climatechange.review@epa.nsw.gov.au.

SUBMISSION FEEDBACK AND COMMENTS ON -
"NSW EPA Draft Climate Change Policy and Draft Action Plan"
November 2022
NSW EPA

From: Chloe Mason
[redacted]
I live on Gadigal Country in the electorate of Sydney.

This submission can be made public and be published under my name.

My background

Former work experience:

- NSW EPA Programs Manager, Outer Sydney Region, Operations Division
- Visiting lecturer on climate change and health, Environment Institute, UNSW
- Consultant to Commonwealth Australian Greenhouse Office, NSW Sustainable Energy Development Authority, NSW RTA and NSW Health on modal shift and active travel for health.
- Short term scientist-environment lawyer Minter Ellison, Melbourne including EIS on Port Melbourne dredging including GHG assessment.
- Independent – submission to Narrabri Coal Mine Extension Stage 3, 2022.

BA Hons (Macq) PhD MEnvStud (UNSW) BLaws and Grad Dip Leg (UTS)

Introduction: meeting the need

Thank you for producing the **draft Climate Change Policy ('CCP')** and **Draft Action Plan ('CCAP)** to recognise greenhouse gases emissions as pollutants and outline NSW EPA's **approach to regulation** and reduction; and for giving the public an opportunity to comment.

My feedback responds to the two documents on exhibition.

In recognising the seriousness of climate change, and commencing with a new policy and action plan, in accord with its existing statutory duties, the NSW EPA has a tremendous opportunity:

Policy context

The context is perfect for launching NSW EPA's new policy and action plan:

(a) the community is concerned. Today's (3 November 2022) ABC news[1] from the *Climate of the Nation* report showing that for the first time, most Australians are concerned about climate change and over 80% relate the disasters (fire, flood, chaotic weather) to climate change and will affect food supply.
(b) the connection between reducing GHG and protecting the environment warrants joined-up policy, strategy and action; the case is powerfully made by Christiana Figueres[2]
(c) The contribution of climate change to chaotic weather is well established. On the news this week, flooding on the Lachlan, snow in Cowra with reported deaths of flying foxes hit by unseasonal cold – after the ravages of habitat from fire. Wider awareness of the value of Aboriginal cultural knowledge and participation, since the release of the Commonwealth *State of the Environment* Report.
(d) March 2022 responding to IPCC Sixth Report, included in CCP References p.24, Australian Lawyers for Human Rights "warned that virtually all of the human rights Australia is obliged to uphold under core international treaties, depend on meaningful action on climate change."[3]
https://alhr.org.au/ipccreport/

- Policy-wise and certainly behaviour-change-wise, we've been here before – but not in NSW yet regulated GHG emissions, so this is an important development, identified as a "key regulatory challenge" (CCP p.10)
  In the early 1990s, the Commonwealth established the Australian Greenhouse Office (AGO), reporting to multi-sectoral ministerial council. It had policy and a Greenhouse Action Plan. And later in NSW the Sustainable Energy Development Authority (SEDA).

- Comparative research and benchmarking. Page 18 mentions review of climate policies in other jurisdictions, without detail or inclusion in references (pp23-24) or intent to benchmark. No mention here of the current judicial review case of Vic EPA in the Victorian Supreme Court on the regulation of power stations in the La Trobe Valley, brought by EJA for Environment Victoria. Seems an opportunity.

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[1] https://www.abc.net.au/news/2022-11-03/climate-of-the-nation-report-australian-attitudes-climate-change/101606374?s=09

[2] Christiana Figueres: "This year at the twin Cops – the climate Cop in Egypt, and the biodiversity Cop in Canada – we need ambitious, joined-up action that delivers on promises to cut emissions and commits to stopping and reversing catastrophic biodiversity loss and species extinction. [habitat protection]" – *Guardian Australia* 3 November 2022
https://www.theguardian.com/commentisfree/2022/nov/02/nature-climate-crisis-new-mindset?CMP=Share_AndroidApp_Other

[3] https://alhr.org.au/ipccreport/

These conditions could support the claim for funding extra staff and resources to make progress and avoid the delays that are embedded in these draft documents.

Comment on Draft CC Policy document

Exercising powers of NSW EPA (CCP page 12). The existence of s12 power to issue directives enables NSW EPA to collaborate effectively.

