

# Kogarah City Council

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14 April 2016

## PLANNING AND ENVIRONMENTAL SERVICES WORKING PARTY MEETING

Council will hold its next Planning and Environmental Services Working Party Meeting in the Council Chambers, 2 Belgrave Street, Kogarah on Monday, 18 April 2016, commencing at 7:30pm.

I enclose your Agenda for the Meeting.



Paul Woods  
**General Manager**

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### **AGENDA:**

**A. Apologies**

**B. Disclosures of Interest**

**C. Reports from Officers**

- C1. Preparation of an Urban Design Study and Section 94 Contributions Plan for the Kogarah North Precinct ..... 1
- C2. Amendment to Section 94 Contributions Plan No. 8 - Kogarah Town Centre .....6
- C3. Processing Development Applications reliant on the New City Plan ..... 12

### **Members of the Working Party**

Cr Sam Stratikopoulos (Chairperson)	Paul Woods (General Manager)
Cr Nick Katris	Rod Logan (Director Planning and Environmental Services)
Cr Kathryn Landsberry	
Cr Lachlan McLean	
Cr Jacinta Petroni	
Cr Michael Platt	
Cr Nathaniel Smith	
Cr Annie Tang (Deputy Mayor)	

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# Kogarah City Council

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## To attend as required

George Andonoski (Manager Planning and Development)

Rita Vella (Coordinator Strategic Planning)

Jason Kneipp (Manager Environmental Health and Regulatory Services)

Lynne Denham (Minute Secretary)

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**Item C1: Preparation of an Urban Design Study and Section 94  
Contributions Plan for the Kogarah North Precinct****Author:** Rod Logan - Director Planning and Environmental Services (RV)**Reason for report:** To seek endorsement to appoint a consultant to undertake an Urban Design Study and Section 94 Contributions Plan for the Kogarah North Precinct.**Recommendation:**

- a) That the Project Brief titled *Kogarah North – Urban Design Study and Section 94 Contributions Plan Brief* and dated April 2016 for the preparation of an Urban Design Study for the Kogarah North Precinct be endorsed for the purpose of seeking Expressions of Interest (EOI) from suitably qualified consultants.
  - b) That Expressions of Interest (EOI) be sought from suitably qualified consultants to undertake the tasks outlined in the Project Brief.
  - c) That a further report be presented to a future Planning & Environmental Services Working Party on any Expressions of Interest (EOI) received to undertake the project, including fee proposals provided by the consultants.
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**Background**

1. Council, at an Extraordinary Meeting on 4 April 2016 considered a report on the draft New City Plan. At that meeting Council endorsed, for submission to the Minister, the proposed changes to zoning, height and floor space ratio (FSR) for the area known as the Kogarah North Precinct.
2. In order to provide additional housing opportunities close to the Kogarah Town Centre, it is proposed to rezone the area known as Kogarah North from R2 – Low Density Residential to R4 – High Density Residential and include the following development standards - FSR of 4:1 and a building height limit of 33 metres.
3. It is considered that this Precinct will see a significant change in the form and scale of development over the life of the Plan to 2031 and it is important that detailed design controls are prepared to ensure a high level of amenity for future residents.
4. There has been significant interest in potential redevelopment in this area and due to the significant uplift of proposed development in the draft New City Plan it is anticipated that potential redevelopment will proceed in a relatively short time frame should the New City Plan be adopted.
5. Critical to the success of the redevelopment of any area is establishment of appropriate planning and urban design outcomes to ensure that development is sustainable, well designed and provides a high level of amenity for future residents.
6. Important too is the public domain – the streets, laneways, footpaths, areas of open space – and ensuring that this is improved and funded through new development in a timely manner.

**Item C1 (cont.)**

7. It is considered appropriate to seek the services of an architectural/planning consultant to assist in the preparation of an Urban Design Study for the Kogarah North Precinct.
8. That work will underpin the preparation of a Section 94 Contributions Plan which will identify opportunities for significant upgrades to the street network and public domain, which could be fully funded by the future development.

