



EXTRAORDINARY MEETING TO BE HELD ON MONDAY, 5 FEBRUARY 2024 AT 7:00PM LEVEL 3, COUNCIL CHAMBER

AGENDA

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The Mayor has called this Extraordinary Meeting following a request from Councillor Martin Smith and Councillor Kim Wheatley.

NOTE: For Full Details, See Council's Website –
<https://www.krg.nsw.gov.au> under the link to business papers

The Livestream can be viewed here:
<https://www.krg.nsw.gov.au/Council/Council-meetings/Council-meeting-live-stream>

Disclaimer: All Ku-ring-gai Council Ordinary Meetings of Council are livestreamed for on-demand viewing on the KRG website. Although Council will do its best to ensure the public is excluded from the livestream, Council cannot guarantee a person's image and/or voice won't be broadcast. Accordingly, attendance at Council meetings is considered consent by a person for their image and/or voice to be webcast. Council accepts no liability for any damage that may result from defamatory comments made by persons attending meetings. As per clause 15.21 of Council's Code of Meeting Practice, a person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording or photograph of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council.

In accordance with clause 3.23 of the Model Code of Meeting Practice, Councillors are reminded of the oath or affirmation of office made under section 233A of the Act, and of their obligations under the Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

Please refer to Part 4 of Council's Code of Conduct for Pecuniary Interests and Part 5 of Council's Code of Conduct for Non-Pecuniary Interests.

The Oath or Affirmation taken is as below:

Oath:

I *[name of Councillor]* swear that I will undertake the duties of the office of Councillor in the best interests of the people of the Ku-ring-gai Local Government area and the Ku-ring-gai Council, and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the *Local Government Act 1993* or any other Act to the best of my ability and judgement.

Affirmation:

I *[name of Councillor]* solemnly and sincerely declare and affirm that I will undertake the duties of the office of Councillor in the best interests of the people of the Ku-ring-gai Local Government area and the Ku-ring-gai Council, and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the *Local Government Act 1993* or any other Act to the best of my ability and judgement.

APOLOGIES

DECLARATIONS OF INTEREST

DOCUMENTS CIRCULATED TO COUNCILLORS

MINUTES FROM THE MAYOR

MM.1 Recent Developments with the Proposed Housing Policy

7

File: S14427

This Mayoral Minute follows MM1 from the December 2023 Ordinary Meeting of Council to provide an update (for noting) on local activity regarding the State Labor Government's proposed housing policy.

The State Government commenced a 'public feedback' process on 18 December with submissions due 23 February 2024. The effect of commencing a feedback process at the start of school holidays has meant that media coverage and public awareness has been low.

Given the drastic nature of the changes being imposed upon Ku-ring-gai, Council's position has been to make all efforts to raise awareness in the community.

Earlier this month Council released a four page brochure (see Attachment 1) to summarise the changes being proposed as well as highlight key implications for Ku-ring-gai's infrastructure, amenity and environment. This brochure was delivered to all ratepayers via email or physical mail, as well as to renters. Residents were encouraged to respond to a council-run survey, and the preliminary survey results indicate that the majority of those who responded were not in support of the State Government's proposed changes. Residents were also encouraged to write directly to the State Government to provide their feedback.

Council, councillors, and community groups have also been active in promoting awareness of the State imposed changes through multiple eNews, through social media, and through personal interactions. We encourage further activity in this space in the coming months.

Council also organised a public information session on this topic for Wednesday 31 January, with further actions required for raising awareness to be determined following the information session.

The Department of Planning also met with Council Staff on Tuesday 16 January and Councillors on Wednesday 24 January to provide an update specifically on the Transport Oriented Development ('TOD') policy. From these sessions, three particular items to note were that:

1. The TOD policy does apply to Heritage Conservation Areas. Specific questions as to how it is possible to observe heritage while also allowing 6-7 storey development were not answered.

2. There were underlying assumptions of how many additional dwellings can be provided in each of Roseville, Lindfield, Killara and Gordon. While the TOD policy will come into place in April 2024, councils have the option to propose alternate zoning arrangements to match or exceed the dwelling targets.
3. The underlying modelling for each dwelling target is cabinet in confidence and not available to council or members of the public. The department did not agree with Council's concerns as to whether there was sufficient infrastructure (roads and congestion, stormwater, amenities, and appropriate funding) to support the dwelling uplift.

