

Submission  
No 6

**INQUIRY INTO ENVIRONMENTAL PLANNING AND  
ASSESSMENT AMENDMENT (TERRITORIAL LIMITS)  
BILL 2019**

**Organisation:** Nature Conservation Council of NSW

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## **Submission: Environmental Planning and Assessment Amendment (Territorial Limits)**

### About us:

The Nature Conservation Council of NSW is the state's peak environment organisation. NCC represents over 150 environment groups and thousands of supporters across NSW. Together we are dedicated to protecting and conserving the wildlife, landscapes and natural resources of NSW.

### Our recommendations:

- Recommendation 1: The NSW Parliament should oppose any amendment to part 4.17A of the Environmental Planning and Assessment Act 1979.
- Recommendation 2: The NSW Parliament should oppose any amendment to Clause 14 of the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.
- Recommendation 3: The NSW Government should uphold its commitment to tackling climate change and protecting the NSW environment and communities by releasing a climate change plan created in consultation with NSW communities, workers, businesses, aboriginal people, and environment groups.

### Executive summary:

In summary, the NSW Parliament should oppose this Bill as the current laws have a specific role to play in our democracy. Nature Conservation Council of NSW stresses that the current laws:

- uphold our commitment to the Paris Agreement
- mitigate the worst impacts of climate change
- provide greater transparency of the wider environmental impacts of proposed projects
- inform government and industry on areas to lower their carbon footprint
- empower government planning authorities, companies and legal professionals to best protect NSW nature and communities

Any amendments to these laws would undermine the NSW Government's previous progress on climate change, and would come at a time where communities need the NSW Government to show strong leadership and vision to solve the climate crisis.

### Key concerns:

#### **1. Scope 3 emissions play a role in fuelling dangerous climate change, and are impacting on the environment and way of life here in NSW**

As a signatory of the Paris Agreement, Australia has acknowledged that in order to avoid the worst impacts of climate change, we must limit global warming to well below 2°C. We are not on track to meet that goal. If we are serious about meeting our targets, governments have a huge responsibility to help companies prevent the worst impacts of climate change by reducing their greenhouse gas emissions. Downstream emissions occurring within Australia, but also outside

of Australia or an external territory commonly referred to as Scope 3 emissions often represent the largest portion of greenhouse gas emissions from fossil fuel developments.

Research from The Australia Institute (Swann, 2019) shows that Australia is the world's third-biggest exporter of fossil fuels behind Russia and Saudi Arabia. When Australian fossil fuels are burned outside of Australia or an external territory, the amount of carbon dioxide produced is higher than the exported emissions of nearly all the world's biggest oil and gas producing nations. Coal is our largest export, making us the biggest exporter of coal in the world. Australia makes up 29% of world coal trade by CO<sub>2</sub> potential. With the amendments proposed in this Bill, NSW planning authorities would not be required to consider the enormous environmental impacts of these emissions.

Given the pronounced carbon footprint of Australian companies, particularly the mining sector, it is important to note the impact these activities have on the NSW community and the environment. Scope 3 emissions are fuelling dangerous climate change. Considering the current bushfires ravaging our state it is more important than ever companies document and actively reduce these emissions. In this season's bushfires more than 10% of the area covered by NSW national parks has been burned, including 20% of the Blue Mountains world heritage area (Cox, 2019). The amount of bushland destroyed by NSW national parks already topples that of the previous fire season, where 80,000 hectares were lost - ten times that amount has burnt since July (Cox, 2019). We are in the midst of a climate crisis and companies and government must acknowledge the role Scope 3 emissions play in worsening this crisis. Any attempt to ignore the impacts of downstream or overseas emissions would be irresponsible in the midst of large portions of our state burning.

The amendments proposed in the Environmental Planning and Assessment Amendment (Territorial Limits) Bill 2019 would undermine our commitment to the Paris Agreement by concealing important information on the environmental impacts from Scope 3 emissions, effectively hindering the Government and industry's ability to limit their emissions to keep global warming at bay.

## **2. Removing Scope 3 emissions reporting would hamper informed Government decision-making**

The NSW Government has a responsibility to protect communities and the environment from the impacts of climate change. The NSW Government can and should encourage the best quality information to feed into their decision-making by incorporating projections of Scope 3 emissions into environmental reviews of fossil fuels programs, projects and related management decisions. They should do so at a point in time where the information can be the most useful - usually at the programmatic and planning stage. By requiring companies to document the Scope 3 emissions, government planning bodies will be most informed on how best to keep people and nature's interests at heart.

## **3. Amending current laws would conceal important information relating to court proceedings, hindering the overall effectiveness of our judicial system**

Clause 14 of the State Environmental Planning Policy has never been the sole reason a coal mine has been refused. Both the Rocky Hill and Bylong coal projects were both refused primarily because of their local environmental impacts. However, since the Rocky Hill judgment, mining companies have been more transparent by providing more information about climate change in the context of new coal mines.

The Rocky Hills judgment provides a strong case study for how these laws can support court proceedings by providing decision-makers with a more holistic view of the environmental impacts of a project. In the Rocky Hill case, Scope 3 emissions included the transportation and combustion of product coals. Chief Judge Brian Preston stated “I find, therefore, that the consideration of the impacts of the Project on the environment and the public interest justify considering not only the Scope 1 and Scope 2 emissions but also the Scope 3 emissions of the Project” (Preston, 2019).

These laws are valuable within our legal system, government planning authorities and the broader public as they provide great transparency of the wider impacts of planned projects. Without these laws the NSW judicial system might not be able to make the most informed decisions to protect nature and communities.

#### **4. The proposed Bill would undermine the NSW Government’s commitment to tackling climate change**

This Bill would undermine the NSW Government's previous progress on climate change, and would come at a time where communities need the NSW Government to show strong leadership and vision to solve this crisis. On top of rejecting this Bill in its entirety, we encourage the NSW Government to show strong leadership on climate change by:

1. Introducing a Climate Change Act to ensure clean energy and emission reduction targets are implemented
2. Legislating for net-zero emissions by 2040 so all government decisions consider the impact of policies on reaching this goal. This legislation must include clear milestones, including five-yearly targets
3. Establishing Renewable Energy Zones in NSW to generate enough energy to replace all NSW coal fired power stations by 2030. This includes fast-tracking grid infrastructure to connect 20 GW of large scale wind and solar farms, in zones identified in the AEMO Integrated System Plan.
4. Supporting dispatchable clean energy through grid-scale storage and virtual power plants, similar to the South Australian Virtual Power Plant and battery initiative
5. Setting a target to contract at least 4000MW of new large-scale renewable energy and storage infrastructure in NSW in the current term of government (by 2023). This should be underpinned by reverse auctions (held twice a year) to encourage technology neutral renewable energy projects.

Signed

Chris Gambian

Chief Executive

Nature Conservation Council of NSW

## References:

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