

Item J1: Draft Planning Proposal - Amendment No. 2 of Kogarah Local Environmental Plan 2012**Author:** Rod Logan - Director Planning and Environmental Services (RV)**Reason for report:** To review a draft Planning Proposal to make amendments to Kogarah Local Environmental Plan (LEP) 2012 prior to submission to the NSW Department of Planning and Environment seeking approval for exhibition.**Recommendation:**

- a) That the recommendations and amendments as included in the body of the report and associated Annexures attached to the report be incorporated into a draft Planning Proposal to amend Kogarah Local Environmental Plan (LEP) 2012 in accordance with the provisions of Section 55 of the Environmental Planning & Assessment Act 1979, as amended.
- b) That the draft Planning Proposal be submitted to the Department of Planning and Environment to issue a Gateway determination under Section 56 that would allow Council to proceed to public exhibition and formal government agency consultation.
- c) That in accordance with the requirements of the *Local Government Act 1993*, the following properties be be reclassified from community to operational land:
 - a) No. 1A Stuart Street, Blakehurst (Lot 2, DP794233),
 - b) No. 21A Queens Road, Connells Point (Lot E, DP 373733)
 - c) No. 8A Wyong Street, Oatley (LOT: 15 DP: 746853)
- d) That the Engagement Strategy included in the body of the report be included in the draft Planning Proposal.
- e) That the following notation be applied to all properties on the section 149 Planning Certificate, effective from 29 July 2014:

Council has prepared a draft Planning Proposal to amend Kogarah Local Environmental Plan 2012 for the whole Kogarah Local Government Area. The draft Planning Proposal will reflect the recommendations made in the report to Council on 28 July 2014. The draft Planning Proposal includes amendment of zoning, land use and development standards that, if implemented, may change development potential of individual properties. The draft Planning Proposal will be publicly exhibited once it has been approved for exhibition by the NSW Department of Planning and Environment. For further information on the amendments to Kogarah Local Environmental Plan 2012 please refer to Council's website www.kogarah.nsw.gov.au

Background

1. Kogarah Local Environmental Plan 2012 (Kogarah LEP 2012) represented a conversion of the Kogarah LEP 1998 to the Department of Planning's Standard

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Instrument LEP and was notified in the NSW Government Gazette on 25 January 2013 and commenced on 8 February 2013.

2. That Plan was not a review of the statutory planning controls as it was a conversion of the existing plan to the new Standard Instrument LEP format. At the time of preparing Kogarah LEP 2012 there was no strategic review of zonings and development standards (height, floor space ratio, minimum allotment sizes etc.) and no strategic review of policy relating to employment lands or housing was undertaken.
3. Since the gazettal of Kogarah LEP 2012 in February 2013, Council has completed a series of background studies which can now inform a detailed review of Kogarah LEP 2012, consistent with the Community Strategic Plan.

Planning for the future of our City

4. Planning for housing across the City of Kogarah is an important part of Council's responsibilities. The Sydney metropolitan area is growing, with the population steadily increasing and demographics shifting. These changes are consequently impacting on the City of Kogarah. We have an ageing population, but still have growth in new families. Providing housing to suit the needs of our population as they move through different life stages is needed. This includes opportunities for young people and young families to set up their own homes in the area, and for older residents to downsize to smaller dwellings. Even without any increase in population there would still be demand for new housing as peoples' housing needs change over time, with children leaving home and wanting to stay locally or parents wishing to down size and still be close to longstanding friends and family.
5. A recent release of statistics from the State Government Department of Planning and Environment indicates an estimated growth of 17,400 residents who will seek housing in the City of Kogarah up to 2031. The State Government has overall responsibility for ensuring that the housing needs of our communities are satisfied and, through the Sydney Metropolitan Strategy, have set housing targets for councils to achieve. Council is proposing a new plan for the City which is intended to create a framework that will deliver housing to meet the needs of Kogarah's current population and the needs of future generations. The aim of the plan is to ensure that there is a sufficient supply of different housing types over the next twenty (20) years to meet the needs of our growing community.
6. It is anticipated that the State Government will be updating, and significantly increasing, housing targets for our sub region in the near future with an expectation that the City of Kogarah will be required to provide a range and choice of local housing for our residents. Council has undertaken extensive research and investigation into housing trends, policies and our local housing needs, to ensure that the housing options we develop will suit our community's expectations. This is a process that commenced when Council developed its first Community Strategic Plan in 2009. That Plan was developed in partnership and close consultation with the community and clearly highlighted the need to plan for the changing needs of our community into the future, including a strategic approach to housing.

