

Item C1: **Amendment to Kogarah LEP 1998 to permit development for retail and supermarket purposes on No.'s 2 - 8 Princes Highway, No.'s 1 - 9 Rocky Point Road and No. 60A Gray Street, Kogarah.**

Author: Rod Logan - Director Planning and Environmental Services (RV)

Reason for report: To seek endorsement to commence the statutory process to prepare an amendment to Kogarah LEP 1998.

Recommendation:

- a) That pursuant to Section 55 of the EP & A Act 1979, the Planning Proposal to amend KLEP 1998 by rezoning No.'s 2-8 Princes Highway, No.'s 1 – 9 Rocky Point Road and No. 60A Gray Street, Kogarah from Industrial 4(a) to Business 3(b) – Town Centre and incorporating the amendments outlined in Paragraph 12 & 16 in the body of the report be endorsed.
- b) That the planning proposal be referred to the Minister for Planning for “gateway determination” under Section 56 of the EP & A Act 1979 subject to a payment of \$4,500 by the applicant/owner.
- c) That should the Minister determine that the Planning Proposal proceed (Gateway), a report will be presented to a future Working Party outlining the community consultation process, along with details of the Voluntary Planning Agreement and the draft DCP controls for the subject site.

Background

1. The Planning & Environmental Services Working Party, at its meeting on 3 May 2010, considered a report on an amended proposal for No.'s 2- 8 Princes Highway and No.'s 1- 9 Rocky Point Road, Kogarah to allow a shopping centre on the site, with some ancillary office functions.
2. Specifically, it is proposed that the site be redeveloped to accommodate an integrated retail/medical/gym/commercial development, and it is proposed to include the following:
 - A Discount Department Store (DDS) – likely to incorporate the relocation of the existing Target store in Rockdale;
 - A supermarket;
 - A number of mini-major retailers (such as Harris Farm Markets, Lincraft, Dan Murphys, Reject Shop);
 - Specialty retailers; and
 - Foodcourt and ancillary areas including small offices.

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3. Subsequently Council, at its meeting on 24 May 2010 resolved the following:
- "a) That the owners be advised that Council supports in principle the submission of a Planning Proposal relating to No. 's 2-26 Princes Highway, 60B Gray Street and No. 's 1-9 Rocky Point Road, Kogarah seeking to allow the uses as identified in the report.*
 - b) That as part of the Planning Proposal, the applicant be required to submit a detailed Traffic and Parking Study and a Social and Economic Impact Assessment Report.*
 - c) That once submitted, the Planning Proposal and associated studies be submitted to a future Planning & Environmental Services Working Party for endorsement to commence the formal planning process and submission of the planning proposal through the Gateway process.*
 - d) That a letter be written to the proponent seeking confirmation of their intentions with respect to the Voluntary Planning Agreement."*

Amended Planning Proposal

4. On the 20 August 2010 Urbis, on behalf of the owners AFC Holdings & Citadel Property Group, submitted an amended Planning Proposal for the site known as 60A Gray Street, No.'s 2 - 8 Princes Highway and No.'s 1 - 9 Rocky Point Road, Kogarah (subject site). A copy of the Planning Proposal is included in the Annexure attached to the report.
5. The Planning Proposal now relates to the whole site, including 60A Gray Street, Kogarah (former RTA site).
6. The Planning Proposal is also supported by supplementary reports, including a Retail Capacity Assessment and a Traffic Report.
7. The Retail Capacity Assessment provides a review of retail floorspace demand in Kogarah and addresses capacity for additional retail floorspace within the Locality. A copy of the Retail Capacity Assessment is included in the Annexure, however the main benefits of the proposal can be summarised as follows:

The Retail Capacity Assessment has assessed the potential capacity for additional retail space within the Kogarah Town Centre, and has identified the capacity for a significant amount of retail capacity in the area. This assessment considers there is potential demand for up to 20,450 sqm at the site.

The Assessment considers that the proposal would result in the following economic and social benefits for Kogarah:

- *The proposal would result in the provision of additional employment for the local community, with the potential to provide up to 740 jobs once the centre is complete.*
- *The proposal would result in grater choice for consumers when shopping at Kogarah, with a greater product range and opportunity for consumers to satisfy their top up and weekly shopping needs.*

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- *The addition of additional retailing would enhance price competitiveness. Lower prices would have a direct positive impact on the budget of households.*
- *The proposal would result in the retention of primary trade area spending.*

In addition, the proposal would benefit local consumers, by providing convenience for local residents, reducing travel distances for vehicle travel.

The Retail Capacity Assessment concludes the following:

“Given that there is ample expenditure in the trade area to support the additional retail proposed the proposed development will create added competition in the marketplace which will lead to superior products for consumers as well as lower prices.

The proposed development will offer an alternative shopping experience for budget conscious shoppers and the opportunity for trade area residents and workers to access basic products at lower prices.

