

**Submission
No 10**

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

Organisation: Woollahra Municipal Council

Date Received: 17 October 2023



Council Ref: 23/166836
Your Ref:

13 October 2023

Ms Susan Higginson, MLC
Portfolio Committee No. 7 - Chair
NSW Parliament
6 Macquarie Street
SYDNEY NSW 2000

Dear Ms Higginson

**Parliamentary Inquiry - Planning system and the impacts of climate change
on the environment and communities**

I write in relation to the above Parliamentary Inquiry under Portfolio Committee No. 7 -
Planning and Environment.

Woollahra Council welcomes this holistic review of the planning system, which will
investigate how it can best ensure that people and the natural environment are protected
from climate change impacts and changing landscapes, and we are pleased to provide this
submission to assist with the inquiry

Council shares a strong appreciation of the significance of the issues targeted by this inquiry.
Like other local governments across the state, we declared a climate emergency in
September 2019. In recognition of this, we have progressed a number of initiatives to help
mitigate and adapt to climate change, which include the following:

- Installation of 175kW of solar panels across our seven main properties;
- Use of 100% renewable energy to power all council buildings, parks equipment and street lighting;
- Trialling the use of sustainable asphalt product made from recycled plastics and glass, reducing our use of virgin materials;
- Conversion of 1400 street lights to energy efficient LED globes;
- Provision of public electric vehicle charging stations, and new planning controls to ensure they are installed in new private buildings;
- Development of a Draft Urban Forest Strategy to protect and enhance canopy cover and minimise urban heat impacts;
- Strengthening of conditions relating to protected wash areas and the prevention of runoff from construction sites, to protect our waterways from additional turbidity caused by extreme weather events;
- Investigating the feasibility of additional swimming locations in Sydney Harbour, recognising the respite from heat that it provides for residents; and
- A new suite of tree canopy and deep soil planning controls to help ensure the retention and enhancement of urban greenery in our residential areas.

The above projects show our commitment to climate leadership at the local level, and has allowed us to become the third Climate Active certified council in NSW.

However, we believe that greater leadership is required at the State level. This leadership could involve amendments to State Environmental Planning Policies, support in accessing grant funding to progress initiatives and providing best practice guidance to councils from industry experts.

We have provided information on issues of particular concern to us under the headings below. The headings align with the inquiry's terms of reference dated 24 August 2023.

1. Developments proposed or approved:

- a) In flood and fire prone areas or areas that have become more exposed to natural disasters as a result of climate change,**
- b) In areas that are vulnerable to rising sea levels, coastal erosion or drought conditions as a result of climate change, and**
- c) In areas that are threatened ecological communities or habitat for threatened species.**

Part (b) of the above is particularly relevant to the Woollahra Local Government Area (LGA). With much of our LGA bordering Sydney Harbour or the Tasman Sea, impacts from sea level rise and coastal erosion are of concern to Council and our community. Council submits that the planning system could be enhanced to help us mitigate against likely long term impacts.

For instance, Council is not the consent authority for the development of foreshore assets below the mean high water mark. As such, Transport for NSW may offer approvals or the Department of Primary Industries may offer advice that is not in accordance with Council's latest sea level rise modelling. Accordingly, a mechanism should be established for sharing this data on a regular basis. This would help ensure that a best practice approach for protecting foreshore assets is adopted. In the longer term, Council recommend that the NSW Government take responsibility for undertaking regular sea level rise monitoring and distributing the data to ensure foreshore management is consistent across all LGAs.

Additionally, Council is currently constrained by the coastal management program (CMP) process. CMPs set the long-term strategy for the coordinated management of the coast, with a focus on identifying coastal management issues and the actions required to address these in a strategic and integrated way. The Sydney Coastal Councils Group (SCCG) has to date lead the development of a CMP for the Greater Sydney Harbour Catchment, which involves the coordination of 21 councils and numerous NSW Government agencies.

However, due to grant constraints, SCCG has failed to secure further funding to continue the development of the CMP. The importance of taking a catchment based approach to waterway health is recognised by local and state governments. A coordinating body within the NSW Government is needed to manage the development and implementation of this complex CMP, to provide leadership and consistency. Without a certified CMP, the councils of Sydney Harbour are unable to access NSW Government funding for coastal management, including foreshore protection and restoration.

2. **The adequacy of planning powers and planning bodies, particularly for local councils, to review, amend or revoke development approvals, and consider the costs, that are identified as placing people or the environment at risk as a consequence of:**
 - a) **The cumulative impacts of development,**
 - b) **Climate change and natural disasters,**
 - c) **Biodiversity loss, and**
 - d) **Rapidly changing social, economic and environmental circumstances.**

Council agrees that the adequacy of planning powers to consider costs that may place people or the environment at risk are in need of review. Current legislation does not allow planning bodies to adequately consider the costs on people and the environment stemming from biodiversity loss. The *Biodiversity Conservation Act 2016* only addresses impacts from projects that trigger entry into the Biodiversity Offset Scheme (BOS). The Woollahra LGA is characterised by residential and commercial development that does not meet the threshold for entry in a BOS. Accordingly, the planning system is not sufficiently equipped to address impacts from smaller projects that cumulate over time. We recommend that the NSW Government introduce legislation that requires consent authorities to consider cumulative biodiversity loss from projects that do not trigger a BOS. This will help ensure that local biodiversity is protected in LGAs with mostly infill development.

