

**Submission
No 130**

SUSTAINABILITY OF ENERGY SUPPLY AND RESOURCES IN NSW

Organisation: Environmental Defenders Office NSW (EDO NSW)

Date Received: 13 September 2019

15 September 2019

Committee Manager
Committee on Environment and Planning
Parliament House
Macquarie Street
Sydney NSW 2001

By email: environmentplanning@parliament.nsw.gov.au

Dear Sir/Madam,

Re: Committee on the Sustainability of Energy Supply and Resources in NSW

EDO NSW welcomes the opportunity to contribute to this Committee's inquiry into the sustainability of energy supply and resources in New South Wales.

EDO NSW is a community legal centre specialising in public interest environment and planning law. We have a long history of involvement in law reform relating to climate change and other environmental issues confronting regional communities.ⁱⁱ We have advised on the importance of strong legal frameworks for strategic regional planning, and the importance of legal requirements for public consultation and engagement.

In the context of this inquiry, our submission specifically focuses on the need to establish a well-resourced statutory authority to coordinate planning and funding for a just transition for regional communities affected by climate change and the necessary transition away from fossil fuel production and use. This is relevant to item 5 of the Inquiry Terms of Reference:

“Opportunities to support sustainable economic development in regional and other communities likely to be affected by changing energy and resource markets, including the role of government policies.”

Impacts of climate change on regional communities

While there are other social, economic, environmental and technological forces driving change in regional communities, climate change will be the key driver of change for many regional communities (and elsewhere). About one degree of warming is already locked into the systemⁱⁱⁱ, with the extent of additional warming highly dependent on effective international action under the UNFCCC Paris Agreement and domestic implementation of mitigation commitments (which is currently lacking in Australia).^{iv} A transition away from fossil fuel extraction, production and use is essential for meeting the Paris Agreement commitments, and this global imperative will have implications for regional communities in NSW.

In the absence of forward planning for this transition, regional communities will bear a disproportionate share of the burden of climate mitigation and adaptation.

Climate mitigation has the potential to affect regional communities in two ways. First, through the continued decline of existing industries (particularly communities around coal mines and power stations) as the world's energy systems continue to transition away from

fossil fuel, and second, through the birth of new industries (such as the potential our renewable energy resources have to provide cheap domestic power and to foster an export industry).

The effects of climate change will also drive the need for communities to adapt, and this has implications for future sustainable economic development in regional areas. This will include for example, changes to the viability of agriculture in certain regions as temperatures and rainfall patterns change^v and potentially the loss of tourism through climate change driven loss of the biodiversity^{vi} or altered conditions (eg: snow in alpine areas, water in wetlands for bird watching) which bring visitors to regional NSW.

Ideally, the task of delivering a just transition for communities affected by climate mitigation, adaptation and the necessary energy transition should sit within the framework of national plans for a climate transition which encompass mitigating emissions, adapting to the effects of climate change and ensuring that the transition process is delivered in a socially just way. While it is unlikely that comprehensive climate transition policies and laws will be delivered by the current Commonwealth government, it remains possible to begin the task of delivering a just transition for vulnerable regional communities in New South Wales.

Recommendation: A public authority and ‘meaningful consultation’

Australia has already had some notable failures to deliver a just transition to communities affected by the transition away from fossil fuels, for example, the climate transition is already a lived reality for communities like Port Augusta and the La Trobe Valley.^{vii} We believe that there is a need for a well-resourced public authority to coordinate planning and funding for a just transition for regional communities affected by climate change.

There are a number of examples internationally of public agencies working in the area of a just transition, at various stages in the process. Some have a remit to plan for economy wide transition^{viii}, while others have a remit for a particular sector^{ix} or particular region.^x Some have been created by statute, others are less formal bodies. Most involve an independent decision-making body comprising representatives from relevant stakeholders (including employee and industry groups). The majority have transition as their specific purpose, however, in some cases existing departments or agencies created for broader climate mitigation purposes also appear to have a just transition within their remit.^{xi}

Drawing from these examples, and having regard to the particular circumstances of this state, we recommend that the following principles be incorporated into the design of a public authority with a remit to facilitate a just transition for communities affected by climate mitigation or adaptation and the necessary energy transition:

1. The authority must be established, and must commence its planning function, as soon as possible given that the impacts of climate change are already being felt and will intensify. The delivery of the education and training, hard and social infrastructure, industry incentives and job-creation initiatives necessary to create meaningful work for transitioning workers will all take time to implement and, to the extent possible, these initiatives must be in place in advance of the projected changes.
2. The authority should be created by statute, have statutory independence and have long-term funding secured by statute. The transition of any community will be a long term project which will need to be planned and implemented over time.
3. The whole range of stakeholders from any community must be involved as decision-makers in the planning process for their region. This may, for example, mean some authority functions are devolved to regional committees comprising representatives of state and local governments, Traditional Owners, community groups, individuals from different sectors, local businesses and, critically, representatives of both employer groups

