

Kogarah Local Environment Plan 2012 (KLEP 2012) - Minor Housekeeping Amendments

Proposal Title : Kogarah Local Environment Plan 2012 (KLEP 2012) - Minor Housekeeping Amendments

Proposal Summary : The Planning Proposal seeks to address a number of errors and inconsistencies in the principal instrument:

1. Amend a number of clauses - 'Minimum subdivision lot size', 'Limited development on foreshore area' and 'Location of sex services premises' to ensure consistency with Council's policy.

2. Make minor changes to Schedule 1 - Additional Permitted Uses and Schedule 5 - Environmental Heritage.

3. Correct minor errors to the Heritage Map.

PP Number : PP_2013_KOGAR_001_00 **Dop File No :** 13/05087

Proposal Details

Date Planning Proposal Received :	06-Mar-2013	LGA covered :	Kogarah
Region :	Sydney Region East	RPA :	Kogarah Municipal Council
State Electorate :	KOGARAH OATLEY ROCKDALE	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :	2A Torwood Street		
Suburb :	Sans Souci	City :	Kogarah
Land Parcel :		Postcode :	2219
Street :	1 & 3 William Street		
Suburb :	South Hurstville	City :	Kogarah
Land Parcel :		Postcode :	2221
Street :	721A & 721 B King Georges Road		
Suburb :	Penshurst	City :	Kogarah
Land Parcel :		Postcode :	2222
Street :	113 Hurstville Road		
Suburb :	Oatley	City :	Kogarah
Land Parcel :		Postcode :	2223
Street :	401 & 403 Rocky Point Road		
Suburb :	Sans Souci	City :	Kogarah
Land Parcel :		Postcode :	2219

Kogarah Local Environment Plan 2012 (KLEP 2012) - Minor Housekeeping Amendments

Street : **413 Pocky Point Road**
Suburb : **Sans Souci** City : **Kogarah** Postcode : **2219**
Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Deewa Baral**
Contact Number : **0292286451**
Contact Email : **deewa.baral@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Rita Vella**
Contact Number : **0293309437**
Contact Email : **rita.vella@kogarah.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro South subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
Conduct has been
complied with :

If No, comment :

Have there been
meetings or
communications with
registered lobbyists? :

If Yes, comment : **The Department is not aware of any meetings or communications with registered lobbyists concerning this Planning Proposal.**

Supporting notes

Internal Supporting
Notes :
1. Council currently has delegation to make the plan and has submitted Attachment 4 - Evaluation Criteria for the Delegation of Plan Making Functions and included a project timeline of 6 months to complete the plan. Council's request for delegation is supported.
2. The proposal will not provide additional housing or employment land.
3. Kogarah LEP 2012 includes a detailed list of items under Schedule 1 - Additional

Permitted Uses. The Department agreed to an extensive use of Schedule 1 as an interim measure as the KLEP 2012 was a translation of KLEP 1998. Council is undertaking further studies in order to prepare a future strategic LEP.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives is considered to be adequate.**

1. Amend a number of clauses - 'Minimum subdivision lot size', 'Limited development on foreshore area' and Location of sex services premises' to ensure consistency with Council's policy.

2. Make minor changes to Schedule 1 - Additional Permitted Uses and Schedule 5 - Environmental Heritage.

3. Correct minor errors to the Heritage Map.

The 'Part 1 - Objectives' section of the Planning Proposal does not include the following two amendments:

- Add Lots 401 and 403 Rocky Point Road, Sans Souci under subclause 16 (1) of Schedule 1 to ensure consistency with the repealed KLEP 1998.

- Include 'shop top housing' and 'multi dwelling housing' as permissible uses under subclause 16 (2) and redraft subclause 16 (3)(b) to ensure consistency with the intent of clause 24 of KLEP 1998.

Council should be advised to amend the Planning Proposal prior to exhibition to include those amendments in the 'Objectives' section.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The proposal seeks to make the following amendments:**

1. Amend subclause 4.1(3A) of KLEP 2012 so that the minimum lot width and depth requirements apply to all subdivisions and the alternate lot sizes specified in the subclause apply only where a subdivision is a battle - axe lot.

