

ACTION KIT

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Working with communities against overdevelopment

1. Foreword

There is no doubt that overdevelopment is an increasingly controversial issue. Many people who may have no other involvement in the political process are galvanised to take action to save a local park or waterway, or to protect the heritage and character of their local area.

As one of three Greens representatives in the NSW Upper House (Legislative Council), along with my colleagues Ian Cohen and Lee Rhiannon, I am continually approached by residents of NSW outraged and angry about inappropriate development in their area.

While I am able to take up many issues, it is simply not possible to get involved in every campaign. This kit is intended to be a tool to assist you in getting organised to raise the profile of your issue and improve your chance of winning against overdevelopment.

The increasing focus on development has a number of causes. There is growing awareness of our sensitive environment, and the fact that there are costs and limitations to our pattern of urbanisation and unsustainable consumption.

At the same time development pressures are escalating. Due to a combination of factors – larger houses, fewer people living in each dwelling, and continued reliance on private motor vehicles – ever more housing is needed for the same population. And of course our population is growing, particularly in cities as jobs and infrastructure are increasingly centralised and regional centres are run down.

Finally, the housing bubble and the pernicious cycle of real estate speculation have meant that there are incredible sums to be made out of development, regardless of its quality or long-term viability.

Governments, rather than protecting the public good, have shamelessly sold out to the property and development lobby. While Local Government is at the front line of development pressures, the State Government has increasingly taken a hands-on role.

A record number of developments are 'called up' by the Minister, removing decision-making from the local Council. The category of 'state significant developments' is ever-expanding. And of course the Carr Government has pursued an aggressive program of selling off public land for development.

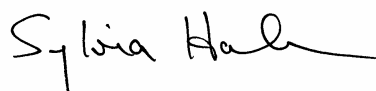
Empowered citizens know that they have the right to demand that Governments – Local, State and Federal – listen to them. Residents are increasingly willing to stand up and fight for the future of their area. The victories of past decades, which saved heritage buildings and open space that are now treasured, have made society more accepting of this kind of protest.

Yet these issues are still difficult. Often local residents find themselves facing the power of cashed-up developers, who may have many millions of dollars at stake and who offer little sympathy for the long-term concerns of residents. The links between developers and the major parties have never been cosier, with the property industry contributing \$2.27m to the Labor Party and \$1.85m to the Liberal Party over the three years before the last state election.

This kit aims to be a resource for taking on overdevelopment and winning. It attempts to answer, in one package, many of the questions residents approach me with about how to stop or change a proposed development in their area. It aims to give you, as a community activist, the tools you need to make your voice heard.

There is an amazing diversity of people working on these issues, in widely different circumstances. The intention of this kit is that it contains something of use for everyone – whether you are an individual concerned about a proposal in your street or part of a larger group battling a major development. It is meant as a resource, not a formula: your common sense is always the best guide. Suggestions for improvements are always welcome.

The Greens support development which is environmentally sustainable, people-centred, and designed to benefit the long-term public good. With the assistance of this kit, I look forward to supporting residents across NSW in taking action on the issues that matter. These are no less than the kind of world we are leaving for our children.



Greens MP Sylvia

Hale

Sylvia Hale MLC

Greens Member of the NSW Upper House



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2. Tips on getting active

So you're concerned about inappropriate development in your area but don't know what to do? Not sure that you can really make a difference?

Your contribution is vital to protecting your community. When citizens take a stand against rich and powerful developers they can ensure that developers' activities are exposed to public scrutiny. By writing letters, tabling petitions, lobbying Councillors and using the media to draw attention to your issue, it becomes more difficult for developers, Councillors and state politicians to ignore your arguments; however reluctantly, they may yield to public pressure.

What to do?

There are many ways that you can get active in your local area. Included in this kit are a few 'how to' points and materials to help you:

- Lobby your local councillors
- Organise a petition
- Hold a stall in your local area
- Lobby your local MP
- Contact the media
- Make a flier
- Form a local residents group

These are just some tips and suggestions – your own common sense is the best guide.

If you would like any more advice, contact the office of Greens MP Sylvia Hale (02 9230 3030, sylvia.hale@parliament.nsw.gov.au).

➤ Lobby your local Councillors

Your local council is the first place to try to stop an inappropriate development in your area. A Development Application (DA) must usually be lodged with Council to obtain approval for new buildings, alterations, additions, change of use or of hours, etc. Council has the power to refuse, modify or approve the DA.

Once a Council approves a DA, there is usually very little residents can do to overturn that approval. Third parties (ie anyone other than the person seeking development approval) have very few rights to appeal to the Land and Environment Court to overturn a Council decision. It is essential to get involved in an issue as early as possible – the earlier in the development process you start getting organised, the more likely you are to win.



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If you are concerned about a particular development in your area:

- Find out if there are any sympathetic Councillors on your Council and ask them for advice.
- Ring your local Council to find out if the development has been approved or whether a development application has even been lodged. If the developer has not lodged a DA and the development has already started, phone, write or email the Council's General Manager and your local Councillors and inform them that illegal work is taking place.
- Visit your local Council and **inspect the development application**.
- If you were not notified of the development proposal and believe you should have been because of its impact on you, **write to the General Manager** of the Council and send copies of your letter to Councillors.
- **Write to Council** detailing your objections and outlining how the development will affect you. Even if the time for making a submission has closed, still write. There is often a long gap between the close of submissions and the Council Officers writing a report/making a recommendation about a DA. When you are writing a submission, keep in mind that Council can only consider matters related to environmental impact. This can include issues such as overshadowing, privacy, heritage and streetscape. Council cannot consider objections such as moral issues, commercial competition or the specific personal circumstances (eg health, family size) of an applicant or objector.

Usually, you will not receive an individual response, as an outline of submissions received will be compiled into a report. If there are enough letters and other lobbying, it is more likely that the DA will be considered by elected Councillors rather than by Council staff, which means your lobbying has more weight. You may get the opportunity to speak at a Council meeting.

- **Approach neighbours** and others in the vicinity and establish whether the issue is wider than just your individual concerns. If there are a lot of people in the area who have similar concerns, you have a better chance of stopping or modifying the development.
- **Encourage your neighbours to write letters and to phone Councillors.** If Councillors receive letters from lots of residents they become aware the development is an issue they can't ignore. It makes a stronger impression if the letters are not identical, so it is best for everyone to write their own letter rather than rely on a form letter. Even so, a form letter is far better than no letter at all.
- Get your neighbours and local residents to **sign a petition** against the development and present it to Council. For more detail on preparing and presenting petitions, see below.
- **Ask individual Councillors to come and look at the site** before the Council meeting so you can show them exactly what you object to. Remember, your main focus should be on the Councillors you need to convince – ie. those likely to support the development!



