

Ryde Environment Group

PO Box 6116
North Ryde 2113

18 January 2013

Senate Inquiry into extreme weather events arising from climate change and the level of preparedness of Australia to respond to extreme events and climate change.

Introduction:

This submission by the Ryde Environment Group is a response to the Senate Inquiry into extreme weather events associated with climate change. It focusses on the existing legislative framework for environmental planning and assessment in NSW, its strengths and weaknesses, and the administration and resourcing of environmental planning in NSW from 1980 to the present. It also includes some examples which relate to the variations between State and Federal environmental planning laws and their administration and how these might be improved to ensure better outcomes than at present.

All of the above elements are relevant to how prepared Australia is to respond to future extreme weather events in a changing climate and how this might be improved for the benefit of the community and the environment.

Environmental Planning & Assessment in NSW:

The NSW Environmental Planning & Assessment Act, 1979, (EP&A Act) commenced in September, 1980. The Act introduced the concepts of environmental planning and community participation in planning and development across all of NSW. It was the key element of a suite of legislation including all of the following and provided the framework for the current planning system in NSW which includes:

Environmental Planning & Assessment Act, 1979
NSW Heritage Act, 1976
Land & Environment Court Act, 1979
Coastal Protection Act, 1979
State Emergency and Rescue Management Act, 1989; and
Local Government Act, 1993.

Environmental planning and assessment is the responsibility of the NSW Government and is shared by Local Government, comprising 152 councils across the State. Local Government is not recognized in the Australian Constitution and is established and administered by the NSW Government. Local Government is the tier of government closest to the people it serves.

At the risk of stating the obvious almost any extreme weather event occurring on, or impacting on land in NSW does so in a local government area. There are some exceptions including the Sewage Treatment Plant (STP) at North Head, Manly which is on Crown land excised from Manly local government area to facilitate the development of the existing plant almost a century ago. This is a key facility, designed to serve a population of 3 million people. Sydney's

population is now almost 4.7 million. It is projected to increase by another 1 million this half-century.

The NSW Government is responsible for maintaining and operating the STP which continues to be a source of air and water pollution incidents impacting on the environment and the community, despite major upgrades. It is a prime example of how the planning system in NSW has become dysfunctional. The community has had no recourse but to expend effort in order to protect the health and wellbeing of the community and the natural environment, although the land is not part of the local government area.

It is also an example of the need to plan for the long-term replacement of old infrastructure and to make financial provision to do so. Simply planning for population growth is not an adequate response. Other examples include public transport, hospitals, social housing and schools. Climate change will create new demands on infrastructure such as sewer lines, water supply lines, roads, rail, airports, wharves, ports and sea walls involving upgrading, replacement and/or repair. Extreme weather events will increase the need for long-term planning and funding.

The implementation of the EP&A Act was not adequately resourced. The provisions requiring the preparation of local or regional environmental studies to precede local or regional environmental plans have been implemented in a piecemeal manner and regularly set aside by administrators as not being required, despite being a critical element in support of robust planning decisions and approvals and positive outcomes.

The Act has been subjected to constant amendment since its commencement. This is well documented by Tim Bonyhady in *Places Worth Keeping – Conservationists, politics and the law* (1993). The scale and speed of amendment has increased dramatically since was published. Many of the more recent amendments such as removing the need for separate building applications, and introducing code assessment have been promoted as removing red tape and speeding up development.

Many of the amendments have added new classes of development such as major projects and state significant development. All of these amendments have made the planning system very complicated and beyond the understanding of most people including many practitioners.

It has been proposed by many groups and in the NSW Planning Review carried out by Moore and Dyer (2011-2012) that one single approval system replace the variations now in operation. If adopted this would be a very positive step and could also remove Part 5 approvals for development not requiring consent under Part 4 of the Act. In Part 5 there is only a requirement to assess all the impacts of an activity. There is no standard of assessment which must be met and neither is there a requirement to mitigate impacts on the environment.

