

Letter to Department of Planning Housing and Infrastructure

September 2025

Net Zero Commission

26 September 2025

Ms Kiersten Fishburn
Secretary, Department of Planning, Housing and Infrastructure
12 Darcy Street Parramatta NSW 2124

Re: Net Zero Commission Annual Progress Reports

Dear Ms Fishburn,

As you are aware in May 2024, the Hon Penny Sharpe Minister for Climate Change wrote to the Hon Paul Scully Minister for Planning and Public Spaces with updates to the NSW Government's climate change policy and consideration of these policies in planning decisions. The letter also referred to the Ministerial Statement that the emissions reduction targets and guiding principles in the Climate Change (Net Zero Future) Act 2023 (the Climate Change Act) should be considered in planning assessments and decisions.¹ The Climate Change Act also establishes the adaptation objective that NSW is more resilient to a changing climate.

The Net Zero Commission was established under the Climate Change Act. We have been operating since then as an independent advisory body that provides expert advice on NSW's approach to addressing climate change. As part of our statutory functions and to assist in your work, we may provide advice or make recommendations to the Secretary of a Department as set out in subsection 15(3)(a) of the Climate Change Act.

Our Annual Progress Reports provide an independent assessment of the state's progress towards achieving the legislated emissions reduction targets and the adaptation objective within the Act. The annual progress reports may advise on specific sectors or topics, such as the need to accelerate the transition of the electricity sector and to reduce methane emissions, that may be relevant to the work of the Department of Planning, Housing and Infrastructure (DPHI).

¹ <https://www.energy.nsw.gov.au/nsw-plans-and-progress/government-strategies-and-frameworks/reaching-net-zeroemissions/update>

Our first Annual Progress Report in 2024 highlighted:

- All sectors of the economy and areas of government need to play their part. Potential emission increases from projects in one sector, such as coal mining, may require other sectors to make greater reductions to meet the legislated targets.
- The timely transition of NSW's electricity sector remains critical. There is a need for a diverse mix of projects across renewable energy generation, energy storage, and transmission infrastructure to support this shift.²

The DPHI has a central role in State significant planning approvals, including by issuing assessment requirements, providing assessment reports to the Minister for Planning and the Independent Planning Commission (IPC) and drafting development consents. DPHI considers a range of proposals such as coal mines and data centres which have greenhouse gas emissions and potential impacts due to a changing climate.

As the DPHI continues to perform its role, we encourage consideration of:

- the findings in our Annual Progress Reports as an independent reference,
- Scope 1 emissions of any proposal compared to the NSW's legislated targets,
- the measures to reduce Scope 2 emissions of any proposal,
- the cumulative impact of multiple projects in one sector on the NSW's legislated targets,
- any proposal's Scope 3 emissions given the capacity for such emissions to contribute to climate change and so to have an impact locally in NSW,
- any proposal's adaptation measures to ensure resilience to a changing climate
- how the proposal promotes NSW's adaptation objective, and
- the need for transition of the NSW electricity sector to meet the State's legislated targets,
- including the need for timely renewable energy capacity.

Given that the Climate Change Act now makes targets for reducing greenhouse gas emissions law in NSW, integrating these considerations into DPHI's advice to the relevant decision-maker for planning approvals strengthens the consideration of the public interest as set out in subsection 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

In July 2025, the NSW Court of Appeal found that the IPC had failed to comply with subsection 4.15(1)(b) of the EP&A Act and remitted the matter back to the Land and Environment Court.³ The reason for the decision was that the IPC, having accepted that the Scope 3 emissions would contribute to global climate change, did not consider the likely environmental impacts of that climate change on the natural and built environment of the locality. We consider Scope 3 emissions to be an important factor in addressing climate change locally and globally, particularly for sectors like coal mining where Scope 3 emissions are a large portion of the project's emissions.

²<https://www.netzerocommission.nsw.gov.au/2024-annual-report>

³Denman Aberdeen Muswellbrook Scone Healthy Environment Group Inc v MACH Energy Australia Pty Ltd [2025] NSWCA 163

We look forward to assisting your work in consideration of climate change in planning approvals. Please do not hesitate to contact myself or our Executive Director, Will Rayward-Smith.

Your sincerely,

A handwritten signature in black ink, appearing to read 'Nick Rowley', with a long horizontal line extending to the right.

Nick Rowley

Chair, Net Zero Commission

cc Hon Paul Scully, Minister for Planning and Public Spaces, Hon Penny Sharpe, Minister for Climate Change and Mr Andrew Mills, Chair NSW Independent Planning Commission.