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7. The Community Strategic Plan identified the need to provide diverse, sustainable, adaptable and affordable housing options throughout the Kogarah Local Government Area (LGA). Issues such as housing choice, availability and access to public transport and services were all identified as key factors in facilitating positive housing outcomes for current and future residents of the Kogarah LGA. The Strategic Plan recognises that housing is not just about a physical roof over heads - it is about lifestyle, wellbeing and creating and maintaining the better lifestyle that our residents value in the City of Kogarah.

A New City Plan

8. A draft Planning Proposal has been prepared in response to the need to find additional housing opportunities in the City. The range of housing options outlined in this proposal will need to be presented to the community for review and comment. The draft plan must to be firstly referred to the State Government for its review and, if endorsed by the Department of Planning and Environment and Minister of Planning, will be returned to Council and then extensively exhibited. The draft plan would be exhibited with a range of accompanying strategies and review documents that provide background information to the proposed changes. These include a Housing Strategy, an Open Space Review and an Employment Lands and Economic Development Strategy.
9. The options for additional housing throughout the City are based on objectives of the Community Strategic Plan. Outlined below is an overview of the primary elements in the new draft plan as they relate to the Strategic Plan objectives.

Housing across the City of Kogarah designed so that it provides choice, is affordable and is suited to the needs of our community.

10. A range of housing choice to suit the different needs of people living in our city was a priority identified by the community during the preparation of the Community Strategic Plan.
11. As with much of Australia, the City of Kogarah has an ageing population, and these residents have identified a strong desire to be able to stay in their local communities as they age. To meet the current and future needs of an ageing population, the draft plan seeks to increase opportunities for redevelopment of land across the whole of the LGA to provide more suitable forms of accommodation, in the form of dual occupancy development and seniors housing developments that are consistent with the scale of surrounding development.
12. Dual occupancy is proposed to be allowed in all areas of the City, where it is currently not permitted in waterfront areas, and the number of sites that could be developed for dual occupancy development is proposed to be increased by reducing the site area that is required. The provisions of the State Government Policy for Seniors Housing are proposed to be varied to allow independent seniors living accommodation throughout the City. That form of low scale housing is currently prohibited in waterfront areas and on any land that is more than 400 metres from services or public transport. Both these housing types would be consistent in scale with single dwellings with a building form of one (1) to two (2) storeys.

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13. Some waterfront areas around Tom Ugly's Bridge are also proposed to allow multi unit residential flat buildings of five (5) to seven (7) storeys in height, introducing a housing type that is not currently provided in the City. The five (5) to seven (7) storey building scale is also proposed along Princes Highway around Blakehurst Shopping Centre and from Jubilee Avenue to Plant Street Carlton with a commercial ground floor component. It is also proposed to be a common building form promoted around all our shopping centres such as Ramsgate, South Hurstville, Allawah and Carlton.
14. It is intended that all of these new unit blocks would be serviced with lift access and provide accessible units, not just for the aged and disabled, but for young families. Recent residential flat development in the City, outside of the major centres of Kogarah and Hurstville, has all been low rise building forms with stair access only that is not suitable for all residents. Providing a choice of housing in terms of size, accessibility and location is key to meeting the community's needs into the future.

Local centres within the City of Kogarah are distinctive and vibrant, providing opportunities for small businesses to flourish throughout the City.