Point 2 in particular has been suggested as a potential way to protect the heritage conservation areas, however, any decision to restrict heights in the HCAs would have to be accompanied with even more drastic uplift elsewhere. Some councillors expressed concern that if Ku-ring-gai were to propose uplift in the town centres, the State Government may nevertheless renege and still require 6-7 storeys in the HCAs.

In the meanwhile, property developers have been circling (even harassing) residents within 400m of these train stations. This was reported just today in the Sydney Morning Herald and other residents have shared with us their displeasure of receiving regular, unsolicited contact from developers in recent weeks. In one case, a resident who last lived in Roseville 15 years ago is still receiving unsolicited phone calls seeking sale of property she does not own.

The Northern Sydney Regional Organisation of Councils has called an extraordinary meeting to discuss the proposed changes. This meeting will be held on 15 February.

Also scheduled for 15 February was a meeting with Paul Scully MP (Minister for Planning) to discuss the housing policy as well as the Lindfield Village Hub, however his office has deferred the meeting to 29 February.

This information is provided to publicly record what has been happening and the situation changes from week to week. Council staff will have more to report for the upcoming Ordinary Meeting of Council on 20 February, and in the interim Councillors Smith and Wheatley have called for an Extraordinary Meeting of Council to agree on a further round of action (refer to NM.1).

Recommendation:

That Council notes and receives this Mayoral Minute.

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

- NM.1 **To consider the proposed changes to housing policy and planning controls by the NSW Government**

13

File: S14427

Notice of Motion from Councillors Smith and Wheatley dated 29 January 2024

The proposal by the State Government to impose brutal changes to planning controls across NSW would be vandalism to the built and natural environment on a grand scale.

Just prior to Christmas the Government cynically released details of their intention to override the planning controls of NSW councils, using the holiday period to hide from public scrutiny. Some of the worst parts of their plan are due to commence as early as April 2024. Ku-ring-gai is alarmed by the long-term consequences of the Government's plans and will not sit back and allow it to occur.

The new planning controls will lead to the widespread destruction of heritage properties, massive tree loss and traffic gridlock. We know that there is already inadequate infrastructure for sewer, water supply and stormwater in Ku-ring-gai, and yet the Government will not release their analysis, hiding behind Cabinet secrecy provisions. The Government has not even provided councils with the expected number of extra dwellings to be delivered under the new planning controls, let alone any planning for extra schools, parks and other needs for a much larger community.

One shocking aspect of the Government's plans is to blanket large areas around train stations with 6 to 7 storey buildings that are so dense they will take up most of the land, not allowing for setbacks from neighbours nor space for landscaping and tree planting. There will be inadequate access to natural light and fresh air.

If the Minns Government was serious about housing affordability it would work with other states and the Federal Government to reduce the impact of short term rentals, vacant properties, foreign ownership and immigration. Revising planning controls will be ineffective at making housing more affordable without addressing these broader issues.

The Government's proposal to override local planning controls with a one size fits all approach abandons all notions of good planning. The Government must withdraw its proposal to change planning controls in this manner and conduct genuine consultation with local councils and their communities.

We, therefore, move that Council:

- A. Condemns the State Government for its irresponsible approach to planning for the future of the built and natural environment in NSW.
- B. Rejects the proposed changes to planning controls and demands that they be withdrawn with genuine consultation to be undertaken with councils and their communities.
- C. Explore all options to oppose the changes and stop them being implemented.
- D. Lodge an application under the GIPA act to obtain the NSW Government analysis of the proposed planning controls.
- E. Continue to actively inform the community, and request NSROC and Local Government NSW to lobby against the proposed changes to planning controls.
- F. Write to the Mayors of all Sydney metropolitan councils seeking for these councils to fight back and demand that the proposed changes to planning controls be withdrawn.
- G. Arrange for banners in key locations to alert residents to the proposed changes.
- H. Authorise the General Manager to take all action necessary to implement this resolution and otherwise progress the interests of Council consistent with this resolution.

Recommendation:

That the above Notice of Motion as printed be adopted.

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MAYORAL MINUTE

RECENT DEVELOPMENTS WITH THE PROPOSED HOUSING POLICY

This Mayoral Minute follows MM1 from the December 2023 Ordinary Meeting of Council to provide an update (for noting) on local activity regarding the State Labor Government's proposed housing policy.

The State Government commenced a 'public feedback' process on 18 December with submissions due 23 February 2024. The effect of commencing a feedback process at the start of school holidays has meant that media coverage and public awareness has been low.

