

June 2013

Dear FOKE Members

BARRY'S WHITE PAPER = OVERDEVELOPMENT FOR NSW?

The O'Farrell government's *White Paper - A new planning system for NSW* threatens NSW citizens' democratic rights have a say in how their neighbourhoods are shaped. Proposals recommend that the community will be denied input into 80% of development decisions.

Despite the NSW Liberal Government negotiating with the property industry for months, the community has been only given until **28th June, 2013** to comment on these sweeping planning reforms. If they become law they will profoundly affect every suburb, town, community in NSW. The *White Paper* can be found at www.planning.nsw.gov.au/a-new-planning-system-for-nsw

"This is the most significant backward step on public participation in more than a generation," said Pepe Clarke, Nature Conservation Council of NSW Chief Executive Officer.

"Since the current planning legislation was introduced in 1979, members of the community have had a right to comment on the large majority of development proposals."

"These critical public participation rights improve the quality of development decisions and give the community a voice on development proposals that affect their local environment and way of life."

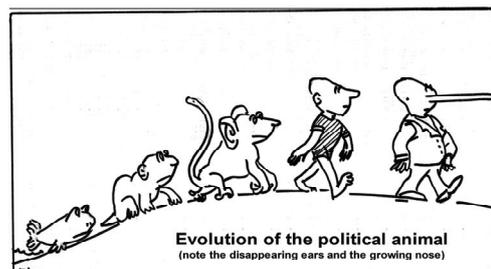
The *White Paper* recommends a system that effectively deregulates planning laws – where developers are no longer constrained by planning controls such as height restrictions, number of storeys, building size. There is grave risk that many suburbs across NSW will be transformed into high rise ghettos with little consideration for their environmental or heritage context.

Principles of ecological sustainable development, the precautionary principle and intergenerational equity are ignored. Instead the reforms prioritise unregulated economic growth.

The proposals limit community participation and consultation to the strategic planning stage with no opportunity to object on future developments. Developers and the Planning Minister however can challenge any strategic plan. The community will lose their right to have a say on 80% of all developments, as they become exempt & complying by private certifiers – or the developer's 'private police'. The *White Paper* proposes to fast track a wide range of developments, including commercial buildings, apartment blocks and land sub-divisions. Local councils will be unable to refuse proposals which comply with relevant codes. Many are concerned about proposals for 'Enterprise Zones' that allow minimal planning controls in an area.

The proposals will also reduce the role of elected local government in planning decisions. Local elected councillors will be forced to implement unpopular rezoning onto their local communities.

When Barry O'Farrell was elected he promised that the Coalition government would *give planning powers back to the people*. Instead the *White Paper* is the developer's wish list that allows unconstrained profits before community well-being.



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As well as reducing a community's rights contradiction of participation, consultation and appeal in planning issues they will undermine protections for NSW's environment and heritage. The *White Paper* does not even mention climate change mitigation.

Many community groups are shocked at the recommendations for fast tracking developments and warn that they will lead to poor environmental and planning outcomes for communities across NSW. Many fear that they risk opening the planning system to corruption.

In addition to this planning review, the Government has released a new *Metropolitan Strategy Plan* that force increased densities onto areas and a Local Government *Early Intervention* Bill that gives the Planning Minister increased power to stand down councils who are not pushing through a 'sufficient' volume of development in the prescribed 10 to 25 days.

For more information on writing a response to the Planning White Paper by the deadline of 28th June, 2013 see FOKE insert on your response to the White Paper. Also visit www.nccnsw.org.au or <http://betterplanningnetwork.good.do/> for more information.

FOKE'S 2013 COMMITTEE

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Barry O'Farrell's Commitment that he gave Ku-ring-gai on 27 May 2009 at the Planning Panel meeting attended by 1000 residents at the UTS:

"We are committed to a number of things – 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, but provides relief on Sydney's outskirts and outside of this city. 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."

ACTION ITEMS

Ku-ring-gai LEP 2013 which covers the whole of Ku-ring-gai [excluding the Town Centres].

Update on NEW Metro Strategy

Under the new Metrostrategy Ku-ring-gai will again be expected to take additional densities. We are expected to take on approximately 7,000 dwellings to 2031. This 70% increase on top of the 10,000 Ku-ring-gai has already planned for to 2031. This is in contravention to the previous Coalition government's promise of only 10,000 dwellings to 2031. Submissions close on the 28th June 2013.

Reclassification of 23 parcels of Ku-ring-gai Council owned public land will be on Public Exhibition over the coming months. They are intended to fund the new Ku-ring-gai Council Administration Centre. FOKE is concerned about the cumulative loss of public land for Ku-ring-gai residents. Participate and make your views known in submissions to the planning proposals and the Public Hearing/s, to be advertised.

