

FOKE Talk

YOUR GUIDE TO THE PROPOSED PLANNING BILL INSIDE

FOKE

FRIENDS OF KU-RING-GAI ENVIRONMENT INC.

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DISASTROUS PLANNING BILLS STILL POSSIBLE FOR NSW!

Upper House amendments should not be interpreted as a 'win' — we still need YOUR help in defeating the planning laws which are again before the NSW Lower House.

The widely condemned Planning Bills were passed by the NSW Lower House on 30 October 2013.

Make no mistake—this is a pro-developer Bill at the expense of community concern and the environment.

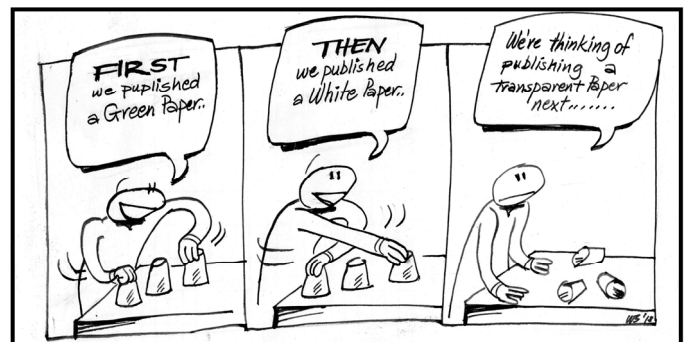
Following heated debate in the NSW Upper House in November, the Bill was approved with nearly 50 amendments which came from Labor,

Greens and minor parties. Our appeals to the members of the Upper House were definitely heard.

The NSW Planning Minister Mr Brad Hazzard announced on 28 November 2013 that he would delay the passage of the Planning Bill until Parliament resumes at the end of

February 2014. Why? Because too many concessions had been made in the interests of the environment and communities by the Upper House.

Your guide to the proposed Bill starts on page 4. Your input has been essential in our efforts thus far. Unfortunately, more vigilance is needed in 2014.



DRAFT METROSTRATEGY

Release of the draft is premature, coming even before the Planning Bill has been settled on.

In Opposition, Mr O'Farrell promised to limit NSW dwellings to 10,000 in Kuring-gai.

This figure will be set to expand dramatically if this Strategy goes ahead.

DRAFT METROSTRATEGY 2031— Promises, Promises...

What's a promise worth from a Shadow Minister when he's in Opposition? Not much, if the proposed Draft Metrostrategy 2031 goes ahead.

By FOKE President Kathy Cowley

FOKE understands the draft Strategy is to be the NSW Government's Regional Growth Plan (RGP) for Sydney to 2036. The release of draft Strategy and the RGP is both premature and contrary to the O'Farrell government's election promise "to return planning powers to the local community".

The Strategy pre-empts the outcomes of community consultation and the finalisation of the Planning Bills which are proposed to set in place a new planning system for NSW communities to determine future Regional Growth Plans. *Continues over....*

DRAFT METROSTRATEGY 2031



More uninspiring development for Ku-ring-gai.

“...no rights of judicial review or third party merit appeals would be available to the council or public...”

THE FOKE COMMITTEE WISHES ALL OUR MEMBERS AND THEIR FAMILIES A VERY HAPPY CHRISTMAS AND NEW YEAR.



THANK YOU FOR ALL YOUR SUPPORT IN 2013

From page 1....

The release of the draft Strategy was also contrary to the White Paper's objectives “to give effect to the policies, principles and agreed outcomes” (p.64 White Paper) as these do not exist and will not until the new planning system is in place.

The draft Strategy does not comply with major policy components and objectives of the new planning system including the requirements for “significant community consultation” in the making of Regional Growth Plans.

Disturbingly, once the Strategy is made by the Minister, Division 4.7 of the Planning Bill 2013 provides that developers will be able to apply for Strategic Compatibility Certificates (SCC) – considered the replacement new Part 3A!

