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2024 - Celebrating 30 years of Caring for Ku-ring-gai



Ms Sue Higginson MLC  
Chair  
Portfolio Committee No. 7 – Planning and Environment  
Development of the Transport Oriented Development

27 March, 2024

Dear Ms Higginson

**Re: Parliamentary Inquiry into the development of the Transport Oriented Development Program**

Thank you for the opportunity to make a submission on the NSW Parliamentary Inquiry into the development of the Transport Oriented Development Program.

Friends of Ku-ring-gai Environment Inc (FOKE) is a community group dedicated to protecting and conserving the built and natural environment of the Ku-ring-gai Local Government Area in northern Sydney.

FOKE was established in 1994 and celebrates its 30<sup>th</sup> Anniversary this year. During this time, we have researched, recorded, articulated, advocated and celebrated Ku-ring-gai's unique heritage and exceptionally biodiverse urban environment.

For three decades FOKE has consistently called on successive NSW governments to reconsider their urban consolidation policies as a housing solution because of their adverse impacts on NSW's built, natural, and cultural heritage – as evidenced by the [NSW State of the Environment Report, 2021](#).

FOKE has always promoted Ku-ring-gai's North Shore railway corridor as an environmentally sensitive place with its NSW and federally listed critically endangered Blue Gum High Forest and Sydney Turpentine Ironbark Forest. These urban forests and their canopies are the core of Ku-ring-gai's character as well as the keystone for Ku-ring-gai's outstanding biodiversity. Ku-ring-gai's 'environmental splendour' is something that belongs to the city of Sydney and is ecologically connected to Greater Sydney's biodiversity.

Ku-ring-gai also exists within the catchment of three national parks and as such plays a vital role in maintaining a resilient and strong national park estate for NSW.

Ku-ring-gai is also located in a high bushfire area and is more susceptible to catastrophic bushfires with climate change.

The historic railway stations and railway gardens of Roseville, Lindfield, Killara and Gordon Railway Stations (State Heritage Listed) are surrounded by an outstanding quantity, quality, depth and range of housing that has been attributed as being of national significance with its collection of 20<sup>th</sup> and 21<sup>st</sup> Century domestic architecture many designed by prominent Australian architects.

Ku-ring-gai is the birthplace of the NSW environment movement with many pioneer conservationists living in Ku-ring-gai including Eccleston du Faur (1832–1915) advocate and first managing trustee of NSW's second national park, Ku-ring-gai Chase; Annie Forsyth Wyatt (1885–1961) founder of the Ku-ring-gai Tree Lovers' Civic League (1927) and NSW National Trust (1945); Charles Bean (1879–1968) Anzac historian and founder of the Parks and Playground Movement; Paddy Pallin (1900-1991) bushwalker and leader in the national park movement that led to the establishment of the NSW National Parks & Wildlife Act (1967); Alex Colley (1909-2014) for his role in achieving the World Heritage listing for the Blue Mountains and whom former premier Bob Carr acknowledged as "without Alex there would be little wilderness protected in this State."<sup>1</sup>

FOKE, over the years, has led many heritage walks and tours, during the Australian Heritage Festival (supported by the NSW Government) to celebrate Ku-ring-gai's natural, built and cultural heritage. These FOKE heritage walks have all occurred around the designated TOD precincts of Roseville, Lindfield, Killara and Gordon. They have highlighted the inseparability of Ku-ring-gai's environment and heritage where the "natural" dominates the "built". The heritage tours have also highlighted Ku-ring-gai's rare blend of fine domestic architecture set within a landscape of indigenous forests and established gardens. Historically Ku-ring-gai is an aesthetic expression of the 'garden suburb', twentieth century town planning and conservation movements.

In 2007 the National Trust of Australia (NSW) nominated *Ku-ring-gai's Urban Conservation Areas within the Context of the Original Blue Gum High Forest* for the inclusion on the list of the 'Top Ten Heritage at Risk Places in Australia'.

All these environment and heritage constraints were completely ignored when Roseville, Lindfield, Killara and Gordon were selected as Transport Oriented Development precincts. If the TOD program proceeds it will annihilate the natural, built and cultural heritage surrounding Roseville, Lindfield, Killara and Gordon Railway Stations and NSW will lose this outstanding heritage.

The TOD program will effectively deforest, destroy and diminish Ku-ring-gai which in turn will have cascading negative consequences for the rest of Greater Sydney's environment – including biodiversity extinction, reduced air quality, carbon emissions, heat stress and loss of heritage.

The Hon Tom Uren AO, Federal Minister for Urban and Regional Development 1972-1975, Patron of the Defenders of Sydney Harbour Foreshores, Chair of the Parramatta Park Trust, and spokesperson for the Australian Council of National Trusts Endangered Places List 2000, once spoke to a FOKE annual meeting. There he said: "*You have something special here in Ku-ring-gai – Fight for it*" (FOKE AGM/Public Meeting 2001).

