

NSW INDEPENDENT PLANNING COMMISSION

Email: ipcn@ipcn.nsw.gov.au prior to 5.00pm 10.8.20

RE: NARRABRI GAS PROPOSAL OBJECTION

INTERGENERATIONAL EQUITY OPPORTUNITY COSTS

Major concern exists regarding the intergenerational equity opportunity cost of even deliberating over new fossil fuel ventures instead of focusing on adaptation, mitigation and prevention. Particularly after the last two bushfire seasons that led to so much loss that was attributed to climate change.

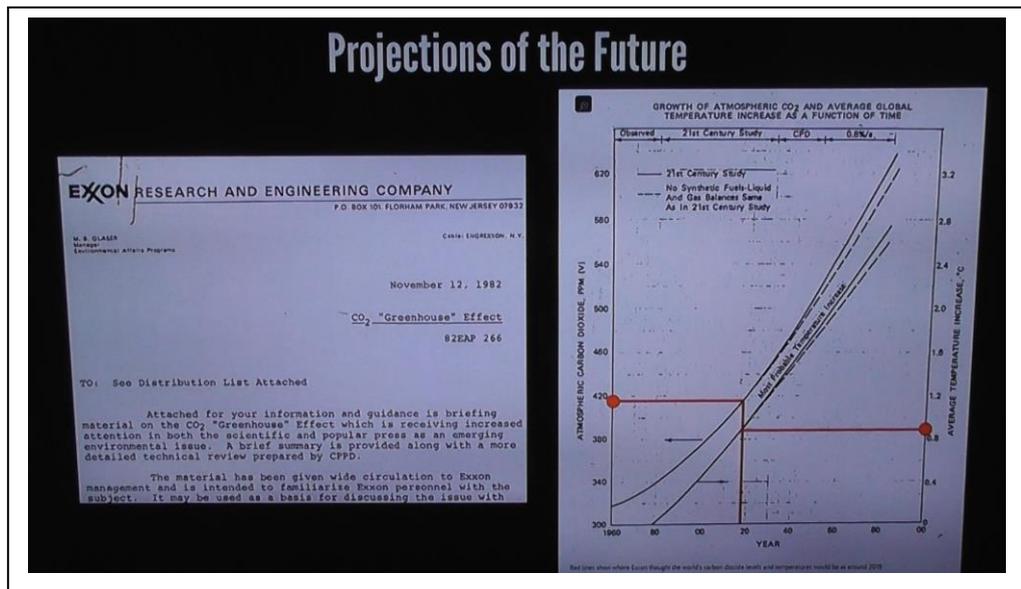
There should be a focus on the younger generations and their needs in terms of education and implementation of disaster risk reduction measures due to locked-in impacts still to come. We are past the point of efficient pollution or triggering some precautionary principle that we already know exists, or even discussing foreseeability, because we can already foresee what is happening with the bushfires. We know that the burning of fossil fuels impacts on the climate due to global warming through increased levels of atmospheric carbon dioxide.

AGENDA 2030

Australia is one of 193 countries that signed Agenda 2030 (Transforming Our World: The 2030 Agenda for Sustainable Development) which includes Climate Action under sustainable development goal 13 (SDG 13): <https://sustainabledevelopment.un.org/post2015/transformingourworld/publication>. We pledged that no one would be left behind. There is an intergenerational equity issue that should be paramount regarding the climate crisis. In addition to SDG 13 Agenda 2030 also includes the Sendai Framework for Disaster Risk Reduction which calls for four priorities which mean that we need to understand the disaster risk before us and Build Back Better.