Given the drastic nature of the changes being imposed upon Ku-ring-gai, Council's position has been to make all efforts to raise awareness in the community.

Earlier this month Council released a four page brochure (see Attachment 1) to summarise the changes being proposed as well as highlight key implications for Ku-ring-gai's infrastructure, amenity and environment. This brochure was delivered to all ratepayers via email or physical mail, as well as to renters. Residents were encouraged to respond to a council-run survey, and the preliminary survey results indicate that the majority of those who responded were not in support of the State Government's proposed changes. Residents were also encouraged to write directly to the State Government to provide their feedback.

Council, councillors, and community groups have also been active in promoting awareness of the State imposed changes through multiple eNews, through social media, and through personal interactions. We encourage further activity in this space in the coming months.

Council also organised a public information session on this topic for Wednesday 31 January, with further actions required for raising awareness to be determined following the information session.

The Department of Planning also met with Council Staff on Tuesday 16 January and Councillors on Wednesday 24 January to provide an update specifically on the Transport Oriented Development ('TOD') policy. From these sessions, three particular items to note were that:

1. The TOD policy does apply to Heritage Conservation Areas. Specific questions as to how it is possible to observe heritage while also allowing 6-7 storey development were not answered.
2. There were underlying assumptions of how many additional dwellings can be provided in each of Roseville, Lindfield, Killara and Gordon. While the TOD policy will come into place in April 2024, councils have the option to propose alternate zoning arrangements to match or exceed the dwelling targets.
3. The underlying modelling for each dwelling target is cabinet in confidence and not available to council or members of the public. The department did not agree with Council's concerns

Item MM.1

S14427

as to whether there was sufficient infrastructure (roads and congestion, stormwater, amenities, and appropriate funding) to support the dwelling uplift.

Point 2 in particular has been suggested as a potential way to protect the heritage conservation areas, however, any decision to restrict heights in the HCAs would have to be accompanied with even more drastic uplift elsewhere. Some councillors expressed concern that if Ku-ring-gai were to propose uplift in the town centres, the State Government may nevertheless renege and still require 6-7 storeys in the HCAs.

In the meanwhile, property developers have been circling (even harassing) residents within 400m of these train stations. This was reported just today in the Sydney Morning Herald and other residents have shared with us their displeasure of receiving regular, unsolicited contact from developers in recent weeks. In one case, a resident who last lived in Roseville 15 years ago is still receiving unsolicited phone calls seeking sale of property she does not own.

The Northern Sydney Regional Organisation of Councils has called an extraordinary meeting to discuss the proposed changes. This meeting will be held on 15 February.


Also scheduled for 15 February was a meeting with Paul Scully MP (Minister for Planning) to discuss the housing policy as well as the Lindfield Village Hub, however his office has deferred the meeting to 29 February.

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RECOMMENDATION:

That Council notes and receives this Mayoral Minute.

Councillor Sam Ngai
Mayor

Attachments: A1  Housing SEPP Brochure 2024/027261



ESSENTIAL INFORMATION

Proposed changes to NSW housing policy and its impacts on Ku-ring-gai

Council has provided more detailed information on its website.
A public information session to be held on 31 January 2024.

krg.nsw.gov.au/housingchanges



Proposed changes to NSW housing policy

The NSW Government is proposing new housing policies called 'Changes to create low and mid-rise housing' and 'Transport Oriented Development Program'. If implemented there will be extensive impacts for Ku-ring-gai.

What these changes mean for Ku-ring-gai

- Allowing dual occupancies (two dwellings on the same lot) in all low-density residential zones, with a minimum lot size of 450 square metres. Currently dual occupancies are generally not permitted in Ku-ring-gai.
- Allowing terraces, townhouses and two storey apartment blocks near railway stations and possibly other local centres. Currently these multi-dwelling housing types are permitted in Ku-ring-gai to a very limited extent.
- Allowing 6 to 7 storey mid-rise apartment blocks near railway stations and possibly other local centres. Currently mid-rise apartment blocks of up to 5 storeys are permitted in Ku-ring-gai to a limited extent.
- Allowing affordable housing bonuses of up to 30% for floor space ratio and height, on top of the proposed new controls.
- Overriding existing planning controls such as those for heritage and environment.
- Introducing 'non-refusal standards' for the new planning controls by which development consent may not be refused.
- There will be impacts on heritage, trees, biodiversity, traffic and stormwater.
- Significant tree loss across Ku-ring-gai.
- No consideration has been given to the necessary infrastructure to support density such as schools, transport and community facilities.

