

Submission
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INQUIRY INTO 2024 ANNUAL REPORT OF THE NET ZERO COMMISSION

Organisation: National Environmental Law Association (NELA)

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Hon Jeremy Buckingham MLC
Committee Chair
Joint Standing Committee on Net Zero Future
NSW Parliament House
6 Macquarie Street
Sydney NSW 2000

By email: portfoliocommittee7@parliament.nsw.gov.au

14 February 2025

Dear Mr Buckingham

Inquiry into the 2024 Annual Report of the Net Zero Commission

The National Environmental Law Association Ltd (**NELA**) welcomes the opportunity to make a submission to the Joint Standing Committee on Net Zero Future on your inquiry into the 2024 Annual Report of the Net Zero Commission (**Commission**).

NELA congratulates the Commission on its inaugural 2024 Annual Report (**Report**). Noting the timeframe and other constraints affecting the preparation of the Report, NELA commends the substantial work that the Report demonstrates to review actions currently being taken in New South Wales to meet the State's targets for reducing net greenhouse gas emissions and in relation to its adaptation objective.

NELA's objects and its interest in this Committee Inquiry

NELA is the national peak body for advancing Australian environmental law and policy. It is an independent, multidisciplinary, member-based association focused on environmental law and sustainability. NELA is managed by a national board that includes Directors with expertise in international and domestic legal frameworks for biodiversity conservation, climate change and natural disasters, environmental regulation and regulatory theory and natural resource management.

One of NELA's core objectives is to provide a forum for, and to otherwise assist in, the discussion, consideration, and advancement of environmental law across the legal profession and the wider community. When considering environmental legislative reforms, NELA considers several factors including whether the reform advances environment protection and restoration, the environment protection principles integral to environmental law, and the integrity and transparency of the reform. NELA is also a member of the leadership committee of the Professional Bodies Climate Action Charter Australia and New Zealand Forum, which represents professional members in Australia across a wide range of sectors including finance, insurance, science, engineering, law, health, construction, and the built environment.

NELA established a Climate Change Working Group in 2023 (**Working Group**). Its scope and focus are directed to establishing and disseminating research and information to NELA's members and partners about climate change and law in Australia, which aligns with NELA's broader purpose of advancing knowledge and expertise of Australian environmental law.

The role of the Commission under the Net Zero Future Act

The Commission has broad functions set out under Part 3 Division 2 of the *Climate Change (Net Zero Future) Act 2023* (**Net Zero Future Act**). NELA considers that the Commission plays a critical role in driving and overseeing action across the NSW Government to address climate

change. In particular, NELA recommends that in its second year of operation, the Commission investigates the following strategic priorities:

1. The potential role of a Statewide emissions budget for NSW;
2. The development of sectoral plans across key sectors such as energy; land use, land use change and forestry; industry; agriculture and transport;
3. Alignment between State and Commonwealth emissions reduction targets.

Comments on a Statewide emissions budget for NSW

The establishment of a comprehensive emissions budget for NSW would ensure that the State maintains a clear and consistent trajectory toward its net zero target. Such a Statewide emissions budget would provide transparency, track progress, and guide sectoral policies.

Under section 15(2)(e) of the Net Zero Future Act, the Commission has the power to provide advice and make recommendations to the Minister about emissions budgets for NSW, having regard to Commonwealth emissions budgets and nationally determined contributions. It is notable that the *Climate Change Act 2022* (Cth) already sets up a Commonwealth emissions budget in respect of the period 2021-2030.

In our view, a binding NSW emissions budget established by regulations¹ to be made under the Net Zero Future Act—aligned with the best available climate science and achieving NSW's current emissions reduction targets—would serve as an effective accountability framework for public and private stakeholders, particularly in circumstances where NSW is not on track to meet its 2030, 2035 or 2050 emissions reduction targets.² We note that under s 11 of the Net Zero Future Act, the Premier and the Minister must ensure that NSW meets its 2050 emissions reduction target.

