

Submission  
No 191

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

**Organisation:** Clarence Valley Conservation Coalition Inc

**Date Received:** 10 November 2023

---



PO Box 1015 Grafton NSW 2460

clarencevcc@gmail.com

www.clarencevalleycc.blogspot.com.au

## **Inquiry into the planning system and the impacts of climate change on the environment and communities**

The Clarence Valley Conservation Coalition (CVCC) is a community group based in the Clarence Valley in the NSW Northern Rivers. Formed in 1988, the CVCC has been involved with environmental issues – both locally and beyond – since that time. It has had a long-term interest in the conservation of biodiversity, climate change, waste management, the water cycle and protecting the environment of our local area and further afield.

The rapidity of the growth of climate change impacts in recent years indicates that efforts to “ensure that people and the natural and built environment are protected from climate change impacts and changing landscapes” will be extremely challenging for governments and their instrumentalities, however serious is their commitment to taking effective action. Just looking at what has happened in Lismore following the disastrous floods and government attempts to deal with the flood result indicates how challenging it will be for communities as well as governments.

The CVCC welcomes this inquiry. An examination of how the planning system can be improved to cope with climate challenges is certainly needed. There are as well other improvements across government which are also needed. A number of these are mentioned in this submission.

### **(a) EXISTING DEVELOPMENTS & PLANNING SHORTCOMINGS**

Climate change will result in (and, arguably, is already resulting in) changes to the landscape of parts of NSW.

- We have moved from "Coastal Protection" to "Coastal Management" but critical data and mapping on sea level rise and coastal vulnerable areas (i.e. erosion hotspots) have disappeared from Government websites.
- An increase in the severity and frequency of extreme flood events means our flood plains are experiencing more floods - and yet DAs are being approved for both infill and new areas.
- More severe droughts are leading to increased frequency of bushfires and yet DAs are still being approved for constructions which do not comply with Planning for Bushfire Protection.

### **Coastal Erosion**

We are witnessing increased **coastal erosion** from more intense storm surges and wave action as tropical cyclones move further south. There has been a lack of serious planning action on this. In the past decade we have seen the repeal of the Coastal Protection Act 1979 and its replacement with the Coastal Management Act 2016. This change in title has resulted in a complete change in attitude, mimicking the courtiers who told King Canute that he had the power to hold back the waves. Under the Coastal Management Act, we have seen new sea-walls developed by private individuals in Coffs Harbour and at Collaroy in Sydney. And yet the mapping of the 'coastal vulnerability area' - which is a

critical part of the Act - has never been completed. Locally, the CVCC recalls (from previous published work), that the Clarence Valley LGA has three known coastal erosion hotspots:

- Shark and Woody Bays, north of Iluka - The erosion at Shark Bay and Woody Bay will cut off Iluka Road in the next few decades and yet our planning system is still allowing the approval of urban expansion of Iluka into areas of threatened species habitat (e.g. Birrigan Iluka Beach and expansion of the Anchorage Caravan Park). Infill development within the existing village is also proceeding unchecked.
- Brooms Head - continued erosion here has resulted in loss of much of the beach, parts of the caravan park and will mean that houses on the dunes and sandcliffs will be lost.
- Woolli - there remains no serious planning for the impacts of sea level rise, coastal erosion and a major flood in the Woolli Woolli River. Beach nourishment is occurring but this is a stop-gap measure and not the necessary rational plan for retreat from the sand isthmus. The CVCC recalls the 2010 draft coastal management plan for Woolli, which proposed a plan for retreat (including a land swap for current landowners and relocation of essential services) but this was never approved, in part because of strong opposition from some landowners on the dunes.

**Recommendation:** Planning is needed to avoid putting people at risk in these locations. Planned retreat (using a mix of buy-backs, land swaps and strict planning controls) is required.

### **Flood plain development**

In normal times, the mindset for inhabiting a floodplain is one of 'calculated risk'. This is the mindset that talks about 1:100 year floods. It's evidence of gambling culture, but the odds have got much worse with climate change. Requiring new residential developments to have the floor of habitable rooms at least 500mm above the 1:100 year flood level seems to imply they are 'flood proofed' in some way. The 2022 floods on the North Coast clearly demonstrated this was not the case. The CVCC has heard examples of recently completed houses that met this requirement having floodwaters almost up to the ceiling of these rooms.

In last year's floods, we have seen communities put at risk, because they trusted the planning system to protect them. The planning system has obviously failed.