**The Study Area**

9. The Kogarah Town Centre has undergone a significant transformation over the last decade, to become a vibrant, liveable and working community. The Kogarah Town Centre is a highly concentrated business district, with two major hospitals (St George Public and St George Private Hospitals), and the second largest TAFE in NSW.
10. The Kogarah Town Centre's identification as a Strategic Centre in the NSW State Government's *A Plan for Growing Sydney* reinforces the importance of the Kogarah Town Centre within the context of the South Sub-region, and its continued growth as both an employment hub and as a Centre which provides a mix of housing.
11. Due to the extent of development over the last 10-15 years, the existing Kogarah Town Centre boundaries are now becoming constrained, due to the lack of land zoned to accommodate future growth of the Centre. A Priority for the South Sub-region under *A Plan for Growing Sydney* is to identify suitable locations for housing intensification, particularly around established centres and along key public transport corridors.
12. The Kogarah North Precinct is situated at the northern tip of the Kogarah Local Government Area boundary and covers an area of 7.5ha. It is bounded by the Illawarra and Eastern Suburbs rail line, Harrow Road, the Princes Highway, Bank Lane and Gladstone Street. The proposed Study Area is identified in Figure 1, below:

**Figure 1 – Kogarah North Study Area**

**Item C1 (cont.)**

13. The existing residential development in the Precinct comprises of single storey semi-detached dwellings, freestanding dwelling houses, townhouses and residential flat buildings of varying periods. The Precinct is characterised by small allotments. The southern end of Gladstone Street towards the Princes Highway contains a number of residential flat buildings ranging in height from 3-4 storeys.
14. Princes Highway and Harrow Road comprise of a mixture of single dwellings, groups of shops with shop top housing, residential flat buildings, a recently constructed 10 storey building (No. 21 – 35 Princes Highway), recently completed mixed use developments, St Paul's Anglican Church and a Caltex petrol station.
15. Hogben Park, which adjoins the railway line, is to the north of the Precinct. A large public open space area and carpark, owned by the Department of Education & Communities is situated to the west of the Precinct. It is bounded by Victor, Palmerston, Victoria and Gladstone Streets.
16. The Precinct includes a number of educational establishments including Kogarah High School, St George Girls High School and Kogarah Public School. These sites are currently zoned or proposed to be zoned SP2 - Educational Establishment. Kogarah Town Centre and Kogarah Train Station is within close proximity and adjoins the Precinct to the south.
17. The R4 – High Density Residential zone aims to revitalise areas to allow for high density apartments, close to public transport, hospitals, shopping and jobs. Building heights are proposed up to 33m, with a floor space ratio of up to 4:1.
18. These controls aim to encourage the renewal of land to a higher density residential precinct, which will deliver:
  - Increased choice in housing close to jobs, public transport, hospitals and other services;
  - An additional supply of housing which has been designed with lift access
  - Improved footpaths and streetscape;
  - Upgraded stormwater and drainage; and
  - Opportunities to improve existing community facilities, including local parks.

**Preparation of an Urban Design Strategy and Section 94 Contributions Plan for the Kogarah North Precinct**

19. The purpose of this project is to develop an Urban Design Strategy and Section 94 Contributions Plan for the Kogarah North Precinct (the Study Area).
20. The key outcome is the preparation of an Urban Design Strategy and Section 94 Contributions Plan that achieves the following:
  - Identifies a desired future character for the Kogarah North Precinct;