Amend subclause 4.1 (3A)(e)(iv) by replacing 'at least 500sqm of the lot must not be located behind the foreshore building line' with 'at least 500 sqm of the lot must be located above the foreshore building line.'

2. Amend subclause 6.4 (2)(c) of KLEP 2012 to replace 'waterway access stairs' with 'works to enable pedestrian access to the waterway.'

3. Amend subclause 6.7 (3)(a) by replacing it with 'the social impact of the proposed development on the land frequented by children or any land referred to in subclause (2),'

4. Delete the reference of land at '2A Torwood Street', and '1 and 3 William Street' from clause 18 of Schedule 1.

5. Amend subclause 19 (1)(z) of Schedule 1 - Additional permitted uses to delete the reference made as 'part of' to Lot 12 DP 881035.

6. Amend subclause 20 (1) of Schedule 1 to include reference to 113 Hurstville Road, Oatley.

7. Amend Schedule 5 - Environmental Heritage to renumber items on the list so that they are ordered sequentially and amend the heritage map to reflect these changes.

8. Amend the heritage map to reflect cadastral changes and ensure consistency with Schedule 5.

9. Amend subclause 16 (1) of Schedule 1 to include reference to Lots 401 and 403 Rocky Point Road, Sans Souci.

10. Amend subclause 16 (2) of Schedule 1 to include 'shop top housing' and multi dwelling housing' as permissible uses and amend subclause 16(3)(b) to replace it with 'the maximum floor space used for business premises, office premises or shops is no more than 80sqm or the existing commercial and retail floor space, whichever is greater.'

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA : **3.4 Integrating Land Use and Transport**

* May need the Director General's agreement

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **SEPP No 4—Development Without Consent and Miscellaneous Exempt and Complying Development
SEPP No 6—Number of Storeys in a Building
SEPP No 19—Bushland in Urban Areas
SEPP No 21—Caravan Parks
SEPP No 22—Shops and Commercial Premises
SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)
SEPP No 33—Hazardous and Offensive Development
SEPP No 50—Canal Estate Development
SEPP No 55—Remediation of Land
SEPP No 62—Sustainable Aquaculture
SEPP No 64—Advertising and Signage
SEPP No 65—Design Quality of Residential Flat Development
SEPP No 70—Affordable Housing (Revised Schemes)
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Mining, Petroleum Production and Extractive Industries) 2007
SEPP (Temporary Structures and Places of Public Entertainment) 2007
GMREP No. 2 - Georges River Catchment**

e) List any other matters that need to be considered : **The Planning Proposal is consistent with all relevant s117 Directions and SEPPs. However, Council has indicated that the planning proposal is inconsistent with SEPP 32 - Urban Consolidation. The Department considers that the proposal is consistent with SEPP 32 as the proposal seeks to address errors identified in KLEP 2012 and does not identify additional land for housing or increase the availability of housing.**

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The renumbering of the items in Schedule 5, the outlined cadastral changes and mapping corrections require amendments to the Heritage Map. The maps that are provided include:

1. Heritage Map Sheet HER_001
2. Heritage Map Sheet HER_003
3. Heritage Map Sheet HER_004
4. Heritage Map Sheet HER_005
5. Heritage Map Sheet HER_006
6. Heritage Map Sheet HER_007
7. Heritage Map Sheet HER_008

The maps provided are considered to be adequate.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council proposes that the Planning Proposal be exhibited in accordance with the Gateway Determination. Council proposes to give notice of the public exhibition in the local newspaper (The St George Leader) and on Council's website. Council also proposes to display it in its Customer Service Centre and Kogarah Town Centre Library and notify relevant State agencies and other authorities nominated by the Department. These arrangements are considered satisfactory.