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- Ring Council and **ask what its policy is about site inspections**. Some Councils may arrange an inspection before the matter comes before Council, others may require the matter to go to Council for it to agree to an inspection.
- Ring Council or friendly Councillors to **find out the procedure for addressing Council meetings** about the matter. Different Councils have different requirements.
- Try to **persuade lots of residents to attend the Council meeting** and, if possible, speak at it.
- **Contact the local media** if the issue warrants it.

➤ Organise a petition

This is an easy and effective way to get people involved. Included in this kit is a sample petition you can copy and adapt to your needs, or you can compose one of your own. All you need for a petition is a clear statement in a basic format, and a good idea of what to do with it when it's signed.

The act of getting people to read and sign a petition alerts them to your issue. Even if your request is ultimately ignored, the petition is a key means of raising your concerns with the community at large.

A petition to Council. A petition may be sent to your Council, in which case the actual format is not critical. You can use the sample petition in this kit as a guide. It is best to get your petition to Council before the submission period ends (or as soon as possible thereafter). If you know you will be able to address Council about the DA, you could present your petition when you speak. The Council Officers' report on a DA will usually include a reference to the number of people who have signed a petition as well as to the number who have written letters.

A petition to Parliament. Occasionally it may be better to petition either the State or the Federal parliament. A petition is basically a request for action. For example, a petition may ask the Parliament to introduce legislation, to repeal or change existing legislation, or to take action for a certain purpose or for the benefit of particular persons.

The subject of a petition must be a matter on which the Parliament has the power to act - that is, it must be a State (or federal) matter involving legislation or government administration.

Any **statement** that is going to be used in a petition should be:

- Short – no more than two or three paragraphs
- Clear – use simple, direct language
- Action oriented – a petition should make a specific demand for action, for example: "That the House will ensure that approval is not granted for the building of a waste transfer station in the former Clyde marshalling yards".



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A petition usually follows a **basic format**. It must:

- be on one side only of each sheet of paper
- be addressed to the appropriate parties: the Mayor and Councillors; or the President and Members of the NSW Legislative Council; or the Speaker and Members of the NSW Legislative Assembly
- have the names, addresses AND signatures of people who sign (make sure you clearly indicate and leave enough room for all this information)
- have a copy of the statement at the top of each page

There may be **specific requirements**, like a certain form of words, for petitions to Parliament. This kit includes an example of the format used to lodge a petition to the NSW Upper House. For detailed advice, ask your local MP.

It is essential to be clear about **what you're going to do with the petition** when it's signed. This sounds simple, but it can be tricky. Usually, you can simply send your petition into your Council. But if you wish it to be presented to Parliament, you need to make sure it complies with the relevant rules. You also need a member of Parliament to present it for you. This kit sets out the rules for the Legislative Council (Upper House) of the NSW Parliament, which means that a Greens MLC, such as Sylvia Hale, Lee Rhiannon or Ian Cohen, can present it for you. You could approach Greens Senator Kerry Nettle for information about petitions to Federal Parliament (ph 02 9241 6663, email senator.nettle@aph.gov.au).

You may want to **get in touch with the people who have signed the petition** to let them know about your group or local events you are planning. It is an infringement of people's privacy to add their names to a database simply because they have signed a petition. Instead, you should ask people when they are signing if they would like more information about your group's meetings or activities, and keep a separate list.

➤ Hold a public meeting

If the matter is of widespread community interest (such as sale or rezoning of public land), you may want to hold a public meeting. This requires planning.

Things to consider are:

- accessible location, date, starting time, and length of meeting
- prior publicity: fliers, letterboxing, media release
- agenda
- one or two speakers or a panel?
- time for questions and discussion
- motions or future actions to come out of the meeting.

You will usually want to have the assistance of other people in organising a public meeting. This can be a great start-up activity for your residents group, to raise the profile of your issue and attract other interested people.



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➤ Hold a stall in your local area

A stall is a great way to inform the general public and locate people who may want to get involved.

Often all you have to do is set up your stall in a spot where people are likely to stop and chat. There may be instances where you need permission to use an area: always check with the owners or managers if it is private property and the Council or government agency if it is a public area.

You may have a **great location** to run a stall where there will be lots of passers-by with time to stop and browse, like a busy shopping area. If not, it may be useful to consider booking a stall somewhere that people will come to you, such as at a local fete, street fair, or a church or school social day.

The next step is to **staff and stock your stall**. Some items that are useful are: fliers, newsletters, petitions and letter writing material; free information and brochures (which you might be able to get from community or local environment groups); a donations tin (to pay for photocopying and incidental costs); paperweights (stones or rocks may do); plenty of pens and clipboards for people to use; colourful stickers, badges or posters to give away (if you have them).

Essential items for any stall are: a card table or similar, and maybe some fold up chairs; material that includes the contact details for your local group/ main organisation; a handout with details of your next meeting or event; a big sign or banner clearly saying what you're there for and your group's name; friends to help out, especially at meal times; enthusiasm and a clear understanding of what your stall is all about.

Finally, there are a few **just-in-case items**: clear plastic sheet for the stall in case it rains; a copy of your written authorisation or the phone number of the official who gave you permission to hold the stall; phone number of the local police station in case of hassle (unlikely but be prepared); masking tape is always useful; sunscreen; snacks and a thermos of your chosen beverage.

Presentation should be neat and accessible. A few items clearly displayed are better than piles of papers. One tip is to keep more voluminous or detailed information nearby for those who ask. Clearly mark any items that are for sale with their price. A colourful display is a bonus but not really necessary – people will be curious about what you have to say without the need for fancy props.

If you don't have time to run a stall you can often get the same information out to the community by putting it on public **notice boards** in your workplace, local shopping centre, school, church etc. Don't forget to leave details of your next meeting or a contact number so that people who are interested can get involved.



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➤ Lobby your local State MP

At any stage in the development approval process, the State Government can intervene, remove all power from the Council to decide the application, and give it to the Minister for Infrastructure and Planning. If this happens, it is worthwhile lobbying your local state MP, upper house MPs, and contacting the Planning Minister directly.

You would be surprised how effective it can be if you write, phone, email, fax or visit your local Member of Parliament to lobby them about important issues.

Most MPs do not have access to special polling or targeted information about the views of their electorate, except at election time. Your personal message is therefore very important. Information about what electorate you are in and contacts for your local state MP are at www.parliament.nsw.gov.au.

Make an appointment with the MP at his or her office. Take a few friends. Calmly and clearly explain your position, and ask if they are aware of the development, and what your MP is doing about it. After the meeting write a letter thanking the MP and include a reference to what they promised or told you. If you ask for their suggestions or assistance in meeting with relevant government officials or departments, they will have to respond to your request.

