

Submission
No 7

**INQUIRY INTO PLANNING SYSTEM AND THE IMPACTS
OF CLIMATE CHANGE ON THE ENVIRONMENT AND
COMMUNITIES**

Organisation: Voice of Wallalong and Woodville (VOWW)

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This submission is presented on behalf of a not-for-profit community group, Voice of Wallalong and Woodville (VOWW), representing residents of rural West Ward Port Stephens.

We acknowledge the need for more housing for a growing population, however, development has become a contentious issue over the last 20-30 years. In that time planning regulations and laws have become weaker and less transparent. Developers are making more demands of councils and government, pay less in development costs (a cap of \$20,000 as stipulated by State Government), and do not provide the infrastructure to the standards expected of them by the community. Rate payers are left to pick up the shortfall.

Developers work to a formula and that does not take climate change into consideration; floodplain development is often passed through DPE or council with little concern for present or future generations.

Like it or not, we can no longer deny that climate change is happening and that the weather patterns are changing, storms are more severe and frequent and thus low ground is more prone to flooding than ever before. Port Stephens LGA experienced the 2015 super storm which damaged houses, uprooted trees and run-off flooded properties not normally impacted.

And of course, the 2019 fires (Black Summer) and 2022 floods cannot be dismissed as 'normal'. However, State Government and local councils are heavily lobbied by the Development/Construction industry/Quarry Association/Concrete Association and more, to release more land with little regard for the impacts of climate change on existing and future generations. Environmental concerns are rarely addressed.

We welcome this inquiry into the planning system and the impacts of climate change on the environment and the community and hope there are positive changes made to the way the DPE assesses development applications and how they deal with community organisations and individuals who wish to be heard in the process.

Development/Planning Process.

VOWW has been actively involved in exposing inappropriate development in Port Stephens since 2009. For example, a prominent developer proposed a new town in the West Ward of the LGA with an intended 3,500 lot subdivision with no access to sewerage, surrounded by floodplain and accessed by 3 historic single lane bridges. This would therefore pose problems with isolation and entrapment during times of flood, environmental damage to floodplain farming as well as siting the proposed development on valuable farmland which is essential high ground for stock in times of flood. The DA was refused by the Minister for Planning as totally inappropriate. However, the developer still has it advertised on the company website as a future development with the assumption that governments and councils change, and lobbying will eventually prevail.

This is an example of developers purchasing land speculatively with the 'knowledge' that housing pressure will eventually outweigh all other considerations and their investment will be justified with vast profit. This has occurred at another site in Port Stephens LGA called Kings Hill. That DA/SSD was rejected by the Joint Regional Planning Panel. The developer proceeded with an appeal to the Land and Environment Court where the original decision was subsequently upheld.

The reason for referring to these 2 examples is to show that the developer has the finances to invest in the process where councils and community organisations do not. We rely on support from councils and government to achieve a fair outcome, however, the planning process is supposed to be independent and transparent, and this is not always the case.

You may already be aware of the planning process implemented by the DPE, so we will quickly summarise them from our point of view.

1. Proponent submits a proposal/project to DPE.
2. DPE sets out the SEARS.
3. SEARS given to the proponent who engages consultants to prepare reports and submits the EIS to the proponent. This is then submitted to DPE.
4. EIS is then exhibited, and submissions are called for from local community groups, other government agencies and council.
5. The exhibition period is normally 28 days
6. Submissions are then forwarded to proponent to prepare a 'response to submissions'.
7. That response is then assessed by the DPE. The proponent or DPE can ask for this to be fast tracked. A ruling is then made. If there are over 50 submissions the determination is made by the IPC.

The independence of the DPE comes into question with the amount of lobbying that happens in the background to this process. Environment groups and other community groups do not have the clout or finances that these large businesses have. It is only through the IPC process that we feel we have a voice.

There are several issues that need to be brought to your attention.