**As such FOKE calls on the NSW Government to immediately withdraw the Transport Oriented Development program because of the devastation it will cause to the natural, built and cultural heritage of Roseville, Lindfield, Killara and Gordon and other Greater Sydney and regional sites.**

Please find attached further comments that support FOKE's submission to withdraw the TOD Program.

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<sup>1</sup> [Alex Colley: champion of wilderness protection', Sydney Morning Herald, 2014](#)

Yours sincerely

Kathy Cowley

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**FOKE's Submission to the Upper House Inquiry addressing the Terms of Reference:**

- (a) the analysis, identification or selection undertaken by the Government, the Premier's Department, The Cabinet Office or the Department of Planning, Housing and Infrastructure (Department) into:

the 31 Transport Oriented Development Program precincts where the Transport Oriented Development Program State Environmental Planning Policy (SEPP) applies

FOKE challenges the analysis, identification and selection of the following to address the housing crisis relating to:

- (i) the eight Transport Oriented Development Program accelerated precincts
- (ii) the 31 Transport Oriented Development Program precincts where the Transport Oriented Development Program State Environmental Planning Policy (SEPP) applies
- (iii) (iii) any of the 305 Sydney Trains, Sydney Metro and Intercity stations within the Six Cities Region which were considered as part of any of the Transport Oriented Development Program locations.

FOKE challenges the veracity of the analysis, identification and selection of Roseville, Lindfield, Killara and Gordon Railway Stations to be included in the TOD program.

The [Cabinet in Confidence documents in relation to the TOD program](#) reveal very little to justify the TOD selection criteria; nor did the [Budget Estimates Hearing into Planning on 27 February, 2024](#) reveal any justification.

FOKE requests that the evidence justifying the selection of TOD precincts and their infrastructure capacity be made publicly available.

The TOD SEPP is inconsistent with existing government policies, strategies and planning legislation. The singular goal to increase housing supply and density is not sufficient to warrant excluding other considerations such as canopy retention, biodiversity conservation, heritage protection, infrastructure and stormwater capacity, traffic and transport, climate change, liveability and sustainability.

FOKE is concerned that there has been no or little consultation with other interagencies particularly NSW and Federal Departments of Environment. They need to intervene and request the exclusion of Roseville, Lindfield, Killara and Gordon as TOD precincts because they are places of environmental sensitivities with critically ecological communities and threatened species. Nor do they appear to have consulted the NSW Heritage Council or National Trust of Australia (NSW).

(b) [the probity measures put in place by the Government, the Premier's Department, The Cabinet Office and the Department.](#)

FOKE expresses disappointment that the Government, the Premier's Department, The Cabinet Office and the Department have failed to put in adequate probity measures.

FOKE was concerned to hear at the NSW Parliamentary Budget Estimates<sup>2</sup> that the NSW Department of Planning productivity, probity, and policy independent advisory committee was abolished soon in April 2023. As well, Mr Paul Scully, Minister for Planning and Public Spaces, had 19 meetings with banks, developers and the construction industry but only seven with community housing and the Greater Cities Commission.

As it stands the proposed TOD and Diverse and Well-Located Homes process puts NSW in danger of being 'state captured'<sup>3</sup> by the development industry; and exacerbating money laundering through the property development industry. This creates the perception that NSW governance is dysfunctional, a sham, open to corruption and returning NSW to an "Eddie Obeid/ Robert Askin" corruption state.

(c) [the development of the Transport Oriented Development Program policy approach by the Government](#)

The NSW Government's *Transport Oriented Development TOD* SEPP is one of the most far-reaching rezoning policies ever proposed. It has been described as the biggest rezoning in Australia's history<sup>4</sup>. It is being rushed through at a speed that can only result in abysmally poor planning and housing outcomes for the people and environment of NSW.

<sup>2</sup> [Portfolio Committee No. 7 – Planning and Environment, 27 February, 2024](#)

<sup>3</sup> [Confronting State Capture, Australian Democracy Network, page 14](#)

<sup>4</sup> PORTFOLIO COMMITTEE NO. 7 - PLANNING AND ENVIRONMENT Tuesday 27 February 2024, page 2  
[https://www.parliament.nsw.gov.au/lcdocs/transcripts/3202/Transcript%20-%20PC7%20-%20Budget%20Estimates%20\(Scully\)%20-%2027%20February%202024%20-%20UNCORRECTED.pdf](https://www.parliament.nsw.gov.au/lcdocs/transcripts/3202/Transcript%20-%20PC7%20-%20Budget%20Estimates%20(Scully)%20-%2027%20February%202024%20-%20UNCORRECTED.pdf)

The Transport Oriented Development (TOD) program effectively imposes higher density rezonings by stealth across Greater Sydney that will reap in billions of dollars of profits to developers.

It removes and overrides local democratic planning controls; it bypasses established rezoning plans where local government take into consideration all relevant factors to achieve in good strategic planning; it fails to comply with environmental and heritage legislation; it abandons principles of good planning. The 'non-refusable' standards "turns off<sup>1</sup>" heritage and environment protections.

This one-size-fit blanket planning policy must be rejected.