**Item C1 (cont.)**

- Tests the proposed floor space ratio of 4:1 and building height of 33m, and any alternative height outcomes and provides an estimate of the resultant residential yield/density.
  - Recommends changes, where appropriate, to the proposed height controls under the New City Plan, if they are considered to provide a better urban design outcome.
  - Recommends built form controls for the Kogarah North Precinct on a block by block basis. These are to be tested against the current SEPP 65 requirements. This includes the preparation of indicative floor plans, sections and building envelopes to define building height (in metres and storeys), building setbacks (where relevant) and the preparation of 3D building envelopes to clearly illustrate the massing and bulk of buildings. The illustrations should include adjacent streets and buildings to show context and a shadow analysis;
  - Identifies opportunities for the adaptive re-use of the existing heritage items within the Study Area and identifies mechanisms for the protection of these heritage items as part of a redevelopment site;
  - Provides design solutions and controls to improve the visual appearance and amenity of the Precinct with particular attention paid to aesthetic qualities of the streetscape. Solutions are to address:
    - Pedestrian and vehicular access;
    - Service and garbage removal; and
    - Site amalgamation opportunities.
  - Identifies opportunities for public domain improvements and includes these in a Section 94 Contributions Plan (including the use of the s94A contributions framework if possible). Consideration should be given to:
    - Improvements to existing public open space areas and the shared use of existing Department of Education land;
    - Opportunities for increased public spaces through the design of widened footpaths and street closures;
    - Opportunities to improve pedestrian safety and amenity;
    - Opportunities for new street furniture, public art, lighting and street tree planting; and
    - Stormwater and drainage improvements.
21. The Urban Design Strategy should be sufficiently detailed to inform any changes to the height requirements in Kogarah LEP and the preparation of detailed DCP provisions for the Precinct.

**Item C1 (cont.)**

22. A copy of the draft Project Brief is included in the Annexure.

**Expressions of Interest**

23. It is recommended that the Project Brief be sent to selected consultants seeking Expressions of Interest (EOI) and a Fee Proposal to undertake the scope of works.
24. In accordance with Council's Procurement Policy, Council is required to seek a minimum of three written quotes. It is recommended that Council seek EOI from at least six consultants.
25. A further report will then be presented to a future Planning and Environmental Working Party providing an overview of consultant responses received.
26. It is proposed that the preparation of the Study and the preparation of the Section 94 Contributions Plan be funded through future Section 94 Contributions in the Precinct.

**Operational Plan Budget**

27. No budget impact for this report.

**Attachments/Annexures**

<a href="#">1</a>	Kogarah North - Urban Design Study and Section 94 Contribution Plan Brief	18 Pages	Annexure
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**End of Report**

**Item C2:** **Amendment to Section 94 Contributions Plan No. 8 - Kogarah Town Centre**

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

**Reason for report:** To seek adoption of the proposed change to Section 94 Contributions Plan No. 8 – Kogarah Town Centre post public exhibition.

**Recommendation:**

That the amendment to *Section 94 Contributions Plan No. 8 – Kogarah Town Centre*, be adopted and that notification be placed in the St George Leader.

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**Background**

1. The Planning and Environmental Services Working Party, at its meeting on 7 December 2015 considered a report relating to outdated provisions in the Section 94 Contributions Plans for the Kogarah Town Centre, being *Section 94 Contributions Plan No. 8 – Kogarah Town Centre*.
2. The amendment proposes to amend Clause 1.4 by deleting the section relating to the period of operation of the Plan.
3. The Plan is still relevant as there are a number of sites within the Kogarah Town Centre which have not been developed. It is considered appropriate that, until such time as strategy review work is undertaken, the current Plan remains in force.
4. Subsequently, Council at its meeting on 14 December 2015 resolved the following (Minute No. 172/2015):
  - “a) *That Section 94 Contributions Plan No. 8 – Kogarah Town Centre be amended by deleting the following paragraph in accordance with Section 32(3) of the Environmental Planning & Assessment Regulation:*  
*This Plan will cease with the first to occur of the following:-*
    - (a) *the elapsing of a period of 10 years from the date of commencement of this Plan*
    - (b) *this Plan is superseded by another contribution plan or by a modified or updated version of this Plan*
    - (c) *this Plan is repealed in accordance with the requirements of the Environmental Planning & Assessment Regulations*
    - (d) *this Plan has become obsolete because the full extent of development envisaged under this Plan has occurred.*
  - b) *That the proposed amendment, as outlined in (a) above be endorsed for public exhibition.*
  - c) *That a further report be presented to Council following the exhibition period to consider any submissions received.”*



**Item C2 (cont.)**

**Exhibition of Amendment to Section 94 Contributions Plan No. 8 – Kogarah Town Centre**

5. The amendment was placed on exhibition from Wednesday, 13 January to Friday, 12 February 2016. An advertisement appeared in the St. George Leader on Wednesday, 13 January 2016 and the amendment was available in Council's Customer Service Centre and on Council's website.
6. During the exhibition, one submission was received. A copy of the submission is included in the Annexure.
7. The issues outlined in the submission are summarised below. A response by the Council officer is also provided.

