

AI - About this DCP

1.1 Introduction

The *Kogarah Local Environmental Plan 2012* (Kogarah LEP 2012) commenced on 8 February 2013. It provides the statutory framework for land use management within the City of Kogarah.

Kogarah Development Control Plan 2013 (Kogarah DCP 2013) supports the provisions of Kogarah LEP 2012 by providing additional objectives and development controls to enhance the function, appearance and amenity of development and to ensure that Kogarah City is a vibrant community and desirable place to live, work and visit.

This DCP was prepared in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (the Act) and the *Environmental Planning and Assessment Regulation 2000* (the Regulation).

1.2 Name of this DCP

This DCP is called *Kogarah Development Control Plan 2013* and was adopted by Council on 23 September 2013. The DCP came into effect on 26 September 2013.

There have been the following amendments to date to this DCP:

Amendment No.	Date Adopted & Date Effective	Details
1	November 2014	Insertion of Appendix B1 - Penshurst Heritage Conservation Area Assessment Guidelines
2	Adopted – 18 December 2017 Effective – 10 January 2018	Insertion of new part – E4 - Kogarah North Precinct
3	18 April 2018	Amendment of A2 – Notification and Advertising Requirements
4	10 October 2018	Notification of amended plans in undetermined DA and Class 1 development appeals

1.3 Relationship of this DCP to other DCPs

This DCP consolidates the existing DCPs applying to the City of Kogarah LGA into one comprehensive document. This DCP repeals the following DCPs:

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- Residential Design Guide 2005

 - Ramsgate Centre DCP

 - Commercial & Industrial Lands DCP

 - Accommodation for Older People and/or People with a Disability

 - Advertising & Signage

 - Kogarah Tree Management DCP

 - Notification & Advertising DCP

 - DCP No. 2 – Interim Commercial & Industrial DCP

 - DCP No. 5 – Kogarah Town Centre

 - DCP No. 8 – Off Street Car Parking Code

 - DCP No. 11 – Centre Based Child Care Services

 - DCP No. 15 – Regulation of Brothels

 - DCP No. 17 – Hurstville Town Centre

 - DCP No. 29 – Development on land zoned Special Uses 5(b) Railway

 - DCP No. 38 – Regulation of Firearms

 - DCP No. 6/1– Waterview Street, Carlton

 - DCP No. 8/1 – Greenacre Road and Homedale Crescent, South Hurstville

 - DCP No. 8/2 – 75–89 Waitara Parade, Hurstville Grove

1.4 Land to which this plan applies

This DCP applies to all land within the City of Kogarah.

1.5 Objectives

The objectives of the Kogarah DCP 2013 are to:

- Have a single document that supports Kogarah LEP 2012;

- Provide objectives and development controls that establish clear guidelines for development in the City of Kogarah;
- Develop a high quality urban environment and built form character in the City of Kogarah;
- Ensure development contributes to the prosperity of the City of Kogarah; and
- Ensure development protects and enhances the natural environment in the City of Kogarah.

1.6 Interpretations

Terms in this DCP generally have the meaning ascribed to them in the Dictionary to the Kogarah LEP 2012 or the Act. Where additional terms apply or the meaning of terms differ, definitions have been included in the relevant parts of this DCP.

1.7 Structure of this DCP

The purpose of this DCP is to supplement the provisions of Kogarah LEP 2012 and provide more detailed provisions to guide development.

Compliance with the provisions of this DCP does not necessarily guarantee that consent to a Development Application (DA) will be granted. Each DA will be assessed having regard to Kogarah LEP 2012, this DCP, and the unique circumstances of the site, other matters listed in Section 79 of the Act and any other policies adopted by the consent authority.

The structure of the DCP is as follows:

PART A – INTRODUCTION

This Part sets out the formal and legal framework for the DCP.

It includes the general objectives and Council's procedures for notifying various applications.

PART B – GENERAL CONTROLS

This Part provides general controls for development within the City of Kogarah and applies to all forms of development, where applicable.

