

To rezone 152-206 Rocky Point Road, Kogarah (Former Darrell Lea Site) to allow a mix of residential and commercial uses.

Proposal Title :	To rezone 152-206 Rocky Point Road, Kogarah (Former Darrell Lea Site) to allow a mix of residential and commercial uses.		
Proposal Summary :	<p>The planning proposal seeks to amend the Rockdale Local Environmental Plan 2011 (Rockdale LEP) for 152-206 Rocky Point Road, Kogarah by:</p> <p>a) rezoning the subject site from IN2 Light Industrial and R2 Low Density Residential to part B6 Enterprise Corridor and part R4 High Density Residential;</p> <p>b) increasing the floor space ratio (FSR) from 1:1 (IN2 zone) and 0.5:1 (R2 zone) to part 1.8:1 (B6 zone) and part 2.0:1 (R4 zone); and</p> <p>c) increasing the maximum building height control from 14.5m (IN2 zone) and 8.5m (R2 zone) to a range of heights between 8.5m to 33m.</p>		
PP Number :	PP_2015_ROCKD_001_00	Dop File No :	13/13464

Proposal Details

Date Planning Proposal Received :	09-Apr-2015	LGA covered :	Rockdale
Region :	Metro(CBD)	RPA :	Rockdale City Council
State Electorate :	ROCKDALE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	152-206 Rocky Point Road		
Suburb :	Kogarah	City :	NSW
		Postcode :	2217
Land Parcel :	Lot 22 DP 620329, Lot 2 DP 838198, Lot 1 DP 599502, Lot 1 DP 1144981, Lot 1 DP 666138, Lot 2 DP 405531		

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DoP Planning Officer Contact Details

Contact Name : **Deewa Baral**

Contact Number :

Contact Email :

RPA Contact Details

Contact Name : **David Dekel**

Contact Number :

Contact Email :

DoP Project Manager Contact Details

Contact Name : **Diane Sarkles**

Contact Number :

Contact Email :

Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub
Regional Strategy :

Consistent with Strategy :

MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

No. of Lots : **0**

No. of Dwellings **0**
(where relevant) :

Gross Floor Area : **0**

No of Jobs Created : **0**

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

If No, comment :

Have there been **No**
meetings or
communications with
registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

Following the Sydney East Joint Regional Planning Panel's (the Panel) recommendation to proceed the planning proposal for Gateway, the Minister's delegate, on 13 October 2014, determined the proposal should proceed subject to amending the proposal as below:

'The planning proposal should reflect the development controls proposed by the proponent as scheme 2(a), as submitted to the Panel on 26 May 2014. Scheme 2(a) however is to be amended so that building heights do not project beyond Council's proposed height plane.'

On 21 November 2014, following the decision to proceed to Gateway, the proponent and

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External Supporting Notes :

their consultant team met with the Department's staff to discuss the planning proposal and a way forward. At this meeting it was agreed that the boundary between the proposed B6 Enterprise Corridor and R4 High Density Residential zone could be reconfigured as long as the total areas remain generally consistent with the original proposal. The proposed zone boundary has been revised so that it runs parallel to the alignment of Rocky Point Road while the total area for both zones remain as endorsed in scheme 2(a).

Council has requested delegation of plan making function for this planning proposal. It is not Department practice to issue delegation for planning proposals which have been subject to a pre-Gateway review. As such, Council's request to exercise delegation to make this plan is not supported.

On 28 August 2014, the Sydney East Joint Regional Planning Panel (the Panel) recommended the planning proposal proceed to Gateway on the basis that it had strategic merit.

On 13 October 2014, the Minister's delegate determined that the proposal should proceed to Gateway.

On 4 December 2014, Council agreed to be the relevant planning authority for this proposal.

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The planning proposal seeks to rezone the subject site to part B6 Enterprise Corridor and part R4 High Density Residential and introduce new building height and FSR controls, to allow a mixed use development of residential and commercial uses.

The proposed rezoning and change in building height and FSR controls would enable approximately 450 new dwellings and 19,000 sqm of employment generating floor space, resulting in 400 new jobs.