BROAD DISCRETIONS

Once this happens the Director-General of Planning will have broad discretions to effectively be able to rezone land for development overriding and modifying existing strategic planning controls and LEPs of local councils, whether permissible development or not. A local council would not be able to refuse a development application made in relation to the SCC if the grounds for refusal relate to matters dealt with under the conditions of the SCC (clause 4.37). The grounds on which the SCC may be issued are broad and do not include any consideration of the impacts on community amenity or the environment (clause 4.34).

Further, we understand no rights of judicial review or third party merit appeals would be available to the council or public in relation to

a decision to grant a SCC (clause 10.12). There is a concern that SCC's will be used time and time again to override local strategic plans consistently undermining certainty for residents.

This top down bureaucratic approach to planning is in stark contrast to Barry O'Farrell's statement as Shadow Minister for Planning in 1997 that residents should have an “ongoing say such that they can approve or not approve of a particular development on their very boundary”.

7,400 NEW DWELLINGS

In Ku-ring-gai's case the draft Strategy's imposition of an additional 37,000 dwellings to be provided by the North sub-region councils by 2031, which consists of Ku-ring-gai, Hornsby, Manly, Pittwater and Warringah, and if divided equally between the five councils, will add a further 7400 dwellings to already Ku-ring-gai's planned 10,000 dwellings to 2031. This is contrary to the Minister's commitment to the Ku-ring-gai people in his letter to the President of the Ku-ring-gai Resident's Alliance, dated 31 October 2012, in which the Minister confirmed the 10,000 dwelling target “as a reasonable guide for achieving good planning outcomes in Ku-ring-gai”. The additional dwellings imposed in the Strategy means Ku-ring-gai may be required by a Panel to nearly double the 10,000 target to 2031. We are also concerned the new dwelling target set in the new Strategy is not a finite target, but “minimum targets”. How can residents have certainty when the goal posts are continually shifting? Moreover this new dwelling target will be determined by a Panel and the De-

partment of Planning as to the share of dwellings between councils, not the local council.

The Ku-ring-gai 10,000 dwelling target was set by the previous government and agreed and promised by Barry O'Farrell that when in government, to “limit development in Ku-ring-gai to the 10,000 Metro Strategy dwelling target or lower” (Letter to President of the Ku-ring-gai Resident's Alliance 18/08/09). This was also re-stated at the infamous UTS meeting on the 27/05/10 held by the Ku-ring-gai Planning Panel at which 1000 residents were in attendance, at which Barry O'Farrell stated:

“...we are committed to ...returning planning powers to local communities, putting a curb on ministerial powers, putting caps on donations and campaign spending to end the 'decisions for donations' culture in this state and for pursuing planning policies that go beyond a one-size fits all medium density strategy...And I specifically make this commitment to Ku-ring-gai residents. When elected we will review planning decisions like this in Ku-ring-gai and elsewhere, against the metropolitan strategy targets, and where it's shown that they have been exceeded or are about to be exceeded we will review whatever means possible to ensure that the unsustainable, additional and unnecessary developments are ended.”

The Ku-ring-gai community expects the state government to honour the Liberal's election promise and commitment to adhere to the agreement of 10,000 dwellings to 2031. **The Ku-ring-gai community has kept to its agreement – so should Barry O'Farrell and the State government. Ku-ring-gai also expects the 10,000 dwellings to be staged until 2031.** ■

CARROT DANGLES FOR COUNCIL MERGERS

A title such as "The Independent Local Government Review Panel" suggests a sage review of all viewpoints might take place and recommendations made without fear or favour.

However, its members were appointed by the State Government, and we all know where their head is at.

The Panel released a discussion document in April 2013. With phrases such as "NSW has too many local councils" and "change has to be driven hard", one could be forgiven for thinking that the review had already reached its conclusions before community consultation.

Submissions were duly called for in September of this year, with FOKE, along with many other community groups, councils and individuals making contributions.