The TOD program (and Low and Mid Rise Housing Policy SEPP) is contrary to the Objects of the NSW [Environmental Planning and Assessment Act 1979 \(EPAA\)](#) and fails to:

- (a) promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) promote the orderly and economic use and development of land,
- (d) promote the delivery and maintenance of affordable housing,
- (e) protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) promote good design and amenity of the built environment,
- (h) promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) provide increased opportunity for community participation in environmental planning and assessment.

Nor should they have been introduced as regulatory State Environment Planning Policies (SEPPs). They are so overreaching that they should have been introduced as a Parliamentary Bill to be debated by the NSW Parliament.

[\(d\) consultations undertaken with councils, joint regional organisations and communities during the preparation of the Transport Oriented Development Program State Environmental Planning Policy](#)

Councils, joint regional organisations and communities are calling on the NSW government to withdraw its one size fits TOD and Low to Mid-Rise Housing SEPPS and return planning powers to local government.

It is unacceptable that the TOD program is to proceed from 1 April 2024 with no public submissions particularly from residents directly affected. It is disturbing that the Minister for Planning, Mr Scully did not consider it necessary to publicise an explanation of intended effect, or consider public submission on the TOD given that the [Environmental Planning and Assessment Act 1979](#) 3.30 states:

- (1) Before recommending the making of an environmental planning instrument by the Governor, the Minister is to take such steps, if any, as the Minister considers appropriate or necessary—
  - (a) to publicise an explanation of the intended effect of the proposed instrument, and
  - (b) to seek and consider submissions from the public on the matter.

Instead all that was made available was a 12 page document outlining the Transport Oriented Development Program.

Again FOKE takes the view that this is a violation against the EPA&A Act.

The lack of any public consultation or participation in planning is also contrary to the objectives of the [NSW Community Participation Plan](#).

The TOD is an authoritarian blunt planning instrument. By removing local government from the planning process the NSW Government is undermining Australian democracy. Local councils' planning powers are being stripped away rendering them powerless to refuse inappropriate overdevelopment that negatively impact on a community's amenity, heritage, environment and liveability.

The NSW Department of Planning briefing time to Ku-ring-gai Council staff (one hour) and Councillors (30 minutes) was totally inadequate for such wide ranging, planning policy change and one which effectively undermined the existing statutory strategic planning framework in NSW.

FOKE hopes that the NSW Department of Planning will give full and proper consideration to [Ku-ring-gai Council Submission on the TOD](#) along with its appendixes ([Community Engagement Report](#), [Hill Thalys Architecture + Urban Projects Opinion](#), [Lisa Trueman- Independent Heritage Advice](#); [Land Eco Consulting – Independent Assessment of Potential Ecological Impacts](#) and remove the TOD designated precincts for Roseville, Lindfield, Killara and Gordon.

[\(e\) ongoing opportunities for review and input by councils, joint regional organisations and communities, including consultations with renters, key workers and young people needing affordable housing in relation to the Transport Oriented Development Program State Environmental Planning Policy](#)

FOKE is unaware that there are ongoing opportunities to review and provide input into the TOD policy. FOKE is deeply concerned that once the TOD is introduced it will be impossible to review and withdraw it.

[\(f\) information control protocols relating to the Transport Oriented Development Program policy](#)

The TODs are seriously flawed because of their lack of detail.

They do not provide adequate information control protocols to address how local Councils can protect their local environmental and heritage values from the adverse impacts of the TOD program.

(g) property disclosure requirements and management

FOKE puts the case that the property disclosure requirements and management of the TOD program are grossly insufficient.

(h) the release of information prior to the official publication of the Transport Oriented Development Program policy

The TOD program was cynically released just prior to Christmas when most residents were on their summer holidays.

Instead of announcing sound, evidence-based, inclusive planning based on genuine consultation, the “one-size-fits-all” SEPPs will only produce poor planning outcomes.

It is appalling that developers knew about the information prior to the community. As such many living near the TOD targeted railway stations have been inundated by developers and real estate agents pressuring them to sell their properties. Developers appear to be marketing their advertising material promising ‘luxury housing’ (no mention of ‘affordable’ housing).

(i) the heritage concerns with the Transport Oriented Development Program including but not limited to the concerns of the Heritage Council

FOKE puts the case that the *Transport Oriented Development TOD* SEPPs are contrary to the NSW Heritage Act 1977 No 136, that was established to protect NSW’s heritage. The TOD and Low and Mid-Rise Housing SEPP are inconsistent with the NSW government’s heritage conservation objectives across NSW. The TOD program’s “one size fits all” approach will adversely extinguish Ku-ring-gai’s character and heritage.

The reason why the TOD program is so unsuitable for Roseville, Lindfield, Killara and Gordon is that it will have a disproportionate impact on Ku-ring-gai’s heritage as this is where the largest concentration of its Heritage Conservation Areas are and heritage items.

The TOD program, if implemented, will see historically significant buildings and heritage conservation areas demolished. Places that are highly regarded by the community will be bulldozed and replaced with ubiquitous ‘global airport architecture’ that have no local providence. This will extinguish the local character of an area making it indistinguishable to any other global city around the world.