Invite an MP to an event such as a meeting, lunch, or opening. Organise it through your group and ask him or her to be a guest speaker and answer questions. Many of the tips applying to public meetings will be useful for smaller events.

Organise a site visit. If the proposed development is a very large one that has ramifications for the area (eg will result in loss/destruction of sensitive environmental area or public space) ask the MP to come with you to inspect the site. If s/he agrees, prepare for the event so that the MP will leave with detailed information, maps, site knowledge and an awareness of community concerns.

Write a letter or send a fax. Your letter should be no more than one or two pages long, have one clear message and include a specific question or demand. Presentation counts: avoid excessive underlining, exclamation marks or use of capitals. A dot list of points will help to focus the reader's attention on your concerns. A calm and rational letter will get a better response. If you do not get a satisfactory reply, ring the MP's office to follow up.

Send an email. Letters get more attention than emails, but if you are going to write an email make sure you include your full name and postal address so the MP knows you live in his or her electorate. Make it clear that you want a reply. Don't be tempted to be too informal just because it is an email. The same rules apply as for letters and faxes. All NSW MPs' email addresses follow the same format: firstname.lastname@parliament.nsw.gov.au. See www.parliament.nsw.gov.au for more information.



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➤ Contact the Media

The local media can be a great place to draw attention to your issue and put pressure on Councillors. Many local papers are under-resourced, and will sometimes print stories if you present them with a finished product. This could be a media release or a complete story that you have written. It helps to have a photo. Make sure the photo tells the story, that it's clear and will reproduce well when printed. It helps if it looks good in black and white, in case people photocopy the media story.

If one paper or station picks up your story, it can be easier to get others to take notice of you. If you manage to get onto local radio in the morning, the local TV news might pick it up that night, or the paper might do a story the next day or on the weekend. It is a good idea to **blitz all the media outlets at the same time** so that they don't feel like it's "old news" if someone else covered it earlier.

Media releases are written in a standard format. In general, a media release should:

- Begin with a statement that sums up what you want to say and introduces who you are
- Use one paragraph for each sentence
- Use colourful, interesting language that will make good quotes
- Fit onto one A4 page, preferably in size 12 font
- Include your contact phone number at the bottom of the page
- Include a short, punchy heading in a larger font than the rest of your release/story.
- Be accurate.

See the sample media release in this kit.

Another way to attract media attention to your story is to use talkback radio. If you are aware that a local radio station will be discussing your issue, let as many people know as possible.

It can be really exciting but also a bit daunting if you do start getting media attention. It's a good idea to have a friend with you if you are doing interviews to give you moral support and feedback.

➤ Make a flier

Fliers are a great way to get your message out to people. You can letterbox your neighbourhood, hand them out at train stations or other busy places, or use them on stalls or at public meetings.

Here are a few tips for writing a flier:

- **Use pictures or logos** to break up the text. It's much easier to look at a page that is broken up by images than a page that is too full of writing.



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- **Less is more.** People will respond better if your information is condensed and easy to understand. For an A5 flier (half A4 size), six one-sentence bullet points is about the upper limit. Use a large font size.
- **Print double sided** if you can. That way you can fit on a lot of information and save on paper. Always put the vital information on the front.
- **Coloured paper** is more eye-catching than white paper.
- Make sure you include a **contact phone number and/or email address** so that people can contact you for more information or to offer help.
- Include the **details of your next meeting or action** – fliers can be a great way to get people to come along
- If you are handing out fliers, **mornings are generally better than evenings**, especially if you are handing out to people getting on a train. They have the whole train trip to read your information and let it sink in!

➤ **Form a local residents group**

If you haven't already formed a community group, it can be really helpful in spreading the workload among a number of people. It doesn't have to be a big deal – you just need a group of keen people and a name!

It can be a good idea to:

- **Give yourselves a name** which is catchy and which sums up what you are doing.
- Assign someone (not necessarily the same person each time) to **take minutes** of your meetings so that you have a record of what you agreed to do, when, and who was to do it. Usually you will need only minimal notes.
- **Assign someone as the main contact** for the group so that you can have the same contact number on any fliers, newspaper stories, media releases etc.
- **Spread the work around** – make sure everyone has something they are responsible for doing before the next meeting.
- **Keep meetings as brief** and constructive as possible – and don't forget to laugh and have fun!

➤ **Get active!**

It doesn't matter if you take up all or only one of these suggestions, or if you invent your own strategies – every little bit counts to make developers and decision-makers accountable. Remember, if you don't take action and make your voice heard, your interests cannot be taken into account. Good luck!



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3. Handling threats

The sad fact is that those who are standing up against overdevelopment are often subjected to threats of various kinds. In the overwhelming majority of cases these come to nothing, but can cause disruption to your campaign and unhappiness to the people involved. If you know how to respond you can avoid unnecessary delays and distress.

Extracted below is information from the Victorian Environmental Defenders Office 'Defend the Defenders' series, about how to handle legal threats, threatening letters and phone threats. This is only a quick summary – we encourage you to get more information using the list of useful references at the end of this section.

➤ Threatening phone calls

A common form of harassment is threatening phone calls, often after 'trigger' events such as media stories or government decisions. Usually these are directed at whoever answers the phone, occasionally to a specific person and sometimes left on an answering machine.

If you receive a threatening phone call:

- Keep calm. No matter how menacing the call do not get into an argument. Write down all the observations you can about the call, the voice, background noise etc.
- Remember that it is rare for anything to happen after threatening phone calls. People making such calls thinking they can scare you but having no intention of actually doing anything.
- Once the call is over, ensure that you discuss it with someone else you trust.
- If the message is on an answering machine, don't delete it. Transcribe it and either keep the tape or make a copy.
- If you have a regular police liaison person, contact them as soon as possible. Never give police your only copy of notes or a tape.
- If you get a number of calls from the same person make sure you mention this to the police. It usually takes a number of calls before police will even consider getting a trace on your line.
- You might push a number on your handset mid-call which will give a tone on the line and imply to the caller that you are activating a trace. This deters many callers.
- It can be useful to have a handheld Dictaphone with a microphone socket. An induction microphone can be obtained for a small price to attach to the back of the earpiece and record the conversation. It is illegal to record phone conversations without the consent of the other party. Informing threatening callers that you are about to tape the conversation may mean that they will hang up and not ring back.



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➤ Threatening letters

More common than threatening phone calls are threatening letters. If you receive a threatening letter:

- As soon as you realise it contains a threat avoid handling the surface of the paper.
- Pick the letter up by the edges and place in and the envelope into a plastic sleeve.
- Photocopy both the envelope and the letter and keep the copy for your files.
- Place your copy into a file for such letters – over time you may notice a pattern from handwriting, postmarks or details.
- Make a note of who handled the letter and envelope before you realised it was a threatening letter – if police want to test for fingerprints this will help in isolating those of the author.

