NEW SOUTH WALES–NEW CLIMATE CHANGE SEPP FOLLOWS ON HEELS OF EPA ACT AMENDMENT

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The NSW Government (Government) has proposed a new *Climate Change and Natural Hazards State Environmental Planning Policy* (CC&NH SEPP) to supplant the current *State Environmental Planning Policy (Resilience and Hazards) 2021* (Resilience and Hazards SEPP).

The CC&NH SEPP, which aims to consolidate and strengthen climate change controls within the one instrument, follows the insertion of a new climate change object into the *Environmental Planning and Assessment Act 1979* (EPA Act) through the enactment of the *Environmental Planning and Assessment Amendment (Planning Systems Reforms) Act 2025* (EPA Amendment) in November last year.

Although no legal drafting for the CC&NH SEPP has been published yet, the Government has exhibited an Explanation of Intended Effect (EIE), draft *Climate Change Scenario Guidelines*, and draft NSW Urban Heat Policy for Land Use Planning. The recent EPA Amendment represents the most comprehensive reform of the NSW planning system in decades.

TOWARDS CONSOLIDATED AND SYSTEMATIC CLIMATE ASSESSMENT

The current legislative approach to hazards operates on a case-by-case basis, identifying land affected by specific hazards—such as bush fires, floods, and coastal risks—and applying controls respectively. These controls are dispersed across the Resilience and Hazards SEPP, the EPA Act, the *Standard Instrument LEP* (Standard Instrument), and the *Rural Fires Act 1997* (Rural Fires Act), among others. The proposed CC&NH SEPP seeks to consolidate those provisions within one instrument, citing anecdotal uncertainty about how those frameworks relate.

The CC&NH SEPP is intended to adopt a proactive rather than reactive approach to future climate risk by embedding the following overarching principles:

- Planning decisions consider future climate risk and relevant natural hazards;
- Planning decisions reduce future exposure and vulnerability to natural hazards and climate risk;
- Planning decisions appropriately balance and manage future costs and risk to life from natural hazards and climate risk; and
- Planning decisions improve the health of Country (and therefore Aboriginal communities) in a changing climate.

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The EIE also provides an overview of how major areas of climate risk are proposed to be addressed under the new SEPP.

CLIMATE CHANGE

Climate Change Mandatory Considerations

The proposed CC&NH SEPP will codify several matters that consent authorities must consider when determining a development application:

- Consider climate risk and natural hazards, taking into account projected changes as a result of climate change;
- Minimise risk to development from climate risk and changing natural hazard exposure as a result of climate change;
- Consider if the development is appropriately designed, constructed and operated to be resilient to the future impacts of climate change; and
- Use the appropriate prescribed climate scenarios for the relevant development assessment decision, as directed by the Climate Change Scenario Guidelines.

Climate Scenario Assessments

Climate scenario assessments are a new proposed requirement in development assessment. The *Sixth Assessment Report of the Intergovernmental Panel on Climate Change* identified five Shared Socioeconomic Pathways (SSPs). Each SSP represents a different emissions scenario that can inform how future climate risk impacts the life of the proposed development.

To help consent authorities make informed decisions on climate risk, particular SSP modelling scenarios are proposed to be applied to future developments. The type of modelling scenario is proposed to vary with the scale, context, and lifetime of a proposed project to ensure proportionality.

The following table is adapted from the exhibited Climate Change Scenario Guidelines, showcasing the minimum requirements for considering climate change scenarios in planning decisions.

Fig 1–SSP emissions scenarios for planning decisions

Planning Decision	SSP Emissions Scenario	Modelling Timeframes	Application
Identified local development (excluding single residential and alterations and additions)	SSP2-4.5	50 years	▪ Relevant hazard studies. ▪ To be considered if suitable hazard frameworks and

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			hazard modelling are available at the time of development application.
Major Development (Regionally Significant Development, State Significant Development, State Significant Infrastructure), Rezoning, and Strategic Planning	SSP3-7.0	50-100 years for State Significant Developments and rezoning 100+ years for strategic planning and State Significant Infrastructure	▪ Relevant hazard studies ▪ Environmental Impact Statement ▪ Scoping report ▪ Relevant hazard studies ▪ Planning proposal report

URBAN HEAT–A NEW HAZARD

Urban heat is not currently addressed on a statewide planning level. The exhibited EIE stresses the importance of heat planning, noting that some parts of the state such as Dubbo and Penrith are projected to experience an additional 56.7 and 25.9 hot days per year by 2090, being days where maximum temperatures are 35 degrees and above, while the cost of cooling Western Sydney homes may increase 370% by 2079.

The draft Urban Heat Policy aims to install urban heat as a consideration in development projects within urban land use zones across NSW, especially in heat-vulnerable communities. The policy points to the proliferation of large areas of dark, hard, heat-absorbing surfaces that permeate daily commutes to urban centres and the corresponding lack of heat-reducing elements such as greenery, water bodies, and heat-reflective surfaces. Three principles for consideration are proposed:

1. Consider the urban heat context of the land use planning decision or proposed development;
2. Incorporate planning and design measures in development to support community adaptation to increased heat; and
3. Design buildings and public spaces to support wellbeing during heatwaves and hot days.