Comments on sectors discussed in the Annual Report

A robust approach to emissions reduction requires tailored strategies across key sectors such as energy; land use, land use change and forestry; industry; agriculture and transport. We urge the Commission to investigate sector-specific plans that are responsive to the unique challenges and opportunities in each area, pursuant to its powers under section 15(2)(g) of the Net Zero Future Act.

Sector plans should set interim milestones aligned with the best available science, incentivise innovation, and ensure the fair and just transition of affected industries and communities. Ambitious and practical sectoral strategies will be vital to align economic growth with the State's decarbonisation goals and such strategies have been adopted in other jurisdictions, including in Victoria and Queensland. We note that the NSW Environment Protection Authority (EPA) is already committed to developing sector targets for its licensed industries in its Climate Change Action Plan 2023-26,³ so there is opportunity for the Commission to collaborate with the EPA in this regard.

NELA affirms the Commission's recommendation that risks to the future delivery of decarbonisation require close monitoring of delay in infrastructure and transmission projects and streamlined assessment and approval processes to overcome barriers to implementation,

¹ Net Zero Future Act, ss 9(5)(a), (c).

² NSW Productivity and Equality Commission, *Achieving net zero – Paper 1 – Ensuring a cost-effective transition*, <https://www.productivity.nsw.gov.au/sites/default/files/2024-11/NSW-Productivity-and-Equality-Commission-Achieving-net-zero-paper-1-Ensuring-a-cost-effective-transition.pdf>.

³ EPA, *Climate Change Action Plan 2023-26*, <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/climate-change/23p4265-climate-change-action-plan-2023-26.pdf>.

including those associated with social licence and community benefit in rural, regional and remote communities.

NELA considers that policy development in the sector has significant potential to realise the opportunities identified by the Commission:

1. for leveraging inter-sectoral dependencies and promoting ongoing cooperation at all levels of government, especially noting the challenges associated with a '*slow and disorderly transition scenario*';⁴ and
2. because of the sector's capacity to unlock decarbonisation, through electrification, in other sectors.

Electrification is critical in shifting demand to renewable energy sources and, as the Report notes, can be achieved at multiple levels of the NSW economy, including in the uptake of EVs and the shift to low emissions transport and consumer energy resources at household, commercial and industrial levels.

NELA is concerned to ensure that the Commission prioritises work to identify and establish further data sources on the sectoral emissions in NSW, noting the significant delay in obtaining annual data through the State and Territory Greenhouse Inventory.

NELA would encourage the Commission to leverage its powers to consult with government agencies, pursuant to s 17 of the Net Zero Future Act, to consult with the EPA in relation to that agency's development of policy concerning the regulation of greenhouse gas pollution and sectoral emissions budgets.

NELA acknowledges that, in the agriculture and land sectors, legislative initiatives have often played an important role in achieving emission reductions,⁵ despite the increasing focus on market-based instruments. NELA highlights the recommendations of recent soil science research that the development of a high integrity credit sector is supported by:

1. longer periods of assessment for soil carbon greater than 5 years;
2. issuance of credits based on scientifically accepted quantitative boundaries; and
3. full transparency of reference data used to issue credits.⁶

In this context, NELA encourages the Commission to tackle the challenge of land-use priority in relation to food production, renewables production, resource sector and mining, and land set aside for the purpose of carbon and nature projects, including cooperatively with the Agricultural Commissioner.

NELA highlights the recognised potential for underestimation of fugitive methane and other gases associated with coal mines and expresses concern at the impact of these emissions in the resources sector in the context of the approval of several modification applications for coal mining in NSW, which have not been subject to the same level of independent assessment or public scrutiny as expansions submitted as state significant development applications.

NELA strongly advocates a future focus on implementation and evaluation to monitor policy implementation and drive action in relation to climate change. NELA would have been assisted, for example, in understanding the position of the Commission in relation to the

⁴ Wood, N, M Beauman and P Adams, 'The sensitivity of the NSW economic and fiscal outlook to global coal demand and the broader energy transition for the 2021 NSW Intergenerational Report' (Treasury Technical Research Paper Series, May 2021), 22.