Current publications from the Department of Planning encourage 'infill' development. This makes sense for existing towns, but only if those towns are not located on flood plains. The vacant lots in our floodplain towns are necessary to store excess runoff during storm events. Building new houses on these lots, with the necessary freeboard above the 1:100 flood levels means these lots can no longer carry out this function. We cite the following as a case study:

- A development at Park Avenue, Yamba, stalled after the fill was introduced to the site. The site was previously part of a floodway but now is metres higher than surrounding land. Neighbouring houses experienced severe flooding during March 2022 due to stormwater runoff overtopping the inadequate drains on the site and entering their land. A new DA for the site has recently been approved requiring even more fill to be introduced - raising the site by another metre. Is it any wonder the neighbours feel the planning system is failing to protect them?

**Recommendation:** Planning is needed to avoid putting people at risk in these locations. We must remove the gambling mentality from our planning system and not intensify development on our floodplains. Again, planned retreat (using a mix of buy-backs, land swaps and strict planning controls) is required.

### **Development on bushfire prone land**

As well as increased severity of floods, climate change is causing an increased severity of droughts. This, combined with logging practices and the young age of much of our native bushland, is increasing the frequency and severity of bushfires and that is shifting native vegetation assemblages to those which are more adapted to fire events and which are typically more fire prone. Former DAs

were not subject to planning for bushfire protection (a publication which first appeared in 2001 and which was last updated in 2018 and published in early 2019, before the 2019-20 fire season). With increasing concern regarding the impacts of fire, there is greater pressure for areas of native vegetation to be cleared and/or subject to more hazard reduction for asset protection.

Asset protection zones required under Planning for Bushfire Protection 2019 (PBP 2019) are quite large - up to 100m for Special Fire Protection Purpose developments upslope of forests and subalpine woodland. Under PBP 2019, this zone should be fully contained on the development site and, if not, secured by an easement on neighbouring land with the agreement of that landholder. Further, under the planning system, the impacts of the clearing required for this zone should be considered part of the impacts of the new development.

The issue remains with developments approved before the commencement of PBP 2019 or its earlier editions. There seems to be an implicit assumption that existing buildings have a 'right' to be 'made safe' through expansion of existing protection zones rather than increasing the building's resilience to fire through changing materials. Over the past 30 years, we've seen areas of Bundjalung and Yuraygir National Parks cleared to provide asset protection zones for villages such as Woolli and Woombah. However, residential subdivisions in other parts of the Clarence Valley neighbouring other parks (e.g. Glenreagh and Gulmarrad) were allowed to proceed to completion more recently, even though they did not meet the requirements of the version of PBP that applied at the time of construction.

*Recommendation:* Planning rules need to ensure that all development applies the level of bushfire protection (either in choice of construction materials or in asset protection zone clearing) that is current at the time of the development, not the approval. Any change required due to the evolving understanding of bushfire protection measures should trigger the need for re-assessment of the DA. This must be seen as a penalty on staging DAs over extended periods of time.

### **Protection of wildlife habitat and corridors for wildlife movement**

Clearing for development, including for roads, electricity transmission lines and asset protection zones, is fragmenting the habitat for native wildlife. Edge effects on this fragmented habitat is changing the nature of the vegetation and allowing ingress of the weeds, feral animals and native species (both plant and animal) that are more adapted to the more exposed conditions. Combined, these factors remove much of the habitat required for our threatened species.

Further, modelling of climate change impacts on wildlife habitat reveals that their environmental domains will shift. Predictions include both altitudinal and latitudinal shifts.

*Recommendation:* Protecting the existing vegetation linking the existing habitat of species and their future habitat needs to be incorporated into the Biodiversity Assessment Methodology so that it is considered as one of the impacts of development.

## **(b) PLANNING BODIES - ADEQUACY OF PROVISIONS FOR REVIEWING, AMENDING OR REVOKING DEVELOPMENT APPROVALS AND CONSIDERING COSTS**

### **i) Cumulative impacts of development on floodplains**

#### **West Yamba Development**

The development at West Yamba where low-lying land – much of it originally wetland – has been extensively filled has highlighted problems in the planning process both at the state level (where the approval for re-zoning was given) and Clarence Valley Council. The issue of the unprecedented flooding of neighbouring properties during heavy rain last year has been described above in relation to the Park Avenue development. That development is one of a number of similar developments which are using fill and which have concerned many residents worried about the flooding during last year's exceptionally heavy rain. These similar developments are along Carrs Drive to the south of the Park Avenue development and in the Orion Drive area west of Carrs Drive. As a result of the 2022 rain event, the main part of the town was isolated for some days because of stormwater flooding. As climate change impacts are likely to increase in frequency and size, this flooding will occur again and

is likely to become worse as more fill is being heaped on low-lying areas of the WYURA (West Yamba Release Area). Residents affected by the flooding as well as others concerned about the West Yamba development began campaigning for change. Local community groups in Yamba and Grafton became involved and CAN, a new group focusing specifically on the WYURA matter, was formed.