In the last decade the EP&A Act was amended by the introduction of Part 3A, which gave the Minister for Planning all of the powers of a planning authority, from zoning, change of land use and development approval, notwithstanding that the proponent was a State government agency. The Royal Ryde

Rehabilitation Centre, Putney, occupied land and buildings that were sold below market value in 1897 to establish special housing. This was Weemala. It had social values and heritage significance as a pre-cursor to the Richmond Report, providing a home rather than an institution. Later philanthropy contributed to the development of a second facility on the land, Moorong.

Approval was granted under Part 3A to the redevelopment of the whole estate for residential development, despite having an existing rehabilitation centre, other facilities, a central location, and room for expansion to meet future demand for rehabilitation from strokes, cancer, accidents, etc. Rehabilitation facilities and services are now being developed in a number of separate sites and the Putney site sold.

The heritage significance of the property, which meets several heritage criteria under the NSW planning system, was ignored and minimal conditions placed on the consent relating to the heritage of the property. Even these have been ignored. When asked about this condition the private certifier stated that he did not have to speak to a member of the public.

The natural environment has also suffered at the hands of the three tiered system, poor administration and lack of funding. Approval was given to the clearing of the endangered ecological community - Sydney Turpentine Ironbark Forest at the Macquarie Hospital, North Ryde although it was listed at both State and Federal levels. The development has now been completed despite less than 1% of the original endangered ecological community remaining in the region.

The lack of an integrated electronic based mapping system and professional staff with the essential qualifications and experience to assess such a development contributed to this poor outcome for the natural environment. It reflects poorly on all three tiers of government. The NSW government minister responsible for the approval also had a conflict of interest holding both environmental protection and development portfolios but chose to allow the development to proceed despite the loss of a significant area of an endangered ecological community. Development prevails over other considerations in NSW.

Funding has also been inconsistent. Each tier of government has contributed funding to environmental planning in NSW, but this has been determined on the priorities and subject to the adopted policies of each separate tier. This "filtering" has produced a response at the local government level of acceptance that only a small percentage of the works and studies identified as necessary will ever be funded, and if not funded by one of the higher tiers, then acceptance that projects and outcomes must be scaled down and funded by local government itself, occasionally in cooperation with adjoining councils or ROCs (regional organisations of councils).

In NSW more than a decade has been spent on various proposals for a new planning system and new planning legislation. The current proposal described in the NSW Department of Planning Green Paper- A New Planning System for NSW (July 2012) will not improve the current legislation. It proposes to repeal the EP&A Act and replace it with a new enabling Act. Statutory powers and statutory State Environmental Planning Policies are proposed to be replaced by strategies, growth plans, guidelines and advisory notes.

Many decades of planning effort will be overturned should the new system proceed. New Enterprise zones with little or no planning controls will replace endorsed controls and development control plans which are the detailed planning statements and maps will be treated as a guide. There are no limits on the scale of development being proposed under the Green paper proposals. North Ryde Railway Station Precinct is identified as an enterprise zone. A current proposal for the Precinct includes two 33 storey towers on private land with an approval for 8 storeys. Details of the full Precinct proposals can be viewed on the Planning NSW – Major projects pages under Ryde Local Government Area.

A large percentage of the land included in the North Ryde Railway Precinct proposal is land that was originally acquired and zoned for Open Space. An existing regional tennis centre is included in the development site. North Ryde Railway Station lacks a bus interchange, public car-parking, and pedestrian and cycle facilities. No feeder buses service the area to the south-west. None of these is proposed to increase rail patronage. The land subject of the proposal sits immediately above the Lane Cove River and the National Park, one of the earliest and most popular recreation facilities in the region. Thousands of new residents will be accommodated in high-rise towers in the flight path to Kingsford Smith Airport.

The repealed Part 3A provisions are still being used by the Government appointed Planning Assessment Commission to approve developments in excess of existing endorsed planning controls. Massive developments of 33 and 60 storeys in various parts of the Sydney Harbour Catchment are being proposed and approved by the government appointed Planning Assessment Commission. Many of these old part 3A proposals have been continued despite it now being more than 12 months since the repeal of part 3A. Representations from many community groups have been ignored by the State Government which continues to approve such developments at North Ryde, Lane Cove and elsewhere in the catchment. The development industry has taken advantage of the opportunity for a huge windfall gain. The needs of the existing community, many of whom are also property owners is being disregarded.