- DAs/SSDs have lengthy technical reports that are not independent as they are paid for by the proponent.
- DPE rarely queries the veracity of the reports.
- Community groups are only given 28 days to respond to sometimes thousands of pages of reports in the EIS. Recently there were problems with the DPE website and submissions to the DPE regarding a new quarry in the Port Stephens LGA (Stone Ridge Quarry – Italia Road) would not upload. The DPE officer in charge of the project was made aware of this but refused to give an extension. It was only through contact with the local Member, Kate Washington, that an extension was eventually granted.
- Lobbying to council and the DPE by the proponent can be sustained.
- Information requested from the DPE, or council is not always made available to individuals or community groups unless through the GIPA process. It is only then that a true picture emerges of the interaction between the proponent and the government department. For example, it was through the GIPA process that members of the Martins Creek Quarry Action Group (MCQAG) were made aware of the lobbying and meetings held between DPE staff, the quarry developer and Cement, Concrete and Aggregates Australia (CCAA). This lobby group (CCAA) sought quarterly meetings with the DPE. This does not make the department staff independent in their decision making.
- The DPE was holding private meetings with the proponent but refused to have meetings with MCQAG who were representing the local community which was desperate to retain the

village character they lived in and would be severely impacted by heavy haulage through the centre of the Paterson village.

- Lobby groups are there to promote their organisation without consideration of the social impacts, environmental concerns or character and ambience of an area. Climate change impacts are rarely addressed.
- Often when issues are brought before the council rather than DPE, and the outcome is not in favour of the proposal, the proponent will threaten legal action. Councils have limited funding for these lengthy and expensive court proceedings and are therefore loathe to take on big business.
- Even if the IPC rules against the developer, the proponent has the option of taking the case to the Land and Environment Court. Once again, this is an expensive burden on taxpayers money. In our opinion, if the IPC has fairly ruled against the proposal that should not be able to be contested.
- All quarry proposals are considered SSD and as a community organisation we have been told on multiple occasions, that the quarry proposal will proceed, albeit with some concessions made to placate residents. The environmental impact is rarely considered to be of any consequence even though there are State and Federal Government legislations. These seem to be easily circumvented with the 'biodiversity credits' being used even though it has been disputed to be an effective way of addressing environmental issues. Recent reports have shown that there is insufficient scrutiny of the biodiversity projects that have been accepted by the government. This system is flawed.
- A DA/SSD is often assessed on its own merits. The cumulative impact of several developments side by side or in the near vicinity are often overlooked even though it is a requirement of SEARS.
- State Forests and wildlife corridors are now considered acceptable for quarry development. It came as quite a shock to discover recently that State Forestry is responsible for everything above and below ground in its area. Therefore, quarrying the rock is acceptable and it provides an income stream for the Forestry department.

Housing Policies.

At present there is a housing crisis in Australia. However, the proposals to address the problem are largely targeting greenfield sites and do not address the impacts of climate change or habitat destruction.

Clear-felling of land for housing estates is quite common in the Hunter Valley. As an example, Maitland City Council has allowed developers to clear land in the Thornton area for many years. The process is always the same. Large areas of heavily vegetated land are cleared completely. Hundreds of trees are bulldozed with no concern for the old growth trees that are home to birds and native animals. Port Stephens has similarly allowed developers to clear land at Medowie with the same outcome.

- No vegetation is left.
- If the land has a slight slope, blocks are tiered.
- Roads are narrow and bitumen.
- Roofs are all black or dark grey.

- As one section of the subdivision is complete and being sold, the next section is being prepared.
- Each section is given an appealing name such as 'Sophia Waters' and treated as a stand-alone estate.

The outcomes are the same.

- The natural landscape disappears completely. In some instances, the developer will retain a parcel of land in its natural state and hand it over to council as a gesture of good will. Almost always the land is useless for development and therefore no good to the developer anyway. In the case of a parcel of land in Medowie the land is flood prone.
- Run-off from the new estates can cause local flooding.
- Dark roads and roofs increase the temperature within that environment substantially thereby necessitating air conditioning for most houses.
- There are no shade trees.
- Climate change is NOT addressed in any way in the design of the estates.

The cumulative impact of progressive housing estates is not acknowledged by the developers and the councils seem to have no powers to stop it from happening.

Greenfield housing is not sustainable. Land is a finite resource. Once clearing of native forest has occurred it will take all wildlife with it. Where is the intergenerational equity in that?