Following discussion of the issue at its meeting in September 2022 the Council's Community Climate Change Advisory Committee<sup>1</sup> made a recommendation to Council about rezoning to limit the development in West Yamba.

Early in 2023 Council obtained legal advice that the rezoning of land which did not already have development approval for a subdivision was possible without Council being liable for paying compensation.

A motion on re-zoning was put to the Council meeting by Cr G Clancy on April 14 2023. It aimed to have Council request the Department of Planning and Environment to approve rezoning of lands in the West Yamba Urban Release Area (WYURA) which do not have development approval for a subdivision, from Residential (R1) to Conservation (C2) zoning or a mix of Conservation (C2) and Rural (RU2).

The motion was rejected by five of the seven councillors eligible to vote which clearly showed how timorous Clarence Valley Councillors are. Arguments against it included the need to wait for some more reports; no other councils had ever taken action like this and it was up to the State Government to act on floodplain development. And one councillor asserted that, despite the legal advice, compensation of millions would probably have to be paid.

Another cumulative impact of this development is the number of trucks bringing fill to West Yamba. There are concerns about the volume of traffic as well as about the impact these heavy vehicles are having on road surfaces. Another issue is the source of the fill and the effect its extraction is having on the environment. Its extraction and transport also have implications for carbon emissions.

One of the local supporters of West Yamba development homed in on the trucks issue, seeming to think it was the major concern of those opposing the development. He suggested that fill could be dredged from the river and piped to the various fill sites, so that trucks would not be needed. While that might solve some transport problems, it would lead to a major problem with estuary health – in the unlikely event that the government agreed to allow it.

### **Development in other areas of the Clarence LGA**

While what has been happening in the Yamba area is a major concern, there are issues with floodplain development in other parts of our LGA that are also of concern. In Grafton, for example, residential building on fill has been permitted - to the astonishment of long-term residents who are well aware that these low-lying areas were floodways in the past. These filled areas of Grafton could cause flooding problems similar to those in Yamba (but on a smaller scale) if there was an extended period of very heavy rain.

While the levee has served the Grafton community well since its construction, there is always the risk of it being overtopped – and indeed it has come close to this in some recent floods. Furthermore,

---

<sup>1</sup> The Climate Change Advisory Committee was established in 2010.

Its recommendation was: "The ongoing threat of serious flooding in Yamba because of the immense amounts of fill being put in former wetlands in conjunction with climate generated extreme weather events is a major concern to many Yamba residents. As the agents instrumental in creating the fill problems, Council, along with the State Government have a responsibility to resolve the issue. The community Climate Change Advisory Committee urges Clarence Valley Councillors to advocate for re-zoning of vacant undeveloped land on the Yamba floodplain to RU1 and investigate the possibility of stopping any more fill coming into Yamba and lobby the Premier and State Government on floodplain development issues."

there have been questions about levee maintenance and some concern about the possibility of it being breached, which would be disastrous.

## ii) **Climate change and natural disasters - costs**

We are hearing much more about the immense cost of the increasing number of disasters brought to us by the changing climate. The insurance industry realised early on that the services they were offering would become so expensive that many people would not be able to afford insurance – or that some providers would consider many assets uninsurable. This may put pressure on governments to provide financial assistance when there is loss to the uninsured – something that will become impossible for governments in the long term as the volume of disasters increases.

Governments at all levels are currently being forced to fund recovery projects as well as to finance investigations in how to deal with both climate change and the increasing numbers of disasters which are far from natural in terms of the world before climate change morphed into a monster. Government inquiries were set up following the 2019-20 bushfires and also the 2022 Western Sydney and North Coast floods. The effectiveness of inquiries such as these is determined by the quality of the inquiry leaders and the community input as well as by the government response to the recommendations made in the reports. For the expense and effort involved in conducting these inquiries, the CVCC hopes that governments implement as many of the recommendations as possible that will result in more effective action on climate change.

The CVCC is concerned that governments are still failing to recognise that we have a climate emergency. What is desperately needed is much more effective action on emissions which will save money and also limit the climate impacts in the long term. However, our governments continue with the folly of approving more fossil fuel projects as well as supporting pie-in-the-sky carbon capture and storage schemes which are a massive con by fossil fuel proponents. Approving these polluting developments is bad enough, but what is even worse is subsidizing them with taxpayer funds. So much public money has been wasted on propping up industries that need to be closed down as soon as possible.