The Planning Proposal has not specified the timeframe for public exhibition. Given that this proposal seeks to rectify anomalies and errors made in translating KLEP 1998 into KLEP 2012, a minimum 14 day exhibition period is recommended.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP: _____

Due Date :

Comments in relation to Principal LEP : **The Principal LEP (KLEP 2012) was notified on 25 January 2013.**

Assessment Criteria

Need for planning proposal : **This Planning Proposal corrects the following errors and inconsistencies within KLEP 2012.**

1. The intent of subclause 4.1(3A) - 'Minimum subdivision lot size' was to apply minimum lot width and depth requirements to all subdivisions as per the existing provisions of Council's Residential Design Guide (RDG). However, as currently worded, the provisions only apply to battle-axe allotments. This error was identified after exhibition of the draft Kogarah LEP and agreed with Council to resolve through the first amendment to the

principal LEP.

The proposal seeks to apply the minimum lot width and depth requirements to all subdivisions, and the alternate lot sizes apply only where a subdivision results in the creation of a battle - axe lot. This redrafted clause reflects Council's original intent and is supported.

Subclause 4.1 (3A)(e)(iv) of KLEP2012 applies to land which has direct frontage to the foreshore. The proposal seeks to clarify that a minimum of 500sqm is to be provided 'above' the foreshore building line. This is in line with the current RDG and is supported.

2. Subclause 6.4 (2)(c) - 'Limited development on foreshore area' of KLEP 2012 makes reference to 'waterway access stairs', which does not permit the construction of 'inclinator' as per the former KLEP 1998. It is proposed to replace the term 'waterway access stairs' with 'works to enable pedestrian access to the waterway', which is supported.

3. The wording of subclause 6.7 (3)(a) - 'Location of sex services premises' in KLEP 2012 does not match Council's original intent. The wording in this subclause refers to the impact of the sex services premises 'on the land on which it is located', while the intent of the provision is to minimize the impact of sex services premises on children using land within the vicinity.

Therefore, the proposal seeks to reword this subclause with 'the social impact of the proposed development 'on the land frequented by children' or any land referred to in subclause (2),' consistent with KLEP 1998 and is supported.

4. A number of properties (2A Torwood Street, Sans Souci and Lots 1 and 3 William Street, South Hurstville) are listed under subclause 18(1) of Schedule 1 to allow an additional use of multi dwelling housing. However, these sites are already zoned or covered by other controls in the KLEP 2012 to permit multi dwelling housing. The planning proposal proposes to remove these properties from clause 18 of Schedule 1 and this is supported.

5. Subclause 19 (1)(z) of Schedule 1 incorrectly makes reference of 721A and 721B King Georges Road Penshurst as 'part of Lot 12, DP 881035'. It is proposed to delete the word 'part of' from the lot reference to correct the error and is supported.

6. Clause 20(1) of Schedule 1 of KLEP 2012 identifies sites upon which dual occupancies (detached) can be undertaken as an additional land use and represents a conversion of clause 22A(10) of KLEP 1998. Lot 113 Hurstville Road, Oatley was omitted in error. The proposal seeks to include this lot under clause 20 (1) of Schedule 1 to make dual occupancies (detached) a permissible land use on the site and is supported.

7. The item number corresponding to the item name and suburb under Schedule 5 - 'Environmental Heritage' is not in sequential order as a result of altering a reference of 'Hurstville South' to 'South Hurstville' following exhibition of the draft KLEP 2012. The proposal seeks to renumber the items in Schedule 5 and reflect these changes on the heritage map. This would result in the items in Schedule 5 being listed in sequential order and is supported.

8. A change to the cadastre resulted in slight changes to the depiction of the Mortdale Railway Station and car sheds. This change is addressed by amending the heritage map of KLEP 2012 and is supported. In addition, some of the lots identified in the heritage map for Sans Souci Public School (413 Rocky Point Road) are no longer associated with the school building and are attached to a separate address. This resulted in inconsistencies between the lots identified as item 152 under Schedule 5 of KLEP 2012 and the corresponding item on the heritage map of KLEP 2012. The proposal seeks to amend the heritage map to

address this discrepancy and is supported.

