

# **APPENDIX 12**

**DAINTRY SUBMISSION,  
ON BEHALF OF THE  
UNITED KOGARAH  
RESIDENTS  
ASSOCIATION (UKRA)**

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ISSUE	COUNCIL RESPONSE																
<p><b>Timing</b> LEP has progressed quickly to date</p>	<p>There is no requirement within the Legislation that specifies how long it must take Council to assess and review submissions. Council’s officers have tabulated all of the submissions received during the exhibition period and the issues identified have been addressed in the report to Council.</p>																
<p><b>Population projections</b> Submissions challenge the projections upon which the density increases are proposed and warrant Council’s careful consideration.</p>	<p>As outlined in the Planning Proposal that was placed on exhibition by Council, in June 2014, the Department of Planning and Environment (NSW State Government) published updated Population, Household and Dwelling Projections for NSW, with detailed breakdowns for each LGA. This information provides a detailed assessment on how our population is expected to change over the next 20 years. (Refer to: <a href="http://www.planning.nsw.gov.au/en-us/deliveringhomes/populationandhouseholdprojections.aspx">http://www.planning.nsw.gov.au/en-us/deliveringhomes/populationandhouseholdprojections.aspx</a> for detailed information)</p> <p>The projections are based on assumptions by demographers that take into account recent and current trends for births, deaths and migration.</p> <p><b>Population Projections</b></p> <p>The table below shows population projections for the Kogarah LGA from 2011 to 2031. Based on these projections the total population growth in the Kogarah LGA will be 17,450 people over the 20 years to 2031:</p> <table border="1" data-bbox="808 1118 1944 1366"> <thead> <tr> <th>2011</th> <th>2016</th> <th>2021</th> <th>2026</th> <th>2031</th> <th>Total Change</th> <th>% Change (Total)</th> <th>Annual Change (%)</th> </tr> </thead> <tbody> <tr> <td>58,900</td> <td>62,950</td> <td>66,850</td> <td>71,500</td> <td>76,350</td> <td>17,450</td> <td>29.6%</td> <td>1.3%</td> </tr> </tbody> </table>	2011	2016	2021	2026	2031	Total Change	% Change (Total)	Annual Change (%)	58,900	62,950	66,850	71,500	76,350	17,450	29.6%	1.3%
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	<p><b>Dwelling Projections</b></p> <p>The NSW State Government has also formulated dwelling projections that show the number of dwellings which would be needed to provide private housing for all projected households. The projections assume that one household occupies one dwelling and an additional adjustment has been made to account for those dwellings that may be unoccupied.</p> <p>It should be noted that the dwelling projections are not targets established under the Metropolitan Strategy, nor are they a projection of future dwelling construction. The table below indicates the projected number of dwellings to house the projected population. It is estimated that 7,350 additional dwellings would be required to be constructed in Kogarah over the 20 year period. That equates to approximately 370 new dwellings per year (from 2011).</p> <p><b>Dwelling Projections - Kogarah (NSW State Government 2014)</b></p> <table border="1" data-bbox="808 818 2047 970"> <thead> <tr> <th>Year</th> <th>2011</th> <th>2016</th> <th>2021</th> <th>2026</th> <th>2031</th> <th>Total Dwellings</th> </tr> </thead> <tbody> <tr> <td>Dwellings</td> <td>22,550</td> <td>24,150 (+1600)</td> <td>26,000 (+1,850)</td> <td>27,900 (+1,900)</td> <td>29,900 (+2000)</td> <td>7,350</td> </tr> </tbody> </table> <p>The proposed uplift identified in the Planning Proposal for the New City Plan is consistent with the NSW State Government's dwelling and population projections.</p>	Year	2011	2016	2021	2026	2031	Total Dwellings	Dwellings	22,550	24,150 (+1600)	26,000 (+1,850)	27,900 (+1,900)	29,900 (+2000)	7,350
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<p><b>Developer Speculation</b> Weight to be given to developer submission – unhealthy amount of speculative buying by developers.</p> <p>In formulating the final LEP to be recommended for adoption by Council for</p>	<p>As with any Planning Proposal that proposes a significant uplift in the density and height, there will always be speculative buying by agents and developers. There is nothing in the Legislation that permits Council to intervene or get involved in practices that may be taking place with respect to real estate agents and/or developers trying to secure properties.</p> <p>There is always a risk for those who partake in speculative buying, particularly when the draft LEP is both uncertain and imminent. Council officers can only advise those who contact Council</p>														