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

Is an explanation of provisions provided? Yes

Comment : The planning proposal seeks to amend:

- the Rockdale LEP Land Zoning Map by rezoning part IN2 Light Industrial zone and part R2 Low Density Residential zone to part B6 Enterprise Corridor and part R4 High Density Residential zone;

- the Rockdale LEP Floor Space Ratio Map by increasing the FSR from 1:1 (for IN2 zone) and 0.5:1 (for R2 zone) to 1.8:1 (for B6 zone) and 2:1 (for R4 zone);

- the Rockdale LEP Height of Buildings Map by altering the maximum building heights from 14.5m (IN2) and 8.5m (R2) to a range of heights between 8.5m to 22m for B6 zone and 8.5m to 33m for R4 zone; and

- the Rockdale LEP Lot Size Map by removing the minimum lot size requirements from the site.

In addition, the planning proposal seeks to add an additional subclause under clause 4.3 Height of Buildings, which will allow the proposed buildings to exceed the permissible heights in the height Map, however, maintaining the building heights below the proposed Building Height Plane.

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Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

3.1 Residential Zones

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

7.1 Implementation of A Plan for Growing Sydney

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 55—Remediation of Land

SEPP No 65—Design Quality of Residential Flat Development

SEPP (Infrastructure) 2007

e) List any other matters that need to be considered :

SEPP (State and Regional Development) 2011

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

If No, explain :

Direction 1.1 Business and Industrial zones:

This Direction applies when a planning proposal affects land within an existing or proposed business or industrial zone, including the alteration of any existing business or industrial zone boundary.

The proposal is generally consistent with the objectives and clauses 4(a) and 4(c) of this Direction, as it will deliver increased commercial floor space area and employment opportunities. The proposal will result in 19,000 sqm of employment generating floor space which includes business premises, bulky goods premises and neighborhood shops, resulting in up to 400 new jobs (a significant increase in the employment figure from previous figure of 80 jobs).

However, the proposal is inconsistent with clauses 4(b), (d) and (e) of the Direction, as it will reduce the potential floor space area for industrial uses.

Inconsistencies of this Direction can be justified by a study which gives consideration to the objective of this Direction. The proposal is supported by the following relevant studies:

- Land Economics and Demographic Assessment report (JBA Planning, August 2013) identifying that the demography in Rockdale LGA is moving away from industrial and trade based employment to office based employment; and

- Options for Industrial Development report (Lippman Partnership) identifying that an access issue limits the retention or refurbishment of the buildings on site and redevelopment under the current development controls is unfeasible.

Additionally, the proposal has been prepared in accordance with the overarching objectives and policies of 'A Plan for Growing Sydney'.

The inconsistencies with this Direction are therefore considered justifiable.

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Direction 3.1 Residential Zones:

This Direction applies when a planning proposal affects land within an existing or proposed residential zone, including the alteration of any existing residential zone boundary.

The planning proposal is generally consistent with this Direction, as it aims to:

- encourage a variety and choice of housing types; and
- make efficient use of existing infrastructure and services.

In addition, the proposal aims to improve housing affordability, broaden choice of building types, reduce land consumption for housing on urban fringes, deliver good design and increase the residential density in the locality.

Direction 3.4 Integrating Land Use and Transport:

This Direction applies for a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

The planning proposal is consistent with the objectives of this Direction, in particular to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve appropriate planning objectives.

The planning proposal is generally consistent with the relevant aims, objectives and principles of 'Improving Transport Choice - Guidelines for planning and development' (DUAP 2001) and 'The Right Place for Business and Services - Planning Policy (DUAP 2001) as follows:

- the proposal delivers a mixed use development close to Ramsgate Local Centre, but approximately 2km from Kogarah Town Centre;
- the site has access to public transport;
- it is close to the existing bus service corridor along Rocky Point Road connecting Kogarah and Central Stations, and it is 30 minutes walking distance to Carlton and Kogarah Station;
- the proposal provides sufficient parking on site;
- it provides a new street across the site resulting in improved pedestrian and cycle access to Leo Smith Reserve from the West;
- it achieves high quality urban design outcome that responds to the surrounding context;
- it generates employment opportunities that align with the local workforce demographics;
- it delivers residential and commercial uses within walking distance and minimises multiple trips and demand for car travel; and
- it provides traffic signals at the intersection of Rocky Point Road and Weeney Street to facilitate direct, safe and regulated access for cars, cyclists and pedestrians travelling on and off Rocky Point Road.