There are more than 530 properties listed as heritage items within heritage conservation areas that are within the proposed TOD program for Roseville, Lindfield, Killara and Gordon. This increases to more than 2,000 properties (heritage items or properties in heritage conservation areas) as well as within 800 metres by the Low and Mid-Rise Housing SEPP. In Killara, 83% of properties within 400m radius of the station, and subject to the TOD SEPP are heritage listed.

The proposed SEPPs fail to respect Ku-ring-gai’s cultural heritage as the birthplace of the conservation movement with many conservation pioneers living within 400, 800 and >800 metres from the railway station including:

- Annie Forsyth Wyatt (1885-1961), resident of Gordon, who founded the National Trust of Australia (NSW)

- Dr J.C.C. Bradfield (1867-1943), resident of Gordon, who pioneered public transport systems and oversaw the design and building of the Sydney Harbour Bridge.
- Paddy Pallin (1900-1991), resident of Lindfield, who was a bushwalking entrepreneur that contributed to the rise of the bushwalking and national parks movement.
- Eccleston du Faur (1832-1915) resident of Turramurra, who was pivotal in establishing NSW's second national park, Ku-ring-gai National Park and one of the first in the world to create a national park for the intrinsic values of nature.
- Professor E.G. Waterhouse (1881-1977), resident of Gordon, who championed the aesthetic of gardens.
- Charles W Bean (1879-1968), resident of Lindfield, Lawyer, Author, War Historian, who championed parks and gardens and national parks as President of the Parks and Playground Movement NSW, and founder of the Australian War Memorial Canberra.
- Alex Colley, resident of Turramurra, who with the bushwalking movement led the campaign to World Heritage List the Greater Blue Mountains National Park.
- Gustavus Waterhouse (1877-1950), resident of Killara, who was a pioneer entomologist recognising the importance of habitat.
- Harold Cazneaux (1878-1953), resident of Roseville and pioneer photographer who celebrated the beauty of Sydney.

The TOD SEPP will impact on more than 530 listed properties, including more than 100 heritage items. The *Low and Mid-Rise Housing SEPP* will impact on 2,000 heritage listed properties.

Significant homes and buildings in Ku-ring-gai will be impacted by the SEPP including:

- Annie Wyatt's home. Founder of the National Trust. 26 Park Avenue, Gordon.
- *Kholo* - Sir John Crew Bradfield's home (Harbour Bridge fame). 23 Park Avenue, Gordon.
- *Woodlands formerly Inglewood* – Author Ethel Turner's childhood home where she wrote *Seven Little Australians*. 1 Werona Avenue, Killara.
- Charles W Bean's homes – 5 Ortona Road Lindfield and 17 Eton Road, Lindfield. Lawyer, Author, War Historian, President of the Parks and Playground Movement NSW, Pivotal role in the formation of what was to become the National Archives and Founder of the Australian War Memorial, Canberra.
- *Eryldene* – William Hardy Wilson architect – 17 McIntosh Street, Gordon. Home of Prof. Eben Gowrie Waterhouse. Photographed by Max Dupain.
- *Tulkiyan* - B J Waterhouse architect (Waterhouse and Lake) 1914. 707 Pacific Highway, Gordon.
- *Mandalay* – G M Pitt architect built 1902. 32 Nelson Street, Gordon.
- *Coromandel/Caringal* - 47 Treatts Road, Lindfield.
- *Athol* – 3-5 Pymble Avenue, Pymble.
- *Grandview* – 1178 Pacific Highway, Pymble. The first bank in Pymble in 1883.
- *Gortgowan/ Aberdour* – 23 Nelson Street, Gordon built 1901.



- *Ilkley/Viti/Brentwood* – 2A Park Avenue, Gordon built 1892-1893. Now, Gordon Pre-School. Lost its garden to the former Gordon Library designed by Sydney Ancher in 1964.
- *Walbrook* – 43 Nelson Road Lindfield built 1924. Childhood home of Dame Joan Hammond and from 1938 to his death in 1952, Prime Minister William Morris (Billy) Hughes (who from 1924, resided at 14 Nelson Road, Lindfield which is not on the heritage list).
- *Westwood Ho* - John Burcham Clamp & Clifford Finch architects, (a Ku-ring-gai resident who also designed Roseville Gold Club and Roseville Anglican Church. Firm also architects of Tattersals, Berk House, and Callaghan House.
- *The Briars* – Architect Charles H Halstead. Built for the pioneering Balcombe family, built in 1895. 14 Woonona Avenue, Wahroonga.
- *Cossington* – former home of Grace Cossington Smith. 43-47 Ku-ring-gai Avenue, Turramurra.
- *Killarney Castle* – 3 Glenview Street Gordon.
- Harry and Penelope Seidler's home – 13 Kalang Avenue, Killara.
- *Roscombe* – 29 Karranga Avenue Killara.
- *Lynwood* – 10 Lynwood Avenue, Killara.
- *The Tudors* – 29 Lynwood Avenue, Killara.
- *Cheppywood* – 61 Ku-ring-gai Avenue, Turramurra.
- *The Grange* – 73 Ku-ring-gai Avenue, Turramurra.
- *Rose Seidler House* – 69 Clissold Road, Wahroonga. Harry Seidler architect.
- *Purulia* – 16 Fox Valley Road, Wahroonga.
- *Parklands* – Clive Evatt's home - 69 Junction Road Wahroonga - Georgian Revival two-storey residence and garage, architect Stuart John Traill (1892-1965) approved for building 16 April 1940. Traill worked with Cyril Ruwald on the design of The Greengate Hotel. When in 1938 he applied to council to build a brick dwelling and garage in Water Street (Wahroonga) he was living in 32 Tryon Rd, Lindfield. There is more on Traill in The Historian Vol 35, 2006.
- *The Greengate Hotel* – corner of Greengate Road and Pacific Highway, Killara.
- *Ku-ring-gai Council Chambers* – 818 Pacific Highway, Killara. William Hardy Wilson Architect.