➤ Legal threats

It is all too common for community groups to receive veiled or actual legal threats. In the US these are called Strategic Lawsuits Against Public Participation (SLAPPs) – legal threats deliberately meant to hinder public campaigning.

The good news is that only a tiny percentage of threats ever proceed beyond a letter. If you receive a legal threat:

- When you open the letter threatening legal action against you, you will probably have a sinking feeling in your stomach. Sit down, take a few breaths and remember that the letter in your hand is probably the first and last you will ever hear from the opposing lawyers. Remember only a tiny fraction of threats ever go beyond the first letter, so don't panic.
- The letter will probably refer to a specific action, media release or publication where you are supposed to have defamed the lawyer's client [defamation threats are among the most common SLAPP suits]. Quickly get a copy of this if you can. Immediately start a file in which you put all relevant material. Give a copy of the material to your lawyer, not the originals.
- Talk to your closest colleagues and let them know about the threat and ask if they know of anyone else who has received one as well. If the threat relates to a statement that was published in a media outlet, contact the media organization to see if they received a threat as well. One of the telltale signs of a legal bluff is where they threaten legal action against the person who made the statement but not the publisher or broadcaster. If this is the case you can relax a bit – it is a signal they want to scare you but don't want to alienate the media organization.
- Organise a meeting with your legal adviser – the sooner the better and that same day if at all possible. The less time you have to worry about the matter, the better. Fax them the letter and any relevant background material.



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- The media strategy for every situation is different but as a general rule you have little to lose by going public. Look for the opportunity in the threat. With a smart response, you can turn a legal threat to your advantage, allowing you to state your case again, gain public sympathy and deter your opponent and possibly others from resorting to legal threats again.

➤ A Checklist For Larger Groups

- Public statements policy
 - Clarify who is authorised to speak publicly for the group.
 - Have a procedure to check draft media releases.
- Training
 - Make sure that ALL people who may make public statements – media releases, speaking at public meetings, writing articles, editing magazines – attend training covering defamation law and how to handle legal threats.
- Legal Advice
 - Ensure you have someone on the board of your organisation who has legal skills
 - Develop a good working relationship with one or two individuals who can offer you good and quick legal advice
 - Threats could come via media releases or public statements, so have after hours numbers for your legal advisers. Don't wait to get advice.
- Incorporation
 - Consider becoming an incorporated organisation. This limits the exposure of the assets of individual members, not necessarily the directors, to a nominal amount.
- Directors Liability Insurance
 - Directors liability insurance can protect members of the board or the executive from being personally liable for damages awards against the organization. These policies don't come cheap and are usually in the range of \$5,000 per year.
- Defamation insurance
 - It is possible for individuals and organizations to obtain insurance coverage for defamation actions (either as a separate policy or together with directors liability insurance). This can be expensive.

RESOURCES

Defend the Defenders Project (2002) (Guides available online)

Environment Defenders Office Victoria

Ph 03 9328 4811; fax 03 9326 5687; www.edo.org.au

A NSW Guide to Non-Violent Action, the Environment and the Law (1998)

Defending the Defenders: Protest, the Environment and the Law (1998)

Environmental Defenders Office NSW

Ph 02 9262 6989; fax 02 9262 6998; www.edo.org.au

All Media Law Handbook: Everything You Wanted to Publish But Were Afraid You'd be Sued (2001)

Australian Broadcasting Corporation (Available from ABC Shops)



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4. Cutting through the jargon

Sometimes it can be really difficult to understand what's going on because the jargon is confusing and the process of a development application can be complex. This glossary of terms and timeline of the process should help to demystify the process.

➤ Glossary of terms

(NB This Glossary aims to give a general understanding of the planning jargon you may encounter. It is neither definitive nor exhaustive and should be taken as a guide only.)

Conditions of Consent: Refers to certain conditions that may be placed on a development by the Council or consent authority in order for it to be approved.

Consent Authority refers to the authority that has the ability to approve or deny a DA. This may be the local Council (either council staff or the elected council body), the Minister and/or another government agency.

Council Officer: an employee of Council. The elected Council may **delegate authority** to some employees (eg Manager of Planning) to decide whether to approve or refuse a DA. If the DA is refused or the applicant is unhappy with some of the conditions applying to an approval, the applicant may appeal to the elected Council to overturn or amend the decision made under delegated authority.

Councillor: a resident, owner or ratepayer of land in a Council area who is also able to vote in Commonwealth or State elections is entitled to vote and stand for election to that Council. Elections are usually held each September at four yearly intervals (although the 2004 election will take place in March). Currently a Council may have no fewer than five and no more than 15 elected Councillors. The Councillor's role is "to represent the interests of residents and ratepayers, to provide leadership and guidance to the community, and to facilitate communication between the community and the council."

Development: section 4 of the *Environmental Planning and Assessment Act* defines development as the erection of a building, carrying out of a work in, on, over or under land, the use of the land or of a building or a work on the land; and subdivision of land. Not all building works require development consent (or DA approval) before they can be constructed – very minor changes may be permitted without a DA. Your council will have standards detailing how significant development has to be before it requires approval. These standards will vary from council to council.

Development Application (DA): Before most development activities commence, a DA should have been lodged with Council and approved. (Councils have, however, the power to give retrospective approval to some unauthorised developments.) If a Council fails to approve a DA within 40 days of its lodgement, the applicant has an automatic right to appeal to the Land & Environment Court (LEC), although they may not choose to do so. Depending upon an individual Council's notification policy, residents likely to be affected by a proposed development must be notified about the DA and given the opportunity to make a submission supporting or objecting to the development.



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Development Control Plan (DCP): The DCP is the detailed plan that outlines what activities and development can take place on specific parcels of land. Individual proposals still require consent, but the DCP sets out what kind of developments are likely to be approved. It is more detailed than the LEP, and is usually made by the Council.

LEC: the *Land & Environment Court*. An applicant for development approval can appeal to the LEC if a Council refuses the application. The applicant can challenge the merits of the decision and the Court can exercise all the functions and powers of the Council and overturn the Council's decision. An objector cannot apply to the Court to review the merits of a Council decision to approve a DA.

LEP: a *Local Environment Plan* aims to control development within a Council area by zoning land for different uses. LEPs (unlike SEPPs and REPs) are made by Councils. A Council prepares a draft LEP which is then placed on public exhibition. Members of the public are entitled to make submissions about the LEP, which Council must take into consideration before adopting the draft plan and forwarding it to PlanningNSW for approval. The Minister for Planning has the power to amend an LEP or defer particular aspects if s/he considers it to be inconsistent with a SEPP or REP.