Early Intervention Bill - a Threat to Councils and Local Communities

On 26 February 2013, the Minister for Local Government, the Hon. Don Page, MP, introduced the *Local Government Amendment (Early Intervention) Bill* to the Legislative Assembly. This Bill proposes to substantially increase the Minister for Local Government power to intervene in Councils, including suspending them for up to six months without a publicly accountable process.

Woodford Lane Car Park, Lindfield, Public Hearing to be held on 12 June at 5pm at Ku-ring-gai Council Chambers

ANNE CARROLL OAM



THANKED

Anne Carroll's passion, dedication and professionalism in safeguarding Ku-ring-gai's natural and built heritage was acknowledged and thanked at FOKE's AGM in April 13, where she stepped down as President of FOKE and retirement from the FOKE Committee after 18 years.

Anne's concern for the loss of trees, the overdevelopment of sites, the loss of heritage streetscapes led to residents coming together to form FOKE in late 1994. For the past 18 years Anne's commitment to FOKE's causes has been unwavering and persistent in drawing attention to Ku-ring-gai planning issues and overdevelopment.

Anne has worked tirelessly to raise the profile of heritage and the environment of Ku-ring-gai and under Anne's leadership FOKE received three significant community awards.

Anne has also given her time generously to assist the formation of other local community groups such as the Ku-ring-gai Preservation Trust, WRAG, BBK, and the Ku-ring-gai Residents Alliance.



Ku-ring-gai Council Proposes to Reclassify & Sell Community Owned Land

Ku-ring-gai Council has recently embarked on a massive programme of reclassifying 23 parcels of community owned land to raise up to \$30 million to pay off Council's bank debt for the 2012 purchase (of the 99 year lease) of the "Sun" building, adjacent to Council's Chambers in Gordon. Council proposes to relocate staff administration to the "Sun" building. The acquisition was made on the basis it would be fully funded from asset sales.

Some of the 23 sites proposed for reclassification include the Gordon Community Pre-School and car park, the Lifeline building (old Gordon Library), the Killara Station commuter car park, the reserve adjacent to St Ives Pre-School, land adjacent to the East Killara shops, the Ku-ring-gai Town Hall, Pymble and the Pymble Playgroup to name just a few of the sites for disposal.

The justification for the rationalisation of these assets is that they are "under-utilised assets". We believe this may be a convenient and misleading statement as a number of the community assets to be sold off are not under-utilised.

With the threat of sale, re-location or re-development a number of these facilities once sold or re-developed may never be able to be replaced again or if so at a much higher cost to ratepayers.

With speculation that Ku-ring-gai Council could at some point in the future be forced to amalgamate with Hornsby Council there are questions as to why Ku-ring-gai Council is embarking on such a massive rationalisation of Council's precious community assets. We believe Council has many more community owned properties in its sights for sale to add to the properties already undergoing reclassification and disposal this year, namely:

53 Bradfield Road West Lindfield (long day care centre/pre-school), 47 Warrane Avenue Roseville Chase, 9 Havilah Lane Lindfield (car park) 21 Calga Street Roseville Chase, 90 Babbage Road Roseville Chase, and 4 Binalong Place West Pymble with the Woodford Lane Car Park Lindfield to be the next reclassification Public Hearing on 12 June at Ku-ring-gai Council chambers.

This huge sell-off of our precious community assets is unprecedented in Ku-ring-gai's 100 year history.

PLANNING WHITE PAPER

Community consultation is restricted to the upfront early strategic planning phase.

Community loses right to comment on the majority of individual developments once early strategic plans are finalized.

Community's loses right to have a say on 80% of all developments, as they become exempt & complying which bypass the scrutiny of an assessor and require no community consultation.

Developers have the right to 'appeal' any zoning, which Council must consider.

New 'Enterprise Zones' will allow minimal planning controls for developers.

Developers can employ more private certifiers to certify developments or modify developments.

Government will loosen up Development Controls for increased heights, densities and reduced setbacks.

Government ignores ICAC warning of "corruption risk" from removing planning controls.

Government removes elected local government say in decisions of significant development. Joint Regional Planning Panels will be able to force unpopular rezoning onto local communities.

Community loses democratic representation of their elected elected councillors in planning decisions as Government proposes to hand over all planning decisions to bureaucrats and private certifiers.

Government wants to remove controls on height restrictions, number of storeys and building size and replace them with generalized 'merit-base' controls

PLANNING WHITE PAPER

Current State Environmental Planning Policies (SEPPs) to protect the environment will go.