Gordon Station is State Heritage Listed. The North Shore Railway line exists within a corridor of NSW owned bushland that is identified as 'environmentally sensitive land'. The North Shore railway line opened in 1890 and has extraordinary historic significance to Sydney. It is also one of the most scenic railway vistas in Sydney. All this risks being lost with the introduction of the TOD program.

[\(j\) the enabling infrastructure capacity for every station selected or considered as part of the Transport Oriented Development Program](#)

The TODs proposed for Roseville, Lindfield, Killara and Gordon will place enormous pressure on Ku-ring-gai's infrastructure to the point where it could overwhelm it completely and lead to breakdown in the capacity to deliver water, sewerage, and energy.

The TOD Program for Ku-ring-gai is expected to build 4,452 new dwellings at Roseville, Lindfield, Killara and Gordon. There is no evidence to justify that these locations have the capacity to cope with this increased population density.

The commensurate population increase will require the NSW Government to massively fund additional schools, hospitals, emergency services, TAFEs, more energy sources, trains and buses as well as employ more teachers, doctors, nurses and health professions, police, bus and train drivers. The NSW Government has yet to explain how NSW will pay for these services.

The TOD program fails to provide additional green open space and recreational facilities that include parks, sports ovals, swimming pools and community services (libraries, community halls). Ku-ring-gai Council does not have the financial capacity to purchase land to make more open space or purchase environmentally sensitive bushland on private land. Without funds to purchase additional land the SEPPs will undermine the mental and physical health of existing and future residents. Residents need open, green and community spaces.

The TOD program for Roseville, Lindfield, Killara and Gordon will have adverse impacts on – [Lane Cove National Park](#), [Garigal National Park](#) and [Ku-ring-gai Chase National Park](#). Their catchments are within the 400, 800 and >800 metres of North Shore Railway Line and shopping centres. Increases in hard surfaces will create higher volumes of stormwater runoff and increased pollution in local streams. This will cause permanent damage to the aquatic ecosystem of Lane Cove River, Cowan Creek and Ku-ring-gai's many creeks. The excess stormwater will have adverse impacts on the health of Sydney's swimming beaches with more stormwater pollution 'red warning' for its beaches<sup>5</sup>.

Water pressure in Ku-ring-gai has been considerably lowered over the last 20 years with the addition of approximately 16,000 dwellings since 2004.

If existing buildings and trees are demolished this will create massive additional landfill and make impossible to zero waste.

The SEPPs assume that people will abandon their cars and walk to the transport hubs, shops, and amenities. However, FOKE has no confidence that this will happen. Instead, the streets will be parked out making it impossible to drive through Ku-ring-gai's many narrow streets. The TOD is based on the assumption that the North Shore train line has the capacity to take further passengers on the train. The train system is currently overcapacity and if the TOD is implemented across Greater Sydney it will result in dangerous overcrowding and potential collapse of the train network.

The traffic generated from the SEPPs will result in gridlock, especially around Gordon, Lindfield, Killara and Roseville railway stations and town centres due to limited railway crossings and existing traffic choke points. Ambulances and other emergency services will not be able to transport those with life cases to hospitals due to the congestion particularly on main arterial roads and the Pacific Highway.

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<sup>5</sup> <https://www.theguardian.com/australia-news/2024/jan/19/swimming-to-be-avoided-at-several-popular-sydney-beaches-due-to-high-stormwater-pollution>

(k) [the impact on localised environment and amenity values caused by the Transport Orientated Development Program](#)

The NSW Government's TOD and Low and Mid-Rise Housing SEPPs will lead to irreversible biodiversity extinction not just in Ku-ring-gai, but across the entire Greater Sydney & Regions.

The *Transport Oriented Development TOD* will require massive vegetation clearing, with consequential biodiversity loss, habitat fragmentation, urban heat, more carbon emissions and weed infestation and proliferation of invasive species.

