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The Hon Penny Sharpe MLC
Minister for Climate Change, Minister for Energy
Minister for the Environment, Minister for Heritage
52 Martin Place
SYDNEY NSW 2000

Dear Minister Sharpe

Thank you for your letter received yesterday regarding your current intention not to consider making an interim heritage order (IHO) for 23 heritage conservation areas in the Ku-ring-gai local government area.

Your letter reveals that there are some misunderstandings about Ku-ring-gai's position on housing and I write to clarify these with you. Our Council is actively seeking to meet its housing target, however, we wish to do so while promoting climate resilience and respecting heritage. It is, therefore, important that these issues be viewed not through a political lens of red vs blue, but rather from your perspective as the responsible Minister for Climate Change, in your capacity as Minister for the Environment, and as the Minister for Heritage.

As the current Mayor of Ku-ring-gai, I have never been against our Council providing its share of housing or participating in the National Housing Accord.

During this Council term, Ku-ring-gai's objections to NSW Housing Policy have not been about NIMBY'ism as the media ignorantly brands it, but rather about the role of sensible long-term planning to provide the residents of tomorrow with a great place to live.

The Victorian Labor Government recently announced the target of 2.5 million new homes by 2051 and is encouraging collaboration and infrastructure investment with its local councils to get the job done.

The Queensland Labor Government is similarly targeting 1 million new homes by 2046 and is working collaboratively with local councils on long term infrastructure.

But NSW Labor's Housing target is constrained to 377,000 homes by 2029 and there has been no announcement of a longer-term vision or infrastructure plan to take us to the 2050's. We are looking for you to take the lead in this space as a long term target with infrastructure plans provide Councils with certainty as to how much density to introduce.

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Following the NSW Planning Minister's letter in November 2023, Ku-ring-gai was quick to engage the NSW Government to express its concerns about elements of the proposed housing policy. I note that other councils such as Inner West and Canterbury Bankstown also expressed their concerns, however, Ku-ring-gai's concerns were never about the provision of homes or the number of homes; our concerns were about the impact of non-refusable maximum height and FSR development standards on heritage, on urban tree canopy, on the provision of infrastructure and on the provision of future open space.

These concerns remain today.

In our correspondences with the Planning Minister as well as our meetings with him in February and in May 2024, we advocated for a 12-month deferred commencement to allow us to undertake proper capacity studies and to plan the Transport Oriented Development (TOD) precincts properly, noting that it involved an uplift from the 3,600 previously planned up to the 18,000 to 20,000 now requested. On each occasion our request for a deferred commencement was declined.

Despite this setback, our Council is exploring alternate scenarios for the four TOD precincts, with less density in heritage conservation areas and greater density in areas that are not flagged for heritage conservation. The larger construction sites that match or exceed State objectives should lead to the faster achievement of our housing target. The variation in densities will also support greater urban tree canopy which makes our suburbs more climate resilient.

Our aim is to seek resident feedback on each scenario in early November, followed by updates to our Local Environment Plan (LEP) next year. At that point, the TOD provisions can be lifted from Roseville, Lindfield, Killara and Gordon if the State Government is true to its promise.

However, until our LEP is updated, our Heritage Conservation Areas are still at risk of inappropriate development. While there is talk that merit assessments apply in HCAs, our understanding is that the maximum height and floor space ratio specified in clause 155 of the Housing SEPP will, in practice, not be compatible with our Federation and Inter-war Heritage Conservation Areas. We have yet to see any guidelines that state otherwise and are happy to be provided more information on this topic.

Section 24(1) of the Heritage Act allows the Minister to make an interim heritage order for a precinct, and in the longer term these HCAs will be subject to whatever planning controls are determined suitable as part of the LEP update.

I note that an IHO would not have been necessary had Ku-ring-gai been granted its reasonable request for a 12-month deferred commencement on the TOD.

I also note that the legal action would not have been necessary had a deferred commencement been granted. Opponents to the legal action are quick to point out the cost, however their views are short-sighted. Council and ratepayers have already lost a few million dollars in the acquisition of private land for active transport and open space under the TOD and these unnecessary costs could have been avoided under a deferred commencement.

As there are other transactions that have yet to be completed, we can still save ratepayers several million dollars in acquisition costs, either by an early lifting of the TOD provisions or by following through with invalidating the TOD amendments through legal action. When faced with this completely unnecessary destruction of ratepayer value, the State Government has not given

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Council much choice on this matter. This was conveyed to the Planning Minister at our meeting on 2 May 2024 where I explained the situation and said that I hoped to protect ratepayer funds and avert legal proceedings. At the end of the day, I will gladly spend thousands to protect the millions at stake.

Given that the TOD currently impacts 23 heritage conservation areas until the update of Ku-ring-gai's LEP in early 2025, I do request that you as Heritage Minister review your position not to consider making an order in light of the benefits of putting an IHO in place. Even better would be for you to advocate the deferred commencement of the TOD which would remove the need for legal action, however I understand that this is not your decision.

If you have any further queries, please contact us.

Yours sincerely



Cr Sam Ngai
Mayor of Ku-ring-gai

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