The Panel reported back to the NSW Government in November.

In the style that NSW residents are now used to under both Labor and Liberal when it comes to "panels", submissions declaring opposition with reasoned and well-argued points were dismissed.

The Panel recommended to the NSW Government that Sydney be divided into 15 super-councils with rural and regional areas served by 20

councils. While no amalgamations will be enforced, the incentive is very strong: money.

And that may be hard to resist because council's ability to raise funds has long been a source of frustration for the local government sector.

The Panel failed to clearly explain what was so broken about the existing system that mergers could solve.

The Panel's report will be considered by Cabinet in the New Year and will undoubtedly face significant opposition from Labor and the Greens as well as community groups including FOKE. ■

"We believe that (amalgamations) are going to have to occur if we genuinely want a stronger and more effective system of local government" - Professor Graham Sansom, Chairman of the Panel

BPN LOCAL SURVEYS: KU-RING-GAI RESIDENTS MAKE VIEWS KNOWN

The response to the Better Planning Network's electorate surveys in Ku-ring-gai has been overwhelming.

At our stalls, which were set up in North Turramurra, Lindfield, Roseville, West Pymble, Wahroonga, residents approached FOKE Committee members, FOKE members and BPN supporters to discuss their concerns about the proposed planning laws (see pages 4, 5). Many stopped to fill in BPN's electorate survey and those results are now in.

These results were tabled and sent to Kur-ing-gai's State MP's.

Below: FOKE President Kathy Cowley (far left) and FOKE Committee Member Ursula Bonzol (2nd left) chat to residents. Surveys were taken right across NSW.



- **97% said planning laws should be driven by principles that protect our quality of life, environment and heritage.**
- **71% said high rise is impacting on their area.**
- **97% wanted the right to comment on development proposals next door or nearby.**
- **Only 4% agreed that high rise apartments should replace family homes in low density suburbs.**
- **Only 9% agreed that their State MP has been effective in addressing these issues.**
- **22% said that if there was an election tomorrow, they would not vote for their current, sitting State MP.**
- **A whopping 89% said these issues will influence their vote.**

PROPOSED PLANNING BILLS UPDATE:

The Upper House amendments were a direct result of the work of FOKE and thousands of NSW residents who have demanded a better planning system.

This is a Bill that attempts to silence our voices by the inclusion of many methods to overrule local planning guidelines. FOKE are now calling on the NSW Planning Minister, Brad

Hazzard to take responsibility for his failed planning reforms and go back to the Moore and Dyer review and recommendations and start again.

On 2 December 2013, FOKE wrote to Premier O'Farrell and Mr Jonathan O'Dea MP to ask them to honour their election promises to "return planning powers to local communities" and remind them of the "firm commitment of the NSW Liberals and Nationals to again put the public back at the centre of the State's planning system".

FOKE also provided Kur-ing-gai's key State MP's with an outline of the BNP survey results. ■

"(the) public will take a very heavy hand to people who break promises" - Premier O'Farrell, 7.30, ABC TV, 29 November 2013



SUBSTANTIAL CHANGES BUT LOCAL VOICES REMAIN UNHEARD

The Planning Bill was initially changed before it came to Parliament as a result of significant public outcry. After sailing through the NSW Lower House, the Upper House made significant amendments to the Planning Bill, inciting the ire of the Planning Minister, Brad Hazzard.

Whilst there were about 50 changes, the key ones included:

- ◆ The deletion of the Code Assessment which would have removed the community's right to have a say in the development of their local areas;
- ◆ Moves to include a provision for the provision of affordable housing;
- ◆ The Upper House removed the provisions of the Mining SEPP which the NSW Government recently included. These particular inclusions in the original Bill made new coal mines go ahead without consideration of any opposi-

tion as it made economic factors the principle concern.

The Better Planning Network (BPN), which has more than 400 community groups affiliated with it (including FOKE) says that the changes do not go far enough and the entire Bill needs to be scrapped.