Public consultation

Ku-ring-gai residents are invited to complete an online survey to assist the Council in preparing its submission.

You can access the survey at krg.nsw.gov.au/housingchanges
The survey closes on 16 February.



The NSW Government is seeking public feedback on the proposed changes to housing policy until 23 February 2024.

You can provide comments at <https://www.planningportal.nsw.gov.au/draftplans/exhibition/explanation-intended-effect-changes-create-low-and-mid-rise-housing>



Dual occupancies

The NSW Government has referred to dual occupancies as being two dwellings on a single lot, commonly known as duplexes or semis.

It is proposed that dual occupancies be permitted on all land zoned R2 (low density residential), up to 9.5m high and floor space ratio of 0.65:1, provided the minimum lot size is 450 square metres and a minimum 12m in width.

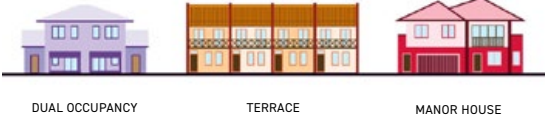
Tree canopy targets will be as low as 15% of the site area. Currently dual occupancies are generally not permitted in Ku-ring-gai.

Multi-dwelling housing near stations and town centres

The NSW Government has referred to multi-dwelling housing as being terraces, townhouses, and manor houses (two storey apartment buildings).

It is proposed that within 800m walking distance of a railway station or a centre with a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants, the following will be permitted:

- On land zoned R2 (low density residential): terraces and townhouses up to 9.5m high at floor space ratio 0.7:1, plus manor houses up to 9.5m high and floor space ratio 0.8:1. This is in addition to existing controls that allow multi-dwelling housing in R3 and R4 zones.
- Tree canopy targets will be as low as 20% of the site area.



Mid-rise housing near stations and town centres

The NSW Government has referred to mid-rise housing as being residential apartment buildings and shop-top housing that is generally between 3 and 6 storeys.

It is proposed that within 400m walking distance of a railway station or a centre with a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants, the following will be permitted:

- On land zoned E1 (local centres) or MU1 (mixed use): up to 21m high (approx. 6 to 7 storey) shop-top housing at a floor space ratio of 3:1
- On land zoned R3 (medium density): up to 21m high (approx. 6 to 7 storey) apartments at a floor space ratio of 3:1

It is proposed that between 400m and 800m walking distance of a railway station or a centre with a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants, the following will be permitted:

- On land zoned E1 (local centres) or MU1 (mixed use): up to 16m high (approx. 4 to 5 storey) shop-top housing at a floor space ratio of 2:1
- On land zoned R3 (medium density): up to 16m high (approx. 4 to 5 storey) apartments at a floor space ratio of 2:1

The proposed planning control would reduce requirements for deep soil planting and tree targets from 50% to 7% of site area for mid-rise housing.

The government is seeking input from councils to determine which E1 and MU1 centres contain an appropriate level of goods, services and amenities to be included for mid-rise housing and multi-dwelling housing.



Transport Oriented Development

The Transport Oriented Development (TOD) program is another part of the NSW Government's plan to increase the supply of housing.

The public is not being directly consulted about this program. The government is instead asking for feedback from councils.

The TOD program will focus on precincts that have existing infrastructure and are located within 400m of certain railway

stations across Sydney. There are four locations proposed in Ku-ring-gai:

• Roseville, Lindfield, Killara, Gordon

In these four locations the changes will allow:

- up to 21m high (approx. 6 to 7 storey) residential apartment buildings in all residential zones (R2, R3, and R4) within 400m of stations; and
- up to 21m high (approx. 6 to 7 storey) residential apartment buildings and shop-top housing in local centre zones (E1) within 400m of stations.

In addition to the 21m maximum building height, other proposed planning controls are:

- Floor space ratio 3:1
- No minimum lot size or lot width
- Minimum active street frontage controls in E1 zones
- Maximum parking rates

The amended TOD planning controls are proposed to commence in April 2024 and remain in place until councils have completed and delivered new strategic rezoning plans for these areas. These strategic plans must provide uplift in these locations equal to or exceeding the TOD controls.

Although the public is not being consulted by the NSW Government about the TOD program, Ku-ring-gai Council will prepare a submission to the government on the proposed program.