There is no reason, on economic grounds, that the LEP should not be amended to facilitate a development of the type and scale outlined in this report.”

8. A Traffic Report, prepared by Colston Budd Hunt & Kafes Pty Ltd has also been submitted. This report assesses any proposed traffic implications which may arise through the rezoning of the subject site to cater for the proposed development.
9. A copy of the Traffic Report is included in the Annexures, however in summary states that although the Planning Proposal *may result in an increase in the trips generated, the surrounding road network, with the incorporation of some recommended works, will be able to support the proposal.*
10. The Planning Proposal seeks to amend Kogarah LEP 1998 by rezoning the site from Industrial 4(a) – General to Business 3(b) – Business Town Centre. The report provides the following justification for the proposed zoning:
 - *The site is seen as a natural extension to the existing Kogarah Town Centre, and would act as a southern anchor to the town centre, with only the hospital separating the site from the existing area zoned 3(b).*
 - *This extension, and the anticipated development on the site, would satisfy the objectives of the 3(b) zone, encouraging the development and expansion of business activities, and contributing to economic growth and employment opportunities within Kogarah Town Centre.*
 - *The proposal would also result in the expansion of retail and commercial facilities within the Kogarah Town Centre, again satisfying the objectives of the 3(b) zone.*

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- *The site is also considered an appropriate extension to the existing town centre, displaying characteristics suited to a town centre of this nature. The site is strategically located in relation to its proximity to available public transport, and surrounding residential development, as well as its location between two major vehicular thoroughfares, providing high exposure to the site.*

11. Council also considers that this is the most appropriate zoning for the subject site however the Business 3(b) zone also allows residential development, as part of a mixed use development.
12. The intended outcome of the rezoning is to permit retail uses on the site and to create additional employment opportunities close to the Kogarah Town Centre. Any proposal for a residential development on the site would be inconsistent with the intended outcome of the rezoning and the stated objectives within the Planning Proposal, which are as follows:-

The objectives of the Planning Proposal are to:

- *align the use of the land with the NSW Metropolitan Strategy and draft South Sub-Regional Strategy which identifies the site as being capable of wider range of employment uses (SO A1.9.3 draft South Sub Regional Strategy);*
 - *address the undersupply of retail choices available to the community, particularly supermarkets in the locality;*
 - *provide increased employment opportunities;*
 - *apply development standards related to FSR and height which reflect key land use considerations such as economic and traffic impact.*
13. It is recommended that as part of the Planning Proposal that an amendment be made to Kogarah LEP to incorporate a provision that prohibits residential development on the subject site as residential development would not meet the desired outcomes of the proposed rezoning.
 14. This clause would be similar to Clause 15A of KLEP 1998 which identifies uses that are prohibited within the Kogarah Town Square Development.
 15. The Planning Proposal is also recommending that an amendment be made to Kogarah LEP 1998 to introduce a provision limiting the floor space ratio to 3:1 and a maximum height of 15m.
 16. These provisions are consistent with the current DCP controls for the site and are consistent with the current Deferred Commencement consent (DA60/2008). The approved development was in the form of a four storey building with an overall height of 15m and a FSR of 3:1.
 17. It is considered appropriate that the building envelope be retained as approved, however it would be considered more appropriate if the floor space and height controls be retained in the DCP, rather than introducing a new provision into Kogarah LEP 1998 that relates to floor space and height.

Voluntary Planning Agreement (VPA)

18. A Deferred Commencement consent (DA 60/2008) for the demolition of existing buildings and the construction of a four (4) storey building for bulky goods retailing, commercial offices, medical purposes and a community room was issued by Council on 16 December 2008.
19. The approved development was in the form of a four storey building and includes parking for 391 vehicles, over 4 levels, with vehicular access off Gray Avenue.
20. As part of the previous development application the proponent agreed to enter into a Voluntary Planning Agreement (VPA) in order to benefit from additional density requirements permitted by the Commercial and Industrial Lands DCP 2008. The VPA is required to provide, at a minimum, the following community benefits:
 - *Provision of a minimum 300m² of community space to be dedicated to Kogarah Council.*
 - *Provision of bus shelters to the existing bus stops adjacent to the subject site in Gray Avenue.*
 - *Provision of reconstructed public domain along the three (3) road frontages of the subject property being Rocky Point Road, the Princes Highway and Gray Avenue. This includes new kerb and drainage, footpath, landscaping, street furniture and undergrounding of all services to a standard commensurate with that required in the Kogarah Town Centre.*
21. As part of the delivery of the Planning Proposal, the applicant intends to prepare a Voluntary Planning Agreement which would include the following:

For the applicant:

 - *To provide provision of a shuttle bus between the development and Kogarah Town Centre, with interim stops.*
 - *To provide streetscape and landscape improvements to Kogarah Town Centre.*
 - *To provide a dedicated community room of at least 300 sqm within the development.*

For Council:

 - *To offset the cost of the provision of such public benefits against Section 94 Contributions.*
22. It is proposed that the details of the VPA be finalised once the Planning Proposal has been through the initial gateway process and that it be exhibited concurrently with the proposed LEP amendment.