CORRUPTION RISK

Corinne Fisher of the BPN said that "there had been little change to the Minister's wide discretion that the Independent Commission Against Corruption stated was a corruption risk. The amendment to restore the rights of objectors to appeal also failed. That amendment would have been a major corruption safeguard".

Also central to the BNP concerns (and why some say it should be scrapped altogether) is that the Bill remains a "top down" planning system where high order strategic plans will govern what happens at the

local level. Developers get to rubber stamp their own projects as "prohibited development can occur whenever a major developer can convince the Government that it is consistent with a higher order strategic plan—there is no merit assessment when an SCC (Strategic Compatibility Certificate) is issued," Ms Fisher pointed out.

The role of ecological sustainability and the environment has also been substantially watered down and the Upper House amendments do not go far enough to ensure it is given due consideration. Although Mr Hazzard says the Bill offers a "balance" between economic and environmental principles, ecological sustainability has been effectively replaced by economic imperative.

Despite NSW Government rhetoric about community participation in the 'big picture', this does not fool the public and members of opposition parties in the Parliament. ■

Planning Minister Brad Hazzard was so angry about the changes that he momentarily forgot which side of politics was running the state. "We will not accept the bastardisation of the bill by the Labor government [sic]" he said - *The Sydney Morning Herald, 28 November, 2013*

A SUMMER OF INTENSE LOBBYING AHEAD

THE NEXT TWO MONTHS

What happens over the summer seems to be crucial to the future of the Bill in its current form.

Mr Hazzard has told the media that the Upper House amendments make the legislation unworkable and he will spend the summer convincing Upper House MPs to change their minds and support the original Bill.

Mr Hazzard has some handy help in the form of some very powerful lobby organisations including 11 groups who signed a joint statement opposing the Upper House amendments. These include the

NSW Minerals Council and the Property Council. The Executive Director of the Property Council called the amendments "economic vandalism".

However, it seems Labor will not budge on its position, with Luke Foley telling the *Sydney Morning Herald* that Labor has been "constructive" in its support of amendments and that Mr Hazzard is "a Minister without a temperament and the political skills to negotiate a large piece of legislation".

The Better Planning Network, representing more than 400 community groups across the State (including FOKe) want the Bill scrapped altogether.

BNP Convenor Corinne Fisher

hopes the Government will use the three months to talk further with the community and start again. ■

See below for what you can do to defeat the proposed Planning Bills



MUCH SUCCESS BUT YOUR HELP STILL NEEDED!

As announced on Page 1, the furious NSW Planning Minister Brad Hazzard announced on 28 November 2013 that he would delay the passage of the Planning Bill until Parliament resumes at the end of February 2014.

The reason he gave was that too many concessions had been made in the interests of the environment and communities by the Upper House.

The amendments were a direct result of the work of FOKe and thousands of residents who

demand a better planning system. This is pro-developer Bill to the detriment of the community, attempting to silence our voices with the inclusion of many methods to overrule local planning guidelines.

For the sake of our community we need these amendments to stand and to push for crucial further changes as follows:

- ◆ Making Ecologically Sustainable Development (ESD) the primary objective of the Act;

- ◆ Removing Strategic Compatibility Certificates that allow developers to appeal to the Minister directly, thereby ignoring local council controls;
- ◆ Reigning in the State Significant Development provisions so that the Minister will not be allowed to overrule local plans and environmental controls;
- ◆ Subjecting private certifiers to tough anti-corruption measures. Without controls, this situation will encourage corruption and gross overdevelopment.

FOKE and the Better Planning Network will continue fighting to ensure that the NSW Planning Bills as they stand do not become law next year BUT WE NEED YOUR HELP!

We urge you to write directly to Premier O'Farrell, Mr Jonathan O'Dea and the Planning Minister Brad Hazzard to demand that they deliver the residents of NSW a better planning system, one that prioritises communities, our heritage and the environment, rather than selling them out to the big developers. See the following page for details on where to direct your correspondence. ■



HOW TO DEFEAT THE PLANNING LAWS!



