17. The car parking and vehicular access fails to demonstrate compliance with Part 8B.2-15, Volume A of the DCP.

Particulars:

- a) The number of spaces allocated to the retail component do not meet the minimum spaces as specified under Volume A Part 8B.2-15 of the DCP: 'Car Parking Rates'.
- b) The minimum parking spaces required for the retail component is 21, however only 5 retail parking spaces are proposed.

Public Interest

18. The development application should be refused because approval of the proposed development would not be in the public interest.

Particulars:

- a) The public interest is demonstrated by conformity with the applicable planning controls the subject of contentions 1 to 17 hereto.
- b) The public interest also is demonstrated by matters which have been raised by objectors and which are summarised in Part A of this Statement.
- c) The development application should be refused having regard to the matters listed in section 4.15(i), paragraphs (1)(iii)(b) and (c) and (e) as detailed in the objectors' submissions in Part A hereto.

Adverse Noise and Pollution impacts

19. The proposed development is potentially exposed to noise and pollution and inadequate cross ventilation, but the Applicant has not demonstrated how these matters are to be addressed consistent with, and as required by Parts 4J-1 and 4J-2 and 4B-C of the ADG.

Particulars

- a) Units addressing the Pacific Highway are exposed to noise and associated poor quality air from heavy traffic.
- b) The Acoustic Report – Traffic (February 2018) prepared by Noise and Sound Services at section 6.5 Ventilation states:

“An acoustically insulated building must be kept virtually air tight to exclude external noise. Therefore, for the windows requiring laminated glazing in Table 2 above, and to achieve the required R_w ratings, the windows must be kept closed. Hence, there is a requirement for mechanical ventilation or air-conditioning to provide fresh air to control odours.”

- c) Addressing noise, pollution and achieving SEPP 65 cross ventilation 4B-3 is conflicted because the development relies on air-conditioning to address both acoustic comfort and air-quality.
- d) Reliance on mechanical ventilation and air-conditioning for every-day operations of the building places significant life-cycle costs of energy demands that are inconsistent with

Part 4U-1 of the ADG for passive environmental design and Part 4U-3 for building design to minimise the need for mechanical ventilation and Part 4J-1, 4J-2 for the siting and layout to minimise impacts of hostile environments.

- e) The City of Sydney provides useful guidance for addressing conflicts between cross ventilation and acoustic comfort:

https://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0015/307005/Natural-ventilation-guide-note_310818.pdf

Insufficient Stormwater Management Detail

- 20. The development fails to provide water sensitive urban design measures to achieve the Objectives of Clause 6.2 Stormwater and water sensitive urban design of the LEP and the requirements of Part 24 Water Management of the DCP.

Particulars:

- a) A completed Ku-ring-gai Council OSD calculation sheet has been submitted, which shows an OSD tank requirement of 23.6m³, a PSD of 12.1l/s, and an orifice diameter of 74mm. However, these dimensions of the proposed OSD system have not been provided on the stormwater plans.
- b) A water balance table has been submitted which suggests a “potential rain tank volume” of 20m³, with connections to toilet flushings. The table shows reduction in runoff days of 50%, which satisfies Councils requirements. However, a rainwater tank has not been shown on the stormwater plans.
- c) A water quality analysis has been provided which shows a 10m³ rainwater reuse tank, storm filter chamber, 4 PSorb (MCC). However, none of these devices have been shown on the stormwater plans.

Sustainability – Building performance

- 21. Further information is required to clarify insulation requirements for the roofs of Units 301, 302, 303, 306, 307, 308, 401, 402, 403, 404, 405, 406, 502, 502 and 503. At page 3 of the Thermal Comfort and BASIX Report prepared by Efficient Living indicates no insulation is to be installed and appears it would be required where there are terraces above habitable rooms of units below.

Particulars:

- a) Resolution of this issue may have implications for the proposed floor-to-floor height, accessible thresholds for private open space of Platinum Level units, and maximum building height.

Inadequately dimensioned drawings

- 22. The proposed development does not satisfy Schedule 1 of the *Environmental Planning & Assessment Regulation, 2000* as it does not provide suitably dimensioned drawings.

Particulars:

- a) The plans that accompany the proposed development provides inadequately dimensioned drawings result in the application failing to:
 - i. Properly locate the buildings in relation to site boundaries.
 - ii. Properly locate all encroachments into setback zones (courtyards, firstfloor balconies and the like).
 - iii. Adequately describe proposed building articulation
 - iv. Identify all room sizes.
 - v. Properly address proposed design quality, architectural character, environmental performance and durability

Signed



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Cityscape Planning + Projects

Report Dated: 4 February 2020

Attachments:

- A1 – zoning extract
- A2 – submitters map
- A3 – architectural plans
- A4 – landscape plans
- A5 – written cl. 4.6 variation – FSR
- A6 – written cl. 4.6 variation – height