

Submission
No 193

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

Name: Name suppressed
Date Received: 12 November 2023

Partially
Confidential

12 November 2023

NSW Legislative Council
Parliament House
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Inquiry into the Planning System and the Impacts of Climate
Change on the Environment and the Communities

I have only had contact with the planning system over the past two or so years since the time I became concerned about a housing development in my hometown.

My experience since this time leads me to believe that current planning legislation is failing in its job to protect and balance the needs of the community and environment against the strong desire of developers to make money.

It's like we are living with a system that has been designed and is run for the money-makers, rather than a system that is designed to result in outcomes that are for the greater good.

The shell of the words is there, but at every level we are missing the safeguards that ensure transparency and conscious balance and, in reality, we regularly see out-of-date legislation and planning loopholes being used to push development approvals that are environmentally destructive and out of alignment with society's current understanding of the fragility and value of ecological communities, particularly in light of climate change.

Essentially the planning system is still operating on colonial ideals that the land is there for the taking ... when the reality today is we urgently need to find a way to live in harmony with nature and to ignore this will be at our peril.

Reassess and revoke when necessary

The biggest need for reform lies in the inability of government bodies to reassess previous decisions in light of current scientific evidence, as well as current community ideals and future needs. The developer cycle can be very long-term and so decisions that are being put into action now are often a result of historical processes sometimes dating back half a century. In this environment, planning bodies need the power to:

- Stop a development at whatever stage it is at and reassess using modern evaluation methods like assessment using a cost-benefit analysis incorporating the social cost of carbon.
- If a development does not meet these new evaluation requirements government authorities need the power to revoke decisions without risk of lawsuits and unreasonable financial recompense. I understand developers may have incurred costs in processes thus far, but when an investor invests in the stock market and the share price doesn't behave as they expect for any reason, they don't get compensation. Development is also an investment and if parameters change, why would it be any different to the stock market?

Essentially, if this ability to reassess and revoke when necessary is not achieved too much of the country's heritage and environment will be lost because there is so much development in the pipeline based on outdated decisions.

Conscious balance and transparency

Another area I see the need for reform is in how local council balances the views of the community vs the pressure of local developers. In my experience, the developer interests have an ongoing working relationship with local council workers through current developments, through previous work histories where they may have been colleagues and even through local industry groups.

The developer has huge resources of money to dedicate to achieving their goals and often have multi-person teams dedicated full-time to focussing on their development.

The concerned community meanwhile does not have the training, knowledge of, or expertise in government processes and planning requirements. We don't have the budgets for any support or legal advice, and any research or work we do in opposition to a development we do in addition to our day jobs and family commitments.

The result of this is that the developer has easy access and contacts to local government information and workers, and the community interest is often tolerated

as mild nuisance and dealt with by a proverbial pat on the head and 'there-there'.

I have no experience with staff rejecting requests to meet with groups opposed to development and have always found staff polite and helpful when approached, but I think the issue is deeper than that. It is about processes making sure that conscious balance is achieved between vastly unequal forces, to ensure the best outcome for the whole.

Conscious balance is more than just accepting a meeting or answering a question when asked, it is making sure the actual process actively ensures balance. That is, council workers and councillors actively remembering that a core part of their job is "to balance the demands for future growth with the need to protect and enhance environmental values" (the agreed NSW government position on the future of the South Coast set out in the South Coast Regional Strategy).

One example I will give in the Shoalhaven is a case where a senior council planner holds a committee position on a developer lobby group called UDIA. On the surface this doesn't appear problematic and when I questioned it as a conflict of interest was told 'it depends on how it is managed' and that 'it is good for council planners to keep in touch with professionally relevant groups'.

But, if this senior council worker is working toward the work-related goal of balancing the "demands for future growth with the need to protect and enhance environmental values" and is also a committee member (decision-maker) of a group that "exists to improve conditions for development in the Shoalhaven and Kiama LGAs by advocating for the coordination of growth, reasonable policies and feasible costs", then this is a conflict of interest for someone in a role that influences and sets planning policy for the future of the region unless this council worker is equally as committed in groups focussed on the environment. If the same council worker is not dedicating their time to both sides of the coin, we have instantly lost balance in their thought processes and therefore decision-making and that is extremely dangerous.

My suggestions for reform would be:

- There needs to be a public register of committees, memberships and associations for all councillors and senior council workers who in their jobs make or influence decisions that affect the population.

A public register of these decision-makers' committees, memberships and associations would be easy to achieve, would provide a greater level of transparency to the community and would also act as a reminder to council workers/councillors about the need for conscious balance in their thinking and choices to properly advocate for the community they are there to represent.

Please be clear I am not suggesting this council worker has done or is doing

anything inappropriate by being a committee member of UDIA, I am suggesting that this is an example of a system that is weighted unequally, despite the correct words being expressed in the goal of the Regional Strategy, and this is affecting the quality of outcomes for society.

- Whenever a council worker or councillor meets with a developer there should be a publicly available transcript (or perhaps even recording like council meetings?) of the discussion. Too often the relationship-building that happens behind closed doors is influencing decisions in a way that any opposing voice is completely blocked from.
- A fee should be payable by all developers, based on a percentage of the value of their development, into a council fund that is made available to community groups needing legal advice or other support in their efforts to represent an alternative view to that of the developer.

Community consultation

It appears to me that the responsibility for community consultation lies with the developer – the body that has the least interest in engaging with the community – and this is an area that needs reform. The government needs to apply clear rules around what constitutes proper consultation and put in place processes that ensure this happens.

In my area there is a long history of tokenistic community consultation and sometimes blatant efforts to exclude community input. Historically we have had ‘supporter only’ community meetings held and other meetings where people opposing development views felt harassed and suffered verbal abuse for speaking. Many of these people refuse to this day to speak up in opposition again.

Most recently the local developer has submitted a controlled action application under the Federal EPBC Act. According to the Department of Climate Change, Energy, the Environment and Water (DCCEEW) website, community consultation is a requirement of a referral and the department website gives examples like hosting a community meeting, doing a letterbox drop, posting a notice on public boards, sharing project information on a website. However, the onus for the extent of this consultation is on the developer.

In our situation, the developer put the report on display in the Nowra and at the State Library and publicised it on their own company website ... but didn't let anybody in the actual affected community know that this was a point where we could make a submission.

This meant that the community's opportunity to speak was stifled. Having discovered after the submission period closed that there even was an exhibition, we emailed the

EPBC directly and were told our comments would be passed on, but the “Minister is not required to consider late comments when making a decision”.

So, the community was punished and had their voices blocked because the developer failed its duty.

- The very simple reform for this scenario is that the government needs to make a rule that at every point where there is the opportunity for the community to make a submission the developer must letterbox drop the entire area that will be affected by the development.

The bigger picture

Finally, the planning system needs to view all the individual developments and plan the bigger picture for Australia. If allowed to progress unabated the cumulative impact of east coast developments is going to destroy Australia’s much-loved, iconic beach-village culture and cause us to lose a wealth of indigenous cultural heritage. Both of these should be preserved and protected for future generations.

The housing crisis needs to be solved within the parameters of environmental balance and should never be viewed or spoken about in isolation. It is not an either/or option or solution, they both need to be planned for together. We CAN succeed in this, but the first crucial step is to say what we DON’T want to happen and lay down the legislation that stops the destruction in its tracks. From there human ingenuity, advances in technology and the developer’s insatiable desire to make money will find a different path within the new parameters.

Thank you for taking on this challenge to fix a broken system.

Preservation = 21st century progress!

Yours sincerely,