"Hazard tape" became a familiar sight around Kur-ing-gai this year.

"...no rights of judicial review or third party merit appeals would be available to the council or public..."

FOKE and the Better Planning Network will continue fighting to ensure that the NSW Planning Bills as they stand do not become law. We urge you to write directly to Premier O'Farrell, Mr Jonathan O'Dea and Planning Minister Brad Hazzard to demand that they deliver the residents of NSW a better planning system, one that prioritises communities, our heritage and the environment, rather than selling them out to big developers.

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SUPPORT THE BETTER PLANNING NETWORK

The NSW Government are no doubt hoping that support and interest in the Planning Bills will wane over the summer months. Lending your support to the BNP is a great way to ensure that the pressure is maintained and Mr Hazzard is under no illusion.

Web: www.betterplanningnetwork.good.do
Facebook: [Search for Better Planning Network](#)
Twitter: [@BettPlanNetwork](#)



Above: Corinne Fisher, Founder and Convenor of the Better Planning Network

Opposition to the proposed Planning Laws has come not just from individuals and community groups, but from eminent bodies and reputable organisations.

ICAC: "...the discretion conferred on decision-makers in the draft legislation appears largely unfettered. The most notable examples involve Ministerial decision-making. Examples include the power of the Minister on various occasions to alter local plans and make local infrastructure plans".

THE LAW SOCIETY OF NSW: "...the Planning Bill significantly restricts the ability of the community to challenge plans and some decisions".

THE AUSTRALIAN INSTITUTE OF ARCHITECTS: "The Institute doubts that a community constructively engaged in the planning processes is going to be content to be regulated to the sidelines when complying development proposals are put forward."

LOCAL GOVERNMENT NSW: "We advocate retaining the community's right to have a say on Development Applications that would have a significant impact on the local area".

THE ENVIRONMENTAL DEFENDERS OFFICE: "There is a fundamental imbalance in relation to merits review and appeal rights as proposed. While there are expanded rights for proponents and developers, community review and enforcement rights are restricted by the draft legislation."

Below: FOKE Committee members Carolyn and Dinah with supporters.



5 STOREYS BECOME 9 STOREYS IN LINDFIELD

Despite significant opposition from FOKE, other community groups, the Member for Davidson and residents, the 9 storey development at 23-37 Lindfield Avenue, Lindfield has been approved by the Planning and Assessment Commission.



This site was first approved for high density development under the former Labor Government's atrocious Part 3A provisions which allowed the Minister to directly overrule local zoning guidelines. Since the original approval the site has been sold and modified to now be the highest in the railway corridor in Kur-ing-gai at 9 storeys.

Although the O'Farrell government gained much support for scrapping the Part 3A provisions when elected, his government did nothing at the time to stop those approvals where construction had not begun. Hence, we now have a ridiculous situation where the O'Farrell Government removed this provision nearly three years ago and this development was still allowed to proceed, and modifications to increase its height considered and approved.

RUBBER STAMP

On November 7, the Planning Assessment Commission had a public hearing in Lindfield to hear objections to the recent modifications which would:-

- Increase the height to 9 storeys;
- Increase the number of apartments from 91 to 112;
- Reduce the retail space from two to one level;
- Reduce private and public car parking spaces;
- Increase the floor space ratio to 3.8:1.

Nine people spoke against these modifications, including FOKE, Kur-ing-gai Council and the Member for Davidson, Jonathan O'Dea. Objections targeted traffic issues, reduced amenity for local residents due to the reduction of retail space and car parking provision. Despite the fact that these

changes contravened codes for minimum car parking provision, council height guidelines and building setbacks, and that in the draft Metrostrategy Lindfield is still classified as a 'village', the development was nonetheless approved.

The lack of independence of the Planning Assessment Commission in 'rubber stamping' the report prepared by the Department of Planning and Infrastructure has been obvious.