This Part includes information relating to:

- Heritage and Heritage Conservation Areas

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- Environmental Management
- Tree Management & Greenweb
- Developments near Busy Roads and Rail Corridors
- Waste Management & Minimisation
- Water Management
- Environmental Management

PART C – RESIDENTIAL

This Part includes information relating to:

- Low Density Housing
- Medium Density Housing
- Foreshore and Waterfront Controls
- Foreshore Localities

PART D – COMMERCIAL AND INDUSTRIAL

This Part includes information relating to:

- Development in B1 and B2 Zones
- Commercial Locality Controls
- Specific Controls for Industrial Development
- Child Care Centres
- Sex Services Premises

PART E – TOWN CENTRES

This Part includes information relating to:

- Kogarah Town Centre
- Hurstville Town Centre
- Ramsgate Centre

PART F – MISCELLANEOUS

This Part includes information relating to:

- Advertising and Signage

A2 – Public Notification

I. Notification Requirements

I.1 Aims

The primary aims of this Section are to:

- Enable public participation in the consideration of development applications.
- Provide a process for property owners and residents to make submissions.
- Provide a process when notification is required.
- Set out the matters Council will consider when forming its opinion as to whether or not the enjoyment of adjoining and neighbouring land may be detrimentally affected by a development after its completion.
- Ensure notification of landholders who may be affected by a development application even though they do not own adjoining land.
- Define the circumstances when notification is not required.

I.2 Land to which this Section applies

This section applies to all land to which the *Kogarah Local Environmental Plan 2012* applies (with certain exceptions as outlined in this Section) for the notification of applications for:

- a) Development consent (other than designated and state significant development);
- b) Modification of development consents under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.
- c) Review of determination under Division 8.2 and Section 8.9 of the *Environmental Planning and Assessment Act 1979*.

1.3 Persons to be Notified & Development Applications to be Advertised

The category listings below differentiate the following:

Category A – Development Applications which will not be notified

Category B – Notification requirements for Minor Development

Category C – Notification requirements for other Local Development

Category D – Development Applications requiring advertising

1.3.1 Category A – Applications Which Will Not Be Notified

- a) The following types of development will not be notified:
 - The proposal development is classified as exempt or complying development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*;
 - Applications for strata, stratum or company title subdivision; and
 - Applications for works in drainage easements (i.e. pipe laying)
- b) In addition to those land uses listed in (a) above, the following types of development (Development Types / Land Uses) are excluded from notification subject to meeting the Criteria listed in **Table 1** below
- c) A letter would be forwarded to adjoining property owners advising that a **Category A** Development Application has been received and determined for development types such as single storey secondary dwellings and new dwelling houses.
- d) Letters would not be forwarded to adjoining property owners for development types such as minor structures and internal alterations to any building.

***Note:** All potential impacts of the development will be assessed by Council officers in relation to the relevant DCP and LEP. Developments which are fully compliant or only feature a negligible non-compliance are unlikely to generate an adverse impact.*

Table 1 – Development / Land Uses where Notification / Advertising will not be required

Development Types / Land Uses	Criteria
Demolition of buildings	Subject to the building not being: <ul style="list-style-type: none"> • a State listed heritage item; or • a heritage item in Schedule 5 of <i>Kogarah Local Environmental Plan 2012</i>; or • a building in a heritage conservation area.
Torrens Title Subdivision or Consolidation	Subject to the application not creating a new lot, except in the case of subdivision of an existing dual occupancy development.
Applications to modify a consent under Section 4.55(1) of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act)	Where the application will not significantly alter the intensity or likely adverse impact of the proposed development.
Applications for new signage	Subject to the signage not being: <ul style="list-style-type: none"> • illuminated; and • located in a residential zone.
Change of use	Subject to the change of use: <ol style="list-style-type: none"> not being in a residential zone; and not relying on the provisions of Division 4.11 – Existing Uses of the <i>EP&A Act</i>; and not being for any of the following land uses: <ul style="list-style-type: none"> • Pub • Sex services premises • Registered club • Centre-based child care facility • Restricted premises • Funeral home • Place of public worship and the proposed operating hours of the business are between 6:00am – 10:00pm.

New secondary dwellings	<p>Subject to:</p> <ul style="list-style-type: none"> • full compliance with the relevant DCP or LEP; and • not exceeding a maximum height of building of 4.5m. <p><i>Note: Council may consider notification of new secondary dwelling developments where the proposal is deemed to adversely impact the amenity of adjoining properties.</i></p>
Additions to dwelling houses	<p>Subject to the additions being single storey and complying fully with the setback requirements in the relevant DCP.</p>
New single storey dwelling houses and single storey alterations and additions to dwellings	<p>Subject to:</p> <ul style="list-style-type: none"> • the subject property not being situated within: <ul style="list-style-type: none"> ○ the Foreshore Scenic Protection Area (FSPA); or ○ the foreshore locality identified in Part C4 – Foreshore Locality Controls of the <i>Kogarah DCP 2013</i>; and • full compliance with the maximum height and FSR in the relevant LEP; and • full compliance with the relevant DCP
Outbuildings, swimming pools, landscape works and ancillary structures (e.g. awnings, cabanas, sheds, detached garages, carports, retaining walls, decks)	<p>Subject to:</p> <ul style="list-style-type: none"> • the use being in a residential zone and associated with a residential use; and • full compliance with the relevant DCP; and • not exceeding a maximum height of building of 4.5m; and • pool coping levels of no greater than 500mm measured at any point from natural ground level.
Home business or Home occupation	<p>Subject to the proposed use being contained in a dwelling or in a building ancillary to a dwelling and complies with the definition under the relevant LEP.</p>
Minor structures in public reserves (e.g. amenities block)	<p>Only where the proposal has a minimal impact on any adjoining residential development.</p>

