

Submission
No 196

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

Organisation: NSW Aboriginal Cultural Heritage Advisory Committee
Date Received: 14 November 2023

ACHAC

Aboriginal Cultural Heritage Advisory Committee

Our ref: DOC23/959608

The Director
Portfolio Committee No. 7 - Planning and Environment
Parliament House
Macquarie Street
Sydney NSW 2000

Via email: portfoliocommittee7@parliament.nsw.gov.au

Dear Director

Thank you for inviting the NSW Aboriginal Cultural Heritage Advisory Committee (ACHAC) to make a submission to the inquiry into the NSW planning system and the impacts of climate change on the environment and communities.

Please see ACHAC's responses to the issues raised in the terms of reference attached (Attachment A). These responses have been informed by the Climate Change Principles adopted by the Heritage Council of NSW (Attachment B).

ACHAC requests that this submission be published in full on the inquiry website under the name 'NSW Aboriginal Cultural Heritage Advisory Committee'.

If you have any questions about this correspondence, please contact the ACHAC Secretariat at

Yours sincerely

Ms Patricia Laurie & Mr Steve Meredith

Co-Presiding Members

Aboriginal Cultural Heritage Advisory Committee

Date: 14 November 2023

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Attachment A – ACHAC submission to the inquiry

ACHAC makes the following submission in response to each of the items in the Terms of Reference.

Item a

(a) developments proposed or approved:

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

ACHAC response

Assessment of proposed developments should be required to consider the impacts of climate change on Aboriginal cultural heritage including risks posed by fire, flood, erosion, drought (including dust) and rising sea levels to tangible and intangible values.

For example, the catastrophic bushfires in the spring and summer of 2019–20 caused extensive damage to large areas of Country, including Aboriginal heritage places. Extensive areas of culturally important plants and animals were also lost during these fires. Coastal sites, such as shell middens and burial grounds, are also being damaged by coastal erosion and rock art sites are being impacted by humidity and salinity.

Item b

(b) 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:

- i. the cumulative impacts of development,*
- ii. climate change and natural disasters,*
- iii. biodiversity loss, and*
- iv. rapidly changing social, economic and environmental circumstances*

ACHAC response

The current powers to review, amend or revoke development approvals (particularly approvals over 20 years old) that place Aboriginal cultural heritage values at risk (as a consequence of the cumulative impacts of development and climate change and natural disasters) are inadequate and should be increased.

Heritage values are dynamic and change over time. Policy and actions to manage the impacts of climate change on heritage places and objects should take a values-based approach that is inclusive of tangible and intangible heritage, natural, social and economic values.

Item c

(c) 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

ACHAC response

Planning reforms to enable communities to mitigate and adapt to climate change should create opportunities to partner with Aboriginal community stakeholders to respond to the impacts of climate change on Aboriginal cultural heritage (including cultural landscapes, shared heritage and intangible heritage). Responses relating to Aboriginal cultural values need to be community driven and led and place based.

Information about climate change risks to Aboriginal cultural heritage places and objects should be provided to communities. Aboriginal community knowledge should inform assessment of risks and the management of climate change impacts to Aboriginal cultural heritage values. Aboriginal communities should be provided with access to the results of risk assessments and with opportunities to participate in decision making and design and implementation of climate change responses.

Development, including the need for homes and critical infrastructure, should be balanced with the protection and conservation of Aboriginal cultural heritage values.

Item d

(d) alternative regulatory options to increase residential dwelling capacity where anticipated growth areas are no longer deemed suitable, or where existing capacity has been diminished due to the effects of climate change.

ACHAC response

Any alternative regulatory options to increase residential dwelling capacity should not impact upon Aboriginal communities' ability to:

- connect to Country
- identify, value and protect tangible and intangible Aboriginal cultural heritage values
- make decisions about how to plan for and take action in response to climate change impacts.

Item e

(e) any other related matters.

Aboriginal cultural heritage in NSW is currently protected by the NSW National Parks and Wildlife Act 1974 and/or the Heritage Act 1977. Examples of Aboriginal culture and heritage in NSW are:




- objects used for cultural activities, ceremonial or sacred areas that may feature carved trees, rock art or burial grounds, natural formations, areas of land and waters
- objects used for past or current activities, such as cultural practices including fishing, hunting and gathering, traditional knowledge, medicine (from native species), language, dance, ceremony and stories
- buildings or places where important historical events have previously or currently take place.




Climate change affects the ability of Aboriginal people to access and care for Country, practice culture, and establish and maintain relationships with family and communities. Climate change increases the frequency and intensity of extreme weather events impacting the health and wellbeing of Aboriginal people, landscapes, plants and animals important to Aboriginal people and causing damage to traditional sites. Many Aboriginal people do not consider there to be a separation between the environment and heritage with all pre-European environments being Aboriginal cultural heritage.

Actions to manage the impacts of climate change on Aboriginal cultural heritage values must be based on Aboriginal community engagement and comprehensive analysis of current climate science, and climate change projections. They must also be fully aware of the heritage values and condition of the heritage place, and the implications of loss, including social and economic.

Any proposed reforms should be consistent with relevant international law (including the *United Nations Declaration on the Rights of Indigenous People UNDRIP*) and the *Dhawura Ngilan: A Vision for Aboriginal and Torres Strait Islander Heritage in Australia*.

Climate change principles adopted by the Heritage Council of NSW (August 2023)

	Principal	Description
	1. Taking a values-based approach: understanding the values of the place or object	Heritage values are dynamic and change over time. Policy and actions to manage the impacts of climate change on heritage places and objects should take a values-based approach that is inclusive of tangible and intangible heritage, natural, social and economic values. Understanding how heritage values are reflected in the fabric of a place is a prerequisite for the assessment of, and responses to, climate risks to heritage places and objects.
	2. Engaging communities	Information about climate change risks to heritage places and objects should be provided to communities. Community knowledge should inform assessment of risks and the management of climate change impacts to heritage values. Communities should be provided with access to the results of risk assessments and with opportunities to participate in decision making and design and implementation of climate change responses.
	3. Evidence-based decision making	Actions to manage the impacts of climate change must be based on comprehensive analysis of current climate science, climate change projections and recognise the uncertainty of those projections. They must also be fully aware of the heritage values and condition of the heritage place, and the implications of loss, including social and economic. It should be recognised that local conditions and circumstances will likely have the greatest bearing on the extent and nature of the impacts.

	Principal	Description
	4. Assessing risks and resilience	Assessment of the risks of climate change to heritage values, and the vulnerability of individual places and objects to those risks and their capacity for adaptation, is fundamental for risk preparedness and building resilience. Assessments of vulnerability to climate change hazards must recognise that climate change threats to heritage values are diverse and may be short or long-term and cumulative, and they could include complete loss. Assessment of risk and resilience should guide actions taken.
	5. Responsive strategies	Strategies for adaptation and mitigation should be responsive to the scale and severity of the impact while at the same time recognising and planning for the inevitable loss of some heritage places and objects. Strategies will need to be flexible and innovative to deal with uncertainty in managing climate change impacts. Possible approaches should be widely shared across government and communities. These approaches may include nature-based solutions that offer long term protection against flooding, storms, and sea-level rise.
	6. Integrating management approaches	Climate change compounds existing threats to heritage values. Management of climate change impacts should be integrated into existing and new heritage management plans. Existing management processes and methods may need to change. Climate change should be added to risk registers including both the identified risks and mitigation measures. Embodied energy in heritage places and the potential contribution of adaptation measures to greenhouse emissions should be considered. Assessment and management of climate change impacts to heritage values should be integrated into climate change policies and actions across government agencies and all levels of government.