**Removal of Ku-ring-gai's Tree Canopy**

Ku-ring-gai Council's independent ecological report indicates that the Low and Mid-Rise Housing SEPP will result in the loss of some 32,000 trees. If there is a 50 per cent take up this will result in the loss of 16,000 trees.

162 hectares of critically endangered Blue Gum High Forest and the 217 hectares of critically endangered Sydney Turpentine-Ironbark Forest risk being extinguished.

The TOD fails to acknowledge that the 400 metres around Roseville, Lindfield, Killara and Gordon are some of NSW's most environmentally sensitive urban areas with its threatened and vulnerable ecological communities. If it proceeds it will extinguish Ku-ring-gai's critically endangered [Blue Gum High Forest](#), (BGHF) and [Sydney Turpentine Ironbark Forest](#) (STIF). This is something that the NSW Government should be protecting, not destroying.

Ku-ring-gai's natural heritage retains the last remaining patches of urban forests of Sydney, Sheldon Forest, and Dalrymple Hay Nature Reserve (BGHF) and several other endangered areas of Swamp Oak Floodplain Forest, [Duffy's Forest](#), Coastal Upland Forest, Estuarine Saltmarsh.

NSW Rail identifies the railway corridor bushland in Ku-ring-gai as 'environmentally sensitive land'. The SEPPs will significantly fragment and diminish wildlife corridors that are vital for native animals and birds crossing the North Shore Railway line from and to the Lane Cove National Park, Ku-ring-gai National Park and Garigal National Park.

Ku-ring-gai's canopy trees are vital for cooling Sydney's temperatures. Indeed, Ku-ring-gai's trees are commonly referred to as the 'lungs of Sydney'. The SEPPs will drive carbon emissions up with the removal of Ku-ring-gai's canopy trees, gardens, the demolition of existing houses and rebuilding higher and more dense housing. Concrete is also a major carbon emitter.

Ku-ring-gai's Tree Canopy will be significantly denuded by both SEPPs. The proposed planning control reduces deep soil planting requirements meaning that tree targets will be reduced from 50% to 7% of site area for Low and Mid-Rise Housing SEPP. This will make it impossible for NSW to meet its tree canopy targets. This would result in permanent loss of approximately 162 hectares of Blue Gum High Forest (BGHF) and approximately 217 hectares of Sydney Turpentine Ironbark Forest (STIF).

Before the March 2023 NSW election, Ms Penny Sharpe MLC [said](#) that Labor's priorities would be to "develop options to recognise and protect significant trees and urban bushland and wildlife corridors as part of the recognition of national heritage".

Yet the SEPP controls abandon the protection of Ku-ring-gai's significant trees, urban bushland, wildlife corridors and outstanding biodiversity.

### **SEPPs Override other Environmental Protections**

- Ku-ring-gai Council environmental controls and policies
- the [National Parks and Wildlife Act 1974](#) (NPW Act)
- the Commonwealth [Environment Protection and Biodiversity Conservation Act 1999](#)
- the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#)
- The [Biodiversity Conservation Act 2016](#) (BC Act) FOKE takes the view that this Act needs to be repealed as when it was introduced, it went against expert advice and has led to broadscale rural land clearing and loss of biodiversity
- principles of Ecologically Sustainable Development (ESD)
- NSW State of the Environment Report 2021
- Ecological connectivity across Greater Sydney & Regions

### **Blue Gum High Forest**

[Dalrymple-Hay Nature Reserve](#) & Browns Forest, at Pymble/St Ives forms one of the largest remnants of Sydney Blue Gum High Forest in the world. Less than 1% of the estimated original 11,000ha of Blue Gum High Forest remains in the world.

Sheldon Forest, situated along the North Shore Railway line and between Turramurra and Pymble is another highly valued remnant piece of Blue Gum High Forest and STIF that would be under risk from the proposed SEPP Housing developments.

The reason why the SEPPs have such alarming consequences for Ku-ring-gai's remnant Blue Gum High Forest and STIF is that most of this ecological community is on privately owned residential land 400 and >400 metres from a railway station and shopping centre.

### **Biodiversity Extinction**

Ku-ring-gai has the largest number of threatened species (plants and animals) in the bioregion for a local government area. It is home to over 700 native plant species, 690 fauna species, over 300 vertebrate species, numerous invertebrate species and over 160 bird species.

The proposed zoning changes will lead to the extinction of fauna and plant species.

The proposal to allow dual occupancies in all R2 low density residential zones across Ku-ring-gai does not take account of Ku-ring-gai's remnant critically endangered Blue Gums High Forest and Sydney Turpentine Ironbark ecological communities on private land. This will lead to local extinctions for the Flying Fox, Powerful Owl and many birds, including migratory birds. The Bush Turkeys that have returned to Gordon Railway Station gardens during Covid will disappear.

The Ku-ring-gai Flying-fox Reserve is on the edge of the 400 metre radius from Gordon Railway Station and within the 800 metres radius of Gordon Railway Station. It is a nationally significant breeding camp for the Grey-headed Flying-fox, a species listed as vulnerable under both NSW and Commonwealth legislation. Grey-headed flying foxes play an important role in the survival and regeneration of NSW's

native forests as critical pollinator and seed dispersers. The other species most at risk from the SEPP and Housing Policy is the Powerful Owl.