Direction 4.1 Acid Sulfate Soils:

The Direction requires that a relevant planning authority must consider an acid sulfate soils study assessing the appropriateness of the change of land use, if an intensification of land uses on land identified as having a probability of containing acid sulfate soils is proposed.

Rockdale's Acid Sulfate Soils Map identifies the site as having the potential to be affected by Acid Sulfate Soils. The proposal is therefore inconsistent with this Direction as no study has as yet been undertaken. It is recommended that the Gateway determination include a condition requiring a preliminary acid sulfate soils assessment

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be undertaken, to determine the appropriateness of the change of land use, prior to public exhibition and that the report is included with the exhibition documentation.

Direction 4.3 Flood Prone Land:

The Direction does not permit significant increase in the development of land subject to flooding. The proposal is inconsistent with this Direction as the eastern end of the site is subject to minor flooding.

A Statement of Flood Advice from Council identifies that the site will require protection from flooding by setting minimum floor levels (see Appendix G Kogarah Flood Advice). In addition, any future development on the site will be required to satisfy various conditions in the Rockdale LEP under clause 6.6 Flood planning including appropriate measures to manage risk to life from flood. The inconsistency is therefore considered minor and justifiable.

Direction 7.1 Implementation of A Plan for Growing Sydney:

The objective of this Direction is to give legal effect to the planning principles, directions and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney. The planning proposal is consistent with this Direction as it delivers additional dwellings and jobs and revitalises an underutilised site close to infrastructure and services, as identified by the Plan.

SEPP 55 Remediation of Land:

The planning proposal is not consistent with this SEPP as a preliminary contamination assessment by Coffey Engineers identified moderate to high potential contamination of in some parts of the site, and recommended further targeted soil and groundwater assessment to be carried out as a condition of the rezoning.

It is therefore recommended that the Gateway determination include a condition requiring a detailed assessment, to determine the appropriateness of the change of land use, prior to public exhibition and that the report is included with the exhibition documentation.

The planning proposal is consistent with all other identified SEPPs and s117 Directions.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The planning proposal includes the following maps:

- current and proposed land use zone maps;
- current and proposed minimum lot size maps;
- current and proposed maximum floor space ratio maps;
- current and proposed maximum building height maps;
- aerial photograph of the area showing site's proximity to transport and other services; and
- Indicative Master Plan and Sections of the site.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : A half day non statutory community consultation event was organised by the proponent at Cavalry Hospital on Saturday 10 August 2013, where residents were able to view maps, ask questions and make comments on the proposal. Public notification was undertaken through a letterbox drop with leaflets issued to approximately 350 households and businesses surrounding the site. Approximately 50 people attended the event and concerns were raised about traffic along Margate Street, building heights and potential privacy impact resulting from the new residential development. Residents

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along Margate Street are concerned about the additional traffic that will be generated along this street as a result of the proposed development. The applicant's Traffic report should be updated to address the cumulative impact of the proposed development on the local streets prior to exhibition.

Council will undertake further consultation with relevant public authorities and the community as required by the Gateway Determination.

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 :

Rockdale LEP 2011 was notified on 5 December 2011.

Assessment Criteria

Need for planning
proposal :

The planning proposal seeks to rezone 3.3 ha of redundant industrial land to allow a mix of commercial and residential uses by amending the Rockdale LEP.

The rezoning of the site to part B6 Enterprise Corridor and part R4 High Density Residential is supported by the Department for the following reasons:

- the proposal is informed by an Industrial Options study that identifies constraints to retention, refurbishments or redevelopment of buildings on the site;
- the site is likely to remain vacant in its current form as it lacks development feasibility under the current zoning; it is constrained by its location and context with adjacent residential uses and limited demand for industrial uses of such a large scale;
- the site is not identified as a key employment precinct and is physically separated from more strategic industrial zones in the South Subregion;
- the proposal is informed by a Land Economics and Demographics Assessment which provides a residential and employment market review and identifies the shift in the workforce characteristics from industrial and trade based to office based employment;
- it will allow a wider range of employment generating land uses including commercial premises, business premises, bulky goods and warehouse uses, which suit a more diverse employment base resulting in up to 400 new jobs;
- it provides for approximately 450 additional dwellings of different housing typologies and would contribute to improving housing affordability in the local area;
- it is informed by a preliminary Traffic Assessment report identifying that the site is capable of supporting the proposed development and that subject to the inclusion of a