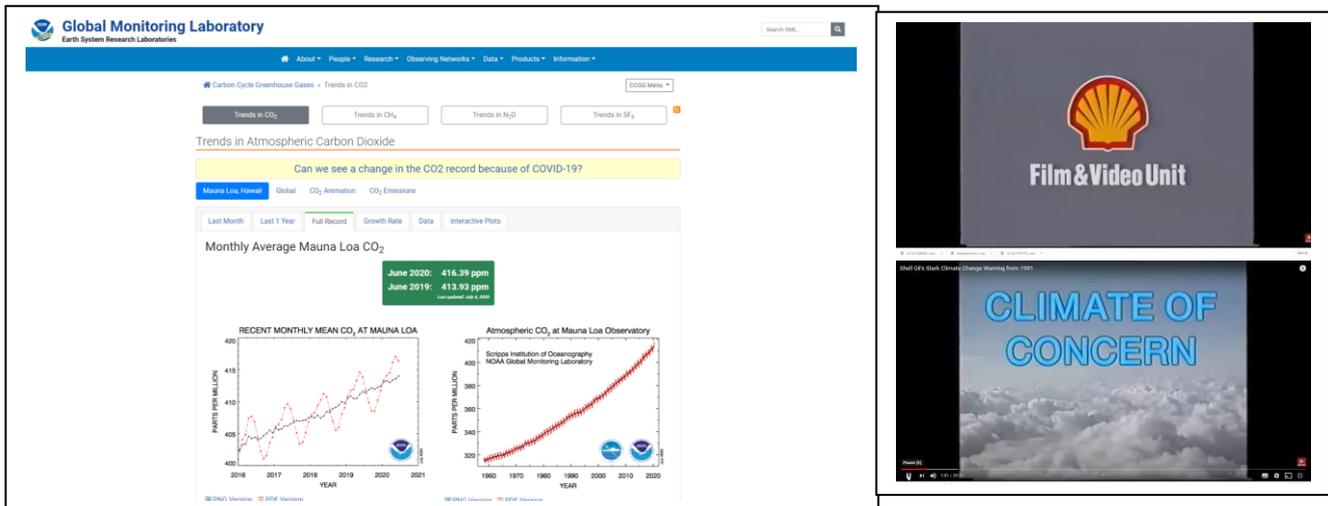
EXXON KNEW CATASTROPHIC IMPACTS

How do we know that there is a disaster that can prevail? Because the industry itself predicted it. EXXON's website states that it has undertaken 40 years of climate research and that the 'climate change risks warrant action':



<https://www.exxonmobil.com.au/Energy-and-environment/Environmental-protection/Climate-change>. They showed the prediction of what we are seeing now coming to fruition in terms of the level of carbon dioxide

concentrations in the atmosphere compared to temperature rises, as you can see from the above diagram on the right.



We know this because carbon dioxide concentrations are monitored and indicate that as of June 2020 it was 416.39 parts per million (left diagram above). July 2020 data can be found at <https://www.esrl.noaa.gov/gmd/ccgg/trends/mlo.html>. An EXXON employee (a physicist) was noted in an internal EXXON document to be reluctant to state that the magnitude was well short of catastrophic. Maybe in 2030, but not beyond 2030. Shell also undertook a documentary style video that was entitled Climate of Concern, which discussed the interaction between fossil fuels and a warming planet (right diagram above): see <https://www.youtube.com/watch?v=vTIYYIRNOLY>. EXXON KNEW, SHELL KNEW, THE INDUSTRY KNEW.

BUSHFIRES – NOT POSSIBLE TO ADAPT TO CATASTROPHIC & ESCALATING CONDITIONS

So what is the catastrophe or disasters are we actually looking at? Greg Mullins stated in his submission to the bushfire inquiry that...

‘Irrefutable empirical scientific data, reinforced by observations of veteran firefighters and people on the land, confirm that a **warming climate, proven to be caused by the burning of coal, oil and gas**, is resulting in worsening and more frequent extreme weather events such as those that spawned the 2019-20 bushfires in NSW, Qld, SA, Victoria, WA and Tasmania. It is not possible to “adapt” to such catastrophic and escalating conditions, and they can only be partially mitigated’.

[Submission 36 to Bushfire Inquiry from Emergency Leaders for Climate Leaders, pg.2]

This should be listened to. These are natural disasters that we’re already seeing increase in intensity and frequency and will continue to do so into the future without adaptation, mitigation and prevention.

REPORT by SENIOR OFFICIALS FROM KEY AGENCIES - ARMY, DEFENSE INTELLIGENCE AGENCY, AND NASA

INFERS SOCIAL/ECONOMIC AS WELL AS MILITARY COLLAPSE POSSIBLE OVER THE NEXT TWO DECADES

The catastrophic disasters could be so dire that senior officials from the U.S. Army, Defence Intelligence Agency and NASA contributed to a report which, basically infers a social and economic collapse. This is indicated through the following citation:

‘According to a new U.S. Army report, Americans could face a horrifically grim future from climate change involving blackouts, disease, thirst, starvation and war. The study found that

the US military itself might also collapse. This could all happen over the next two decades, the report notes.

The senior US government officials who wrote the report are from several key agencies including the Army, Defense Intelligence Agency, and NASA. The study called on the Pentagon to urgently prepare for the possibility that domestic power, water, and food systems might collapse due to the impacts of climate change as we near mid-century’.

[\[https://www.vice.com/en_au/article/mbmkz8/us-military-could-collapse-within-20-years-due-to-climate-change-report-commissioned-by-pentagon-says\]](https://www.vice.com/en_au/article/mbmkz8/us-military-could-collapse-within-20-years-due-to-climate-change-report-commissioned-by-pentagon-says)

The climate crisis is therefore something that we need to address now. As already stated, Exxon Mobil states on its website,

“We believe that climate change risks warrant action and it’s going to take all of us — business, governments and consumers — to make meaningful progress.”.

[\[https://www.exxonmobil.com.au/Energy-and-environment/Environmental-protection/Climate-change\]](https://www.exxonmobil.com.au/Energy-and-environment/Environmental-protection/Climate-change)

It warrants action, not inaction.

When we’re talking about ecologically sustainable development (ESD), we know that it’s encompassed within the legislation that we’re looking at, the *Environmental Planning and Assessment Act*: see Appendix. We have to go through to the *Protection of the Environment Administration Act* to actually obtain an overview of what that means. And we know that includes the precautionary principle and the intergenerational equity issue. This relates to facilitating ESD within the objects of the *Environmental Planning and Assessment Act*. It is not possible that a proposal, such as the Narrabri gas project, that produces a product that the fossil fuel industry itself predicted would have a significant impact on the climate could be considered ecologically sustainable development. Nor that the precautionary principle has been considered.