There is the risk that the increased building heights will interfere with flight paths of some protected animals, including migratory species. These species utilise the vegetated ridgeline along the North Shore Railway Line as they migrate north to south. The loss of the vegetation along this ridgeline could have a significant impact on migratory species through loss of foraging and shelter. The proposed increases in building height also risk birds and bats flying into buildings along the North Shore railway ridgeline.

The SEPP and Housing Policy threaten to destroy hollow-bearing canopy trees, which is identified as a key threatening process listed under Schedule 4 of the NSW Biodiversity Conservation Act. Hollows take between 120 – 150 years to develop. Consequentially there will be a significant loss of beautiful native birds including the Crimson Rosella and Australian King Parrot, as well as the Laughing Kookaburra, Rainbow Lorikeet, Musk Lorikeet, Eastern Rosella, Sulphur-crested Cockatoo, Galah, Long-billed Corella, Little Corella, Sacred Kingfisher, Dollarbird and Australian Boobook Owl.

The proposed high-density housing for the Ku-ring-gai Area will potentially see an increase in feral animals and pests. The loss of tree canopy cover and vegetation will also open the areas to feral birds such as the Common Myna, Feral Pigeon, and the Australian Raven. With more people, more cats may come which is a threat to native animals and particularly birds.

### **Bushfire**

Ku-ring-gai is a high bushfire prone area with its northern ridgeline (along the railway line) and its east-west bushland valleys extending to national park. This makes *Changes to create low and mid-rise Housing* and dual occupancies a dangerous proposition. Bush fires can burn in built up areas as a result of ember attack.

In a bushfire emergency it will be difficult for residents to evacuate and emergency services to enter with traffic congestion along key roads including the Pacific Highway.

More low to mid rise density and dual occupancies risk encroaching on bushfire prone lands encroaching further because of the requirement for bushfire hazard clearing (Asset Protection Zones).

The proposed SEPPs ignore the fact that Greater Sydney & Regions were ravaged during the 2019-2020 Black Summer bushfires with [over one billion wildlife killed or displaced in the fires](#), including threatened animal, plant and insect species.

### **Sustainability**

The speed of introducing these SEPPs is not good town planning. Nor will it create a climate resilient city. To achieve this requires detailed professional and expert planning as well as active engagement with the community. The SEPPs fail this. Buildings need to have good design, be well-insulated and powered by green renewable energy, with solar rooftop and batteries. There are no controls to reduce energy consumption in multi storey buildings which will require higher energy with lifts, air conditioning, and drying clothes. Nor do the plans implement low energy e.g. reverse cycle air conditioning, heat pumps, insulation and solar panels and

community batteries, EV charging stations, composting, food gardens and sufficient deep soil landscaping.

### Health Risks

The loss of trees, gardens, open spaces will undermine existing and future residents' mental and physical health. Any degradation of the environment risks releasing new pathogens and endangering human health with disease, heat stress and pandemics. The policy encourages a harmful separation between humans and nature, something that has been proven to affect our physical and mental health.

The NSW planning 'reforms' threaten the health of the people of NSW.

(l) [the existing or potential measures and programs analysed, considered or implemented by all NSW Government agencies to support additional housing density, including the housing series reports published by the NSW Productivity Commissioner](#)

FOKE takes the view that the TODs will exacerbate the housing crisis. The program will not solve the housing crisis. NSW's growing population will continue to exert pressure on NSW's housing supply. The Greater Sydney & Regions will be in a permanent and perpetual state of 'housing starvation' and housing unaffordability crisis.

(m) [the ten measures outlined in the National Cabinet's National Planning Reform Blueprint](#)

FOKE calls for the TOD program to be withdrawn with genuine consultation to be undertaken with councils and their communities, as intended by the National Housing Accord 2022.

The proposed Part 2 of the TOD Program is clearly in breach of governments commitment under the [National Housing Accord 2022](#) commitment:

to working with local governments to deliver planning and land-use reforms that will make housing supply more responsive to demand over time, with further work to be agreed under the Accord.'

The City of Sydney reports that:

"The NSW Government has broken its commitment to the Accord as it did not work directly with local governments in preparing this planning and land use reform. As a result of the lack of collaboration the reforms are poorly constructed and need substantial change to achieve their intended aims.."<sup>6</sup>

The TOD and Low to Mid-Rise Housing SEPPs are a top-down 'one size fits all' approach with the singular objective to supply more housing. However this contradicts other legislation and overrides local government planning.

The TOD program proposed for Roseville, Lindfield, Killara and Gordon allows development of at least 6 storeys with 30% bonuses for affordable housing on top of

<sup>6</sup> Page 29 [https://www.parliament.nsw.gov.au/lcdocs/transcripts/3202/Transcript%20-%20PC7%20-%20Budget%20Estimates%20\(Scully\)%20-%2027%20February%202024%20-%20UNCORRECTED.pdf](https://www.parliament.nsw.gov.au/lcdocs/transcripts/3202/Transcript%20-%20PC7%20-%20Budget%20Estimates%20(Scully)%20-%2027%20February%202024%20-%20UNCORRECTED.pdf)

the proposed new controls. These 'affordable housing' density bonuses are short term and do not provide long term 'affordability'.

