

Information sheet:
The Blue Mountains Conservation Society's objections to the Environmental Planning and Assessment Amendment (Planning System Reforms) Bill 2025

The Blue Mountains Conservation Society (the Society) has grave concerns about the Bill to amend the Environmental Planning and Assessment Act (1979) and Regulation (2021). The unseemly haste in which this Bill has been introduced to parliament (17 September) and returned for potentially a quick vote of assent with Liberal Party support under less than a month later has left little time for proper public scrutiny and community consultation. Given the Bill presents the most significant proposed change to the NSW planning system since 1979, we are appalled at the way the community and stakeholders have been kept in the dark, provided with little explanatory material and their views disregarded. We object to the disingenuous introduction of fundamental, far-reaching changes to the Act affecting all development in the state under the guise of addressing Sydney's housing crisis. The process the government has adopted and the retrograde step in planning that the Bill represents further undermines trust in the government and the NSW planning system.

The Society agrees there is a housing crisis and, as citizens, we want our government to address it. But these proposed planning law changes that bypass key environmental assessments and public consultation go too far. The Planning Minister's media release announcing the Bill talked only about how it would benefit the housing shortage. However, the proposed laws will affect ALL types of developments including large mine extensions and developments proposed by and approved by a government agency, on its property.

The Bill increases the threat of bushfire to Blue Mountains residents and environment

It was only last year that the Blue Mountains LGA was excluded from the government's Low- and Mid-Rise Housing SEPP, mainly based on the current and increasing bushfire risk to residents created by climate change. Contrary to this hard-won concession, the Bill proposes to remove the prohibition on granting consent to development on bushfire prone land unless certain requirements are met. It also proposes to transfer requirements to consult the RFS and map bushfire prone land from the Act to local planning instruments and authorities without providing any details on how and when this delegation of responsibilities would occur. The Bill also proposes to reduce expert input e.g. RFS at the development assessment stage. Making it easier to develop bushfire prone land and put more people in harm's way while at the same time removing consideration of bushfire prone land, degrading expert advice and reducing measures to minimise exposure to bushfire risk in the service of facilitating more housing development is unconscionable and could have devastating results in high bushfire risk areas such as the Blue Mountains.

The Bill sidelines and degrades environmental protections

Some of the Society's other main objections to the Bill in its current form are that it:

1. **Attacks the fundamental principles of the Act and shifts its focus to promoting development** through:
 - a. removing or diminishing key references to environmental protection and conservation in its objects, and reducing the scope of conservation to only include "threatened species of native animals and plants and ecological communities and their habitats".
 - b. promoting productivity through development and resource extraction instead of the current broader object to promote the social and economic welfare of the community and a better environment through proper management, development and conservation of the State's natural resources.
2. **Diminishes environmental impact considerations in assessing and approving a development** (Section 4.15 of the Act):

4.15 (1) (b). The criterion of 'significant' likely environmental impacts of the development will now only be considered in assessment instead of 'likely' environmental impacts currently. This raises the bar on which environmental impacts will be considered by a consent authority based on undefined criteria of 'significant'. What constitutes 'significant' impact will therefore become the subject of dispute likely requiring resolution in the Land and Environment Court. It is also proposed to narrow the scope of relevant matters required to be considered in assessing and approving a development. This will have ramifications for how large, controversial and inappropriate developments in the Blue Mountains are assessed and approved.
3. **Limits consideration of cumulative and indirect environmental impacts of a proposed development** to only what the development application is seeking consent for (see new proposed Clause 65A in the Regulation). This means the full extent of the likely environmental impacts (including cumulative and indirect) of a proposed development are removed from consideration, with potentially disastrous

consequences in highly environmentally sensitive areas like the Blue Mountains.

4. **Centralises development assessment in the proposed new ‘one stop shop’ Development Coordination Authority** (i.e. Planning Secretary) and sidelines specialised government agencies and ministers. Removing the requirement for specialist consultation, assessment and sometimes the concurrent approval of agencies such as the RFS and Department of Environment not only increases the risk of bushfire to residents but presents a great threat to biodiversity and threatened species and ecological communities. This is already a critical concern in the Blue Mountains and the Bill’s proposed centralisation of assessment and reduction of specialist input will only accelerate species extinction, amongst other adverse outcomes. This is incongruous with (and undermines) environmental protection measures laid out elsewhere in the Act and other legislation, and contradicts the recent Climate Risk Report and the recommendations of the 2023 Independent Review of the Biodiversity Conservation Act 2016¹.
5. **Introduces a streamlined assessment pathway called “Targeted Assessment Development” (TAD)** which will not be limited to housing nor limited to developments with minor impacts. The Bill expressly prohibits consideration of environmental impacts of the development, the suitability of the site for development or public interest considerations. The Bill doesn’t provide constraints on the type of development that could be declared a TAD. The Society is gravely concerned that developments which are highly detrimental to the Greater Blue Mountains World Heritage Area may be declared a TAD under the proposed legislation.
6. **The Society has campaigned to reduce or remove damage to the environment from mining** in the western coalfields. Through environmental groups' advocacy and the work of an experts' panel, 'far field cracking' and subsidence which destroyed nationally significant swamps on Newnes Plateau have been recognised. The mining company has changed its mining plans to prevent further damage. Under these new proposed laws environmental impacts can be ignored or deemed irrelevant.
7. **The proposed Development Coordination Authority can assume the functions of any government agency** such as, for instance, to create new private accommodation in our national parks. These are areas created to protect and nurture our unique plants and animals. If the Bill is passed, the existing Sustainable Tourism Guidelines for national parks can be legally ignored. The weakened duty to consider environmental impacts, removing the words "to the fullest extent possible" and introducing a subjective undefined assessment process conducted “in a manner that is proportionate to the nature and risk of the activity”. The Bill would encourage bids for more elaborate and inappropriate infrastructure and development in our precious natural areas. This diminishes environmental protections and people's experience of nature.

The Blue Mountains has a special status as a city in a World Heritage Area deserving appropriate environmental protection. The Bill threatens the environmental protections applying to the Blue Mountains LGA developed over many decades.

Given the major changes to the planning system the Bill proposes and the adverse environmental and community impacts and increased corruption risks it generates, and given that the Bill’s introduction to parliament and potential passing 4 weeks later has blindsided the community and stakeholders and allowed no time to fully understand its ramifications, the Blue Mountains Conservation Society believes that:

- the Bill should be referred to committee for proper scrutiny and public consultation
- voting on the Bill should be delayed until 2026
- the most egregious amendments (including those discussed above) should be removed

¹<https://www.parliament.nsw.gov.au/tp/files/186428/Independent%20Review%20of%20the%20Biodiversity%20Conservation%20Act%202016-Final.pdf>

Dr Ken Henry Lead Independent Reviewer states in the Forward “It is clear to the Review Panel that the operative provisions of the Act are incapable of supporting its objectives. Too many rests upon the operation of other pieces of legislation that have their own, competing, objectives. This has to be addressed.”