Amendment to the DCP Controls

23. The development controls for the subject site are contained within Part 4 of the *Commercial & Industrial Lands DCP* in particular those provisions contained within Locality A – Kogarah Industrial Precinct, which specifically apply to the subject site.

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24. Although it is proposed to retain the existing floor space ratio controls and height requirements for the subject site, a number of amendments will be required to the controls, including the Desired Future Character, Objectives, Preferred Land Uses. Some refinement to the controls may also be required with respect to setbacks, building massing, retail mix and vehicular entry points.
25. The applicant has advised that as part of the Planning Proposal it is proposed that a site specific DCP be prepared. As the proposal is considered to be an extension to the Kogarah Town Centre, it is recommended that the controls relating to this site be incorporated as a new appendix into DCP No. 5 – Kogarah Town Centre.
26. It is recommended that the amended DCP controls be prepared once the Planning Proposal has been through the initial gateway process and the DCP controls be exhibited concurrently with the proposed LEP amendment.

The Gateway Process

27. The amendments to the EP & A Act now require that planning proposals are forwarded to the Department of Planning, under the “gateway determination” process. The initial “gateway” process will confirm whether the Department is willing to support the proposal and if a positive determination is granted it will also identify whether additional reports are required and the level of consultation Council will be required to undertake.
28. The gateway process has the following steps:
 - **Planning proposal** - explains the effect of and justification for the plan.
 - **Gateway** — The Minister (or delegate) determines whether the planning proposal is to proceed. This gateway acts as a checkpoint to ensure that the proposal is justified before further studies are done and resources are allocated to the preparation of a plan. A community consultation process is also determined at this time. Consultations occur with relevant public authorities and, if necessary, the proposal is varied.
 - **Community consultation** — the proposal is publicly exhibited (generally low impact proposals for 14 days, others for 28 days). A person making a submission may also request a public hearing be held.
 - **Assessment** — Council considers public submissions and the proposal may be varied as necessary. Parliamentary Counsel then prepares a draft local environmental plan. (LEP amendment).
 - **Decision** — Minister determines.
29. It is now proposed that the Planning Proposal be referred to the Minister for Planning for “gateway determination” under Section 56 of the EP&A Act 1979. Should the Minister determine that the Planning Proposal proceed (Gateway), a further report will be presented to the Working Party outlining the community consultation process, along with the VPA and the draft DCP controls.

**PLANNING AND ENVIRONMENTAL SERVICES WORKING
PARTY**

6 September 2010

Item C1 (cont.)

Conclusion

30. An amended Planning Proposal has now been submitted to Council requesting that Council consider a rezoning to the subject site from Industrial 4(a) – Industrial (Light) to Business 3(b) – Business (Town Centre) under the provisions of KLEP 1998 to permit the redevelopment of the site for a retail/supermarket development, with ancillary offices.
31. The Planning Proposal has been supported by the submission of a Traffic Report and a Retail Capacity Assessment.
32. It is recommended that Council now progresses that request by endorsing the Planning Proposal, subject to the amendments being made as outlined in the body of the report and that the Planning Proposal and associated documentation be submitted to the Department of Planning in accordance with the “Gateway” requirements.

Operational Plan Budget Impact

33. The work associated with the Planning Proposal would be costed to the applicant in accordance with the adopted Fees and Charges in Council’s Delivery and Operational Plan.

Attachments/Annexures

1	Amended Planning Proposal - August 2010	25 Pages	Annexure
2	Retail Capacity Assessment - August 2010	37 Pages	Annexure
3	Traffic Report - August 2010	22 Pages	Annexure

End of Report

H2.1. **Subject:** Amendment to Kogarah LEP 1998 to permit development for retail and supermarket purposes on No.'s 2 - 8 Princes Highway, No.'s 1 - 9 Rocky Point Road and No. 60A Gray Street, Kogarah.

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*(Adopted Minute No. **Error! Reference source not found.**)*

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- b) *That the planning proposal be referred to the Minister for Planning for “gateway determination” under Section 56 of the EP & A Act 1979 subject to a payment of \$4,500 by the applicant/owner.*

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Planning Decision Voting Record Division

For the Motion:	Councillors:	Varvaris (Mayor)
		Katris
		McLean
		Agius
		Elmir
		Platt
		Tang (Deputy Mayor)
		Hindi
		Landsberry
		Coure
		Ritchie
		Petroni

As a result of the division the motion was declared carried.

Note: Item H2.3 was considered next.

PLANNING PROPOSAL