15. Increasing the residential population in and around the City's Centres brings more customers and vitality to local businesses. Well-designed, mixed commercial/residential apartment buildings provide opportunities for new shops, cafes, restaurants and other businesses which can contribute to the revitalisation of centres, and allows people to access services in their local area. A five (5) to seven (7) storey building form is being proposed for most of our commercial centres and for the high density residential zones immediately around those centres, close to public transport routes. The major centres of Kogarah and Hurstville are proposed to have a building scale of nine (9) to twelve (12) storeys with existing low density areas immediately to the north of the Kogarah centre being identified for a ten (10) storey residential flat development.

Kogarah City residents can get to where they need to go in a way that is accessible, safe and efficient.

16. Facilitating the use of public transport and the efficient utilisation of existing and future infrastructure is a key to planning for increased residential development/capacity.
17. When residents are located within walking distance to public transport, shops and services, they drive less. This reduces potential pressure on the local road network while also reducing potential greenhouse gas emissions and the need for additional parking stations. Concentrated housing models encourage the efficient use of services, including public transport services.

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18. The pattern of development over the last twenty (20) years in the City of Kogarah has been greatly influenced by access to public transport and other community infrastructure. The most accessible areas of the City are where commercial centres, railway lines and main roads are located. The location and capacity of existing infrastructure, proximity to public transport and accessibility for pedestrians have governed the selection of areas for increased residential capacity. These focus around our suburban rail network and major arterial road routes such as Princes Highway, King Georges Road and Rocky Point Road. There is some minor expansion of existing residential flat areas around Hurstville and Carlton with the areas closest to public transport nodes proposed to have a five (5) to seven (7) storey scale, outer lying areas three (3) to five (5) storey and two (2) storey town house style development at more removed sites.

Comply with State Government requirements for housing targets throughout the Sydney Metropolitan Area.

19. The draft plan seeks to ensure that a reasonable supply of new housing, suited to the needs of our current and future community's requirements, is available over the period from 2015 to 2031, in line with the State Government's requirements outlined in the draft *Metropolitan Strategy for Sydney 2031*.
20. The draft Metropolitan Strategy sets the framework for Sydney's growth and prosperity to 2031, through a comprehensive strategic approach to ensure that the housing needs of Sydney will be delivered. The Strategy has set a target of a least 545,000 new dwellings across Sydney by 2031, with specific targets for sub-regions. The projected growth in the Sydney area is a significant expansion on previous metropolitan strategies.
21. In June 2014, the Department of Planning & Environment published updated Population, Household and Dwelling Projections for NSW, with detailed breakdowns for each Council area. These updated projections have provided background information to the development of this new plan.

Overview of the amendments to be included in the draft Planning Proposal

22. The draft Planning Proposal aims to implement the recommendations of the recent studies and Council strategies that provide background support information which includes the following:
- Kogarah 2031 Housing Strategy;
 - Kogarah Employment Lands and Economic Development Strategy; and
 - Open Space Review.
23. The main objectives of the draft Planning Proposal are to amend Kogarah LEP 2012 to:
- a) Provide opportunities for the future redevelopment of specific land for dual occupancy development, multi-unit residential development and shop top housing which:

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- is in close proximity to transport nodes and commercial centres;
 - encourages the use of public transport;
 - provides for diversity and choice in housing across the LGA; and
 - will assist Council to achieve its dwelling target under the State Government's *Metropolitan Strategy* and *draft South Subregional Strategy*
- b) Include the following specific actions with regard to increasing housing choice:
- (i) Rezone land in and around centres to increase residential development capacity.
 - (ii) Introduce the R4 – High Density Residential zone and associated land use tables in areas close to the Kogarah and Hurstville Town Centres to allow increased residential development.
 - (iii) Provide increased development potential (height and floor space ratio) in areas to encourage a range of residential development.
 - (iv) Introduce principal development standards (height of buildings and floor space ratio) for land across the LGA.
 - (v) Provide greater flexibility for dual occupancy development in the R2 – Low Density zone.
 - (vi) Provide greater flexibility for the subdivision of land in the R2 – Low Density zone.
 - (vii) Delete the E4 – Environmental Living zone and associated land use tables.
 - (viii) Introduce a local provision to permit seniors housing in the form of self-contained dwellings on large sites in the R2 – Low Density zone.
- c) Achieve the outcomes of the Kogarah Employment Lands and Economic Development Strategy through the review of height and floor space ratio requirements for existing commercial zones and the introduction of a B6 – Enterprise Corridor zone and associated land use table for sites along the Princes Highway.
- d) Amend Schedule 1 – Additional Permitted Uses by rationalising properties identified within the Schedule.
- e) Amend Schedule 2 – Exempt Development to align Kogarah LEP 2012 with recent amendments to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP).
- f) Amend Schedule 5 – Environmental heritage to delete Item No. I117, being the Mortdale Railway Station and car sheds, Illawarra Railway between Coleborne Avenue, Ellen Subway and No.'s 195-235 Hurstville Road, Mortdale (Lot 100, DP1141151).
- g) Rezone rear portion of Lot 4 & 5, DP 7814 (No. 279) Rocky Point Road, Sans Souci, which has been sold off by Telstra from SP2 - Infrastructure to R2 – Low Density Residential.