Alterations to industrial or commercial premises	Subject to the proposed development having minimal impact on any adjoining residential development and the proposal complies fully with car parking requirements under the relevant DCP or other policy.
Internal alterations to any building	Subject to the development not significantly altering the intensity or likely adverse impact of the proposal.
Other minor development applications	Subject to there being minimal impact on any adjoining residential development.
Applications for review under Division 8.2 and Section 8.9 of the <i>EP&A Act</i>	Where there are no significant amendments to the plans or significant new information has been submitted.

Note: For new single storey dwelling houses and single storey alterations and additions to dwellings any non-compliance with the relevant DCP will re-categorise the DA to a Category B (Notification Requirements for Minor Local Development) development Application

1.3.2 Category B – Notification Requirements for Minor Local Development

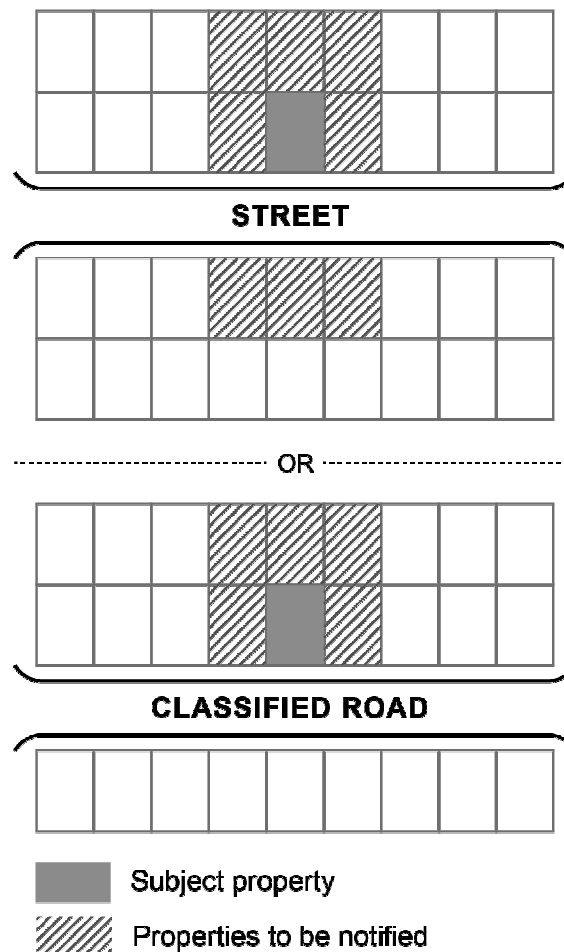
- a) For the following notification is required for development applications defined as minor local development and listed below:
 - i) New dwellings in the Foreshore Scenic Protection Area (FSPA) or the foreshore locality identified in **Part C4 – Foreshore Locality Controls** of the *Kogarah DCP 2013*;
 - ii) New dual occupancies (attached or detached);
 - iii) New secondary dwellings (granny flats) and outbuildings greater than 4.5m height;
 - iv) New two storey dwelling houses and two storey alterations and additions to dwellings;
 - v) New semi-detached dwellings, or new small lot housing;
 - vi) New Torrens Title subdivisions (excluding subdivision of approved dual occupancy developments); and
 - vii) Any other development that Council considers should be notified.

- b) A written notice will be forwarded to the owners and occupiers of land on either side of the proposal, the property at the rear and one (1) property on either side of the rear and three (3) properties

generally opposite (across any road, except for a classified road e.g. Princes Highway, King Georges Road). Refer to **Figure 1**.

- c) The owners and occupiers of other neighbouring land and other strata units of the subject site may be notified if in the opinion of Council, the proposed development is likely to result in an adverse impact for those owners or occupiers.
- d) In the case of Strata Titled properties, a notice will be forwarded to the Owners Corporation, or an Association (under the *Community Land Development Act 1989*), as well as the owners and occupiers of each strata unit.