LES: a Local Environment Study must be conducted prior to a LEP being developed, and must be made available for public exhibition and feedback.

Ministerial "call in": section 101 of the *EP&A Act* empowers the Minister to "call in" and either refuse or approve a development that might otherwise have been decided by a Council. There is no appeal against the Minister's decision, no reasons for that decision need to be given, and the Minister can overturn a decision of both a Council and the Land & Environment Court. The Minister needs only to be of the opinion that the development is of State or regional significance and that it is in the public interest that s/he determines it.

Pecuniary Interest: a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated (see ss. 441 – 190 of the *Local Government Act 1993*)

Pecuniary Interest Declaration: when a Council is considering a matter in which a Councillor present at the meeting has a pecuniary interest, that Councillor must declare the interest and not participate in the discussion or vote on the matter.

Pecuniary Interest Disclosure: all Councillors and many Council officers are required each year to complete a form disclosing their pecuniary interests – ie their sources of income, real estate holdings, positions and shareholdings in companies, and gifts received. This is a public document that is held at Council. Any member of the public is entitled to inspect it upon request.

Public land: land that is owned or managed by a Council for public purposes. All public land must be classified as either "community" or "operational" land. Operational land may be sold or disposed of. Community land cannot be sold, exchanged or disposed of unless it has been reclassified as operational land. A Council must allow 28 days for public submissions on any proposed classification of public land.



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REP: a *Regional Environmental Plan* differs from an LEP in that it is made by the Director General of Planning and applies to part or all of a region. For example, Sydney REP 12 – Dual Occupancy covers the Sydney metropolitan area and is designed to remove obstacles to dual occupancy developments.

SEPP: a *State Environment Planning Policy* deals with matters considered to be of significance for environmental planning for the State. Some SEPPs apply across the entire State, others apply to relatively small areas or undertakings. Two of the more contentious SEPPs are:

SEPP 1 – Development Standards. This SEPP permits Councils to exercise their discretion to vary “development standards” (such as floor space ratio, height limits or minimum lot size which are contained in Local Environment Plans) supposedly to allow for flexibility in the decision-making process. SEPP1 is frequently relied on by developers to justify excessive, non-complying developments.

SEPP 5 – Housing for Aged or Disabled Persons. This SEPP permits construction of, for example, multi-unit housing for the aged or disabled on land whose zoning would normally forbid it. A major loophole exploited by developers is the absence of any mechanisms to ensure that the units continue to be used for the purpose for which they were supposedly built.

Statement of environmental effects: A statement outlining all the anticipated environmental impacts that a certain development is expected to impose. This is not a scientific document. For small developments, the proponent may draft their own statement.

Town Planner: This is a professional title such as teacher or doctor. The planning department is the section within Council that oversees the assessment and approval process, and the town planner will usually be the main contact person within that section.

The Act. The *Environmental Planning & Assessment Act 1979* (sometimes referred to as the *EP&A Act*) is the central piece of legislation that governs all planning. In NSW, all other tools and instruments are governed by the overarching framework of the *EP&A Act*.

S.94: section 94 of the *EP&A Act* allows a Council to require a monetary payment or dedication of land to compensate the community for the need to provide more public amenities or services (such as road works or open space) as a result of the development.

S.101: section 101 of the *EP&A Act* empowers the Minister for Planning to “call in” a development application (*see above*)

Zoning: the principal function of an LEP is to zone land within a Council area. Within each zone the LEP will list development activities that are permitted with consent, permitted without consent, and prohibited entirely.

- The full list of SEPPs and REPs: www.legislation.nsw.gov.au/scanact/inforce/EPITITLE/S.
- For more information about the planning system: www.dipnr.nsw.gov.au (NSW Department of Infrastructure, Planning and Natural Resources – formerly Planning NSW, previously Department of Planning)
- A handy guide to all things planning: David Farrier, *Environmental Law Handbook: Planning & Land Use in NSW*, 3ed 1999, Redfern Legal Centre



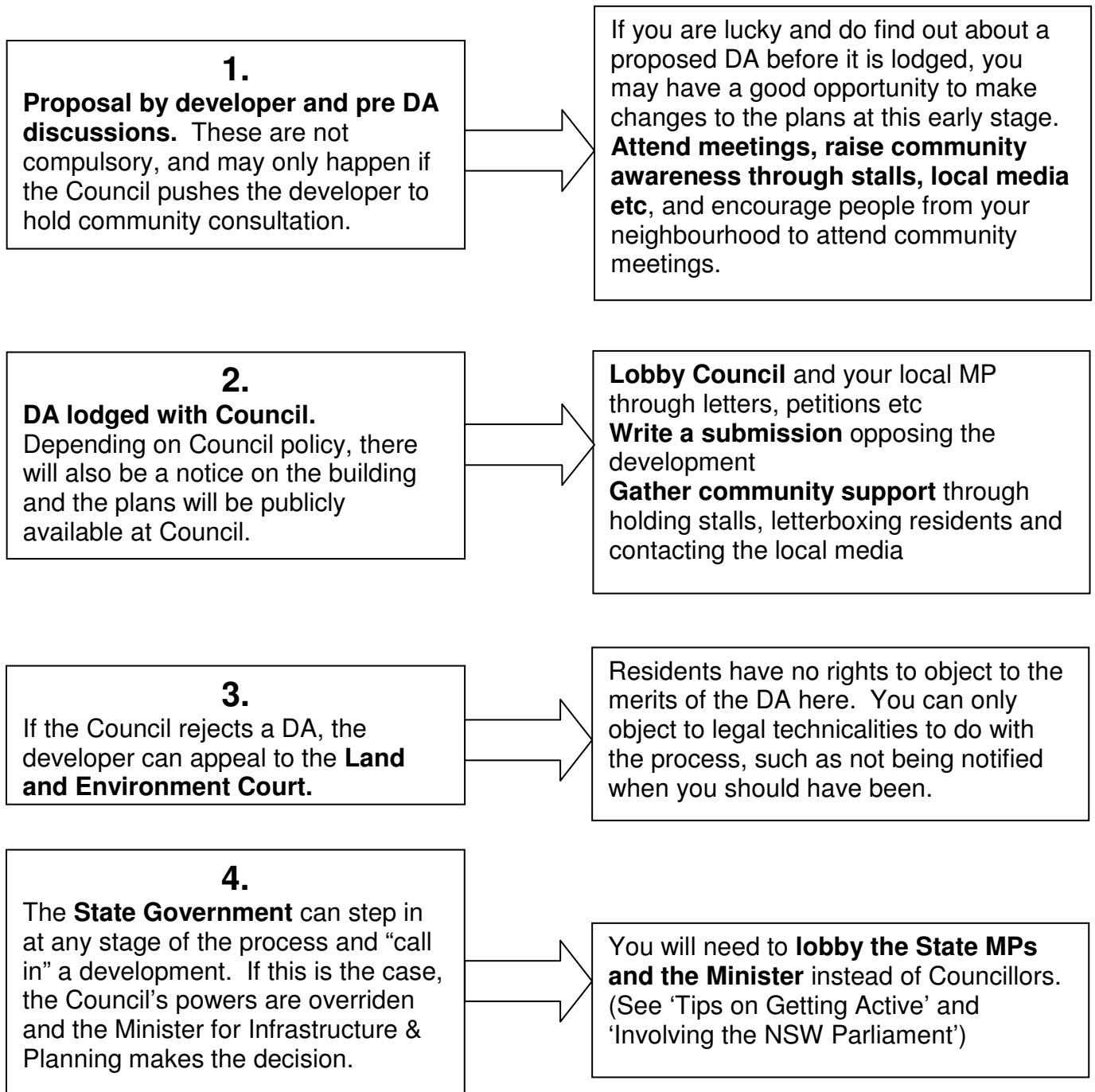
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5. Timeline of Development Decision-making