Councils are given housing quotas by State Government. We are not privy to how the numbers are arrived at, however, there are many areas where it would be quite difficult to meet the targets. In Port Stephens LGA there are 3 major rivers. The Hunter, Paterson and Williams. There are also the adjacent floodplains. A flood map available on the Port Stephens Council website shows quite clearly that much of the Hinterland is not suitable for housing development due to the risk of flooding but developers still have some land in this area targeted for housing. At a recent meeting with residents to discuss a proponent's proposal for housing in an inappropriate area, a resident who is also a developer, stated that even if this proposal did not proceed it would be re-submitted once a new council was elected which might be more amenable to development/progress in the area.

Port Stephens has a significant koala population with wildlife corridors that are essential to the survival of, not just koalas, but other similarly vulnerable wildlife, birds and flora. Residents are constantly fighting to retain these areas.

With the floods and storms that have ravaged this LGA, building on floodplain should no longer be an option. Insurance costs have become prohibitive and the cost to State government and council for cleanup and support for those affected, should completely remove those areas from potential housing development. However, that is not always the case as those developers who bought flood affected land speculatively years ago now have a stranded asset and are prepared to nominate the land as suitable for low-cost housing! With quotas set by State government this option could be an appealing option for council.

The community expects safe housing away from the threat of flooding.

The obvious answer to this problem is to promote infill housing. When questioned about housing options for Raymond Terrace, a senior planner at council told us that it is difficult to attract

developers to do infill in Raymond Terrace because there is little convenient public transport into the Newcastle or Maitland areas where the jobs are located. Public transport is a major issue for the western part of Port Stephens. It is a 20-minute drive to the closest railway station with little parking available. A railway spur would be an asset to this area and make it a more attractive place to live.

A rail spur would be a long-term solution to removing sand and gravel trucks from the road system. The quarries are predominantly situated in a straight line along the edge of the Pacific Highway from Raymond Terrace to Karuah. With some new quarries at SSD stage, there will be 5,300 trucks per day generated from these quarries. All will use the Pacific Highway and M1 to service the Sydney market. As mentioned, there is one quarry slightly to the west which has a dedicated rail spur. However, that operator preferred to transport quarry product by road through densely populated suburbs and through an historic village with no concern about the impact to residents and businesses along that route. The DPE was quite happy to support that quarry operator even though there were over 900 objections lodged in the submission period. The IPC rejected the SSD on transport grounds and impact to residents, character and amenity. However, the operator has made an appeal to the Land and Environment Court.

Social implications of current housing models.

There seems to be an opinion in council planning departments and councillors that housing should come first and the infrastructure to support that housing would follow. That seems counter intuitive. The two should go hand in hand.

It seems to be up to residents to point out that roads and intersections have become dangerous with extra traffic, that schools are overcrowded, that there is a lack of public space and playgrounds. These things can take many years to be resolved as councils are often not in a financial position to provide them. It should be a condition of consent to build a new town or subdivision, that land is made available for a proper park, not just a small playground that 'ticks a box'. That native vegetation corridors are kept intact. That the upgrades to roads and intersections are made in advance as part of the development. You can see from this that the \$20,000 cap for developer contribution is totally inadequate. By having the infrastructure set in place through legislation and paid for by the developer, the developer will always argue that there will be a reduced number of house blocks and the costs will ultimately be passed on to the purchaser. And governments are swayed by this argument. Developer profits are never mentioned.

At present blocks of land are so small that eaves of adjoining houses meet at the fence line. There is no privacy, windows are rarely left open for ventilation, backyards are too small for children to play. There is little or no local parkland for families to visit or for children to ride their bikes or walk to socialise with each other.

Modern housing estates often leave children no other opportunity than to socialise at shopping centres. That can't be healthy for social development. One might wonder if there is a correlation between poor planning policy in some areas where not enough room is given to proper social/sport facilities (eg. PCYC/scout halls etc) and poor behaviour at school.

Community Involvement.

Community groups have been active in helping residents understand the process that needs to be followed when making submissions to council or DPE. Often residents are angry and visibly distraught when they notice the changes that will be made to their environment or the character and ambience of their area. They are serious about saving wildlife and habitat. They are well versed in the effect that climate change will have on the planet and how that will affect them. It is rarely a NIMBY response.