The costs go well beyond the systemic costs referred to above. There are costs to health in a variety of ways – from mental health or stress from the range of climate disasters to respiratory health during bushfires,<sup>2</sup> to increasing deaths as a result of storms or heatwaves such as those many Mediterranean countries suffered from in their recent summer. Recognition of how health costs are likely to increase should provide another spur to governments to take more effective climate action.

***Recommendation:*** Governments need to take much more effective action on cutting carbon emissions, stop granting approval for new fossil fuel projects, and take effective action to deal with impacts already resulting from global warming temperature rises.

## iii) **Biodiversity loss**

At the same time as the globe is being buffeted by climate change, the natural world is being affected by a biodiversity crisis. Climate change is making the biodiversity crisis worse because of the additional stress it is placing on natural ecosystems which are already suffering from human destructiveness.

Biodiversity loss may occur on a large scale in forestry operations or in extensive landclearing but it may also be exacerbated by the cumulative effects of small losses across the general landscape in what is often referred to as “death by a thousand cuts”.

Over recent years regulations have been weakened in forestry operations, and for vegetation management in agriculture. Also monitoring and compliance of these weak protections has been less effective. The result has been increased biodiversity loss.

---

<sup>2</sup> CVCC members remember the weeks of smoke which lay across our region in late 2019 as a result of the bushfires.

Biodiversity has also been lost as a result of clearing for residential development. In West Yamba this loss has included significant areas of wetland.

*Recommendation:* Governments should institute a strong regulatory framework to protect biodiversity – particularly threatened species. What is also required is a process to ensure that the regulations are being adhered to which means there must be appropriate resourcing for monitoring and strong penalties for breaches.

Councils also have a role in biodiversity protection.

*Recommendation:* Councils should employ an ecologist to assist with assessing developments and educate planning staff as well as assessing local breaches of development consent in relation to biodiversity.

There major issues about the use of offsets. Their effectiveness to protect biodiversity was the subject of a very critical report by the NSW Auditor last year<sup>3</sup>. Another even more critical view is that they are a con designed to assist developers to get approval for their developments. In other words a cynical cosmetic ploy.

*Recommendation:* Offsets should be abandoned.

### **(c) NECESSARY REFORMS**

#### **(i) Inadequacy of government response to Lismore/Woodburn areas flood damage**

After the disastrous repeated flooding last year that caused so much damage to buildings and infrastructure and heartbreak to affected residents in Lismore and surrounding towns, it seemed that the various levels of government would act promptly and decisively to assist with repairs, financial assistance and relocation. Despite all the announcements and promises, what has been achieved has been quite limited and many people have been left in limbo for months and months. It has been a complete schemozzle. And we are left wondering how much money has been wasted.

The scale of the disaster could be cited as a reason for the failure but it is quite obvious that this type of disaster is likely to recur around the nation as climate change impacts grow. Governments are going to have to do much better in dealing with large-scale disasters like this. They will need to be better prepared beforehand by having effective technology in place to provide appropriate warnings and also be ready to provide timely assistance during the crisis and be far more efficient in assisting in the aftermath.

Has there been an inquiry into why the response in the aftermath of the Lismore area disaster has been so inadequate?

#### **(ii) Improvements to catchment management**

Following the government's announcement of the independent inquiry into the North Coast floods, the North Coast Environment Council's Susie Russell commented on the damage to forested catchments in the region. She said, "It shouldn't need much investigation to reveal that the catastrophic north coast floods resulted from the compounding influences of: decades of logging and clearing in the upper catchment and along the gullies, creeks and rivers; rising greenhouse emissions leading to rising global temperatures, particularly ocean temperatures and thus massive evaporation leading to the 'rain bomb' event; and the failure of engineering solutions.

---

<sup>3</sup> <https://www.theguardian.com/environment/2022/aug/30/utterly-damning-review-finds-offsets-scheme-fails-to-protect-nsw-environment>

“Without a widespread well-funded Total Catchment Management plan that stops the ongoing destruction and begins a serious program of catchment repair, this disaster will be repeated all too soon.”

There are also problems in the Clarence Catchment with deteriorating water quality after the easing of logging restrictions in 2019 which led to more intense logging and the reduction of buffer widths along waterways. The severe bushfires led to further siltation as well as ash contamination.

*Recommendation:* Establishment of a well-funded total catchment management plan to restore damaged catchments in conjunction with improved regulations to protect biodiversity which includes increased protection of native vegetation across the landscape.

## **CONCLUSION**

The CVCC looks forward to the Committee’s Report following this timely inquiry and hopes that it will lead to significant improvements in the state’s planning system which will put the government, local councils and the community in a much better position to cope with the challenges of dealing with climate change.

Leonie Blain  
Hon Secretary