- and unions for effected workers. On the spectrum of public participation^{xii} the aim should be to collaborate with or empower (and not merely consult) each affected community.
4. The authority must be flexible enough to deliver different and regionally-appropriate transition plans for each affected community. Climate transition will not be a one-size-fits-all process - each community will have different values, visions for its future, pools of skilled workers, natural advantages and constraints.
 5. There must be strong protections, such as a duty to report to Parliament and real transparency obligations, to ensure that the authority acts with the highest levels of integrity. An authority with (what should be) a sizeable budget to spend and a decision-making function which can create economic opportunities should ensure sufficient safeguards are in place to avoid corruption risks.
 6. Part of the authority's remit should be to, where possible, deliver co-benefits such as skilled jobs in environmental restoration projects with biodiversity benefits or industry development aimed at addressing the current waste and recycling crisis.
 7. The powers necessary to deliver the transition are unlikely to rest in any single agency. As a consequence, supporting the delivery of the transition must be core business for relevant government departments (including those with policy responsibility for agriculture, tourism, education and training and Treasury).

Conclusion

Supporting sustainable economic development in communities experiencing the effects of climate mitigation and adaptation will be a long-term project which must be supported by an independent statutory authority, advanced planning for the transition prepared in collaboration with the representatives of all sectors of the relevant community, long-term secure funding and strong support from all relevant government agencies. Without this type of support such communities will bear a disproportionate burden of the climate transition.

If you have any queries please do not hesitate to contact [REDACTED]
Or on ([REDACTED]).

Yours sincerely

EDO NSW

[REDACTED]

Rachel Walmsley
Policy and Law Reform Director

References

ⁱ See, for example, our recent report on climate ready planning laws (https://assets.nationbuilder.com/edonsw/pages/6160/attachments/original/1553130228/EDO_CC_report_singles.pdf?1553130228) and our report on climate-related decision-making for current projects. (https://d3n8a8pro7vhm.cloudfront.net/edonsw/pages/6160/attachments/original/1567132139/EDO_CC_implications_screen.pdf?1567132139).

ⁱⁱ See, for example, our long history of engagement in water reform in the Murray-Darling Basin: https://www.edonsw.org.au/murray_darling_basin_edo

ⁱⁱⁱ See paragraph A.1 in IPCC, 2018: *Summary for Policymakers*. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty.

^{iv} See: <https://www.environment.gov.au/climate-change/government/international/paris-agreement>

^v For example, the recent Independent Inquiry into Fish Deaths in the Lower Darling recommended that structural adjustment be implemented for certain farming enterprises in the lower Darling which are dependent on high-reliability water due to drivers including climate change. (see Vertessy et al, 2019, *Final Report of the Independent Assessment of the 2018-19 fish deaths in the Lower Darling*, recommendation 5, found at: https://www.mdba.gov.au/sites/default/files/pubs/Final-Report-Independent-Panel-fish-deaths-lower%20Darling_4.pdf

^{vi} See, for example: <https://publications.csiro.au/rpr/download?pid=csiro:EP127554&dsid=DS4> and <https://www.environment.gov.au/system/files/resources/eab369d6-76f9-46c8-beb4-aaae8ece112e/files/vulnerability-overview.pdf>

^{vii} See discussions about Port August and the Latrobe Valley in Sheldon P, Junankar R and De Rosa Pontello A, 2018, *The Ruhr or Appalachia: Deciding the future for Australia's coal power workers and communities*, Industrial Relations Research Centre, University of NSW (found at: <https://apo.org.au/node/199916>).

^{viii} See, for example, the Scottish Just Transition Commission (<https://www.gov.scot/groups/just-transition-commission/>)

^{ix} See, for example, the Canadian Task Force on a Just Transition for Coal Power Workers and Communities (<https://www.canada.ca/en/environment-climate-change/services/climate-change/task-force-just-transition.html>)

^x The planning and implementation for the transition away from hard coal mining in the Ruhr region of Germany is often cited as a best case example of a just transition. The Commission on Growth, Structural Change and Employment (colloquially the 'coal exit Commission') is now planning for country's broader exit from coal-fired generation.

^{xi} The Victorian *Climate Change Act 2017* includes the function of adaptation planning which is devolved to the relevant Ministers (while this should have the effect of making adaptation part of core business for relevant departments, it doesn't mandate the inclusion of communities in planning for their own transition). The Climate Change Commission to be established under New Zealand's *Climate Change Response (Zero Carbon) Amendment Bill* has functions of advising on both mitigation and adaptation.

^{xii} See spectrum of Public Participation here:

https://www.iap2.org.au/Tenant/C0000004/00000001/files/IAP2_Public_Participation_Spectrum.pdf