Stage of the Development

Actions you can take



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6. Involving the NSW Parliament

➤ What is the role of the State Parliament?

The State Government is responsible for more aspects of planning and local government operation than is often recognised. The State Government enacts and maintains the legislation that underpins the planning system, as well as approving the local plans Councils develop for their area. State Government mechanisms – such as SEPPS and REPPS or approval under Ministerial ‘call-in’ (see Glossary) – will always override local government decisions. What is more, the State Government controls the legislation that creates and regulates the very existence of local government.

Many developments are decided entirely by local government, in which case the NSW Parliament will have no direct role. In addition, often when the State Government is involved, decisions will be made by Ministers under their own authority, not directly accountable to Parliament. However because of the State Government’s powers, there is often some role for the NSW Parliament in development issues.

Some of the tools State MPs can use to affect development issues include:

- Tabling petitions
- Questions to Ministers (two kinds: on notice or without notice)
- Organising meetings with key bureaucrats and delegations to Ministers
- Putting concerns and information on the public record by making speeches to Parliament
- Drawing media attention to issues through site visits, media statements and hosting or speaking at public meetings
- In rare cases, holding Parliamentary Inquiries into controversial developments.

➤ Greens Members in NSW Parliament

Sylvia Hale and her colleagues Ian Cohen and Lee Rhiannon are the Greens members of the Upper House (Legislative Council) of the NSW Parliament. This is some of the work they have been doing to fight inappropriate development:

- Greens MPs have played a key role in major campaigns against inappropriate development. In support of community groups opposing some of the country’s wealthiest developers, Greens MPs have asked hundreds of questions, made speeches, moved motions, introduced Private Members Bills, and called for Inquiries.
- Greens MPs were very proud to work with the community to save Callan Park. This was a long campaign, to which Greens MPs gave full backing. In the end the Greens’ *Save Callan Park Bill* and community pressure forced the Labor Government to completely reverse its position and move its own legislation to enshrine protection. Although the Government’s proposed law was weak, the Greens successfully moved 7 amendments



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that ensured that Callan Park will be preserved for the public, not developed for housing or leased away to commercial interests.

- Greens MPs have focused on coastal development hotspots, such as Sandon Point in the Illawarra, Detala at Byron Bay, Ku-ring-gai in Sydney, and many others from Bega to the Tweed. By speaking in Parliament, supporting local objections and lobbying Government, Greens MPs have worked to protect our fragile coastline.
- Greens MPs have worked closely with the Independent Member for Bligh, Clover Moore, to block the commercialisation of the Botanic Gardens. Greens amendments were passed increasing consultation before leases and licenses are granted.
- The Labor Government changed the planning laws in 1997 to deny communities the right to have input on certain developments and to allow developers to carry out development by stealth. Greens MPs opposed those changes and have since cited many examples of substandard developments approved by certifiers in the pay of the developer. The Labor Government was forced to hold an Inquiry and has since tried to amend some of the worst aspects of private certification.
- Greens MPs moved amendments to make the highly biased Land and Environment Court fairer for communities opposing developments. Government and Opposition members, whose parties receive massive financial support from the development industry, combined to defeat all of these amendments.

➤ **Helping with your issue**

There are hundreds of developments in NSW that local residents and community groups are working on. Sylvia Hale and her fellow NSW Greens MPs are contributing to many of these local campaigns through their work in Parliament.

Unfortunately Sylvia and her fellow Greens MPs are able to focus on only a few of the many local campaigns the public approach us about. From the many submissions received, we select those likely to have outcomes of widespread community significance at a state level. By choosing our campaigns strategically, we have the greatest chance of making a difference.

This kit includes a survey about development issues in your local area. We encourage you to bring your issue to our attention, and to let us know what would be the most helpful assistance we could provide. If you fill in the survey, even if we can't help directly, Sylvia will keep information about your local campaign on file to be used for strategic planning on development issues.



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7. Sample Materials

➤ Submission to Council

This submission has been chosen as an example because it clearly shows the tone and content of a good submission to Council on a development issue. Particular features include: clear reference to the development; contact details and relationship of the writer to the development; clear, orderly and specific statement of concerns; proposed solutions and options; steps that the writer would like the council to take, including a statement that the proposal should be rejected.

ATT: [Name]
Approvals Section
Development & Environmental Services
[xxxxx] Council

Re: DA [quote DA number from notification], [address of development]

I live at 19 Blah Street which is adjacent to the above property. I can be contacted during business hours at [work number] or at home on [home number].

I acknowledge that the proposed development for 3 pairs of semi-detached houses (6 houses in all) is an improvement on previous proposals because the density is less and the provision of open space is greater. Nevertheless, I urge council to reject the proposal.

Number of storeys

The proposed houses front Blah Street and are flanked by nos 13, 17, 19, 21, and 23 Blah Street, which are all 2 storeys in height. The remaining houses in the street are a mix of one and two-storey dwellings. The three houses in Rhubarb Street to the rear of the proposed development are all single storey.

In an ill-conceived attempt to make three storeys appear to be two, the third storey in the proposed development has been "hidden" behind excessively large expanses of roof that will overpower the three heritage listed houses at 19, 21, and 23 Blah Street. The roofs will become the dominant feature of that part of Blah Street to the detriment of the heritage items and the heritage conservation area generally.

I believe that it is preferable for the development to be in keeping with the prevailing built form in Blah Street and be restricted to two rather than three storeys. Failing that, and as a very poor second option, the expanse of roof should be broken by gables or hips.

I am also concerned that the proposed roof is of metal when all surrounding houses have roofs of either slate or tile. The use of metal could further emphasise the incongruous nature of the roof expanse.