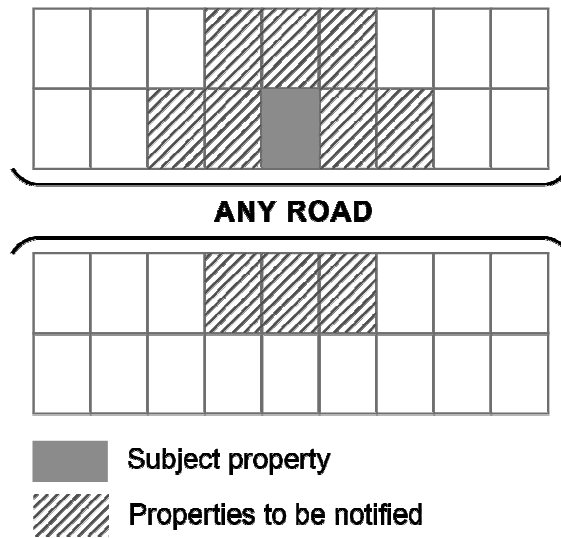
Figure 1 – Category B Notification Requirements



1.3.3 Category C – Notification Requirements for Other Local Development

- a) For other development not listed in 1.3.2 above, including but not limited to:
 - i) New attached dwellings;
 - ii) New multi-unit housing;
 - iii) New residential flat buildings;
 - iv) New mixed use premises and shop top housing;
 - v) New seniors housing developments;
 - vi) Tourist and visitor accommodation;
 - vii) New buildings in a Business or Light Industrial Zone;
 - viii) New centre-based child care facilities;
 - ix) Affordable rental housing and boarding houses; and
 - x) Any other development Council considers should be notified.
- b) A written notice will be forwarded to the owners and occupiers of land located two (2) properties on either side of the proposal, the property at the rear and one (1) property on either side of the rear and three (3) properties generally opposite (across any road). Refer to **Figure 2**.
- c) The owners and occupiers of other neighbouring land and other strata units of the subject site may be notified who, in the opinion of Council, may be impacted by the proposal.
- d) In the case of Strata Titled properties, a notice will be forwarded to the Owners Corporation, or an Association (under the *Community Land Development Act 1989*), as well as the owners and occupiers of each strata unit.
- e) For alterations and additions to any of the above, notification will be based on the discretion of Coordinator or Manager Development Assessment.
- f) Where public concern is raised to any application, Council may consider a wider notification of an application or extension in the time available for comment should the case warrant such action.

Figure 2 – Category C Notification Requirements



1.3.4 Category D – Development Applications Requiring Advertising

- a) The following development applications will be advertised:
 - i) Demolition and/or alteration of a building or land that is or contains a heritage item or is a building in a Heritage Conservation Area listed in Schedule 5 of *Kogarah Local Environmental Plan 2012*;
 - ii) New hospitals or major works to existing hospitals;
 - iii) New educational establishments or major works to existing educational establishments;
 - iv) New places of public worship or intensification of existing places of public worship;
 - v) New applications for seniors housing and group homes;
 - vi) New pubs and registered clubs or major intensification of existing pubs and clubs; and
 - vii) Any development required to be advertised under the *Environmental Planning and Assessment Act, Regulations* or any other Environmental Planning instrument.
- b) All applications requiring advertising will also be subject to the notification requirements as outlined in 1.3.3 above.
- c) A notice will be placed in a local paper (the St George and/or Sutherland Shire Leader) and will provide the address of the application and a brief description of the application.
- d) Due to the sometimes protracted period of time required to schedule advertisements in newspapers and to avoid delays, the notice is for information purposes only and will not offer a 14 day period for submissions. Notification will still be undertaken to affected neighbours in accordance with this DCP.
- e) The notice will advise citizens to visit Council's website or administration centre to view the application. Where legislation requires particular proposals to be advertised in a newspaper in a specific manner, the requirements of the relevant legislation will be followed instead of this guideline.

2. General Information

2.1 Site Notice and Site Sign

- a) A site notice / site sign will only be placed on sites for new dual occupancy and new semi-detached dwelling developments in **Category B**, and all developments in **Category C and D**.
- b) The notice must be erected by Council on the land to which the development application relates.
- c) The notice must contain:
 - i) Lettering which is clear, legible and able to be read from a public road, public place or public reserve;
 - ii) A statement that the application has been lodged;
 - iii) The name of the applicant;
 - iv) A brief description of the development application;
 - v) The dates the development application is on notification;
 - vi) A statement specifying that any person may make a submission in writing to Council in relation to the development application;
 - vii) A statement outlining that any submissions are available for viewing by the applicant or any other person with a relevant interest in the application; and
 - viii) Directions to Council's webpage and specifically to online tracking.