The term 'solastalgia' is now a well-recognised term that gives people an understanding of their feelings of depression, anxiety and frustration over the loss of the lifestyle and the ambience and character of the area they live in through progressive changes made by new development and endorsed by government departments and councils alike.

However, it is extremely frustrating to notice that no one really cares about what they say. Councils and town planners are influenced/lobbied by developers. According to council planning department councils need the rates income from new housing to stay afloat. The State government has given councils more responsibility for roads and other necessary infrastructure and services and it is increasingly the norm for councils to have to apply for grants to fulfill their responsibilities.

Even though SEARS expect character, ambience, social and economic impact to be taken into consideration, DPE rarely accepts this as a valid reason to dismiss an application to expand or begin a new quarry. Similarly, climate change and intergenerational equity are dismissed as 'the price you have to pay' to ensure that the state can provide roads and concrete for the future. For example, in a recent report written by a well know consultant for the Stone Ridge quarry north of Raymond Terrace, the statement for intergenerational equity was that "future generations would benefit from the new roads and shopping centres" that would be built with the gravel and concrete provided by the new quarry.

There are 3 quarry DAs under the SSD designation in Port Stephens LGA currently being exhibited for submissions, or just past the exhibition stage, by the DPE. They are within 1 kilometre of each other. No mention is made of the cumulative impact on nearby residents. These cumulative impacts include that of noise, lighting, effect of extra haulage trucks on the existing traffic network (other than saying it is acceptable according to 2018 data), hours of operation, sleep disturbance, effect on physical and mental health and wellbeing to the community and the destruction of habitat. Each DA is accepted in isolation.

From the point of view of a person writing submissions on behalf of a community it is extremely frustrating to see the same arguments presented time and time again. And it becomes obvious that consultants use computer modelling rather than real, live observations. In some cases, the reports are out of date by the time they are submitted. For example, koalas are listed as 'vulnerable' rather than 'endangered', traffic modelling is based on 2018 numbers or vehicle numbers that were collected during Covid when the roads were largely empty. In the Port Stephens LGA koala habitat mapping is based on incorrect and out of date information. According to an ABC report, 4/9/23, "4 years of wildlife rescue data is missing from the NSW Government species tracking data Bionet, casting doubt over the accuracy of protection plans and development approval. In some LGAs data has not been entered since 2019." In the case of Port Stephens LGA koala mapping does not reflect the reality. The community groups EcoNetwork and Koala Coalition Port Stephens (KKEPS) as well as

the Koala Hospital at Anna Bay have accurate tracking data. Information gathered has been mapped and submitted time and time again in submissions regarding developments and quarrying but it seems this valuable resource is dismissed by DPE and developers alike.

We have been involved with quarry expansions and creation since 2014. We have found it extremely difficult to be heard by some staff at DPE. VOWW and Brandy Hill/Seaham Action Group (BHSAG) had a good relationship with staff involved with the expansion of the Hanson owned quarry at Brandy Hill in the Port Stephens hinterland. The submission writing and representations lasted for 6 years until the IPC made a determination that seemed reasonably fair to most residents in the area. This, however, is not always the case.

In the case of the Martins Creek quarry, the relationship between the DPE and the community groups, MCQAG in particular, was quite bitter and the DPE staff refused to answer questions or have meetings. It was only through the GIPA process, initiated by MCQAG, that the lobbying to DPE by the proponent became obvious. Even the Commissioners at the IPC hearing were visibly frustrated by the answers given by DPE staff. In fact, on the second day of the hearing, the chief commissioner asked the lead DPE staff member to answer questions given, rather than putting them on notice or referring them to other colleagues. The collusion between the proponent and the DPE was obvious as the answers given by both the proponent and the DPE were almost identical. The professionalism of DPE staff was questionable. Neither considered the rights of the people who would be most affected. That is, the right of business owners who would be brought to their knees should the haulage trucks come through the towns and villages, the right to live on a road that would have an increase in truck numbers within 3-10 metres from their homes, the rights of children to be able to cross roads to school bus stops in safety. And most frustrating in this case was that DPE supported the proponent in using road transport rather than using the existing rail spur.

Through the IPC process the DPE staff admitted that they did not consider the social impact on the people of the Paterson Valley as they had no guidelines to do so!

Medium to long term planning.