E-Planning will reshape the planning system by transforming paper based development application and assessment processes and traditional methods of consultation into an online environment

Councils will have to administer four new layers of strategic plans: NSW Planning Policies, Regional Growth Plans, Subregional Delivery Plans and Local Plans

Questions to ask MP's Barry O'Farrell and Jonathan O'Dea:

1. Why is the principal of ecological sustainability removed as a major principal from the new planning White Paper?
2. How can you guarantee good urban design if 80% of development is to be processed in 10 to 25 days, without community consultation?
3. Why doesn't the government focus on good design FOR healthy, long term community liveability based on sustainability, environmental and liveability principles, instead of mere dwelling targets and economic growth?
4. Why is the NSW Government ignoring the ICAC warning that some of the provisions can open avenues for corruption?
5. Why is there no consideration for the cumulative impacts of development?
6. Why are provisions for environmental and heritage protection weakened?

LETTER TEMPLATE - White Paper – submissions close 28 June

(For more information refer to pages 1, 4, 6,7 & 8 of FOKE newsletter)

1. Place your personal details at the top of your letter and include the date

(Please note in your submission if you wish to have your personal details withheld)

Your Name

Your Street Address

Your Suburb and Postcode

Date

2. Address your submission to:

New Planning System

Department of Planning and Infrastructure

GPO Box 39, Sydney 2001

Dear Sir/Madam,

3. Include an introductory paragraph

Example

I am a resident of / I am a member of ... / I have experience in ... /

I welcome the opportunity to comment on the White Paper and draft Planning Bill.

4. Provide a clear statement outlining your position

This is important because the Department is likely to analyse the submissions received in response to the White Paper and if you want your submission to count as an objection you should make this clear. For example:

I do not support (many of/a number of) the key proposals set out in the White Paper and draft Planning Bill. In particular:

5. Outline your comments on the White Paper and draft Planning Bill

- *Refer to the outline of key Issues talking points in this submission guide*
- *Where possible, highlight local examples to support the general principles in your submission*

6. Sign your name at the bottom of the letter

Yours sincerely,

Your Signature

Your Name

7. Lodge or post your submission

- Lodge online at www.engage.haveyoursay.nsw.gov.au/newplanningsystem
- Post to the New Planning System Team, Department of Planning and Infrastructure, GPO Box 39, Sydney 2001.

The Better Planning Network (BPN) says NSW White Paper Planning Proposals:

Threaten NSW's Environment

- Most development applications will not adequately consider impacts on threatened species, ecological communities and their habitats.
- Government's plans to have 80% of development approved within 25 days, makes it unclear whether there will be any kind of thorough environment assessment.
- No indication how the environment will be protected at the strategic landscape level.
- No budget provided for sophisticated mapping to protect threatened species, ecological communities and their habitats in regional plans.
- Australia has one of the worst rates of extinction in the world.
- Concern that several of the existing Environment Protection zones will be scrapped. E3 Zones will become rural zones and E4 Zones will become residential zones.
- White Paper does not even mention climate change mitigation.
- The White Paper puts development and growth ahead of our environment.
- The definition of *sustainable development* in the Planning

Bill does not reflect International or Australian best-practise.

Betrays Community

- Very hard to see how the community is at the 'heart of the planning 'reform'.
- The White Paper favours developer's interests to get approvals in a rapid time frame at the cost of genuine community consultation.
- Pressure will be put on to approve complying developments within 10 days and code assessable developments within 25 days.
- Neighbours or the local community have little rights or opportunity to comment on developments.
- Code Assessable development can include residential flat buildings in town centres, new commercial buildings, mixed use buildings and subdivisions with 20 or fewer villas or town houses.
- The community should have the right to comment on code assessable developments.
- Barry O'Farrell's election promise to: ***give planning powers back to the people*** (Contract with NSW. March 2011) has proven to be a cynical ploy.
- The White Paper is a planning system based on consultation with the development industry.

- Community has been almost entirely cut out of the planning process at the local level. Few people understand strategic planning.

Undermines Heritage Protection

- The new planning laws endanger our Heritage buildings and sites.
- With the Government proposing that 80% of development will be approved with no opportunity for heritage assessment, community comment or involvement, that will lead to demolition of our heritage.
- With increased restrictions on refusing development, will undermine current incentives to conserve heritage, but increase financial pressure to demolish heritage for redevelopment profits.
- State heritage laws will continue to be "turned off" or undermined further by new planning laws when development is proposed, making legal protection of the Heritage Act powerless.
- Relies on the 'goodwill' of developers to declare these heritage items and to protect them.
- Heritage houses, heritage conservation areas, European and aboriginal heritage that have yet to be placed on Council heritage registers have no protection.

ECOLOGICALLY SUSTAINABLE DEVELOPMENT, SUSTAINABLE DEVELOPMENT AND THE NSW PLANNING REFORMS (Extract from Better Planning Network- Facts sheet)

The NSW government has issued a White Paper and draft Exposure Planning bill that propose a new planning system for NSW. The first Object of the Planning Bill is '*economic growth and environmental and social well-being through sustainable development*'. The Planning Bill also states:

'Sustainable development is achieved by the integration of economic, environmental and social considerations, having regard to present and future needs, in decision making about planning and development'.