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<p>gazettal by the Minister, Council needs to sit back from the vested interests of developers and focus on creating high quality places for people to live, work and socialise.</p> <p>Appropriate for the post exhibition report to make a clear statement that Council must be careful to acknowledge that there has been an unhealthy amount of speculative buying by developers whilst the draft LEP remains both uncertain and not imminent.</p>	<p>of the proposed changes that have been publicly exhibited, and where residents have contacted Council officers requesting advice in relation to the practices of agents and developers, the response is always to seek their own independent advice, as Council officers cannot provide this advice.</p> <p>The position taken by the submission that the degree of developer interest, speculation or issue of property options is “unhealthy” is a subjective statement and is not supported by any substantiative facts.</p>
<p><b>Infrastructure</b> UKCRA members have not had the benefit of sighting the comments from each authority or agency.</p> <p>The strengths of the Illawarra Railway Line support significant density increases on the Illawarra line.</p> <p>Bus and road infrastructure is considered poor.</p>	<p>Copies of all the submissions made by the Government Agencies have been appended to the report presented to Council on 31 August 2015.</p> <p>The majority of density increases proposed by the New City Plan are within a 800m radius of the Illawarra Railway line.</p> <p>The NSW Long Term Transport Master Plan (December 2012) identifies the Illawarra Railway Line and the Princes Highway as a corridor of demand (Figure 2.3). The NCP is consistent in focusing the growth in population and jobs along these corridors of demand.</p> <p>There are seven (7) bus routes that operate through the Kogarah LGA, all of which run 7 days a weeks, some of which operate every 10-15 minutes in peak periods, connecting residents to Kogarah, Hurstville, Rockdale and Miranda Railway Stations.</p>

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<p><b>Reclassification of Public Land</b>            UKCRA note that the Gateway required a public hearing with respect to the reclassification of public land from community land to operational land. They request that an independent person be appointed and that person be a preeminent person such as a retired Land and Environment Court justice or the like.</p> <p>UKCRA submit that there has been insufficient public notice of the scheduled public hearing and not less than 28 days' notice of the public hearing was given on Council's website and in the local paper.</p> <p>The sale of any public land will result in a significant loss of open space and must be given close scrutiny by Councillors and the public. The justification for the sale of each site must be clearly articulated through the public hearing process by Council.</p>	<p>In accordance with the requirements of the Gateway Determination, a public hearing into the reclassification of land was held on Wednesday, 3 June 2015 in the Council Chambers. The public hearing was independently chaired by Mr Michael McMahon, of ME McMahon and Associates. Michael McMahon is a lawyer who specialises in Local Government and Planning Law.</p> <p>An advertisement appeared in the St George Leader on 19 May 2015 giving notice of the Public Hearing. Council's website also included information with respect to the Public Hearing. In his report on the Public Hearing, Mr McMahon identifies that the issue of insufficient public notice was raised as a concern however he has advised that the process Council undertook satisfied statutory requirements.</p> <p>As part of the Planning Proposal, Council resolved to reclassify three (3) parcels of land from "community" to "operational" land under the provisions of Division 1 of Part 2 of the <i>Local Government Act 1993</i>. As a result of the public hearing, it was recommended in the report presented to Council on 31 August 2015, that Council proceed with the reclassification of one parcel of land, being No 21A Queens Road, Connells Point. This site is an isolated foreshore lot which is only accessible via private property or the water and council currently leases the land to the adjoining owners at No 15 and 21 Queens Road.</p>
<p><b>Employment &amp; Dwellings</b>            It is submitted that increases in commercial and residential density should occur in the Kogarah Town Centre, consistent with the SGS Report.</p>	<p>The increases proposed in and to the north of the Kogarah Town Centre are consistent with not only the Kogarah Employment Lands and Economic Development Strategy (March 2013), prepared by SGS, but also the Metropolitan Strategy, <i>A Plan for Growing Sydney</i> and Kogarah Council's Community Strategic Plan. The introduction of the B6 – Enterprise Corridor along the Princes Highway, between Westbourne Street and Jubilee Avenue is also consistent with the recommendations of the SGS Study (Action 5.1). As the Study states, the rezoning to B6 –</p>

