



Portfolio Committee 7
Parliament House
6 Macquarie Street
Sydney NSW 2000

3rd November 2023

Dear Committee,

We thank you for the opportunity to make a submission to the Inquiry into the planning system and the impacts of climate change on the environment and communities.

That the world is rapidly warming to a point of no return, due to human action, is unequivocally supported by decades of evidence. The seriousness and urgency require the NSW land use planning system to undergo significant reform to be more effective at mitigating and adapting to that warming. Our submission's emphasis is on the intersections between climate change, infrastructure, health and wellbeing, and social justice and social equity for current and future generations.

We are a collective of academics in three universities. We have developed internationally published and respected research in land use planning. That research has, by and large, focussed on the NSW planning system. We use that research and our extensive professional engagement to inform this submission and 12 recommendations, against the key Terms of References that reflect our expertise.

We begin by focussing on the *ToR point C Short-, medium- and long-term planning reforms is necessary*. We believe this point to be central to the Inquiry's purpose to *'inquire into and report on how the planning system can best ensure that people and the natural and built environment are protected from climate change impacts and changing landscapes'*.

- Planning reform must start with the primary Act and Regulations governing land use planning in NSW. The existing Objects of the Environmental Planning and Assessment Act (1979) aspire to balance economic, social, and environmental impacts to promote the welfare of the community and a better environment. Yet the Objects as listed in the 1979 Act exclude preferencing key aspects of this balance. The mitigation and adaptation to climate change impacts, the impacts of planning on human health and wellbeing, and the realities of planning for equitable outcomes, for example, are missing. For practice and implementation in the face of the climate crisis, the result is an overemphasis on unsustainable growth at the expense of impacts on society and people, eroding the Act's ability to promote the health and wellbeing of all people, and future generations. In addition to preferencing climate realities, human health and



equity, balance requires a Planning system that connects to the realities of ‘places’, both built and natural, and recognition that place is both connected to people and interconnected to regions and the nation. health and wellbeing should be the core outcome of planning and policymaking ^{1 2}.

Recommendation 1: That the phrases: “promotion and protection of human health and wellbeing”, “mitigation and adaptation to climate change” and “equitable outcomes” should be placed at the forefront of the Objects of the EP&A Act as a matter of urgency to direct the change required to the overall planning system towards balancing economic, social, environmental impacts for ecosystem, human health, equity, and sustainability.

Responding to the *ToR point C (i) adequacy of planning powers*, we first focus on the way the current legislation regulates the planning and appraisal of state significant infrastructure. Essentially the legislation places downward pressure to preference assessing impacts on ‘the locality’. That local emphasis means environmental assessments focus on specific projects in isolation from other projects, or the network of infrastructure and regions that surround those projects. At its most unwieldy, the legislation is used to drill down into the impacts of particular stages of very large infrastructure projects, despite claims in these environmental assessments that these projects are ‘city shaping’.

What this ‘downward’, locality-driven focus misses is cumulative effects, namely *ToR (b,i)*. A particular project is assessed in isolation from its context. The perversity of this situation has been carefully documented in our research. Taking the case of the Hunter Valley, the emphasis on project-by-project assessments has meant that a particular mine is assessed for its local impacts, but that the conditions of approval are such that Mine A can never be held accountable for the impacts of Mine B³. Another documented example is the legislative necessity of assessing Australia’s largest infrastructural investment, Westconnex, project stage by project stage, which

¹ Harris P. *Illuminating Policy for Health: insights from a decade of researching urban and regional planning*. Palgrave McMillan 2022.

² Kent JL, Thompson S. *Planning Australia’s healthy built environments*: Routledge 2019. Morrison et al 2021 <https://theconversation.com/planning-shake-up-needed-to-help-those-whose-job-it-is-to-make-nsw-a-healthy-place-159638>

³ Harris P, McManus P, Sainsbury P, et al. The institutional dynamics behind limited human health considerations in environmental assessments of coal mining projects in New South Wales, Australia. *Environmental Impact Assessment Review* 2021;86:106473.



compromises an assessment of the cumulative impacts of this city shaping road investment ⁴.

Recommendation 2. The NSW legislation must be recalibrated to accommodate the cumulative risks associated with the economic development of infrastructure projects.

- We suggest that the planning and appraisal of major or state significant infrastructure is problematic from a cumulative impact perspective and has major ramifications of climate emissions and public health. At present, Environmental Impact Statements of these projects tend to present a circular argument whereby the proponent ties its practices, under the current planning legislation, to a flawed process that preferences the original decision for a project over and above the impact of that project. We note that the NSW Government's 2018 Business Case Guidelines provide a step-by-step framework for developing a full range of options for interventions. In contrast, under Planning legislation, major or state significant infrastructure is opaque about following this framework and tends to present already predetermined options for a particular goal – a road vs a road vs a road for instance – rather than a suite of options – such as a road vs public transport vs active transport.
- Further, for this inquiry, the Committee should note that there is no reference in the Act or Regulations pertaining to planning to the need to develop a full business case for state significant infrastructure, including various options for other types of infrastructure that might be viable (or not) to the particular project proposed.