Affordable Housing

On 14 December 2023 the NSW Government implemented in-fill affordable housing reforms to encourage private developers to boost affordable housing and deliver more housing.

The reforms include a floor space ratio bonus of 20–30% and a height bonus of 20–30% for projects that include at least 10-15% of gross floor area as affordable housing. The height bonus only applies to residential flat buildings and shop-top housing.

This could mean that the proposed 21m high (6 to 7 storey) apartment buildings may be up to 27m high (8 to 9 storeys) inclusive of a 30% affordable housing bonus.

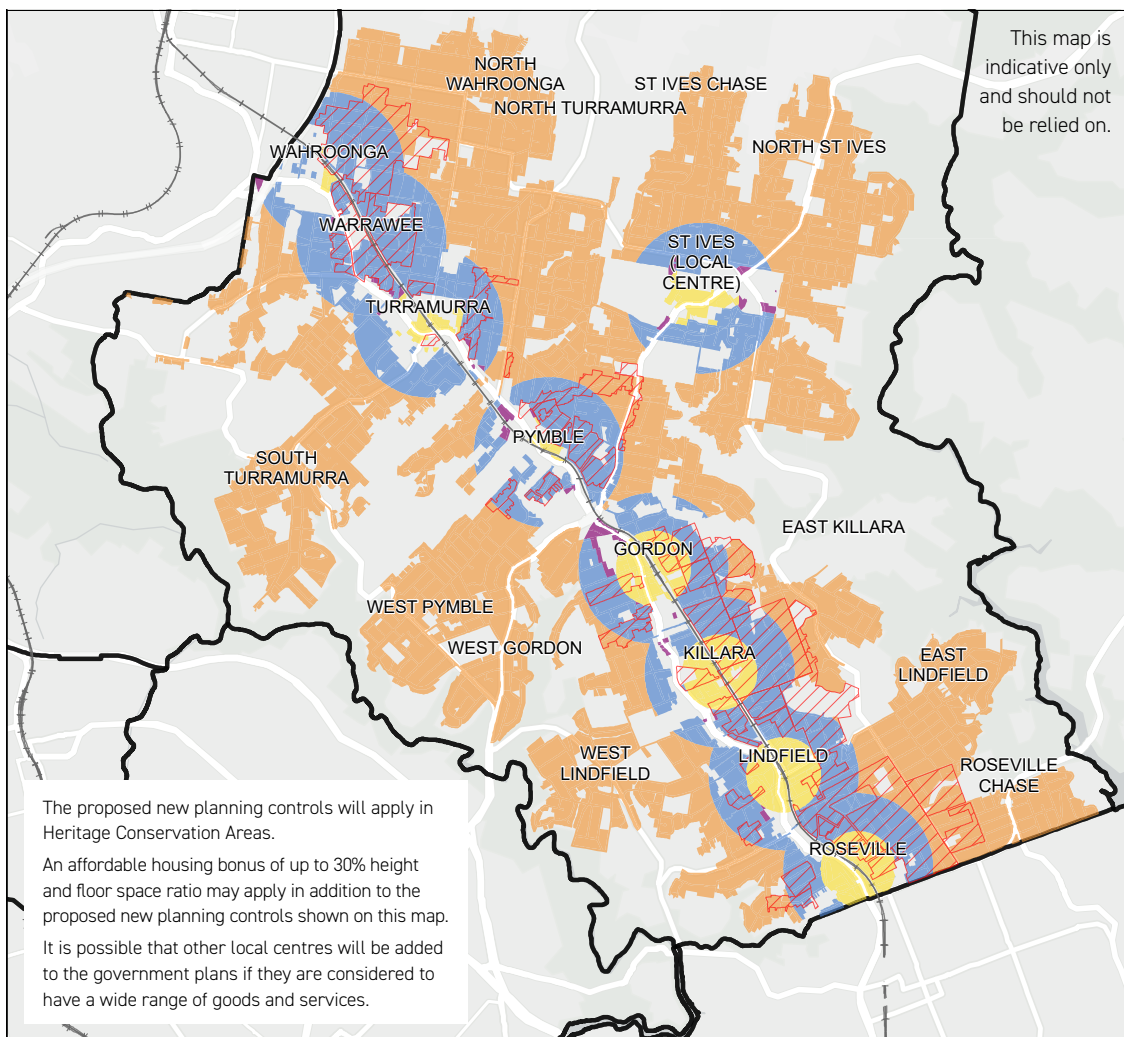
Existing Heritage, Environmental and Other Planning Controls

Planning controls in Local Environmental Plans and Development Control Plans such as heritage and environmental considerations will continue to apply, but only to the extent they are not inconsistent with the proposed new planning controls. This means the proposed new controls will override the existing controls.