⁵ E.g. *Vegetation Management Act 1999* (Qld).

⁶ Elaine Mitchell, E, et al, 'Making soil carbon credits work for climate change mitigation' (2024) 15(1) *Carbon Management*.

effectiveness of the NSW Electricity Infrastructure Roadmap, given the Commission observed it is only 17% effective to date.

NELA also highlights the importance of technological development in the industry and waste sector where a mix of policy and technology development is required to support and accelerate decarbonisation progress e.g. in the following areas:

1. Decarbonisation of energy generation and high temperature processes;
2. Promotion of economic feasibility of retro-fitting and replacement of large production infrastructure (e.g. Iron or aluminium); and
3. Diversion of all organic waste from NSW landfills.

While NELA affirms the Commission's recommendation to prioritise the completion of the NSW Climate Change Risk and Opportunity Assessments in 2025, NELA reiterates with concern the difficulties identified by the Report⁷ (at p.59) in measuring progress on climate change adaptation, and highlights this as a matter that requires critical attention to more effectively realise and achieve the purposes of the Act. NELA recommends that the Commission analyse and track the implementation of the NSW Climate Change Adaptation Action Plan 2025-2029⁸ to ensure its success.

Comments on alignment between State and Commonwealth emissions reduction targets

As New South Wales pursues its emission reduction ambitions, it is crucial to measure progress against State targets and NSW's contribution to Commonwealth targets. NSW's approach to achieving emissions reductions, and setting future emissions reduction targets, should align with Australia's national commitment under the Paris Agreement⁹ and the State's commitment¹⁰ to pursue efforts to limit global temperature increase to 1.5°C above pre-industrial levels, and best available climate science.

Where practicable, harmonisation with Australia's national emissions reduction approaches, and those of other States and Territories, will foster consistency among jurisdictions. Meanwhile the ability to demonstrate ambitious, tangible progress at the State level will bolster public trust and investor confidence. We recommend regular public reporting on New South Wales's performance against both sets of targets to enhance transparency and accountability.

Additional recommendations

NELA recommends that to better fulfil its statutory functions, the Commission:

1. undertake work to better inform the measurement of progress in relation to the adaptation objective;¹¹
2. prioritise work to identify further data sources on the sectoral emissions in NSW;¹²

⁷ Report, p. 59.

⁸ NSW Government, NSW Climate Change Adaptation Action Plan 2025-2029, <https://www.climatechange.environment.nsw.gov.au/about-adaptnsw/nsw-government-action-climate-change/Adaptation-Action-Plan-2025-2029>.

⁹ Climate Change Act 2022 (Cth), s 3(a)(ii).

¹⁰ Net Zero Future Act, s 3(1)(b).

¹¹ Net Zero Future Act, s 10.

¹² Net Zero Future Act, s 15(2)(g).

3. utilise its functions to educate and inform the public dialogue with clear, science-based communication to show what “decarbonisation” and “adaptation” mean in the NSW context;¹³
4. establish a focus on monitoring policy implementation and driving action in relation to climate change,¹⁴ working in partnership with the NSW Government’s interdepartmental Climate Change Action Network; and
5. analyse the role of the right to a clean, healthy and sustainable environment in guiding action to address climate change.¹⁵

Next steps

NELA would be grateful for the opportunity to make oral submissions to the Inquiry.

NELA affirms its ongoing interest in engaging with the future work of the Commission, including by providing meaningful submissions and input in relation to the Commission’s Forward Work Program, High-level Issues Paper and 2025 Annual Report.

Yours sincerely

Mark Beaufoy
National President

Grace Huang
National Vice-President

On behalf of the NELA Board

¹³ Net Zero Future Act, s 15(1)(e).

¹⁴ Net Zero Future Act, ss 15(1)(a)-(d).

¹⁵ Net Zero Future Act, s 8(5).