The result is that cumulative impacts – for example to climate or health – are co-opted to the core parameters of the original infrastructure investment option, disabling any ability to question whether that option was the best in the first place. These risks augmenting the inherently negative impact of some types of infrastructure – especially roads and coalmines - on climate and public health.

The solution to this problem lies in how business cases are made. The current practice of developing business cases under the EPA act is subsumed to environmental assessments which are the final stage in the planning and appraisal process. As

⁴ Harris P, Riley E, Sainsbury P, Kent, J., Baum, F. Including health in environmental impact assessments of three mega transport projects in Sydney, Australia: A critical, institutional, analysis. *Environmental Impact Assessment Review* 2018;68(Supplement C):109-16. doi: <https://doi.org/10.1016/j.eiar.2017.09.002>



recommended by the Public Inquiry into Westconnex^{5 6}: 'That the NSW Government mandate the completion of a public health impact analysis as part of the wider

economic analysis undertaken for future large scale infrastructure projects.' That wider economic analysis should situate climate change, public health and social equity focused impacts much earlier to inform the development of options about a project.

The NSW Government's procurement guidelines lay out the need to understand and assess risks and benefits of particular infrastructure options before isolating and proceeding with one or another⁷. Health is not mentioned in the context of this assessment. As of 2021, the NSW Government admitted the need to reform managing public sector investment to replace an 'outdated and prescriptive policy framework, underpinned by the oldest financial management in Australia'⁸. In contrast, the Federal Government has developed guidance for transport planning that exhort infrastructure planning to work across the very long and detailed development of strategic transport options and then business cases⁹. But in the NSW planning legislation, especially for state significant infrastructure, this type of best practice currently does not occur.

Recommendation 3: The NSW planning legislation should clearly articulate a full business case appraisal and approval process.

- Responding to *ToR B*, we propose that the planning system currently predetermines the omission of climate change considerations and actions. Much of the State's residential development occurs as complying development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. The Housing Code (Part 3 of the *SEPP*), the Rural Housing Code (Part 3A of the *SEPP*), the Low Rise Housing Diversity Code (Part 3B of the *SEPP*) and the Greenfield Housing Code (Part 3C of the *SEPP*) currently contain no provisions geared toward either reducing the climate impacts of development or ameliorating the impacts of climate change on inhabitants; such provisions generally reside in Development Control Plans (DCPs), but complying development carried out under these Codes is not subject to DCPs. These provisions could include (for example) requirements for light-coloured (or low solar

⁵<https://www.parliament.nsw.gov.au/lcdocs/inquiries/2497/Final%20report%20-%20Impact%20of%20the%20WestConnex%20Project%20-%20FINAL%20-%202014%20December%202018.pdf>

⁶ Robertson T, McCarthy A, Jegasothy E, et al. Urban transport infrastructure planning and the public interest: a public health perspective. *Public health research and practice* 2021;31(2):3122108.

⁷ https://www.infrastructure.nsw.gov.au/media/fgtIght1/procurement-framework_3-june-21_final.pdf

⁸ <https://www.treasury.nsw.gov.au/budget-financial-management/reform>.

⁹ <https://www.atap.gov.au/framework/index>



absorptance) building materials, at least one tree in each yard, building orientation for optimal passive solar design, site coverage limits, limits on coverage of impervious surfaces, and limits on parking (to discourage excessive car ownership).

Recommendation 4: The NSW government consider either repealing these Codes (requiring all residential development to be subject to development assessment and the requirements of LEPs and DCPs) or introducing provisions to improve the sustainability of the subject development.

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- Responding to *ToR (b) references to whether local councils have adequate planning powers*, our extensive research has demonstrated that under the current NSW planning system they do not have adequate powers. Reform is essential to redress power imbalanced and provide local councils with the ability to act and support their communities facing the extreme effects of climate change.¹⁰

Local councils are fundamental to managing impacts of development on behalf of local communities in the face of the climate emergency. However, the NSW planning legislation was amended the 2000's to remove local government as a decision-making authority for major infrastructure. The system recognises the importance of local government yet does not take this scale of governance seriously. There is a basic lack of local representation at the table where fundamental decisions with profound impacts for local communities are made. For example, local government can comment on Environmental Assessments or be nominated as an authority for formal engagement. In addition, while the legislation states that 'state planning policies' prevail over local environment plans, in practice, and in case law (including those related to coal mines), local environmental plans are included in EAs and judgements¹¹.