The Government is currently seeking feedback on how and where such provisions should apply, including potential triggers by development type (such as schools, hospitals, and aged care facilities) and the appropriate role of heat risk assessments and heat data.

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APPROACH TO EXISTING HAZARDS

Bush Fires

Although bush fire risk will continue to be substantively managed under the EPA Act and Rural Fires Act, the CC&NH SEPP will include new objectives requiring consent authorities to avoid inappropriate development in high-risk bush fire locations and ensure development includes adequate evacuation capability, among others. Existing bush fire provisions in section 272 and 274 of the *Environmental Planning and Assessment Regulation 2021* and clause 5.11 of the Standard Instrument are also proposed to be consolidated into the CC&NH SEPP.

A new planning pathway to facilitate cultural burning as an approved method of hazard reduction is also proposed.

Coastal Hazards

The CC&NH SEPP would redistribute coastal protection clauses around various instruments to prevent duplication. For example, the four current coastal management areas under the Resilience and Hazards SEPP are suggested to be divided across the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* and the CC&NH SEPP.

Concern has been expressed regarding the duplication of coastal risk planning clauses spread across local environmental plans (LEPs). These may be consolidated into a coastal vulnerability area clause in the CC&NH SEPP, although guidance on this transition is currently unclear.

Flooding

Noting that flood planning is one of NSW's most mature natural hazard frameworks, the CC&NH SEPP primarily consolidates clauses from several other instruments into its own ambit, including clause 5.21 (flood planning requirements) and clause 5.22 (special flood considerations) currently in the Standard Instrument.

A clause giving effect to local council flood maps is also suggested to be drafted.

CONNECTION WITH EPA ACT AMENDMENT

The proposal for the CC&NH SEPP follows on the heels of the new EPA Act climate objective and the powers conferred on the Department of Planning, Housing and Infrastructure to make environmental planning instruments for the purposes of administering the EPA Act.

The recent EPA Amendment itself reflects a broader policy approach towards consolidation and streamlining. It rearranges the fabric of the planning landscape and underpins several mechanisms contemplated by the CC&NH SEPP. The essential elements of the EPA Amendment are summarised below.

The DCA–A Single Front Door for Referrals

The Development Coordination Authority (DCA) is being established as a single front door for referrals, concurrences and issuing General Terms of Approval across all development types. It will act as the final decision-maker on these inputs, replacing the current system under which up to 22 separate agencies—including those responsible for bush fire and flooding—may need to be consulted, sometimes producing inconsistent requirements.

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The DCA will also function as a contactable agency for council and applicant enquiries, supporting an in-house technical advisory team. Consistent with the CC&NH SEPP's aim to amalgamate fragmented climate risk legislation into a single instrument, the current 800+ triggers for concurrences with government agencies are also proposed to be consolidated into a schedule under the *State Environmental Planning Policy (Planning Systems) 2021*.

The DCA is projected to commence full operation on 1 July 2026.

Simplifying Development Approval Streams

“Complying developments in New South Wales,” said Minister for Planning Paul Scully in the EPA Act's second reading speech, “are too rigid, and in some cases, just ludicrous”.

To simplify the development approval process, the Government has rearranged assessments into three pathways:

4. Expanded scope of deemed approvals

   Development that would be complying development but for some minor variations now will no longer need assessment under a full DA. These applications will generally be deemed approved if the consent authority does not make a decision within 10 days.

5. Targeted assessment (new pathway)

   Targeted assessment sits as an intermediary pathway between complying and full development assessment. It 'switches off' the public interest, site suitability, and likely impacts from the section 4.15 application evaluation criteria by replacing them with a set of rules in a SEPP. This reduces the need for expert reporting on matters that have already been strategically assessed.

6. Full development assessment

   For developments continue to be assessed as a traditional full DA, section 4.15 of the EPA Act has been amended to require assessment of only 'significant likely impacts' (rather than just 'likely impacts'). This is intended to prevent unduly extensive assessment of all matters touching upon a project.

Standardised Development Conditions

The EPA Act now enables an SEPP to specify model conditions for development consent. It will be mandatory for consent authorities to use these model conditions where directed. Applicants will also be given the chance to consider and comment on development conditions prior to their imposition by the consent authority.

Variation of Definition of 'Development Standards'

Alongside these changes, the definition of 'development standards' has been redrafted more restrictively. As a result, requirements in environmental planning instruments not specifically identified as a development standard may fall outside the definition and be characterised as a prohibition. They may therefore not be amendable to variation via section 4.6 of the Standard Instrument.

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This may have implications for how the CC&NH SEPP's new climate risk provisions are drafted, including whether they will be intended as development standards or prohibitions and whether any variation will be allowable.

NEXT STEPS

Developers should be aware that climate change risk assessment may be incorporated across all categories of development. Larger or more sensitive projects are likely to face more demanding climate scenario requirements. Consideration should also be given to how future projects may address urban heat, particularly in large urban zones.

Exhibition of the proposed CC&NH SEPP and its supporting documents closed on 16 March 2026. We await the release of more detailed legal drafting following the Government's consideration of submissions.

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