Matters for consideration relate to any submissions and the public interest: see Appendix. It is in the public interest to reject this proposal and any proposal relating to fossil fuels. We have already seen the Rocky Hill Coal Mine decision. In short, it’s ratio decidendi (reasoning for the decision) included the ‘wrong place’ at the ‘wrong time’. The transcript of the case states...

‘Wrong time because the GHG emissions of the coal mine and its coal product will increase global total concentrations of GHGs at a time when what is now urgently needed, in order to meet generally agreed climate targets, is a rapid and deep decrease in GHG emissions. These dire consequences should be avoided. The Project should be refused.’

[Gloucester Resources Limited v Minister for Planning [2019] NSWLEC 7, Para 6.99]

The Narrabri gas proposal and its gas product will also increase global total concentrations of GHG’s and so it should also be refused.

Concerns were raised throughout the Narrabri Hearing regarding climate change, economic, biodiversity, water and social impacts from the Narrabri proposal. The matters of consideration are known under the legislation, along with the underpinnings of climate decisions such as the Rocky Hill Coal Mine, which creates a precedent allowing Commissioners to reject this proposal.

Santos cost benefit analysis did mention externalities, but did not outline specific numerical values for rehabilitation costs, forever costs regarding gas well maintenance, or the cost of impacts that will arise from their product increasing GHG global total concentrations. Costs that include bushfires, floods, droughts, coastal erosion, coral bleaching, impacts on farming production and more that is attributed to the climate crisis.

Due to locked in climate crisis impacts there is a need to focus on emergency plans that include an employee in every council dedicated to disaster risk reduction to investigate vulnerabilities and how to deal with them. Funds also need to be directed towards this along with educational opportunities and other measures.

Above all, there is a need for a far reaching, accelerated transition away from fossil fuels and a plan to institute this. There is also a need to promote the United Nations Making Cities Resilient Campaign.

There is a need to make sure there is a liveable planet for future generations. This is an intergenerational equity issue.

FURTHER INFORMATION:

If Santos and the Government did fully consider the climate risk from the Narrabri gas proposal then it would be rejected.

Companies Duty of Care and Governments Duty to Protect the Community are outlined by Senior Counsel and Martijn Wilder as follows:

Senior Counsel:

'We indicated that in our view, company directors who fail to consider climate change risk now could be found liable for breaching their duty of care and diligence in the future. Indeed, we considered then that the negligence allegation against a director who had ignored climate risk was likely to be only a matter of time.'

https://cpd.org.au/wp-content/uploads/2019/03/Noel-Hutley-SC-and-Sebastian-Hartford-Davis-Opinion-2019-and-2016_pdf.pdf

Martijn Wilder, who is noted as chairperson on the government appointed Climate Change Council:

'[It's] only a matter of time before we see litigation against a director who has failed to perceive, disclose or take steps in relation to a foreseeable climate-related risk.'

it was just a matter of time when people could sue over the impacts of climate change with a strong chance of success as governments 'have a duty of care to protect the community'

[\[https://lsj.com.au/articles/the-mainstreaming-of-climate-litigation/\]](https://lsj.com.au/articles/the-mainstreaming-of-climate-litigation/)

It is further noted that Australia's largest insurance firm has stated that they will not provide insurance for farmers with CSG infrastructure on their property: <https://www.abc.net.au/news/2020-06-10/coal-seam-gas-farmers-queensland-insurance-pull-out-iag/12337156>. Pursuing the Narrabri proposal will be costly for farmers and the supply chain associated with food security.

Sonya McKay, LLB, GradDipLegPrac, BA (Psychology, Politics).

Currently: Master of Environmental Law.

Fridays 4 Future Online (F4FO),

International Community and Environment Connection (ICEC)

APPENDIX:

[Ecologically Sustainable Development](#) encompasses precautionary principle/intergenerational equity Environmental Planning and Assessment Act 1979 No 203, s.1.3(b) to definitions Protection of the Environment Administration Act 1991 No 60, s.6(2)

Objects of the Environmental Planning and Assessment Act 1979

1.3(b) **to facilitate ecologically sustainable development** by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

ESD definition directs to *Protection of the Environment Administration Act 1992*

6(2) For the purposes of subsection (1) (a), ecologically sustainable development requires the effective integration of social, economic and environmental considerations in decision-making processes. Ecologically sustainable development can be achieved through the implementation of the following principles and programs:

the precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by: careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and an assessment of the risk-weighted consequences of various options,

inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,

conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,

improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:

polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,

the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,

environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

Matters for Consideration under Environmental Planning and Assessment Act (NSW) 1979

4.15 Evaluation (cf previous s 79C)

(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—

(a) the provisions of—

(i) any environmental planning instrument, and

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

(iii) any development control plan, and

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

(v) (Repealed)

that apply to the land to which the development application relates,

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.