The proposed new planning controls will apply in Heritage Conservation Areas and the NSW Government has stated it will result in significant changes in these locations as housing is delivered.

Ku-ring-gai Local Government Area

A map showing the NSW Government's proposed new housing controls in Ku-ring-gai.



Key In areas without shading there are no changes proposed to existing planning controls

- Dual occupancy up to 9.5m high and floor space ratio 0.65:1 (minimum site area 450 sqm)
- Multi dwelling housing (terraces and townhouses) up to 9.5m high at floor space ratio 0.7:1, plus manor houses up to 9.5m high and floor space ratio 0.8:1
- Residential apartments and shop-top housing up to 16m high (approx 4 to 5 storeys) and floor space ratio 2:1
- Residential apartments and shop-top housing up to 21m high (approx 6 to 7 storeys) and floor space ratio 3:1
- Heritage Conservation Areas

The areas showing proposed new planning controls are indicative based on information provided by the NSW Government. The purpose of this map is to indicate the proposed changes at a high level and it should not be used to assess impacts on individual properties. The areas proposed for new planning controls are shown as circles on the map for simplicity but may differ if implemented. There may be more or fewer properties impacted by the proposed new planning controls than is shown on this map.

In addition to all of the railway stations, the NSW Government is seeking input as to which other areas with shops (with E1 Local Centre or MU1 Mixed Use zoning) in Ku-ring-gai should be included for mid-rise housing, multi dwelling housing and manor houses. The government provides guidance that these shopping areas should provide a wide range of frequently needed goods and services such as full line supermarkets, shops and restaurants. Apart from at railway stations, this map also shows the proposed new planning controls around the St Ives Shopping Village, on the basis that it is an area in Ku-ring-gai that is likely to meet the government criteria.

It is possible that other local centres will be added to the government plans if they are considered to have a wide range of goods and services.

NOTICE OF MOTION

TO CONSIDER THE PROPOSED CHANGES TO HOUSING POLICY AND PLANNING CONTROLS BY THE NSW GOVERNMENT

Notice of Motion from Councillors Smith and Wheatley dated 29 January 2024

The proposal by the State Government to impose brutal changes to planning controls across NSW would be vandalism to the built and natural environment on a grand scale.

Just prior to Christmas the Government cynically released details of their intention to override the planning controls of NSW councils, using the holiday period to hide from public scrutiny. Some of the worst parts of their plan are due to commence as early as April 2024. Ku-ring-gai is alarmed by the long-term consequences of the Government's plans and will not sit back and allow it to occur.

The new planning controls will lead to the widespread destruction of heritage properties, massive tree loss and traffic gridlock. We know that there is already inadequate infrastructure for sewer, water supply and stormwater in Ku-ring-gai, and yet the Government will not release their analysis, hiding behind Cabinet secrecy provisions. The Government has not even provided councils with the expected number of extra dwellings to be delivered under the new planning controls, let alone any planning for extra schools, parks and other needs for a much larger community.

One shocking aspect of the Government's plans is to blanket large areas around train stations with 6 to 7 storey buildings that are so dense they will take up most of the land, not allowing for setbacks from neighbours nor space for landscaping and tree planting. There will be inadequate access to natural light and fresh air.

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- B. Rejects the proposed changes to planning controls and demands that they be withdrawn with genuine consultation to be undertaken with councils and their communities.
- C. Explore all options to oppose the changes and stop them being implemented.
- D. Lodge an application under the GIPA act to obtain the NSW Government analysis of the proposed planning controls.
- E. Continue to actively inform the community, and request NSROC and Local Government NSW to lobby against the proposed changes to planning controls.
- F. Write to the Mayors of all Sydney metropolitan councils seeking for these councils to fight back and demand that the proposed changes to planning controls be withdrawn.
- G. Arrange for banners in key locations to alert residents to the proposed changes.
- H. Authorise the General Manager to take all action necessary to implement this resolution and otherwise progress the interests of Council consistent with this resolution.

RECOMMENDATION:

That the above Notice of Motion as printed be adopted.

Councillor Martin Smith
Councillor for St Ives Ward

Councillor Kim Wheatley
Councillor for Wahroonga Ward