Has money been set aside by the government to do research into the alternatives to rock and sand for the construction of roads and house slabs? The CSIRO has a history of honest and fair research into all manner of issues and scientific research should be further invested in to reach better outcomes thereby avoiding destruction of habitat and lifestyles to provide roads or house slabs. Countries such as Finland and Denmark are already using alternatives, but our quarry industries are continually lobbying against these under the guise of job losses and increased costs. However, quarry rock and sand are finite resources and Governments need to acknowledge this.

Recyclable materials are rarely mentioned in Government reports.

Conclusion.

Our communities feel let down by the system that is currently in place to address the issues surrounding development, be it for:

- housing that may have been suitable years ago but with implications of climate change are now problematic.
- quarries that are encroaching on townships, removing huge areas of natural vegetation and displacing vulnerable and endangered fauna, and approved in State Forests.

The DPE does not listen to residents who will be affected. In the 13 years that VOWW has been helping the community, not once have we been contacted by the DPE to gain an understanding of the issues that we are concerned about. This is a public service that does not serve the public!

It is surprising that the DPE has no guidelines with which to assess social impact.

We have written this report from the experiences we have had over a long period. We have tried to present the views in a coherent and honest way and apologise if this submission seems like a 'rant'. It comes from the feeling that no one is listening or cares.

We truly appreciate the work you are doing to help communities like ours in being heard and wish you all the best.

(As an example of the mindset of developers we have included an attachment of an article in the Newcastle Herald (15/9/23) written by a prominent developer and former mayor of Newcastle. Both VOWW and KKEPS felt obliged to reply (27/9/23) to highlight how out of date the thinking of developers is and it shows quite clearly that views of *ordinary* people and climate change and the environment are not a consideration.)

Margarete Ritchie.

President, VOWW.

Christine Winnett.

Secretary, VOWW.

See following pages for newspaper articles referenced above.

HOUSING NIGHTMARE Biodiversity law review to blame for more red and green tape

'Environmental overreach' destroying great home dream

Jeff McCloy

CHANGE is all around us but home ownership remains the Australian dream. We want this for ourselves, our kids, and our grandchildren.

The laws of supply and demand are the first thing an economics student learns. When demand outstrips supply, prices rise. Nowhere is this dynamic more obvious than it is in the housing market.

But it need not be.

For young people, the great Australian dream has become a nightmare as supply is frustrated and prices rise. Those with parental help have a chance, the rest are losing hope and face a lifetime of rent payments.

The reasons for the housing shortage are many - our population is growing, in part fuelled by high levels of immigration. Post-COVID supply chain challenges remain.

However, the big one is the government red and green tape that is choking land supply.

The latter is driven by placard-waving environmental activists. It is difficult to understand why so many journalists and politicians allow themselves to be led by these people.

Surely, they understand that you can't have strong environmental and biodiversity protection without a strong economy. Anyone who has visited a developing country knows what I mean.

Some continue to argue enough land has been re-zoned for housing. But industry leaders know a zoning stamp does not put an end to the plethora of environmental hurdles they face before concrete can be poured.

For example, despite the Kings Hill site in Raymond Terrace being rezoned 18 years ago, not one house has been built there.

The project has fallen victim to actions taken in the Land & Environment Court where biodiversity laws are being too broadly interpreted.

More than 5000 blocks proposed at Kings Hill remain undeveloped and vacant. Yet they are conveniently counted by those claiming we have enough land zoned for housing.

There are emerging signs that govern-



ments are finally coming to realise that they need to release more land.

But if the NSW government follows the recent statutory review of NSW biodiversity laws, young families can hold little hope of becoming homeowners.

The review failed to recognise the NSW Biodiversity and Conservation Act - or land court interpretation of it - is fast becoming the biggest barrier to home ownership in our state.

It appears the review has been captured by a green movement that has weaponised biodiversity and koala populations.

Yet the biggest threat to koalas and biodiversity is not housing, it's fire.

Australia has more national parks than anywhere else in the world. So many they

can't possibly be properly managed. They are weed-infested undergrowth fuel loads that are out of control. They are a disaster waiting to happen. Despite this, green activists want to lock up even more land.