***The Section 94 Plan No 8 – Kogarah Town Centre is already out of date.***

Comment

8. As outlined in the report to the Working Party on 7 December 2015, the current Section 94 Contributions Plan No. 8 is still relevant as there are a number of sites within the Kogarah Town Centre which have not been developed.
9. As outlined in the report, the current Section 94 Contributions Plan No. 8 will be reviewed should the proposed changes in the New City Plan for Kogarah North and the Kogarah Town Centre be endorsed by Council.
10. Council considered a report on the New City Plan, at an Extraordinary Council Meeting on 4 April 2016 and has endorsed the changes within the Kogarah Town Centre and Kogarah North Precinct.
11. A separate report will be presented seeking the preparation of a new Section 94 Contributions Plan for these Precincts.

***Many of the strategic goals in the Plan recognised the intensification of residential densities, but the Plan failed to satisfactorily forecast the impact of medium and high rise residential developments already occurring.***

Comment

12. At the time of the preparation of the Section 94 Contributions Plan No 8, significant work was undertaken with respect to the future development potential and forecasting of both population and employment projections.

***There are numerous examples in the Kogarah Town Centre that have had an adverse impact on character, amenity, affordable choices, access to local medical and banking services, public transport, traffic congestion, public parking and open space.***

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Item C2 (cont.)

Comment

13. These issues are irrelevant to the proposed amendment.

*Open Space figures are unrealistic*

Comment

14. At the time of the adoption of the Section 94 Contributions Plan No. 8, the information was correct and based on contemporary Census and population projections and land value information. It is accepted that this information may now be outdated, and as such Council officers will present separate reports to Council seeking authority to prepare new Section 94 Contributions Plans for the Kogarah Town Centre and Kogarah North Precinct.

*On-site parking regulations have created a windfall for developers and concerns for buyers due to Council's requirement of 1 space per apartment.*

Comment

15. The now repealed DCP No. 5 – Kogarah Town Centre included the following parking requirements:

*“Residential parking is to be provided in developments at the following rates:*

- *1 resident car space is to be provided on-site for each dwelling*
- *1 visitor car space is to be provided on-site for each 5 dwellings”.*

16. The current requirements for the Kogarah Town Centre within Kogarah DCP 2013 are consistent with those included in DCP No. 5.

*In 1996 Council issued a Draft Open Space Strategy and Contributions Plan that included the acquisition of No.'s 49 and 51 Gray Street and No.'s 38 and 40 Ocean Street – these properties are now developed as residential properties.*

Comment

17. Development Control Plan 2/2 proposed the creation of a small pocket park between Ocean and Gray Streets, to be purchased from S94 funds.
18. Council subsequently undertook a review of the S94 Plan for Open Space under which sites were identified for open space acquisition. The sites in this precinct were not included in the S94 Plan as other sites in the locality were identified as having greater strategic value from an open space/recreation and drainage consideration.
19. While these properties were not nominated for acquisition under the then S94 Plan Council can incur a legal liability for their acquisition through their nomination under the Development Control Plan.

**Item C2 (cont.)**

20. Accordingly, in 2003, a report was presented to Council recommending that DCP 2/2 be repealed. Subsequently, Council at its meeting on 22 September 2003 resolved the following:

*“That Council resolve to repeal Development Control Plan No 2/2 (Adopted 13 April 1981) and notice of that repeal be published in a local newspaper in accordance with the requirements of the Environmental Planning and Assessment Act.”*

***There are limited opportunities now to achieve strategic goals in the Kogarah Town Centre unless funds are specifically set aside from the Section 94 Contributions Plan for streetscape, open space, public domain, traffic and community facilities.***

Comment

As outlined above, Council officers have now prepared a report that recommends the appointment of a consultant to prepare an Urban Design Strategy and Section 94 Contributions Plan for the area to the north of the Town Centre, known as the Kogarah North Precinct. Further strategic review is required of the Kogarah Town Centre at which time further review of opportunities for s94 contribution improvements will be considered.