The Metropolitan Strategy 2005 focussed primarily on increasing the number of dwellings and jobs across the Sydney region. Sub-regional strategies for areas such as the inner northern area of Sydney remain in draft form. Ryde Local Government Area will meet the projected dwelling and job targets (12,000 and 21,000 respectively) from existing development potential under the endorsed controls. More than 3,000 additional dwellings and many jobs in excess of the agreed 21,000 are now being shoe-horned into the Macquarie Park/North Ryde Areas at the request of the development industry.

There has been little effort from the State Government to improve the environmental data sets that are the foundation stones on which the planning system depends. Mapping of the vegetation of the Sydney region, including the identification of high priority bushland corridors was completed in 2009 but has not been finalised or endorsed by the Government. Councils wishing to rely on the mapping for use in planning appeals and the preparation of new local environmental plans have to fund separate ground-truthing of the draft mapping. The lack of consistent cross-regional assessment and confirmation limits the value of the effort and expenditure, and deprives the community and

the natural environment of appropriate land-use planning controls, contrary to the objectives of the EP&A Act.

Planning for extreme weather events and the effects of climate change.

By 2070, the Sydney region may experience temperatures that are on average, as much as 6°C warmer than they were in 1990. By 2070, our region may experience rainfalls that are, on average, 40% less than they were in 1990 according to Dr Dale Dominey-Howes in "Future Climate Change and Manly" paper delivered at the Manly Futures Forum "Surfing the Future 2005".

In terms of the likely consequences of climate change, Dr Dominey-Howes identifies the different sectors of the environment that will be impacted by climate change, and the expected impacts. Specific impacts include sea level rise, coastal erosion and retreat, and increases in the frequency and intensity of coastal storms and floods and frequency of bushfires. In addition to the impacts on the built environment and infrastructure, as well as the natural environment, Dominey-Howes also identified the risks to human health and wellbeing from extreme temperatures and floods and increase in significant diseases such as malaria and dengue fever.

What is needed to improve the environmental planning outcomes to deal with extreme weather events and climate change?

Australian governments at all tiers must get it right in respect of environmental protection and infrastructure design to prepare for extreme weather events and climate change. What is needed?

- Intergovernmental agreement, adequate funding, and lasting commitment is essential to address the challenges Australia faces from climate change.
- An integrated approach to environmental planning across Australia.
- One shared system of environmental planning laws and administration.
- Ecologically sustainable development is to be the fundamental principle underlying Australian planning law.
- An integrated electronic platform for environmental and other data sets is critical for effective environmental planning, sound development assessment and approvals.
- Removal of complex layers of overlapping laws, different priorities and arbitrary boundaries.
- The Federal government should lead a shift away from the knockdown and rebuild approach to the built environment.
- Adjustment of the existing tax system to reward those property owners who retain and conserve existing sound buildings and the natural environment, including landforms, flora and fauna.
- Infrastructure requirements and design standards should be updated to address climate change and extreme weather events.
- Building design standards must recognise the potential impacts of extreme weather events and climate change.
- The pressure of increasing levels of immigration must be slowed to protect the scale and character of Australian cities from wholesale demolition and redevelopment.
- Public participation and community engagement is a requirement for achieving good planning outcomes and acceptance of policy shifts.

- The future built form and character of Australian cities, including Sydney should be the subject of discussion at the community level.
- Existing endorsed planning controls in NSW should be retained and reviewed as necessary in consultation with the local people.
- The public service should be renewed. And professional standards maintained.

Conclusions:

Ryde Environment Group appreciates the opportunity to provide input to the Senate Inquiry. The Group has joined with many other groups in NSW to form the Better Planning Network to provide a powerful voice for the community in the future of the NSW planning system. Ryde Environment Group is available to discuss the matters raised with the Inquiry members.

Jennie Minifie
For Ryde Environment Group.