The McCloy Group dedicated a massive area of land as part of our Meadowie development. Today, it sits there overgrown and unmanaged, another fire hazard and an eyesore.

Australia has a very low population density. We have plenty of land. But the great Australian dream remains just that due to activist-driven environmental overreach.

Meanwhile, governments are further dashing the hopes and aspirations of families and farmers alike by commandeering land for huge solar and wind energy projects in

NSW regional areas. By contrast, urban areas comprise only about 2.5 per cent of the state.

Harsh environmental regulations and green energy projects alike are being driven largely by city-based activists. But the cost of each will be borne by regional residents. That's unfair.

Biodiversity is now given higher priority than the basic need for housing and shelter. The consequence of this imbalance is a steep increase in homelessness and plummeting rates of home ownership.

The Australian dream of home ownership is now a nightmare.

This nightmare can only be fixed by planners and politicians who created it.

Jeff McCloy is the chairman of McCloy Group

HOUSING Changes in social values and environmental concerns must be recognised

People asking for better developments are not 'activists'

Margarete Ritchie and Carmel Northwood

WE WANT to challenge the opinion piece written by developer Jeff McCloy ("Activist-driven environmental overreach destroying home ownership dream", *NH 15/9*).

On August 23, 2023, Commissioner Sarah Bish, following a hearing in the NSW Land and Environment Court, handed down her decision on the Kings Hill Development Concept Plan. The case was brought before the court after the proposal to develop 517ha of land to the north of Raymond Terrace was previously rejected by the Hunter and Central Coast Regional Planning Panel (citing 17 reasons, not all of them environmental) and a conciliation hearing failed. The commissioner visited Kings Hill and held a complex and long court case.

Commissioner Bish found that the proposal did not satisfy several government acts, but added that the site was "not demonstrated as suitable for the proposed (and future) development" and was "not in the public interest". There were environmental concerns but, importantly, "insufficient certainty on the provision of designated state significant infrastructure".

McCloy, a prominent developer in the Hunter, suggested in his *Herald* opinion that the process of development had been hijacked by green activists. Not only is this misguided, it is an insult to the commissioner and the integrity of the Land and Environment Court's process.

Developers such as McCloy should abide by the Land and Environment Court's judgement without resorting to the generalisation that everyone is a greenie and hell bent on stopping development. Residents and community groups are eligible to make submissions to the court. There was not a "placard-waving environmental greenie/environmental activist" in sight.

All submissions, including those from the proponent, are scrutinised by professional staff including ecologists, scientists, engineers, lawyers and government department officials.

Volunteers who care deeply about biodiversity and the health and welfare of local



people, have spent hours reading thousands of pages of reports, while researching and then pointing out perceived shortcomings of the proposal, knowing those points will then be reviewed by experts. We know that our work and scientific evidence will be used to assess projects through government acts/regulations and policies, and hope this scrutiny will enable improvements to be made to concept plans, that will ultimately benefit the community and the environment.

McCloy's opening words in his opinion piece were "change is all around us". Yet he seemingly resists it while reminiscing fondly about how easy it was to develop land in the "good old days". Changes in social values and environmental concerns must be recognised.

Land is a valuable finite resource. As we

clear-fell trees for housing or other developments, we are losing the biodiversity to which humans are intrinsically linked.

No longer should developers provide housing that is dangerous to our health with black roofs and black roads, with limited infrastructure such as parks and gardens. We know these create heat sinks and are allowing climate change effects to spiral.

Developers must present very sophisticated models for housing projects that are more in keeping with current planning paradigms, that actually consider the surrounding environment and conserve biodiversity and wildlife by identifying and protecting climate corridors, limiting climate change effects, providing social infrastructure to enhance and connect communities in safe spaces.

These desirable planning outcomes can only be based on scientific and engineering expertise, rather than economic rationalism alone.

Community groups know only too well the urgent need for more housing, but we also respect the need to properly consider how and where that housing is to be provided, with appropriate infrastructure assured.

We don't find it surprising that journalists and politicians are now listening, as "these people" (the term used by McCloy) are now in the majority and are concerned for the health and wellbeing of future generations.

Margarete Ritchie is president of the Voice of Wallalong and Woodville. Carmel Northwood is convener of Koala Koalition EcoNetwork Port Stephens.