**Conclusion**

21. The submission received during the exhibition of the amendment has been considered as part of this report.
22. The proposed amendment will ensure that the *Section 94 Contributions Plan No. 8 – Kogarah Town Centre* can still be applied during the interim period, while a strategic review and new Section 94 Contributions Plan are developed for the Precinct.
23. Accordingly, it is recommended that the amendment to *Section 94 Contributions Plan No. 8 – Kogarah Town Centre* be adopted and become effective upon notification in the St. George Leader.

**Operational Plan Budget**

24. Within budget allocation.

**Attachments/Annexures**

<a href="#">1</a>	Submission	2 Pages	Attachment
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**End of Report**

The General Manager  
Kogarah City Council  
Locked Bag 8  
Kogarah NSW 2217

Attn: Rita Vella  
Council Coordinator Strategic Planning.

Re: Amendment to Section 94 contributions Plan No. 8 – Kogarah Town Centre.  
Closing 12 February, 2016.

1. Section 94 Contributions Plan No. 8 – Kogarah Town Centre (Plan) is a lengthy document of 133 pages that was already out of date at the time of the most recent amendment dated 30 June 2010.
2. Many of the strategic goals in the Plan recognised the intensification of residential densities, but the Plan failed to satisfactorily forecast the impact of medium and high rise residential developments already in progress in the with the Planning Department for Kogarah Twn Centre.
3. There are numerous examples in Kogarah Town Centre that have had an adverse impact on character, amenity, affordable choices, access to local medical and banking services, public transport, traffic congestion, public parking and open space.
4. Many pages are devoted to open space and the figures shown are both unrealistic and fudging the numbers and locations. Despite the lack of open space, Council approved the expensive landscaping and size of genuine open space at South Street Reserve.
5. There were clear signals in 2010 that the Plan would fall short of expectations, and those signals are clearly stated for parking and open space, yet Council proceeded to adopt the Plan. This is reinforced in the Council document in 2010 titled BRIGHT FUTURE BETTER LIFESTYLE KOGARAH 2020 where six strategic goals are listed that fail to recognise the growth patterns in Kogarah Town Centre and throughout Kogarah LGA.
6. On site parking regulations for residential apartments created a windfall for developers and concerns for buyers due to the Council code requirement of just one car space per apartment for 1 bedroom, 2 bedroom and 3 bedroom apartments. The history of some buildings on the Princes Highway from 2010 through to the recent Kogarah RSL development reflect the shortcomings of the current Plan, and unfortunately there is not a ready solution to that problem. Add to those examples, in 2012 Council were unsuccessful in providing additional parking at Gray Street for the new Emergency Department at St George Public Hospital, and in 2014 by approving a car park for St George Private Hospital on Hogben Street that upon completion will only be available for a short period of time to the public. On record of making submissions to Council above both of those developments.
7. Specifically in 1996 Council issued a Draft Open Space Strategy and Contributions Plan that included the acquisition of numbers 49 and 51 Gray Street and numbers 38 and 40 Ocean Street, Kogarah (among a group of six nominated parks in Kogarah LGA) as proposed location of new parks. Those properties in Gray Street through to Ocean Street are now developed residential properties.
8. I also draw your attention to the report 'Kogarah Town Centre, Development Control Plan No. 5, November 1998 ..... Shaping Kogarah's Future: meeting the diverse needs of a diverse community' a 144 page document where clearly Council did not follow through with the appropriate guidelines during many years where long serving Councillors, Cr Katris, Cr Platt and Cr Varvaris have represented the community. The attached contents index is relevant as a cross reference to Council's proposed amendments.