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Car spaces

I believe it is totally inappropriate for car parking spaces to be situated in the front yards of five of the six dwellings. Not only is this a visually unattractive feature out of keeping with the heritage conservation area, it is also unsafe. Children attending the local infants and high schools regularly walk up and down Blah Street. Their safety, and that of the public at large, will be compromised by the need for cars to reverse into or out of the parking spaces.

The provision of footpath crossings will also reduce the availability of on-street parking. Given that there is a railway station at the bottom of Blah Street and public bus services at the top, the street is extraordinarily well served by public transport. There is, moreover, ample space available for future residents to park immediately outside the development in either Blah or Rhubarb Streets.

Excavation

I believe the development will require excavation to a level lower than the footings of adjoining properties. I am concerned that this could result in earth movement and cracking of walls of those properties. I would, therefore, if the development is approved, request that a condition of approval be the preparation, at the developer's expense, of a dilapidation report on adjoining properties prior to any excavation work occurring.

Privacy

I believe that the single storey houses at 40, 38, and 36 Rhubarb Street to the rear of the development will suffer major impacts on their privacy from the rear balcony and numerous windows on the first and second storeys.

Finished details

I have been unable to attend Council to examine the proposed finishes but am concerned that the use of aluminium window and door frames may be inappropriate.

I assume, given the location of the development, adjoined as it is by heritage listed houses and situated within a heritage conservation area, that the proposal will be referred to Council's heritage architect for comment on its overall impact as well as on its design and detailing.

Yours sincerely

[xxxxxxx]



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➤ Flier

This is a good example of a flier for an event: simple & clear, easy to photocopy, quick to produce. While graphics can be great, this example shows that you don't need complex layout to produce something that will get your message across.

Protest Rally: Reclaim Our XX Site

**Keep Public Lands
In Public Hands**

**Fight [name politician]
and [name developer]'s
plans to carve up our
open space: the XX Site**

**11 am, Sunday March 16 2003
XX Site Main Gates
Whatever Rd, Suburb**

XX Residents Action Group [phone number]

⇒ *Clear statement of issue and action*

⇒ *Summary of stance: what side are you on?*

⇒ *Brief statement: why is the issue important?*

⇒ *(The back of the flier can contain more information)*

⇒ *When*

⇒ *Where*

⇒ *(specific directions)*

⇒ *Identify organising group with contact details.*



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➤ Media Release

SAVE OUR XX GROUP

Media Release
[date]

Future of XX site Hangs in the Balance

Residents, with the support of Independent and Greens MPs, are calling on [The Local] Council to reject the controversial Development Application by [Developer Corp] at its meeting on Monday night.

Residents are challenging councillors to support the community and vote against the DA proposal to build two 6-storey blocks of 90 flats.

“The developer’s propaganda keeps claiming that the application ‘complies with all relevant planning and heritage controls’. It does not. They know it doesn’t,” said Save Our XX co-convenor, Fanny Bloggs.

“Let’s hope councillors won’t have to face residents and say ‘I was on the team that voted for the XX Concrete Bunkers.’

“Residents are encouraged that Council’s Planner has recommended refusal. Mayor Big Mouth says he is ‘strongly opposed to this proposal’ (letter of 99 August). We call on Council to uphold this recommended refusal.

“In a headlong rush for approval, [Development Corp] tried to skip the Council’s approval by going directly to the Land and Environment Court,” Ms Bloggs said.

Barry Other, co-convenor of SOXX said “close to a thousand petitions have been received from local residents who will lose their light, sun and open space permanently if the development is approved.

“Greens Upper House MP, Sylvia Hale has been supporting the community, challenging the developer to listen to residents.

“The Council should treat this unworthy development with the contempt it deserves and provide the developers with an actual refusal,” said Mr Other.

The council will vote on the proposal next Monday, 66th September at 6.30 at the Town Hall.

For more information: [name] [contact number]



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➤ Letter to Minister

Once again this letter is used as an example because it contains the key elements: identification and contact details of the writer; clear statement of the problem; and a specific request for action. This letter also addresses one issue and fits within one page.

[Your name]
[Your address]

[date]

Our ref: EvansHeadSTP.803/je

The Hon [name of Minister] MP
Minister for [relevant portfolio]
Level 31
Governor Macquarie Tower
1 Farrer Place
Sydney NSW 2000

Dear Minister

I would like to bring to your attention some recent disturbing developments that have occurred at and around the Porpoise Spit Sewage Treatment Plant (STP).

I understand that effluent from the STP is flowing past the tip of Blue Lagoon into Treasure National Park and causing algae problems, paperbark tree deaths and the closure of the area to fishing and swimming.

I also understand that the STP has secondary treatment only and the effluent coming from it has very high nitrogen, phosphate and faecal coliforms. The faecal coliforms as they leave the STP are, for example, 1.22 million cfu/100ml, while the ANZECC guidelines for swimming and boating are 150 and 1000 respectively. Users of this waterway are therefore being put at risk.

I understand that the development of a new STP is scheduled for 2006. However the environmental damage and health risks of the current situation are too serious to continue for another three years. Accordingly, I urge you to use your powers as Minister to ensure that this situation is rectified immediately.

Yours sincerely,

[signed]

[Name]

CC The Hon [name of minister], Minister for [other portfolio indirectly relating to this issue]



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8. Useful Contacts

➤ **NSW Ministers and Shadow Ministers** as at 1 August 2003.

Postal address for all MPs is: NSW Parliament House, Macquarie Street, Sydney 2000.

For an up to date list of all MPs and Ministers see www.parliament.nsw.gov.au

Government Ministers

Bob Carr, MP

Premier

Phone: (02) 9349 6440

Fax: (02) 9349 4594

Ministerial Office Ph: (02) 9228 5239

Ministerial Office Fax: (02) 9228 3935

Andrew Refshauge, MP

Deputy Premier

Phone: (02) 9558 9000

Fax: (02) 9558 3653

Ministerial Office Ph: (02) 9228 4499

Ministerial Office Fax: (02) 9228 4400

John Della Bosca, MLC

Minister for the Central Coast

Phone: 9230 3479

Fax: 9230 2469

Ministerial Office Ph: 9228 4777

Ministerial Office Fax: 9228 4392

Michael Costa, MLC

Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)

Ministerial Office Phone: 9228 5665

Ministerial Office Fax: 9228 5699

Frank Sartor, MP

Minister for Energy and Utilities,

NSW Parliament House

Phone: (02) 9597 1414

Fax: (02) 9567 0508

Ministerial Office Ph: (02) 9228 4700

Ministerial Office Fax: (02) 9228 4711

Tony Kelly, MLC

Minister for Rural Affairs, Minister for Local Government, and Minister Assisting the Minister for Natural Resources (Lands)