9. Lots 401 and 403 Rocky Point Road, Sans Souci were identified in clause 24 of KLEP 1998 with 'commercial premises, multi-unit housing and small shops' as additional permitted uses. However, these lots have been inadvertently omitted from clause 16 (1) - 'Use of certain land for business premises, office premises, residential flat buildings and shops' of Schedule 1. The proposal includes these lots under clause 16 (1) to ensure consistency with the position under KLEP 1998 and is supported.

10. Land listed under clause 24 of KLEP 1998, allowed commercial premises/ small shops at ground floor and multi-unit housing (villas/townhouses) above. However, when translating this clause to KLEP 2012, some of these uses are not specified under clause 16 (2) - 'Use of certain land for business premises, office premises, residential flat buildings and shops' of Schedule 1. The proposal seeks to include 'shop top housing' and 'multi dwelling housing' under clause 16 (2) of Schedule 1 to ensure consistency with the policy under KLEP 1998 and is supported.

Furthermore, subclause 16 (3)(b)-'Use of certain land for business premises, office premises, residential flat buildings and shops' of Schedule 1, inadvertently restricts the amount of residential floor space that could be permitted in a development proposal. The proposal seeks to redraft subclause 16 (3)(b) of Schedule 1 to ensure consistency with the intent of clause 24 of the former KLEP 1998 and is supported.

Consistency with strategic planning framework :

The Planning Proposal is consistent with Council's Strategic Plan (Bright Future, Better Lifestyle: Kogarah 2020).

As it seeks to correct errors and inconsistencies in the principal instrument, no additional jobs or dwellings are achieved as a result of this proposal. The Planning Proposal is consistent with the principles of the draft Metropolitan Strategy for Sydney.

Environmental social economic impacts :

There are no adverse environmental, social and economic impacts resulting from this Planning Proposal.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **9 Month** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) :

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **The Planning Proposal is sufficiently justified and is acceptable to proceed to the Gateway.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons : **N/A**

Identify any additional studies, if required. :

If Other, provide reasons :

Nil

Kogarah Local Environment Plan 2012 (KLEP 2012) - Minor Housekeeping Amendments

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal to Kogarah LEP 2012_.pdf	Proposal	Yes
Submission of Planning Proposal.pdf	Proposal Covering Letter	Yes
project timeline.pdf	Proposal	Yes
Attachment 4_Evaluation Criteria_for the delegation.doc	Proposal	Yes
Heritage map 1.pdf	Map	Yes
Heritage map 3.pdf	Map	Yes
Heritage map 4.pdf	Map	Yes
Heritage map 5.pdf	Map	Yes
Heritage map 6.pdf	Map	Yes
Heritage map 7.pdf	Map	Yes
Heritage map 8.pdf	Map	Yes
Heritage map 8.pdf	Map	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **3.4 Integrating Land Use and Transport**

Additional Information : **It is recommended that the Planning Proposal proceed subject to the following conditions:**

- 1. The Planning Proposal is exhibited for 14 days; and**
- 2. The Planning Proposal is completed in 9 months time.**
- 3. Council proposes to progress the Planning Proposal under delegation. This matter is considered to be of local significance and the use of Council's delegation is supported.**

The RPA should be advised that:

- 1. The Planning Proposal be amended prior to exhibition to include the following in the 'Objectives' section of the Planning Proposal.**
 - a) Add lots 401 and 403 Rocky Point Road, Sans Souci under subclause 16 (1) of Schedule 1 to ensure consistency with the repealed KLEP 1998.**
 - b) Include 'shop top housing' and 'multi dwelling housing' as permissible uses under subclause 16 (2) and reword subclause 16(3)(b) to ensure consistency with the intent of clause 24 of the repealed KLEP 1998.**
- 2. No consultation with public authorities is required.**
- 3. No further studies are required.**

Supporting Reasons : **The Planning Proposal is minor in nature and is considered to be the most efficient means of achieving the stated objectives and intended outcomes.**

Kogarah Local Environment Plan 2012 (KLEP 2012) - Minor Housekeeping Amendments

Signature:

D Pitney

Printed Name:

DAVID PITNEY

Date:

27/3/13