While I was working at NSW EPA in Operations, the most memorable example – stopping short of citing this power – arose during the construction of the M2 motorway, supervised by the RTA. While RTA's plans showed bus ramps, their construction was to be contingent upon demand. The RTA was unable to tell NSW EPA how it would determine whether there was an expression of demand for bus services. NSW EPA's request, therefore, was for the RTA to pay for and participate in a latent demand study under the supervision of a consultant, managed by NSW Dept of Transport, with State Transit and NSW EPA. The study was completed. Bus services were commenced, bus ramps were constructed. And this bus service had one of the highest passenger loads in Sydney Metropolitan Area. The velvet glove.

Regulatory response and regulatory partners (CCP page 12) – noting the seriousness of the issue and the Department of Planning and Environment, many objectors to the Narrabri assessment were concerned by the Department's report particularly on methane emissions and leakage risks.

Noting the regulatory remit (CCP page 13) – question: does NSW EPA not have a remit in regulating land clearing?

CCP page 14 – noting the intent for the Draft Plan, it appears that **a delay is proposed** before considering "stronger regulatory action". Native forests cannot afford delay! Further delaying mentions are made, eg to introducing Pollution Reduction Plans for licensees.

CCP page 15 – noting NSW EPA complementing "action our government partners are taking". We know that native forests are valuable as carbon sinks and invaluable as habitat. Newer research, and the great value of 'ancient trees' is recognised. The time is overdue to stop the logging of native forests, to remove subsidies with just transition programs for workers and communities. So, how and when is NSW EPA raising this with Treasury funding of logging native forests? No delay!

Reporting and review (CCP p14). After the election, the incoming government would benefit from an interim update on NSW EPA's progress.

Pillar 1 – Inform and plan (CCP page 15) . Dot point 3 refers to using best available evidence and knowledge. This would be good. It has not been robust in the past: NSW EPA's blind-spot on climate policy and regulatory duty that has been brought

home by the action of Bushfire Survivors Climate Action. The public has become more aware of regulatory capture, the failure of carbon credit schemes, and even capture of knowledge institutions[4] (CSIRO's GISERA, for example). The References listed (CCP pages 23-24) is not reassuring (as above, comment on the lack of referenced comparative policies and action plans), particularly the absence of the Commonwealth's *State of the Environment Report* only released late this year.

Pillar 2 – Mitigate (CCP page 16).
Dot point 2 – a cause for concern, risk of protracted period between setting industry targets, updating licences for premises, and pollution reduction plans
CC Action plan page 33 – sector targets. I hope that the NSW EPA's attention is not confined to Australian jurisdictions, although the Draft CCP gave little away about good or better practice anywhere! The introduction of targets for emission sources seems a good move, prompting the adoption of better technical controls (the focus of the former NSW SEDA).

Dot point 3 – partners on land-use planning decisions. Many objectors were concerned by the Dept Planning's assessment of GHG for Narrabri Coal Mine extension Stage 3.

Pillar 3 – Adapt. It's here that we hear cries from communities acutely affected by fires, floods, droughts for government agencies to listen and learn from them. BSAC was a tough example.

CCP page 18 Aboriginal people - strongly supportive of expressed aim "to ensure Aboriginal knowledge and perspectives are taken and incorporated within our work and in important environmental issues, by building relationships with communities and working to maintain these relationships for the long term (EPA 2021c). " This brings to mind the discussion of "right-way science" in relation to fire, in two recent articles that bear upon this practice in other areas of environmental understanding and practice.[5]

Staffing and Resources are needed. CCP does not mention how (or when) NSW EPA will achieve implementation of new CC Action Plan and without further resources one would expect delays or poaching staff from other activity such as regulating SWC and sewage overflows.

Comment on Draft CC Action Plan

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[4] Ogge Mark (2020) *CSIR…who? A closer look at recent research on coal seam gas environmental impacts.* Australia Institute: https://australiainstitute.org.au/wp-content/uploads/2020/12/P907-GISERA-air-water-soil-WEB.pdf

[5] Michelle B. McKemey ,Banbai Rangers,Yugul Mangi Rangers,Oliver Costello,John T. Hunter,Emilie J. Ens (2022) 'Right-way' science: reflections on co-developing Indigenous and Western cross-cultural knowledge to support Indigenous cultural fire management, *Ecological Management & Restoration* Volume 23, Issue S1 p. 75-82;
Lindenmayer

On CCAP page 9, a list of examples of co-benefits. Overall, this list understates the co-benefits for health, well-being and personal security. **Urban heating** is exacerbated by climate change, causing risks to human health and life, productivity, and survival of flora and fauna. Under 'biodiversity and ecosystem services', it is unclear what "extending forested areas on regulated sites" means – at best, extension of protection of native forests and grasslands because the GHG reduction of retaining existing native forests is greater than of planting anew, and the co-benefit are larger trees as habitat for arboreal animals.