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signalised intersection around Weeney Street, no adverse or unsatisfactory traffic or parking implications will result from the development;

- the site is accessible to public transport via regular bus services along Rocky Point Road, providing links to Kogarah and Central Station; it is close to Ramsgate Local Centre and about 1.9km away from Kogarah Town Centre; it is close to existing schools, hospitals and other services;
- it is informed by a Design Statement and a Master Plan demonstrating the development outcome for the site; the site adjoins public open space (Leo Smith Reserve) which is ideal for residential development; the proposal introduces a new road that dissects the site and acts as a natural extension of Weeney Street, to be developed into a landscaped active boulevard providing direct access to Leo Smith Reserve; and
- both Rockdale and Kogarah Council support the rezoning of the site in principle.

The proposed increase in FSR from 1:1 (for IN2) to part 1.8 (for B6) and part 2:1 (for R4) is supported by the Department as the proposed FSR controls are consistent with the general density control approach adopted for these zoning types.

Additionally, the proposal provides for additional community benefits including a public park, a new road connection to Leo Smith Reserve and other community benefits, as part of the Voluntary Planning Agreement with Council.

The proposed increase in building heights from 14m to a range of heights between 8.5m and 33m is supported by the Department as:

- the proposed building heights for the R4 zone are consistent with Council's preferred building height plane;
- the proposed variation of building heights for the R4 zone from 8.5m to 33m responds to site specific constraints and opportunities and enables a development of a Master Plan comprising of low density town houses along the southern boundary adjoining residential zone and taller buildings along the northern boundary adjoining the industrial zone; this will reduce the visual, privacy and amenity impact of the development on the surrounding area; and
- the proposed building heights for the B6 zone along Rocky Point Road being 18m and 22m, are consistent with the existing Harvey Norman building on the site.

The Department considers that inclusion of a specific height plane provision in the LEP is not appropriate. Instead, for exhibition purposes, it is recommended to include a paragraph explaining the intent of the height plane and its relationship to the proposed development. In addition, this section should also explain that the proposed buildings do not exceed the building height plane, irrespective of the proposed maximum building heights prescribed on the building height map.

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Consistency with strategic planning framework :

The planning proposal is consistent with 'A Plan for Growing Sydney' as follows:

- it is consistent with Direction 1.7 which seeks to grow strategic centres providing more jobs closer to home: Kogarah is identified as a strategic centre and the planning proposal will result in the delivery of a mixed use development in close proximity to this centre, facilitating new commercial and business premises on the site, and resulting in the creation of new jobs and positive economic effects for the local community;
- it is consistent with Direction 2.2 which acknowledges urban renewal by providing homes closer to jobs: the proposal promotes urban renewal of an underutilised industrial site, enabling a built form that complements the surrounding area and promoting increased density in the location close to existing transport infrastructure, community facilities and jobs;
- it is consistent with Direction 3.1 which emphasises revitalising existing suburbs, and releasing pressure on urban fringes; and
- it is generally consistent with the priorities identified for South Subregion.

It is noted that the proponent has not addressed Direction 1.9 which includes a section on supporting key industrial precincts with appropriate planning controls. Action 1.9.2 requires that rezoning proposals are assessed under the Industrial Lands Strategic Assessment checklist (listed in draft Metropolitan Strategy for Sydney to 2031), which aims to prevent encroachment on important industrial sites. The checklist poses questions about the appropriateness of rezoning industrial land to other uses. The proponent must update the planning proposal to address the Industrial Lands Strategic Assessment checklist prior to exhibition.

The Department has broadly considered some aspects of the Industrial Lands Strategic Assessment checklist as follows:

- the rezoning is consistent with Council's Employment Lands Strategy (2007) as the site was not identified as a key employment precinct in the document;
- the rezoning is consistent with Rockdale Community Strategic Plan 2013 as it seeks to accommodate additional dwellings and commercial floor space in existing centres and industrial areas;
- the site is adjacent to low density residential dwellings and is physically separated from the larger more strategic industrial zones in the Sydney South Subregion including those around Port Botany and Marrickville;
- the Department's Employment Lands Team has advised that Rockdale LGA has approximately 48.9 ha of zoned employment land (as at January 2014) and the proposed rezoning would result in the loss of 3.3 ha of industrial land, 6.7% of total LGA stock;
- the rezoning will retain employment on the site, as the rezoning provides for employment generating land uses including commercial premises, business premises, bulky goods and warehouses uses;
- the proposal will generate up to 400 new jobs; and
- the site is redundant and redevelopment for industrial purposes is considered unfeasible under the current zoning.