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<p>UKCRA and its member associations do not want to see increased commercial or residential density outside of 400m of the centres</p>	<p>Enterprise Corridor will also ensure that bulky goods retail is clustered at a highly accessible location within close proximity to the Kogarah Town Centre. Residential uses are also proposed to be permissible in this zone, however as the objective of the B6 – Enterprise Corridor zone is to encourage the redevelopment of commercial/bulky goods retailing development it is proposed to limit the amount of residential permitted in this zone.</p> <p>As outlined above, the Kogarah Employment Lands and Economic Development Strategy prepared by SGS identified the creation of an Enterprise Corridor along the Princes Highway. The SGS report also identified that residential uses may also be permitted within the Enterprise Corridor.</p> <p>The majority of the land fronting the Princes Highway is already zoned for either mixed use commercial development or medium density development. The NCP is proposing to increase the heights and density in this location so as to make redevelopment of the sites more viable. The aim of the proposed changes is to encourage new housing choices and jobs. There is also the opportunity to connect new housing along the corridor to centres where jobs are located, with bus services connecting the Princes Highway corridor to both Hurstville and Kogarah Railway Stations.</p> <p>As outlined in <i>A Plan for Growing Sydney</i> well planned and well-designed infill development can make a local environment more attractive and improve services.</p>
<p><b>Jobs and Journey to Work</b> The journey to work statistics support our submission that the LEPs proposal to increase densities in the corridors without significant improvements by the NSW Government to public transport along King Georges Road, the Princes Highway and Rocky Point Road will only increase car dependence and</p>	<p><i>A Plan for Growing Sydney</i> makes a commitment to address the issues around infrastructure. Action 1.11.6 identifies that the Government will develop growth infrastructure plans, which will focus on the infrastructure needs of growth areas over a 0-5 and 6-10 year period. All of the areas that have been identified in the NCP have access to public transport, either rail or bus services and promote the principles of modal split.</p>

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<p>contribute to further road congestion.</p> <p>The draft LEP has given little, if any weight to the need to focus efforts upon achieving a significant modal shift to public transport.</p>	
<p><b>Corridors</b> The central issues with respect to the corridors are:</p> <ul style="list-style-type: none"> <li>▪ They reinforce the dominance of car use with a lack of real modal shift to public transport</li> <li>▪ The lack of sufficient bus services to achieve a modal shift to public transport</li> <li>▪ Road noise</li> <li>▪ Air pollution</li> </ul>	<p>The New City Plan proposes the majority of growth in and around existing centres and along the railway corridor. Some of the redevelopment is also proposed along the arterial road corridors, and the majority of these areas are in close proximity to the Kogarah Town Centre, which has been identified as a “strategic centre” in <i>A Plan for Growing Sydney</i>. Council notes the Journey to Work (JTW) data that has been identified in the submission.</p> <p>As outlined above, there are seven (7) bus routes that operate through the Kogarah LGA, all of which run 7 days a weeks, some of which operate every 10-15 minutes in peak periods, connecting residents to Kogarah, Hurstville, Rockdale and Miranda Railway Stations.</p> <p>The <i>State Environmental Planning Policy (Infrastructure) 2007</i> (Infrastructure SEPP) (Department of Planning 2007) sets internal noise criteria which must be met by new developments along transport corridors in NSW. This is a major initiative to ensure that sustainable higher density living can occur along major transport routes whilst maintaining an acceptable level of amenity for residents. In the assessment of any application, Council will consider the recommended approaches outlined in the <i>Development near rail corridors and busy roads – interim guideline</i> (Department of Planning 2008).</p> <p>Sydney’s air quality has improved and is continuing to improve because newer vehicles produce significantly less emissions than older vehicles. Cars built from 2013 emit just 3% of the nitrogen oxides emitted by vehicles built in 1976, and diesel trucks built from 2013 emit just 8%</p>