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- h) Delete the RE2 – Private Recreation zone and associated land use tables from Kogarah LEP 2012.
 - i) Introduce a new E2 – Environmental Conservation zone and land use table in accordance with the Open Space Review.
 - j) Rezone sites that are in the ownership of key infrastructure and educational providers to SP2 – Infrastructure.
 - k) Rezone sites that are in the ownership of Kogarah City Council and/or the Crown which are as utilised as open space to Zone RE1 – Public Recreation.
 - l) Rezone sites that are currently zoned RE1 – Public Recreation but are not utilised as open space to a more appropriate zone.
 - m) Amend Schedule 4 to reclassify the following land from “community” land to “operational” land:
 - No. 1A Stuart Crescent, Blakehurst (Lot 2, DP794233),
 - No. 21A Queens Road, Connells Point (Lot E, DP 373733)
 - No. 8A Wyong Street, Oatley (LOT: 15 DP: 746853)
24. For ease of readability, the full report on all the amendments proposed to the current Local Environmental Plan, and all of the supporting background documents, have been provided as separate annexures.

Review of Submissions

25. The Planning and Environmental Services Working Party, at its meeting on 15 April 2013 considered a report on the Housing Strategy Background Paper. The Background Paper outlined the key areas for review and the key principles for consideration by Council in the development of a new Housing Strategy.
26. Subsequent to this, at its meeting on 22 April 2013, Council resolved the following (Min No. 39/2013):
- “That the key areas and principles identified in the Background Paper – Kogarah Housing Strategy be endorsed by Council for the purposes of commencing the process of developing Kogarah City Council’s new Housing Strategy.”*
27. Further to Council’s endorsement of the *Background Paper – Kogarah Housing Strategy*, a copy of the document was made available on Council’s website for the public to view.
28. The *Background Paper – Kogarah Housing Strategy* identified that as part of the preparation of the new Housing Strategy, Council would also be reviewing any areas/sites where requests have been made by owners.

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29. Since the endorsement of the Background Paper, twenty (20) written requests were made (up to the end of June 2014). These have been assessed as part of the preparation of the Kogarah 2031 Housing Strategy, and where appropriate, changes supported by Council officers have been incorporated into the draft planning proposal.
30. Owners will be separately notified of the outcome of their submission, as outlined in the annexure, and have an additional opportunity to make submissions upon the draft Planning Proposal being placed on public exhibition.
31. A summary of the submissions received and proposed recommendations arising from consideration of those submissions are included in Annexure – Summary of LEP Submissions, attached to the report.

Engaging with our Community

32. Consideration of the draft Planning Proposal by the Department of Planning and Environment must include the extent of community engagement that Council proposes to undertake as part of the exhibition of the amendment to the LEP.
33. Extensive consultation has been undertaken in the past with the community through the development of Council's Integrated Planning framework, including the development of the Community Strategic Plan and the Ageing Strategy to attain a better understanding of the key issues relating to the provision of housing and employment opportunities.
34. The draft Planning Proposal is a plain English document that translates how the actions identified in Council's Strategies and the body of this report will be translated into a new plan.
35. There is a legal requirement that the Planning Proposal includes a consultation strategy outlining how Council will engage with the community with respect to the proposed changes.
36. The Department of Planning and Environment, in issuing a Gateway Determination to allow public exhibition may also include specific requirements related to the exhibition of the draft Planning Proposal.
37. As a minimum, it is proposed that the community will be notified of the exhibition of the draft Planning Proposal in accordance with the Engagement Strategy as outlined below:

STAKEHOLDERS	PROPOSED ACTION
General Community	▪ Detailed information included prominently on Council's website with facility for the community to provide comments through the website portal. ▪ Exhibition posters and information placed at Council's Customer Service Centre, local libraries and Council's Child Care Centres.

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**Affected
Landowners**

- A special edition of Kogarah Life (Council's newsletter) with detailed information on the draft Planning Proposal including a feedback form delivered to all residential properties and businesses in the LGA.
- A letter sent to all non-owner occupied residents advising them of the exhibition and the special Kogarah Life edition (so that they can request a copy) and directing them to the information on Council's website. The letter to also advise of the exhibition locations and the dates for close of submissions.

Councillors

- Memo sent to all Councillors at least one week prior to the commencement of the exhibition period advising them of the exhibition dates and other relevant information.
- Copies of all of the information available in Councillors Room.
- Director – Planning & Environmental Services and Coordinator Strategic Planning available to discuss the contents of the draft plan on a request basis.

Media

- Media Release sent to Local Paper prior to the commencement of the exhibition.
- Advertisement in the local paper and other relevant newspapers (NESB) at the commencement of the exhibition and during the exhibition of the Planning Proposal (2 advertisements in total).

**Government
Agencies**

- Letters sent to relevant Government Agencies, in accordance with the Department's requirements with relevant information attached.

**Planning &
Infrastructure**

- Email to the Regional Office advising of the commencement of the exhibition and link to relevant website.

**Internal Council
Departments**

- Email sent to all relevant staff advising of the commencement of the exhibition period.

Notation on s149 Certificates

38. Pursuant to the Environmental Planning and Assessment Act 1979 and Regulations 2000, Council is not required to note the proposed zoning changes for individual properties on s149 Planning Certificates until a draft Planning Proposal is publicly exhibited, however this report makes public possible changes to future zones and development standards that would apply to individual properties.

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39. Whilst the zones and development standards are not certain, and public consultation related to the draft Planning Proposal is yet to be undertaken, it is recommended that vendors and purchasers be made aware of the potential for changes to zones and development standards, by noting the endorsement of Council's resolution to prepare a Planning Proposal on the section 149 certificates.
40. Accordingly, it is proposed that following notation be included for all properties on the s149 planning certificates, effective from 29 July 2014:

Council has prepared a draft Planning Proposal to amend Kogarah Local Environmental Plan 2012 for the whole Kogarah Local Government Area. The draft Planning Proposal will reflect the recommendations made in the report to Council on 28 July 2014. The draft Planning Proposal includes amendment of zoning, land use and development standards, if implemented, that may change development potential of individual properties. The draft Planning Proposal will be publicly exhibited once it has been approved for exhibition by the NSW Department of Planning and Environment. For further information on the amendments to Kogarah Local Environmental Plan 2012 please refer to Council's website www.kogarah.nsw.gov.au

41. It is then the responsibility of individuals to seek out independent planning advice before making property development related decisions.
42. It should be noted that the notation will be updated upon the draft Planning Proposal being formally exhibited to identify specific changes to individual properties.
43. The draft Planning Proposal must then be submitted to the Department of Planning and Environment in accordance with the Gateway process. A further report will be provided to Council once a response has been provided by the Department of Planning and Environment.

Operational Plan Budget

44. Within budget allocation.

Attachments/Annexures

1	Proposed Amendments to Kogarah LEP 2012	144 Pages	Annexure
2	Summary of LEP Submissions	43 Pages	Annexure
3	Kogarah Housing Strategy 2031	119 Pages	Annexure
4	Employment Lands & Economic Development Strategy	150 Pages	Annexure
5	Kogarah Open Space Review 2014	58 Pages	Annexure

End of Report