3. **Short, medium and long term planning reforms that may be necessary to ensure that communities are able to mitigate and adapt to conditions caused by changing environmental and climatic conditions, as well as the community's expectation and need for homes, schools, hospitals and infrastructure.**

Planning reforms are urgently needed to help ensure communities are able to mitigate and adapt to conditions associated with a changing climate. A key concern of Council, like other local governments across Greater Sydney, is the ability for climate change to exacerbate the urban heat island effect. As mentioned previously, Council has already taken steps to amend our planning controls to encourage development that mitigates urban heat through the planting of canopy trees.

However, greater leadership is required by the NSW Government to institute stringent planning controls that address other methods of reducing heat. These could include *State Environmental Planning Policy (Sustainable Buildings) 2022* (Sustainable Buildings SEPP) design rules that recommend the use of lighter coloured roofs and discourage asphalt hardstand car parking. These controls could complement Council's DCP provisions and make it easier to enforce such requirements. At the same time, exempt provisions in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* that allow the unregulated installation of dark roofs and hardstand spaces could be removed or at least revised. This would greatly assist with controlling heat generated from private land.

Furthermore, section 2.2 of the Sustainable Buildings SEPP provides that a competing local provision to reduce the consumption of water or greenhouse gas emissions from a building, to improve its thermal performance, or to quantify its embodied emissions is of no effect. In practice, this means Council is unable to enforce environmental standards that exceed those in the Sustainable Buildings SEPP, even when they have been supported by Councillors and

the wider community. Council submits that the requirements of the Sustainable Buildings SEPP should be baseline figures only, and not the ceiling for measures used help address a climate emergency. Local initiatives should be welcomed and encouraged, as in many cases they could serve as pilot studies for wider policy initiatives at a State level.

History has also shown that the NSW Government does not always have the capacity to respond to emerging environmental challenges as quickly as local government, and accordingly councils should be given more freedom to develop environmental controls. For instance, Waverley Council instituted controls banning the internal use of gas appliances for health reasons in 2022. In addition to bringing significant air quality benefits, these controls will stop new gas appliances with 30 year life spans being installed in dwellings. This will reduce reliance on fossil fuels and assist in a full transition to renewable energy sources as the grid eventually converts. In contrast, the NSW Government has still not shown a desire to follow Victoria with a wider policy on gas.

Furthermore, we suggest that the baseline figures for residential development in the Sustainable Buildings SEPP should be more ambitious. Requirements for water usage, greenhouse emissions and thermal performance should be periodically reviewed and updated to directly correlate with projected changes in climatic conditions.

4. Any other related matters.

In addition to the above matters, Council are also concerned that State planning controls currently do not take account of embodied carbon in any meaningful way. We note that the Sustainable Building SEPP now requires embodied emissions to be quantified, however this only applies to non-residential development and is not linked to any kind of control. We anticipate that the existing requirement to provide data will be used to inform future controls, however a number of regulatory reforms should be provided in the short term to reduce losses in embodied carbon, including:

- A requirement to justify demolitions in terms of lost embodied carbon;
- A requirement to reuse building material from demolished residential buildings in new constructions wherever possible, noting similar provisions exist for non-residential development; and
- Special BASIX requirements and concessions for retrofitted and adapted buildings.

Additionally, an inevitable by-product of transitioning to clean energy sources, particularly when combined with new development to cope with population growth, is increased demand for electricity. This often results in the provision of new 'customer' substations near the street frontages of buildings. The customer substation takes the form of a kiosk or chamber substation. These substations are bulky and can be visually intrusive and have an adverse impact on the amenity of the streetscape and adjoining neighbours.

We would like the State Government to take a leading role on this issue, and incorporate amendments to State legislation to ensure that customer substations are not implemented as an "after thought" for new development, but are sensitively incorporated into the site and the built form.

Woollahra Council is currently progressing a draft amendment to our development control plan to provide design guidance to minimise their impacts. However, standardised controls in environmental planning instruments and State-level guidelines should also be introduced. A starting point could be stringent criteria around their design and siting within the *Apartment Design Guide*. Such initiatives would greatly assist Council in achieving high quality design outcomes in the context of changing demand for utilities.

More broadly, Council believes that greater leadership is required from the NSW Government on all issues pertaining to climate change and adaptation. Local government does not have sufficient resources to adequately respond to all policy challenges related to this issue. A best practice approach should be modelled in the statutory framework, with specialised guidance being made available to local government organisations that are experiencing localised climate change impacts (e.g. sea level rise, bushfires or severe heat). Further grant funding should also be made available for local governments to progress policy initiatives related to these challenges.

We request that the above matters be considered by the Parliamentary Inquiry and used to formulate a short, medium and long term planning reforms that will ensure our communities are sufficiently protected against impacts from climate change and changing landscapes.

Council staff would be pleased to provide clarification on any of the issues raised in this letter. Please do not hesitate to contact Anne White, Manager Strategic Planning and Place, on [redacted] if you have any questions.

Yours sincerely

Cr Richard Shields
Mayor