This page does not mention land, or the GHG reduction keeping greenfields, depaving – improving albedence – co-benefits to human settlements, reduced heat.

It is a pity that the page only deal with co-benefits of regulated action by NSW EPA. Intersectoral action is required – forestry, transport, landuse planning, mining …

Suggested amendments: timing and scope

The **Draft CCP page 14** gives the scope of the draft CCAP – under the second dot point – and this looks like delay:

Recommendation 1: remove the delays, attend to extra staffing

(a) Reject the proposed delay to the "medium to longer term" (after 2025) for considering increased regulatory response.
Instead, bring this action within the Action Plan period 2022-25, NSW EPA, for example, the NSW EPA could:
   (i) Review its existing licences for emissions and compliance e.g. power stations (noting litigation on foot), crematoria (with co-benefits of reducing toxic chemicals) etc
   (ii) Request/direct (s12) Dept of Planning to update BASIX (when was the Department's last review?) – see CCP page 16 – 2 Mitigate (regulatory partners … land-use planning decisions) , and for Transport – buses to become electric co-benefits passenger comfort, reduced urban noise and air pollution (when?); consider concessions for car sharing to reduce car use; even consider supporting car sharing companies to introduce EVs.
   (iii) Review the submissions on the Narrabri extensions to listen to the informed expertise (eg. Dr Penny Sackett, former Chief Scientist, Commonwealth for EDO) about decisions that undermine NZE goal achievement.

Draft CCP page 15 lists consideration of general policies of NSW government, and commences the first pillar of 'Inform and Plan' and "to identify emerging issues" – high on the pile should be retention of native forests. NSW EPA could initiate collaboration on stop logging now, with a just transition program for workers and communities.

As a clear co-benefit of reducing GHG, by helping to stop logging native forests NSW EPA would be enabling the UN Decade on Ecosystem Restoration in its aims "to halt the degradation of ecosystems and restore them to achieve global goals, for the benefit of people and nature". This is prevention, not the secondary goal listed in CCAP page 9 Table examples of co-benefits "rehabilitating or extending forested areas."

In its resolution for declaring this Decade, the UN General Assembly observed its links GHG reduction:

> *Recalling also that sinks and reservoirs of greenhouse gases include forests, oceans, wetlands and soil, and recalling further their essential role in the adaptation to and mitigation of climate change and in enhancing the resilience of ecosystems and societies to its impacts,*
> [so why are the Chain of Ponds being filled in?]
> *Acknowledging the additional contribution and importance of carbon sequestration resulting from the restoration of ecosystems to the achievement of the long-term temperature goal of the Paris Agreement. …*

It is noted that the CCP Reference list (pp 23-24) omits this resolution that appears pertinent to both NSW EPA's draft CCP and its statutory duty. This could be rectified in the final documents.

Recommendation 2 – stop logging native forests, now

2.1 Emerging trends and available data exist for the retention of native forests, and recognition of ancient trees, in relation to GHG as well as a myriad of co-benefits for environment protection and listening to growing community concerns. Therefore, NSW EPA could take the initiative, with Treasury, to stop logging native forests.

2.2 NSW EPA to respond to this UN rallying cry to heal our planet, and by supporting its regulatory partners (**CCP Page 16 -2 dot point 3)** consider how to stop land clearing and deforestation – both drivers of climate change.

Deloitte's title "disconnect between ambition and impact" (p.23) is relevant to setting industry targets and securing compliance with licence conditions and GHG pollution reduction plans. This requires staff.

Recommendation 3 – timetable

NSW EPA needs go give some detail on its timetable with the prospect of quarterly updates. I support the community view that NSW EPA should be achieving strong industry GHG pollution reduction targets, applied to premises' licence conditions by early next year, the first quarter.

Recommendation 4 – why not stop approving extensions or new coal and gas exploration and projects?

> The regulation of existing coal and gas projects is of some concern – apparent pipeline leakage from Narrabri gas. The community calls for no new or extension to coal (as in Narrabri Coal Mine ext stage 3) and gas projects.

Recommendation 5 – Transport, and other intersectoral action for conditions to support modal shift

GHG emissions are increasing (I can recall when they were 14%).
Co-benefits of modal shift can be considerable – increased physical activity, and social equity. Reduced use of land for car parking and roads – enabling albedence.

Greater use of 'car sharing' and strategic priorities for EV.

Regional rail carriages to have storage for bicycles – to promote bicycle use in regional towns, for tourism, health and social equity (economic and intergenerational).

As a former practitioner in this area, I would be happy to discuss the potential.

Thank you for the opportunity to contribute. □