Phone: 9230 2528

Fax: 9230 2530

Ministerial Office Phone: 9228 3999

Ministerial Office Fax: 9228 3988

Craig Knowles, MP

Minister for Infrastructure and Planning, and Minister for Natural Resources

Phone: (02) 9605 7000

Fax: (02) 9618 2346

Ministerial Office Ph: (02) 9228 4204

Ministerial Office Fax: (02) 9228 3716

Bob Debus, MP

Minister for the Environment

Phone: (02) 4751 3298

Fax: (02) 4751 1245

Ministerial Office Ph: (02) 9228 3071

Ministerial Office Fax: (02) 9228 3166

Carl Scully, MP

Minister for Roads, and Minister for Housing

Phone: (02) 9726 8668

Fax: (02) 9728 4824

Ministerial Office Ph: (02) 9228 4455

Ministerial Office Fax: (02) 9228 463

David Campbell, MP

Minister for Regional Development, and Minister for the Illawarra

Phone: (02) 4285 1588

Fax: (02) 4285 1858

Ministerial Office Ph: (02) 9228 3777

Ian Macdonald, MLC

Minister for Agriculture and Fisheries

Phone: 9230 3034

Fax: 9230 3032

Ministerial Office Phone: 9228 3344

Ministerial Office Fax: 9228 3452

Diane Beamer, MP

Minister for Western Sydney, and Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)

Phone: (02) 9834 2999

Fax: (02) 9834 3900

Ministerial Office Ph: (02) 9228 4130

Ministerial Office Fax: (02) 9228 4131



Sylvia Hale MLC

Greens NSW Parliamentary Spokesperson on Planning & Local Government
NSW Parliament House, Macquarie St, Sydney NSW 2000

Ph 02 9230 3030 Fax 02 9230 2159 Email: sylvia.hale@parliament.nsw.gov.au

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Reba Meagher, MP

Minister for Fair Trading
Phone: (02) 9724 3381
Fax: (02) 9724 6056
Ministerial Office Ph: (02) 9228 3555
Ministerial Office Fax: (02) 9228 3722

Kerry Hickey, MP

Minister for Mineral Resources
Phone: (02) 4991 1466
Fax: (02) 4991 1103
Ministerial Office Ph: (02) 9372 0123
Ministerial Office Fax: (02) 9372 0199

Shadow (Opposition) Ministers

John Brogden, MP

Leader of the Opposition
Phone: 9230 2270
Fax: 9999 0922

Andrew Stoner, MP

Leader of the National Party
Shadow Minister for Natural Resources
Shadow Minister for Regional Development
Phone: 9230 2281
Fax: 6563 1355

Barry O'Farrell, MP

Deputy Leader of the Opposition
Phone: 9230 2213
Fax: 9499 2281

Don Page, MP

Shadow Minister for Roads
Shadow Minister for Housing
Phone: 9230 2246
Fax: 6686 7470

Michael Richardson, MP

Shadow Minister for Environment
Phone: 9230 2168
Fax: 9899 3340

Peta Seaton, MP

Shadow Minister for Infrastructure and Planning
Shadow Minister for the Illawarra
Phone: 9230 2261
Fax: 4861 3546

John Ryan, MLC

Shadow Minister for Western Sydney
Phone: 9230 2423
Fax: 9230 2160

Mike Gallacher, MLC

Shadow Minister for Transport Services
Shadow Minister for the Hunter
Phone: 9230 2302
Fax: 9230 2980

Duncan Gay, MLC

Shadow Minister for Agriculture and Fisheries
Phone: 9230 2329
Fax: 9230 2923

Chris Hartcher, MP

Shadow Minister for the Central Coast
Phone: 9230 2069
Fax: 4324 2356

Brad Hazzard, MP

Shadow Minister for Energy and Utilities
Phone: 9230 2215
Fax: 9981 5059

Andrew Fraser, MP

Shadow Minister for Local Government
Shadow Minister for Rural Affairs
Phone: 9230 2287
Fax: 6652 7934

Katrina Hodgkinson, MP

Shadow Minister for Small Business
Shadow Minister for Fair Trading
Phone: 9230 3540
Fax: 6226 3345

Adrian Piccoli, MP

Shadow Minister for Mineral Resources
Shadow Minister Assisting the Leader of the National Party on Natural Resources
Phone: 9230 2313
Fax: 6962 7725



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➤ NSW Greens MPs

The NSW Greens Opposition

NSW Parliament House
Macquarie St
Sydney NSW 2000

Ian Cohen
Tel 9230 2603
Fax 9230 2267
Email:
ian.cohen@parliament.nsw.gov.au

Lee Rhiannon
Tel 9230 3551
Fax 9230 3550
Email:
lee.rhiannon@parliament.nsw.gov.au

Sylvia Hale
Tel 9230 3030
Fax 9230 2159
Email:
sylvia.hale@parliament.nsw.gov.au

Portfolio responsibilities

Drug Law Reform
Energy
Tourism
Environment
Aboriginal Affairs
Agriculture
Natural Resources
Regional Development
Rural Affairs
Forestry
Emergency Services
Sport and Recreation

Treasury
Education
Industrial Relations
Justice
Public Works & Services
Mineral Resources
Gay and Lesbian Rights
Transport, Roads & Ports
Gaming & Racing
Women, Youth & Ageing
Electoral Issues
Information Technology
Parliamentary process

Health
Local Government
Infrastructure and Planning
Western Sydney
Housing
Community & Disability Services
Arts
Small Business
Insurance
Training
Fair Trading
Multiculturalism & Ethnic Affairs



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9. OVERDEVELOPMENT SURVEY

Thank you for taking the time to return this survey on the overdevelopment issues you are facing. My Greens colleagues in the NSW Parliament and I appreciate you bringing your issue to our attention. Even if we can't help directly, I will keep information about your campaign for strategic planning on development issues. **Sylvia Hale MLC**, NSW Parliament

Where is the development you are fighting? _____

What are your main concerns about the development? _____

Have you formed a residents group? (if yes, what are you called?) _____

How do you think that the Greens in the NSW Parliament might be able to help you on this issue? _____

Do you have any comments about Sylvia Hale's Action Kit on Overdevelopment?

Would you like additional copies of the Action Kit? (If so, how many?) _____

Your details:

Name: _____

Address: _____

Phone/ fax numbers: _____

Email: _____

Please return to: Sylvia Hale MLC, Parliament House, Macquarie St Sydney NSW 2000



Sylvia Hale MLC
Greens NSW Parliamentary Spokesperson on Planning & Local Government
NSW Parliament House, Macquarie St, Sydney NSW 2000
Ph 02 9230 3030 Fax 02 9230 2159 Email: sylvia.hale@parliament.nsw.gov.au