9. Clearly there are limited opportunities now to achieve strategic goals in Kogarah Town Centre unless funds specifically set aside from Section 94 Contributions Plan for streetscape, open space, public domain, traffic, and community facilities can be quickly implemented by an overall visionary panel, rather than by a singular assessment of development applications.

**Item C3: Processing Development Applications reliant on the New City Plan****Author:** Rod Logan - Director Planning and Environmental Services (GA)**Reason for report:** To give consideration to a process for dealing with development applications reliant on the provisions of the draft Local Environment Plan (LEP) also known as the New City Plan.**Recommendation:**

- i. That the process for dealing with development applications reliant on elements within the New City Plan as outlined in the recommendation to this report be adopted.
  - ii. That the information contained in a) above be placed in the 'Updates Section' of the New City Plan on Council's website.
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**Background**

1. In July 2014 Council resolved to prepare and submit a draft Planning Proposal (New City Plan) to the Department of Planning and Environment for consideration and review to undertake formal exhibition.
2. On 17 December, the Department of Planning and Environment issued a gateway determination for the Planning Proposal for the New City Plan to proceed.
3. Council, at its meeting on 23 February 2015 resolved to place the Planning Proposal and associated documentation on public exhibition in accordance with the requirements of the gateway determination and the revised Engagement Strategy. The New City Plan was on exhibition from Monday, 30 March 2015 until Friday, 29 May 2015.
4. A Public Forum was held as an Extraordinary Council Meeting on Monday, 31 August 2015 at the Venus Reception Centre.
5. A further Extraordinary Council Meeting was held on Monday, 4 April 2016 to consider the New City Plan. Several amendments were made to the exhibited Planning Proposal and it was resolved by Council that, subject to the incorporation of these amendments, the draft New City Plan be endorsed for submission to the Minister for Planning and Environment for the making of the Plan.
6. With the above resolution, the draft LEP (New City Plan) has taken another significant step towards its final stages of preparation. Therefore it is now appropriate for Council to consider its position in relation to consideration of development applications that rely on the provisions of the New City Plan, on the certainty and imminence of the draft LEP and whether or not applications that have reliance on draft development standards can be assessed.

**Item C3 (cont.)**

**Proposed Assessment Process**

7. The Environmental Planning & Assessment Act requires councils to give consideration to the imminence and certainty of a draft LEP that has been placed on public exhibition. The higher the level of imminence and certainty, the more weight that must be given to a draft LEP in the assessment of development applications.
8. Given the current status of the draft LEP and the questions being asked by the community, it is timely and legally legitimate for Council to give consideration to the question of imminence and certainty.
9. In this regard, the types of development applications likely to be received and their reliance on the draft LEP can be categorised into 3 groups.

Variation to development standards (KLEP 2012) or KDCP 2013 Controls – No change in Zoning

10. In this instance this would involve applications that are currently permissible in the zone, but under the draft LEP would have the development standards lowered (e.g. Attached Dual Occupancies site area reduced from 850sqm to 650sqm) or where the draft LEP includes provisions for greater height and floor space than what is currently permitted by the DCP provisions (e.g. In the B4 and R3 zones where it is proposed to increase the height and floor space controls for residential flat buildings and mixed use development).
11. In these instances, there is no legislative barrier to Council accepting, assessing and determining these applications. These applications would be assessed under the current KLEP 2012 and its development standards and any variations to these standards would need to be accompanied by a request for a variation under the provision of Clause 4.6-Exceptions to Development Standards of KLEP 2012. Significant weight can be given to the draft LEP in considering the Clause 4.6 request for variation.
12. Where the existing development controls are contained in the KDCP 2013 only the development standards in the draft LEP have a higher legislative standing and must legally be given preference as the development control framework.

Change of Zone – but where the use is permitted under the current and proposed land use table

13. Within the draft LEP there are a number of locations where it is proposed to rezone the land and increase the height and floor space standards to those which are currently permissible within KDCP 2013. This occurs where it is proposed to change the zoning from R3-Medium Density Residential to R4 – High Density Residential or where it is proposed to change the zoning B1-Neighbourhood Centre to B2- Local Centre.