2.2 Section 4.55 Modifications

Where Council receives an application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* to modify a development consent where the proposed modification would have more than a minor increased impact on any neighbouring property, Council will notify:

- The owners of land and any other person who has previously lodged a submission to the original or previous application to which the S4.55 application relates; and
- Any other owners of land, who, in the opinion of Council, may be impacted by the proposal and any amendments or variations to that application.

2.3 Notification Period for Development Applications

- a) A period of 14 calendar days, excluding public holidays, will be allowed for persons to inspect an application and make a submission. The inspection period may be extended by Council if warranted by the circumstances of the case.
- b) In the case of nominated integrated development or threatened species development, any period specified by the Environmental Planning and Assessment Regulations 2000.
- c) To account for the holiday period associated with Christmas and New Year, from 15 December to 15 January the following year, the period to inspect an application and make a submission will be extended to 21 calendar days, excluding public holidays.
- d) Applications for places of public worship along with development considered to be contentious by the Council (such as child care, seniors living, school facilities and other development proposals) that are received between the 15 November and 2 January are to be notified as soon as possible and the exhibition period to be extended for a minimum 28 days after 15 January.
- e) To account for the holiday period associated with Easter, the period to inspect an application and make a submission will be extended to 21 calendar days, excluding public holidays. The holiday period for Easter is defined as the week before and the week after the Easter Long Weekend.
- f) An additional period of 7 calendar days, excluding public holidays, will be granted for persons to inspect an application pertaining to places of public worship (outlined in Category D) and make a submission. This extension is applied in addition to the timeframes outlined in (a), (c) and (e) above.
- g) Council will not determine a development application before the notification period has expired.
- h) Development applications that have been notified are available to view on Council's website: www.georgesriver.nsw.gov.au
- i) Development applications may also be inspected electronically at Council from Monday to Friday during business hours and submissions can be made by any one during the notification period.

2.4 Who can inspect plans and make a submission?

- a) Any person, whether or not entitled to be given formal notice under the provisions of this Plan, may at any time during the notification period, inspect free of charge, the details or plans of a development application.
- b) A copy of the notification plan and/or copies of other parts of the application plans (as permitted by copyright laws) can be obtained by any person under the provisions of *Government Information (Public Access) Act 2009*.
- c) Any person, whether or not they were notified of a development may make a submission to an application.
- d) Council will consider all submissions, but not take into account matters extraneous to those prescribed within this DCP, other policies of Council, or the relevant Acts and Regulations. Personal disputes between neighbours will not be considered.
- e) Where a submission in the form of a petition is received, the petition should specify the details of the contact person to whom all correspondence must be addressed. A letter or email sent to that contact person is taken to be a letter to all signatories on that petition.
- f) Council will not acknowledge the receipt of submissions, but will notify all submitters of any Independent Hearing and Assessment Panel (IHAP) or Council meeting. All persons who made submissions (and head petitioners) will be advised in writing of Council's decision after the application is determined.

2.5 Amendments prior to determination

Where Council receives amended plans prior to determination, Council will notify as follows:

- a) If an application is amended prior to determination, it will be re-notified if, in the opinion of the Council officer, the amendments are considered to result in significant additional environmental impacts.
- b) The notification period may be reduced if, in the opinion of the Council officer, all persons affected by the change(s) have been given an opportunity to make a submission.

- c) The extent of the notification to be in accordance with the notification area defined by this DCP, and will include persons who made previous submissions and those persons who, in the opinion of the Council officer, may be affected.

2.6 Class I development appeals in the Land Environment Court

Provisions for notification of amended plans in Class 1 development appeals in the Land and Environment Court are as follows:

- a) In Class 1 development appeals the Court, rather than Council, is the consent authority.
- b) If amended plans are submitted as part of a confidential conciliation conference and the Council's experts consider that they adequately address Council's concerns and can be approved, the amended plans will not be re-notified. This is because it is not a requirement of the Court and the resident objectors are not a party to the proceedings and the experts, in making their assessment, will have regard to the matters for consideration specified in section 4.15 of the *Environmental Planning and Assessment Act 1979*, including any submissions made.
- c) If the applicant is granted leave by the Court to rely on amended plans during the course of an appeal, the amended plans will be re-notified by Council if required under this DCP to the extent that the Court, in its discretion, determines that re-notification takes place.

Notes:

- Amended plans submitted during the course of proceedings will often not require notification under this DCP because the amended development will result in no significant additional environmental impacts.
- The Court's Conciliation Conference Policy and Site Inspection Policy both provide that Council should ensure that:
"People who made submissions to the council have a full understanding of the proposal (including recent amendments) so that any concerns expressed on-site are relevant".