

Submission
No 80

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

Organisation: National Parks Association of NSW

Date Received: 3 November 2023

3 November 2023

NSW Legislative Council
Portfolio Committee No 7- Planning and Environment
By email: <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/lodge-a-submission.aspx?pk=2987>

Planning system and the impacts of climate change on the environment and communities

Dear Sir /Madam,

The National Parks Association of NSW (NPA) appreciates the opportunity to comment on the Legislative Council's inquiry into the *Planning system and the impacts of climate change on the environment and communities* (the inquiry).

NPA was formed in 1957 and sixty-six years later has 15 branches and 4,000 members across NSW. Our mission is to protect nature through community action, with a particular focus on the conservation and expansion of national parks and other types of protected area.

This submission will focus on two aspects of the relationship between the planning system, climate change and changing landscapes, namely biodiversity and fire.

Biodiversity

The manner in which the planning system accounts for climate change is critically important for the retention of areas of high conservation and biodiversity value. We note that the terms of reference for the Inquiry includes 'areas that are threatened ecological communities or habitat for threatened species'. This framing reflects an unfortunate tendency in the planning system to treat the offsetting processes associated with listed threatened species and threatened ecological communities as the sole consideration when assessing biodiversity value.

NPA regards such narrow framing of biodiversity values as a major failing of the current planning system, one that needs to be replaced by a broader understanding of the importance of natural landscapes, ecosystems, habitats and other biophysical processes to the maintenance of biodiversity. There are a many reasons why this Inquiry should consider biodiversity values through a broader lens, including:

- Species and ecological communities currently listed as threatened under the *Biodiversity Conservation Act* are only the 'tip of the iceberg' of species at risk from climate change and poor planning decisions. For example, the Commonwealth Department of Agriculture, Water and the Environment's analysis of the 2019/20 mega-fires demonstrated that more than half of the species assessed as being at risk of extinction following that climate change induced event were not previously listed as threatened <https://www.dcceew.gov.au/sites/default/files/env/pages/ef3f5ebd-faec-4c0c-9ea9-b7dfd9446cb1/files/assessments-species-vulnerability-fire-impacts-14032020.pdf>;
- As a signatory to the Convention for the Conservation of Biodiversity and the recent Global Biodiversity Framework (GBF), Australia is obliged to protect all elements of biodiversity, not just those species currently listed as threatened;

PO Box 528, PYRMONT NSW 2009

- The greatest driver of species decline and extinction is habitat loss. The primary driver of habitat loss in NSW is inadequate protections of native vegetation through the planning system. Bad planning can result in species and ecosystems that are presently secure rapidly becoming threatened; and
- The maintenance and restoration of natural landscapes, habitats and vegetation communities is one of the most effective means of sequestering and storing carbon, a key action to reduce the intensity of future climate change.

All elements of biodiversity, including threatened species, will be effected by climate change and changes in habitat availability. One of the key ways biological organisms respond to such changes is by moving to more appropriate locations. This requires a planning system that considers the role of development sites as potential future habitat for climate change affected species.

At present the planning system concentrates almost exclusively upon the 'footprint' of individual developments. The planning system needs to adapt by considering both the current values of land and its potential future value in response to changing species distributions.

NPA has a particular interest in the central role of Protected Areas (ie. marine parks, national parks, aquatic reserves, nature reserves, regional parks, state conservation areas) in practical conservation. Protected Areas, landscapes and seas that are managed for the primary purpose of biodiversity conservation, act as a counter to the loss of habitats through forestry, agriculture, mining and other forms of development. Protected Areas are not sufficient in themselves to stop biodiversity loss, but the permanent protection from development of such large natural areas is an essential part of any conservation strategy.

The central role of Protected Areas is acknowledged in the GBF, which sets the 30by30 target to actively manage a minimum of 30% of each nation's land and seas for biodiversity conservation by no later than 2030. This target is a direct response to the wave of extinctions sweeping the world as a result of habitat loss and climate change.

NSW Protected Areas cover 10% of state lands and around 8% of state waters, while private lands subject conservation covenants (eg Wildlife Refuges) account for another 2%. The stark reality is that it will be impossible to lift these levels of protection to anywhere near 30% unless this objective is actively supported by the planning system.