9 HAVILAH LANE

At the time of going to press, FOKE understands that the 9 Havilah Lane car park site has been sold to the same developer, Anka Property Group, for \$4.55 million. This is the first of Council's reclassified community land to be sold, extending the existing development in contravention of residents' objections.

As part of Minister Hazzard's plan to allow high density developments close to train stations and transport hubs, 43-55A Lindfield Avenue is also planned for an 8 and 5 storey development, currently before Council.

Although a balance has to be achieved between population growth and local amenity, these high density developments are incongruous and detrimental to the streetscape and character of the area.

FOKE President Kathy Cowley said: "Under any new planning laws, there has to be a more independent assessment panel than that of the current Planning and Assessment Commission. In addition, all modifications to an approved development must trigger a new submission. This situation of one modification after another across Sydney must stop." ■

CULWORTH AVENUE: COMMUNITY ANGER CONTINUES

A Culworth Avenue Car Park Group has been established to save the amenity from reclassification and sale.

Local residents and sporting associations are equally incensed at the sale, as parking may be severely reduced for those using Killara Station as well as Regimental Oval.

A public hearing on the matter was held on 24th October 2013 at the Council Chambers in Gordon and over 200 people attended. Over 4,000 petition signatures have been received by Council opposing the move which will ultimately see a mixed use/residential development on that site.

A report is expected to be delivered to the Council in December or January after deliberations by the Independent Chairperson Mr Peter Walsh.

Below: Also on Culworth Ave — Number 6-8



HABITAT STEPPING STONES PROJECT

FOKE Committee member Janet Harwood will be a part of the Habitat Stepping Stones Project which is a partnership between Ku-ring-gai Council and the Australian Research Institute for Environment and Sustainability at Macquarie University.

The Project is designed to increase survival of wildlife within our urban landscape.

The project is funded through the NSW Environmental Trust

to create an engaging tool for Ku-ring-gai to assist property owners in adding habitat features to their gardens to create effective 'habitat stepping stones' between corridors. ■

NO ROBIN HOOD BUT PLENTY TO SEE IN SHELDON FOREST

Robin Hood is known to harbour a soft spot for Sherwood Forest, but it's not a patch on Turrumurra's own Sheldon Forest.

Its unique contribution to Ku-ring-gai's biodiversity has long been appreciated. Now, FOKE has been awarded a Grant to put up some informative signs in Sheldon Forest which will increase the forest's accessibility to visitors and increase their appreciation of this unique habitat.



The \$1,300 grant from Ku-ring-gai Council is to erect two signs that will provide information on the characteristics of the Blue Gum High Forest, rarer native plants and the diversity of bird species that can be found there. The aim is to encourage understanding and appreciation of the Blue Gum High Forest. Enter Sheldon Forest from Warragal Road, Turrumurra.

More information on the walk can be found on the Council's website.

NORTH SHORE TRAIN SERVICES SLASHED IN NEW TIMETABLE

The NSW Government's new train timetable, released in October, has slashed train services on the North Shore Line by up to 20% with more to go when the Northwest rail line is up and running.

Increasing pressure on the rail services is the fact that 10,000 more dwellings will *definitely* be built on top of the 34,000 existing new dwellings, but the State government in its draft Metrostrategy now wants to increase it by 17,000. The population around the train line is set to increase by 30%, but higher if the Metrostrategy is put into place.

FOKE believes that Ku-ring-gai Council should now be demanding a reduction in the agreement of 10,000 in line with the 20% reduction in rail services since 2005 and refusing further increases to dwellings as proposed in the draft Metro strategy to 2036.

Barry O'Farrell is losing the trust of Ku-ring-gai residents and this trust will be further eroded if infrastructure upgrades do not stay in line with Ku-ring-gai's population increases and densities.



NEW MEMBERS ALWAYS WELCOME

Please contact FOKE for a membership form. Contact details can be found on p. 1.