**Item C3 (cont.)**

14. In regard to the B1 and B2 zonings, there is no difference in the type of developments that are either permissible or prohibited in the land use table. The difference is in the objectives of the zone. The heights and FSR development standards that are proposed in the draft LEP are greater than what is currently permitted on these sites under KDCP 2013, however the range of possible increase is not overly significant with increases in building scale of 2-4 storey.
15. The above is similar for the rezoning of R3 to the R4 zone, however there are some specific developments, such as shop top housing, which are only permissible in an R4 zone. The main enquiries which Council has had to date are related to the construction of residential flat buildings, which are a permissible form of development in both zones.
16. Given that the change in development controls is a significant increase in these areas and can go from a height limit of 12m and FSR of 0.9:1 in an R3 zone (KDCP 2013) up to a height of 33m and an FSR of 4:1 in an R4 zone (draft LEP), there is the potential to dramatically alter the streetscape and character of those areas.
17. Based on this, it is recommended that Council only accept applications for these types of developments in the proposed R4 zone when it is considered that the draft LEP is imminent. The gazettal of the draft LEP would be considered to be imminent once a final legal opinion has been issued by Parliamentary Council. This would allow Council to confidently give the draft LEP determining weight in the assessment of the application.

**Change of Zone – Currently prohibited under the zoning table**

18. Where the draft LEP is proposing to rezone land that would enable development that is otherwise prohibited by the current zone, any application for this type of development cannot be accepted until the draft LEP has been finalised and gazetted.
19. Council has no legislative power to determine applications under the provisions of the draft LEP, which are currently prohibited under the existing controls. It is highly likely that the new LEP will also contain a savings provision which will state that any application lodged and not determined before the commencement of the new plan must be determined as if the new plan had not commenced.
20. Due to the nature and scale of possible development subject to changes in these areas it is also likely that pre DA advice will be sought, including referral to the Design Review Panel. As it is anticipated that there will be an increase in development applications for permitted development we do not have the capacity to resource provision of pre DA advice for currently prohibited development. This service would be provided from the point of formal “imminence” of the plan making process.



**PLANNING AND ENVIRONMENTAL SERVICES WORKING  
PARTY MEETING**

18 April 2016

## Item C3 (cont.)

**Recommendation**

21. It is anticipated that there is likely to be a large number of development applications lodged within a short space of time after the draft LEP is finalised. The large volume of applications expected is a consequence of the increased development potential across the City of Kogarah and given the time period of the draft LEP, prospective applicants will have had ample time to prepare applications ready for lodgement.
22. Allowing application lodgements to be staged and assessed prior to the draft LEP being finalised will spread the influx of applications relying on the draft LEP provisions compared to holding back all applications until the plan is finalised. This will have a beneficial impact on resourcing and a reduction in the extent of possible delays.
23. Therefore, it is recommended that the following development application assessment process be adopted for the three nominated scenarios:

1	Variation to development standards (KLEP 2012) or KDCP 2013 Controls – No change in zone where the use is permitted under the current land use table.	Accept, assess and determine.
2	<p>i. Change of Zone (R3 to R4 zone) – but where the use is permitted under the current and proposed land use table.</p> <p>ii. Change in Zone (B1 to B2 Zone) but where the use is permitted under the current and proposed land use table.</p>	<p>i. Can only be accepted, assessed and determined once the draft LEP is imminent, which is taken to be once Parliamentary Council has issued a final opinion.</p> <p>ii. Accept, assess and determine</p>
3	Change of Zone – where the use is prohibited under the current land use table and permissible under the proposed land use table.	<p>Cannot be accepted by Council until the draft LEP has been finalised (gazettal).</p> <p>Pre DA advice to be available once the plan is considered imminent which is taken to be once Parliamentary Council has issued a final opinion.</p>

**Operational Plan Budget**

24. Within budget allocation.

**Attachments/Annexures**

Nil.

**End of Report**