Complying development is another example where local councils have limited power under the current Planning legislation. Much of the residential development that occurs in NSW is undertaken as complying development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. This development does not undergo development assessment by local councils and is not subject to their Development Control Plans, meaning that councils are unable to impose any

¹⁰ <https://www.sciencedirect.com/science/article/pii/S0264837722002927>,

https://researchdirect.westernsydney.edu.au/islandora/object/uws:60845?utm_source=miragenews&utm_medium=miragenews&utm_campaign=news

¹¹ <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWLEC/2019/7.html>



requirements related to climate change mitigation or adaptation, health, or equity, and that compliance with the *SEPP* is left in the hands of private certifiers (i.e. there is no entity with a public interest mandate ensuring that development is compliant).

Recommendation 5: that local councils are reinstated in NSW Planning legislation as a decision-making authority for major infrastructure and for complying development.

- Our collective research has demonstrated that local councils are the closest level of government to the people and have the greatest influence on the design and actual implementation of planning reforms. Moreover, we show how climate health impacts cut across almost all areas of local government responsibility, including the critical assets, infrastructure, and essential services that Councils provide for their local communities. Councils are place shapers and place leaders. They bring a lived experience perspective in strategic planning and decision-making processes. They understand how populations are building their resilience and contributing to improving health and wellbeing at the local level. They plan and implement responsible, evidence-based, locally relevant climate change mitigation and adaptation strategies through their strategic and operational plans, and service delivery to their communities.¹²

A 'big picture' systems thinking approach is needed, underpinned by a collaborative approach working holistically across Local Governments and with key stakeholders. This approach will support short-, medium- and long-term NSW planning reforms necessary to ensure communities are able to mitigate and adapt to extreme climatic conditions.

Recommendation 6: Councils take a lead responsibility in climate change mitigation and adaptation strategies and in doing so they are better supported and resourced to work more effectively together and with NSW Government.

- Our collective research has demonstrated that the existing Planning system creates imbalance through an overemphasis on the economic potential of infrastructure. This is at the expense of impacts on society and people (especially their health and wellbeing) and our natural environment. This has ultimately exacerbated extreme climatic events witnessed across NSW and in specific regions.

¹² Morrison et al (2021) Increasing resilience to climate change: review of local council strategies for climate, health and wellbeing in the Western Sydney Region
https://researchdirect.westernsydney.edu.au/islandora/object/uws:60845?utm_source=miragenews&utm_medium=miragenews&utm_campaign=news



What the climate crisis is showing is that a wider, balanced approach is needed to ensure that infrastructure achieves economic development, but equally emphasises the social and environmental dynamics that existed before and after that

infrastructure was built. For planning systems, this approach is 'relational' rather than reductive: i.e., rather than reducing the dynamics of infrastructure to the economic benefits or risks of the project as an asset, planning situates that infrastructural investment in its relations to people and their environment.¹³

Recommendation 7: That the Planning system strongly connects to the realities of 'places', both built and natural, and recognises that place is both connected to people and interconnected to the wider region.

- We also strongly suggest that health and climate considerations are integrated into policies, plans, and strategies at all levels of government. This involves aligning health objectives with climate change mitigation and adaptation goals, as well as incorporating climate change considerations into health policies and programs.¹⁴

Integration of climate health targets and indicators into the Local Government Integrated Planning and Reporting Framework is a critical reform to ensure climate health risk management strategies and practices are being effective, consultation is undertaken in all stages of the process, and decision-makers are demonstrating climate health leadership in decision making, resource allocation and delivery programs.

Recommendation 8: Integrate health and climate considerations into policies and plans and strategies at all levels of government and that Councils implementation and accountability to their communities is incorporated into the Integrated Planning and Reporting Framework for Local Government.

¹³ Lawton A & Morrison N (2022) The loss of peri-urban agricultural land and the state-local tensions in managing its demise: the case of Greater Western Sydney, Australia, Land Use Policy 120, 106265
<https://www.sciencedirect.com/science/article/pii/S0264837722002927>,
<https://theconversation.com/half-of-western-sydney-foodbowl-land-may-have-been-lost-to-development-in-just-10-years-190148>

<https://theconversation.com/under-resourced-and-undermined-as-floods-hit-south-west-sydney-our-research-shows-councils-arent-prepared-178293>

Harris P. Illuminating Policy for Health: insights from a decade of researching urban and regional planning.: Palgrave McMillan 2022.

Harris P, Fisher M, Friel S, et al. City deals and health equity in Sydney, Australia. *Health & Place* 2022;7

¹⁴ <https://wshealthalliance.nsw.gov.au/increasing-resilience-to-climate-change-ircc/>



Points from here in response to ToR (e) 'Any other related matters'

- We suggest that effective integration of policy creates mutually reinforcing action, promoting health co-benefits while addressing climate change challenges. Creating platforms or working groups can bring together experts from climate science, public health, policy, and other relevant fields. These platforms provide a space for collaboration, knowledge exchange, and joint problem-solving. They can facilitate dialogue, identify common goals, and develop integrated strategies to address climate change and public health challenges.