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<ul style="list-style-type: none"> <li>▪ Road congestion</li> </ul>	<p>of the particles emitted by vehicles built in 1996. The statistics indicate that even as Sydney's population and total vehicle kilometres travelled each year have increased, key measures of air pollution have dropped significantly and this trend is expected to continue.</p> <p>It is acknowledged that there will be an increase in traffic along the road corridors however this will be incremental over a 15 year time period. The NSW State Government has made a commitment within <i>A Plan for Growing Sydney</i> to implement infrastructure and road networks as a result of increased development along corridors.</p>
<p><b>E4 Environmental Living</b> The community don't want to see any increase in densities in these environmentally sensitive foreshore areas that are car dependant.</p> <p>Cannot support the contention that dual occupancy in foreshore areas will provide more affordable options for young families and first homeowners.</p> <p>The draft LEP is inconsistent with the Environmental zones in Sutherland's draft LEP.</p>	<p>The main change proposed by the removal of the E4 – Environmental Living zone is to allow dual occupancy development as a permitted form of development, subject to meeting the minimum site area requirements, which on waterfront properties is 1000m<sup>2</sup> and on other sites is 650m<sup>2</sup>. The NCP is also proposing to allow seniors housing on large blocks.</p> <p>Dual occupancy development is proposed to be the same building density and height as a single dwelling, so in reality no increases in building density and height are proposed within these areas, rather greater housing choice with the introduction of smaller dwellings.</p> <p>The introduction of dual occupancy development in the foreshore will provide for greater choice in housing. Currently all that is available in the foreshore areas are single dwellings, the majority of which are large dwellings on large blocks. Increasing the housing supply in these areas through the introduction of dual occupancy development will provide for housing that is more affordable than a large single dwelling, which may provide young families and first homeowner's greater opportunities to live in these areas.</p> <p>The Sutherland LEP was gazetted in July and permits dual occupancy development in the E3 – Environmental Management and E4 – Environmental Living zones. The majority of land on the Sutherland side of the Georges River is zoned E4 – Environmental Living, where dual occupancy is permitted as long as there is no bushfire or evacuation risk. It should also be noted that areas within Sutherland and Mosman that are zoned E1 or E2 are either National Parks or</p>

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<p>UKCRA do not wish to see dual occupancy, new uses or other density increases in the existing E4 zones and want the zoning retained and dual occupancy prohibited.</p>	<p>Environmental Conservation areas.</p> <p>A number of other Councils who have the E4 – Environmental Living zone also permit dual occupancy development, including Manly Council.</p> <p>The NCP was exhibited and feedback was received with respect to the introduction of dual occupancy in the current E4 – Environmental Living zoned areas. As outlined in the report to Council, the majority of submissions received relating to the introduction of dual occupancy development (77%) supported the changes.</p>
<p><b>Protection of Kyle Williams Estate and Ecologically Endangered Communities – Correct the Split Zoning of Lot 19 in DP 663247.</b></p> <p>This LEP submitted to be similar to the LEP in <i>Friends of Turramurra Inc V Minister for Planning</i> [2011] NSWLEC 128, which was found to have been made contrary to the provisions of Division 4 of Part 3 of the Act.</p>	<p>The NCP is in no way similar to the LEP – The LEP to which this case relates (<i>Ku-ring-gai Local Environmental Plan (Town Centres) 2010</i>) was prepared by an independent Panel appointed by the Minister, due to Council not complying with a direction from the Minister for Planning to prepare a LEP to increase densities.</p> <p>The invalidity of the LEP was claimed on six grounds, the majority of which related to process:</p> <ul style="list-style-type: none"> <li>i. <i>no valid certificate was issued in accordance with s 65 of the Environmental Planning and Assessment Act 1979 ( the EPA Act ) enabling exhibition of the draft Centres LEP;</i></li> <li>ii. <i>the exhibition of the draft Centres LEP was "incomplete, invalid and misleading" and, as such, it did not conform to the requirements of s 66 of the EPA Act;</i></li> <li>iii. <i>substantial amendments were made by the Panel to the draft centres LEP following exhibition of the instrument but the draft instrument, as amended by the Panel, was not re-advertised before being made. In that circumstance, the Centres LEP was not the product of the processes ordained by Div 4 of Pt 3 of the EPA Act for the making of a local environmental plan;</i></li> <li>iv. <i>when preparing the draft Centres LEP, the Panel failed to consider cl 10 of State Environmental Planning Policy No 19 - Bushland in Urban Areas ( SEPP 19 );</i></li> <li>v. <i>no valid report was furnished to the Minister as was required to be done by s 69 of the</i></li> </ul>