In practical terms this requires significant changes to current planning practice. Issues of cumulative impact, disruption of habitat corridors, damage to potential refugia, and the potential for gazettal as Protected Areas or management for biodiversity purposes, should all be treated as 'red line' issues in planning law.

NPA is extremely concerned about the growing tendency for governments to propose developments that directly impact on existing Protected Areas. Development proposal such as the Snowy 2 project in Kosciuszko National Park have demonstrated that the current planning system systematically downplays the importance of Protected Areas, ignoring their essential roles in maintaining natural ecosystem processes and providing large-scale connectivity and habitat for both threatened and abundant native species. Ironically, in this instance the presence of adjoining areas of natural habitat was treated as a mitigating factor than reduced the assessed significance of impact. In other words, the planning system just doesn't 'get' the role, status or importance of Protected Areas.

These retrograde attitudes breach our international commitments and compromise one of our most effective tools against massive species loss. NPA recommends that new standards be inserted into planning legislation to ensure that development can only be approved in Protected Areas under truly

exceptional circumstances and where no feasible alternative is available. In our view none of the developments that have been approved in NSW Protected Areas over the last decade would meet such a test.

More generally, NPA strongly commends the 2023 Henry review of the *Biodiversity Conservation Act* to the Inquiry as an excellent starting point for reform of the planning system in response to the climate and extinction crises facing NSW.

Fire

The fires of 2019/20 left little doubt that the scale, intensity and impact of wildfire is escalating under the influence of human induced climate change. The way in which the planning system responds to these changes will largely determine the severity of future impacts of fire across the State.

The NSW Bushfire Inquiry made numerous recommendations that are relevant to the planning system. It is not apparent that all such recommendations have been adopted. Conversely, one of planning instruments that was adopted after the fires, the Rural Boundary Clearing Code, bears no clear relationship to the Bushfire Inquiry and seems more a product of political posturing than a reasoned response to risk.

NPA supports the core principles underlying *Planning for Bushfire Protection 2019* (PBP), including:

- fire risk should be addressed within the boundary of a development site rather than rely upon actions in adjoining lands; and
- the implementation of fire resistant building standards are an essential component of reducing risk.

The view that broad scale hazard reduction is the best way of reducing bushfire risk is not supported by credible research. While the maintenance of Asset Protection Zones and the reduction of fuel loads in Strategic Fire Management Zones are important, the science simply doesn't support broad scale burning away from critical assets. Indeed, in some landscapes, notably alpine habitats, such burning has the perverse effect of increasing risk by opening the vegetation structure to drying and promoting the establishment of fire-prone vegetation. Likewise, the disturbance caused by forestry activities has a similar effect on increased risk.

The present planning system is designed to make 'point in time decisions' in relation to fire risk. The unfortunate reality is that climate change will elevate fire risk across the majority of NSW, where conditions are predicted to become hotter and drier. This means that PBP will need to be applied in areas where it previously did not apply, restricting future development and affecting sale values. Planning mechanisms to address existing activities on land that becomes bushfire prone are required.

The difficulties of implementing such changes should not be underestimated. For example, the previous NSW Government decided that forcing Black Summer bushfire victims to rebuild under updated development controls would be too onerous. Accordingly, the Government permitted houses to be rebuilt under earlier versions of the relevant Local Environment Plan. Over 30 Councils have taken advantage of this provision.

While the decision is understandable it signals a deep reluctance to respond to escalating risk of wildfire as a result of climate change.

NPA recommends the following principle in responding to increased fire risks:

- land use planning controls for development in fire-prone areas should not be weakened in response to property losses;

- the landscape wide approach recommended in the NSW Bushfire Inquiry be supported as an improvement over the existing focus on individual land holdings; and
- a planning mechanism be developed to facilitate the reduction or cessation of previously granted development consents in bushfire prone land, where risks cannot be otherwise mitigated without impact on natural areas.

If you have any questions on these matters, please contact NPA CEO Gary Dunnett at

Yours sincerely,

Dr Grahame Douglas
President
National Parks Association of NSW
protecting nature through community action