This new, narrow definition of Sustainable Development (SD) is a significant departure from key principles of Ecologically Sustainable Development (ESD) that have long been enshrined in Australian law. The White Paper refers to two of these principles - the integration of environmental considerations and development objectives, and intergenerational equity – but renounces three other fundamental principles:

- The precautionary principle
- Biodiversity and ecological integrity as a fundamental consideration
- Improved valuation, pricing and incentive mechanisms (including the polluter pays principle)

Furthermore both the White Paper and Planning Bill consistently prioritise economic growth instead of focusing on the balanced integration of economic, environmental and social considerations based on the legally recognised principles of ESD.

Why has the NSW government elected not to support all of the accepted principles of ESD in its proposed new planning system?

Recommendation

The *Better Planning Network* strongly advocates that:

- Promotion of ESD and its key principles should be identified as the primary Object of the Planning Bill.
- All planning and development decision-makers should be required (as a mandatory matter) to have regard to relevant ESD principles.

ESD and the NSW Planning Reforms

The definition of SD proposed in the Planning Bill 2013 is a significant step backwards from the established principles of ESD that have underpinned planning and development decisions in Australia and NSW since the 1990's. In particular, this definition makes no reference to the conservation of biological diversity, improved valuation, pricing and incentive mechanisms (including polluter pays principle) and the precautionary principle, a central tenet of environmental policy and case law in NSW for more than two decades.

The deliberate retreat from the principles of ESD is not consistent with other environmental and planning legislation in Australia: see, for example, section 9 of the *Planning and Development Act 2007 (ACT)*, chapter 1 of the *sustainable Planning Act 2007 (Qld)* and section 3A of the *Environmental Protection and Biodiversity Conservation Act 1999 (Cth)*.

Better Planning Network (For more information visit: betterplanningnetwork.good.do)
May 2013

Links to information on the White Paper and draft legislation

Download both White Paper and draft legislation at:

<http://www.planning.nsw.gov.au/a-new-planning-system-for-nsw>

Alternatively you can order hard copies of all documents by calling 1300 305 695

<http://www.planning.nsw.gov.au/a-new-planning-system-for-nsw>

Deadline only June 28. There is concern that the NSW Government could present the new planning legislation to the NSW Parliament as soon as September 2013

Comments from BPN website:

Better Planning Network (BPN) has hundreds of groups now affiliated to it

<https://docs.google.com/file/d/0B1phj5J6584wck8zQkJNanIVMWs/>

<http://designbuildsource.com.au/nsw-unveils-planning-white-paper>

The Environmental Defender's Office will be holding workshops to understand the White Paper and proposed legislative changes:

<http://www.edo.org.au/edonsw/site/bulletin/bulletin.php#>

Ku-ring-gai Council website:

http://www.kmc.nsw.gov.au/Your_Council/Organisation/News_and_media/Latest_news_-_media_releases/White_Paper_-_A_new_planning_system_for_NSW

New Metro Strategy submissions close on the 28th June 2013:

http://planspolicies.planning.nsw.gov.au/index.pl?action=view_job&job_id=5927

Better Planning Network Websites:

<http://betterplanningnetwork.good.do/>

<http://www.facebook.com/BetterPlanningNetwork/>

<http://twitter.com/bettplannetwork>

Articles:

<http://www.dailytelegraph.com.au/newslocal/north-shore/premier-promises-community-consultation-will-be-embedded-in-new-planning-system/story-fngr8h9d-1226623151245>

<http://www.theaustralian.com.au/news/breaking-news/nsw-govt-to-fast-track-new-homes/story-fn3dxiwe-1226621179529>

Independent Review on Local Government:

The Panel has just released its Progress Report. You can download a copy at http://www.localgovernmentreview.nsw.gov.au/Index.asp?areaindex=LGR&index=49&a_code=GL&mi=1. And just because community groups and residents aren't busy enough, comments on the Progress Report can be submitted until 28 June 2013- the same date as for the White Paper and draft planning legislation.

7:30 report story:

(<http://www.abc.net.au/news/2013-04-19/planning-game-changer/4640680>). If you are interested in watching the full interview with Minister Hazzard, you can find view the interview at the following link:

<http://www.abc.net.au/news/2013-04-19/brad-hazzard-and-quentin-dempster---extended/4640754> You can let Quentin Dempster know what you think on [Twitter@QuentinDempster](https://twitter.com/QuentinDempster)

<http://www.smh.com.au/nsw/grand-designs-in-new-blueprint-20130419-2i5mr.html>

<http://newmatilda.com/ofarrell-hands-nsw-planning-back>

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