Providing affordable housing for Sydney is more complex than simply setting targets and building houses. It involves Federal and State governments investing in public housing. The market cannot and will not create affordable housing because it is profit driven. It is time the NSW government questioned its creed that "the market" will solve our housing crises.

The NSW Government needs to be calling on the Federal government to address the housing affordability crisis by reducing overly generous tax concessions for investors; reducing short-term rentals and vacant properties.

Legislation needs to prevent wealthy foreign and local investors purchase property and then leave it vacant. This is exacerbating the scarcity of residential properties and is leading to rental stress and unaffordable housing across Sydney.

Excessively high immigration numbers are contributing to the housing crisis. The NSW Government needs to pressure the Federal Government to implement sustainable levels of immigration e.g. 70,000 per year.

NSW Leader of the Opposition Mark Speakman has said that the Minns Labor Government needs to work with Federal Labor to reduce the state's record high immigration rates in order to alleviate pressure on the housing market:

"Chris Minns continues to ignore one of the biggest contributing factors to our housing supply shortage, which is unsustainable rates of immigration. His announcements will have no short-term impact on rental stress and high house prices".

"New South Wales is expected to receive more than its population share of Australia's net overseas migrants over the coming years. Net overseas migration will contribute almost 500,000 people to the State's total expected population growth of 580,000 in the five years to 2026-27." (Mr Speakman, 7 December, 2023, [Chris Minns must address housing demand](#))

Housing supply will not resolve the housing shortfall and affordability. Blaming lack of progress on local councils is similarly simplistic. Removing proper assessment processes and rushing through residential rezonings is guaranteed to create poorly designed and built housing. Speed will not increase affordability. It will, however, result in housing that is isolated, car-dependent, poorly insulated and under-serviced.

The Productivity Commission estimates a 1% increase in overall housing supply (implicitly achievable through planning deregulation) could deflate rents by 2.5%. But what makes this scenario implausible is the development industry's time-honoured practice of drip-feeding new housing supply to keep prices buoyant. Even if planning relaxation could enable ramped-up construction, it's hard to imagine that being sustained in the face of any resulting market cooling.

(n) the development of Transport Oriented Development Program planning policies in other Australian state and territory and international jurisdictions

The NSW Government's TOD program is the biggest rezoning in Australia's history. It is important that this draconian and property development led program does not become a precedent for other Australian state and territory and international jurisdictions.

(o) the impacts of the proposed Diverse and Well-Located Homes process and program

The SEPP for Low to Mid-Rise Housing Policy will significantly change the character and environment of Ku-ring-gai. It will allow dual occupancies in residential zones on minimum block sizes of 450 sqm will wipe out the tree canopy of Ku-ring-gai.

The combined TOD and Low to Medium Density Housing SEPPs will have devastating and irreversible adverse impacts on Ku-ring-gai's character, on its heritage items and heritage conservation areas that are located within an 800m radius of a train station or local centre.

(p) the capability of Greater Sydney to provide for increased residential dwelling where the existing capacity has been diminished due to the effects of climate change

The TOD will only exacerbate existing climate change issues across Greater Sydney.

The State Government has progressively weakened planning standards to allow for development which is not ecologically sustainable. Nor does it have the capacity to build resilient housing to combat the effects of climate change.

The proposed *Changes to create Low and Mid-rise Housing and Transport Oriented Development TOD SEPPs* are contrary to the Objects of the NSW [Environmental Planning and Assessment Act 1979 \(EPAA\)](#). It will decimate Ku-ring-gai's tree canopy and make it impossible for the NSW Government to achieve net zero emissions by 2050 and meet its commitments to the Paris Climate Agreement.

(q) the adequacy of measures to deter and punish the misuse of confidential market sensitive government information and the future processes that should be put in place

The TOD program presents high levels of risk and malfeasance. Effectively the NSW Government is handing planning controls over to developers. Homeowners, living 400-800 metres from Roseville, Lindfield, Killara and Gordon Railway Stations have been inundated with developer letters seeking that they sell their properties and make a 'windfall'. This is even before the introduction of the SEPP. Already there has been inadequate measures to deter and punish the misuse of confidential market sensitive government information.

(r) any other related matters.

**Undermines NSW Planning System**

FOKE considers that the SEPPs undermine the entire NSW planning system. They diminish and override the Objectives of the [Environmental Planning and Assessment Act 1979](#) (EP&A Act).



Local government's planning powers will be removed with the introduction of the SEPPs. This means they will not have the capacity to masterplan their own unique areas or uphold established controls that underpin EPA&A Act.

The proposed changes are entirely incompatible with the local environmental and heritage controls and Ku-ring-gai Council Local Strategic Planning Statement, which have been informed by robust strategic planning and community consultation.