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<p>Clause 10, of SEPP 19 imposes a further obligation on Council in drafting and in its consideration of a draft LEP. It does so on the following terms:</p> <p>When preparing draft local environmental plans for any land to which this Policy applies, other than rural land, the council shall:</p> <ul style="list-style-type: none"> <li>i. have regard to the general and specific aims of the Policy, and</li> <li>ii. give priority to retaining bushland, unless it is satisfied that significant environmental, economic or social benefits will arise which outweigh the value of the bushland.</li> </ul> <p>Split zoning of the northern portion of land (Lot 19 in DP663247) – proposed R2 – Low Density zoning is completely inappropriate and conflicts with the site’s ecological, heritage and cultural significance.</p>	<p><i>EPA Act; and</i></p> <p>vi. <i>substantial amendments were made by the Minister to the draft Centres LEP submitted to him by the Panel but the draft instrument, as amended by him, was not re-advertised before being made. In that circumstance, the Centres LEP was not the product of processes ordained by Div 4 of Pt 3 of the EPA Act for the making of a local environmental plan.</i></p> <p>In the preparation of the planning proposal, Council made an assessment against all relevant SEPPs as required by the Legislation. In this regard, consideration was given to SEPP 10 and the requirements of the s117 Directions. The proposed NCP is not contrary to the SEPP.</p> <p>The subject site is currently part zoned RE1 – Public Recreation and part E4 - Environmental Living under Kogarah LEP 2012. Under the previous LEP (KLEP 1998), the subject site was zoned part 6(a) – Open space and part 2(a) – Low Density Residential. The site is now proposed to be zoned part E2 – Environmental Conservation and part R2 – Low Density Residential.</p>

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	<p>The site is a large, irregular shaped allotment located on the eastern foreshore of Kyle Bay with its northern boundary having frontage and formal entry to the southern end of Waratah Street, Kyle Bay. The site forms part of the larger urban bushland area that includes Kyle Williams Reserve. The site itself comprises an area of approximately 2.4 hectares with Kyle Williams Reserve comprising some 5.8 hectares.</p> <p>Currently existing on the site is a single storey Victorian building constructed circa 1900 with later additions between the 1920s and 1950s. The dwelling is a locally listed heritage item under KLEP 2012. There are a number of other ancillary buildings and structures surrounding the main building, with the site being predominantly bushland.</p> <p>The site is in the ownership of the Trust Company (Australia) Limited as trustee of the Kyle Williams Home Trust, which is a trust established by the will of Carolyn Milne Williams.</p> <p>On 7 December 2012 in the Supreme Court of NSW, Justice White previously (in 2011) ordered that the trust property be applied <i>cy-pres</i> (i.e. as near as possible) from its original direction that the property be converted into a convalescent home for children. Council approved in September 2014 alterations and additions to the existing building for the use as a group home and construction of a respite care centre on that part of the site.</p> <p>The retention of a small part of the site as Residential is consistent with the historical zoning position on the site and that part of the site is subject to previous clearing and improvements and is not representative of the majority of the site which has high environmental values. Consequently, the proposed zoning is considered appropriate.</p>
<p><b>Local Centres</b> UKCRA's general view is that there is an insufficient increase in densities in centres on</p>	<p>As outlined above, the majority of redevelopment in the New City Plan is proposed in the existing centres and along the railway line. Council will be looking at opportunities to encourage consolidation of sites as part of the preparation of detailed design controls. These will be</p>

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<p>the Illawarra line.</p> <p>The Planning Proposal does not identify any desired consolidation within the centres or any HOB or FSR incentives to drive consolidation.</p>	<p>developed once the New City Plan has been endorsed by Council</p>
<p><b>Examples of inappropriate outcomes</b> Why does Oatley Railway Station only have a height of 12m when the areas around Penshurst, Allawah and Carlton stations have 21m – no justification for Oatley?</p> <p>Ramsgate is proposing 21m but is not well serviced by public transport capable to delivering a modal shift.</p> <p>The Princes Highway between Jubilee Avenue and Plant Street have a proposed height of 21m and 2.5:1 but the location is not well serviced by public transport</p>	<p>A review of the Oatley Precinct was undertaken as part of the development of the Kogarah 2031 Housing Strategy. Some uplift in zoning, heights and density are proposed around Oatley Station. These changes were exhibited in the Planning Proposal.</p>
<p><b>Request under section 57(5) of the Environmental Planning &amp; Assessment Act.</b> UKCRA believe that the need for increased densities and detailed strategic plans based upon urban design to deliver vibrant new centres, providing incentives for consolidation and transit orientated development along the rail line, as well as the inappropriately increased densities proposed</p>	<p>Council, at its meeting of 27 July 2015 considered a report which provided an overview of the issues raised during the exhibition of the New City Plan and addressed the request for a Public Hearing, which was raised in a number of the submissions.</p> <p>The report to Council on 27 July, 2015, concluded that the issues identified in the submissions are known and have been adequately addressed, as detailed in the annexure to that report, and accordingly it was recommended that a public hearing was not necessary to provide any additional information regarding the issues raised and that no action be taken with regard to the requests for a public hearing under Section 57 of the Environmental Planning and Assessment Act 1997.</p>

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within car dependant areas of Kogarah warrant a public hearing	