By leveraging the strengths and resources of multiple government and non-government stakeholders, collaboration can lead to more efficient and effective implementation, ensuring that climate and health goals are achieved together.

Recommendation 9: Any short-, medium- and long-term planning reforms must prioritise policy integration and the establishment interdisciplinary platforms to ensure community resilience building and adaption to climatic conditions.

- Enabling data collection, analysis, and sharing mechanisms supports the integration of health and climate data, enhances understanding of climate-health linkages, and informs evidence-based policies and interventions. Stronger guidance is also required on the collection, analysis, and interpretation of climate and health data, including climate projections, epidemiological data, and health system information. This guidance should include standardised data sources, quality control measures, and methodologies for assessing climate-health linkages.

Robust research and monitoring systems contribute to ongoing learning, evaluation, and improvement of climate change mitigation strategies. This promotes evidence-based decision-making and strengthens the knowledge base for collaborative action. Collaborative research projects, joint publications, and data sharing platforms facilitate the exchange of insights, allowing stakeholders to better understand the connections between climate change and health and develop effective policies and interventions.

Recommendation 10: Access to quality data, transdisciplinary research, and evidence must be improved to enable planning policy and processes to be implemented as effectively as possible, following NSW Planning reforms.

- We recommend developing NSW guidance for local councils conducting health impact assessments to evaluate the potential health impacts of climate change and inform adaptation planning. This includes assessing both direct health impacts (e.g., heat-related illnesses) and indirect impacts (e.g., changes in vector-borne diseases) on



population health. Establish a consistent Vulnerability Assessment Framework for assessing vulnerability to climate change impacts on health.

This framework should consider exposure to climate hazards, sensitivity of health systems and populations, and adaptive capacity. It should also incorporate considerations of equity and the social determinants of health. Standardised methodologies for conducting vulnerability assessments and adaptation planning, including common indicators, data collection methods, and analytical frameworks must be developed. This ensures consistency in approach and allows for meaningful comparisons between different regions and jurisdictions.

Recommendation 11: Develop NSW-specific guidance and recommendations to embed Health Impact Assessments and Vulnerability Assessment Frameworks within local councils.

- Strong leadership and effective governance are essential enablers to short-, medium- and long-term planning reforms necessary to ensure communities can mitigate and adapt to our changing climate. Leadership can be enhanced by ensuring clear strategic direction, aligning leaders' behaviours and actions with strategy, and fostering a culture of accountability. The development of whole-of-government incentives for collaboration over competition for limited resources needs to underpin this governance. The workforce must have the necessary knowledge and skills to translate strategic vision into tangible outcomes.¹⁵

A skilled and engaged workforce can contribute to innovation and problem-solving efforts during climate mitigation and adaptation planning and implementation. Such a workforce can offer unique perspectives, creativity, and expertise to address challenges, identify opportunities, and develop novel approaches. Knowledge and skills development can be enhanced through training programs, capacity building initiatives, and knowledge sharing platforms. The professional development of the workforce must be prioritised through investment in learning opportunities to close skill gaps, promote cross-functional collaboration, and support professional development aligned with strategic objectives.

Recommendation 12: Develop leadership and training opportunities in all levels of government necessary to support community resilience building and adaptation to our changing climate.

¹⁵ Morrison N & Van Den Nouwelant (2020) Western Sydney's urban transformation: examining the governance arrangements driving forward the growth vision. *Australian Planner* 56 (2) <https://www.tandfonline.com/doi/abs/10.1080/07293682.2020.1742172>



It is critical to instil the need to conduct policy evaluation across all levels of government. Evaluations can occur through conducting regular internal reviews and assessments of strategy implementation, collecting feedback from stakeholders, and incorporating lessons learned into future strategies and action plans. Evaluating the effectiveness of policy is key to informing decision-making, course corrections, and the refinement of strategic objectives. By developing this culture of continuous learning, this will ensure the planning system is on-going 'fit for purpose' and able to support our communities and natural environments from climate change impacts.

Recommendation 13: Provide a culture of continuous learning centring on the importance of policy evaluation. By doing so, this will enable short-, medium- and long-term reforms to be effectively embedded in all levels of government.

We conclude by stressing that the predictions of more frequent, severe, and prolonged weather events mean there is an urgent need to ensure that government and non-government agencies and local communities are fully prepared. As a multi-disciplinary team of academics working across three of Greater Sydney's universities, we would welcome the opportunity to brief the Committee on our work and to lend on-going advice and support during and post this timely Inquiry.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Patrick Harris'.

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A handwritten signature in black ink, appearing to read 'Nicky Morrison'.

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