The proposal is consistent with the vision and strategic outcomes set in the Rockdale Community Strategic Plan 2013-2025. The Plan expects to accommodate approximately 5,900 additional dwellings and 410,000 sq m of additional commercial floor space within the next 10-15 years. The large majority of new dwellings are expected to be in the form of medium to high density housing occurring in existing centres and industrial areas.

Environmental social economic impacts :

There is no critical habitat or threatened species, populations or ecological communities, or their habitats on or around the site that will be affected by the planning proposal.

No items of heritage significance are located on or adjacent to the site. Therefore there are no identified heritage constraints to new residential, retail or commercial development.

The site contains contaminants that can be remediated and made suitable for the

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proposed mixed use development.

The site is capable of being designed to achieve the required flood free levels and will be able to accommodate a stormwater management system to service the need of future development.

The social and economic benefits associated with the proposed development includes:

- provision of a range of dwelling types and sizes;
- revitalisation of a brownfield site that responds to its surroundings, encouraging social cohesion, activity and vibrancy;
- open up the site to the wider community, increase permeability from Rocky Point Road to Leo Smith Reserve and enhance safety and security; and
- encourage new business investments in the local area.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	Minister
Public Authority Consultation - 56(2) (d) :	Energy Australia Transport for NSW - Roads and Maritime Services Sydney Water Telstra		

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

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
Cover Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal _February 2015.pdf	Proposal	Yes
Appendix A - Site Survey - 270813.pdf	Proposal	Yes
Appendix B-Indicative Master Plan and Urban Design Report.pdf	Proposal	Yes
Appendix C - Land Economics and Demographic Assessment - 270813.pdf	Proposal	Yes

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Appendix D - Industrial Options Study - 270813.pdf	Proposal	Yes
Appendix E - Traffic Report - 200114.pdf	Proposal	Yes
Appendix F - Phase 1 Contamination Assessment - 270813.pdf	Proposal	Yes
Appendix G - Kogarah Flood Advice - 240713.pdf	Proposal	Yes
Planning Proposal - updated 9 April 2015.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions
- 7.1 Implementation of A Plan for Growing Sydney

Additional Information : It is recommended that the planning proposal proceed, subject to the following conditions:

1. The planning proposal be exhibited for a minimum of 28 days.
 2. The planning proposal be completed within 12 months of the Gateway Determination.
 3. Consultation with the following Government agencies is required:
 - Transport for NSW - Roads and Maritime Services
 - Energy Australia
 - Sydney Water
 - Telstra
 - Kogarah City Council
- The RPA should be advised that:
4. Prior to public exhibition, the planning proposal is to be updated to:
 - delete the proposed subclause 4.3(3) for building height plane provision, and instead include a paragraph explaining the intent of the subclause; and
 - address the Industrial Lands Strategic Assessment checklist.
 5. Prior to public exhibition the planning proposal is to be amended to include the following reports, for exhibition:
 - a preliminary acid sulfate soil assessment;
 - a site contamination assessment; and
 - an updated Traffic Assessment report to include the cumulative impacts of the proposed development on the local roads.
 6. The exhibition material should include the draft Voluntary Planning Agreement outlining elements of public benefits.
 7. The Secretary's delegate agrees the inconsistencies with Directions 1.1 Business and Industrial zones and 4.3 Flood Prone Land are of minor significance.

Supporting Reasons : The planning proposal is supported as:

- it provides for approximately 450 dwellings of different housing mix and typologies;
- it provides a wider range of employment generating land use, resulting in up to 400 new jobs;
- it encourages new business investment in the local area; and

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- it revitalises the underutilised site, encourages social cohesion, provides open space for community use and increases connectivity between Rocky Point Road and the open space at Leo Smith Reserve.

Signature: _____

Printed Name: _____

MARTIN COOPER

Date: _____

15/04/2015