

these areas, both locally and globally, means they should be preserved. We believe that the NSW government should pursue alternative proposals to address Western Sydney flooding.

A time limit of three weeks for comments on documents which are around 1,800 pages long is patently inadequate, especially for community members and voluntary organisations such as the Society. It sends a message that the proponent is not genuinely interested in further comments.

The Society's earlier submission in response to the Warragamba Dam wall raising Environmental Impact Statement (EIS) in 2021 outlined our concerns with the deficiencies of the EIS and the proposal's impacts. It concluded that the potential upstream and cultural impacts were understated, that the potential downstream benefits were overstated and that the proposal should not proceed. There are other well-researched solutions to Western Sydney flooding which are not being pursued.

Fundamental Deficiencies in the PIR and RTS

- ***Impacts to World Heritage values cannot be offset***

The Preferred Infrastructure Report and Response Submissions Report currently on exhibition have not allayed our concerns. There are fundamental deficiencies in both reports.

World heritage value areas are unique and irreplaceable and cannot be offset.² Offsets are not appropriate for world heritage or national park values, or any value that is already protected. Protected area values are holistic and place-based and should not be subject to reductionist dissection. To carve off a piece of a national park or world heritage area and then attempt to protect something different somewhere else, as compensation is an invalid approach as it does not correct the impact on the integrity of the protected area.

The Society strongly objects to the use of offsetting to enable adverse impacts to the World Heritage-listed values of the Greater Blue Mountains Area; these values are unique and irreplaceable and cannot therefore be offset. The International Union for Conservation of Nature's (IUCN) submission on the EIS concluded that the impact of the Proposal did not fully assess all potential impacts on the Outstanding Universal Value (OUV) of the GBMWA.³ The RTS report acknowledged that the IUCN "...advised in its submission that it considers that the OUV cannot be offset and therefore the concept of compensation plots for the planned loss of OUV is not appropriate."⁴

² World Heritage Convention, 2022, *Greater Blue Mountains Area*, UNESCO World Heritage Centre, viewed 12 December 2022, <https://whc.unesco.org/en/soc/3994/>.

³ World Heritage Convention, 2022, *Greater Blue Mountains Area*, UNESCO World Heritage Centre, viewed 12 December 2022, <https://whc.unesco.org/en/list/917>.

⁴ Water NSW, 2022, *Submissions Report: Warragamba Dam Raising - Application Number SSI-8441; EPBC ID Number 2017/794*, pp. 546, viewed 12 December 2022, <https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSI-8441%2120221118T052410.778%20GMT>.

The PIR is vague about how and where any offsets might be achieved. As offsetting is not appropriate for values of this calibre the only conclusion is that the project should not go ahead.

- ***Inadequate analysis – not all biodiversity values addressed***

The PIR's analysis of world heritage values, as related to biodiversity, is limited and lacks a full understanding of the internationally significant biodiversity values encompassed in the former natural values criteria ii. and iv., under which the area gained world heritage listing.⁵ The natural heritage values comprise far more than the four components (Gondwanan flora, scleromorphic fauna, conservation-significant flora and conservation-significant fauna) selected in the PIR, and which follow DAWE's (2022) assessment of the impacts of mining on lands in the vicinity of the GBMWA.⁶ Selecting these components fails to recognise the integrated nature of biodiversity values.

UNESCO's Statement of Outstanding Universal Values for the GBMWA provides a summary of such values but is necessarily brief because it is required to meet a word limit. The report does not acknowledge this limitation but rather it appears it is used to avoid assessing all the necessary details. The *GBMWA Strategic Plan* (2009) provides a more comprehensive table which includes many more examples of the world heritage values for which the GBMWA was listed, against each of the relevant criteria.⁷ The Strategic Plan notes, in regard to the three pages of examples listed, that "While these examples are illustrative of the World Heritage values of the GBMWA, they do not necessarily constitute a comprehensive list. Other sources should be consulted for a more detailed understanding of the values of the GBMWA, including the selected references listed in this plan".

As noted previously, the proposed raising of the Warragamba Dam wall will have an unacceptable impact on the biodiversity values of the GBMWA; they are of global significance and Australia has an international obligation to protect them. All these values, not just a select few, need to be considered and ignoring them remains a major flaw in the assessment documents.

⁵ <https://whc.unesco.org/en/list/917>. Criteria numbering was subsequently changed.

⁶ Department of Agriculture, Water and the Environment 2022, *Potential cumulative impacts of mining on the Outstanding Universal Value of the Greater Blue Mountains Area*, DAWE, Canberra.

⁷ NSW National Parks and Wildlife Service, 2009, *Greater Blue Mountains World Heritage Area Strategic Plan*, Department of environment and climate Change (NSW), viewed 12 December 2022, <https://www.environment.nsw.gov.au/research-and-publications/publications-search/greater-blue-mountains-world-heritage-area-strategic-plan>.

- **NSW Biodiversity Offsets scheme lacks credibility**

Further, applying the NSW Biodiversity Offsets Scheme to the Proposal will not resolve the impacts. The recent NSW Audit Office's Performance Audit of the Biodiversity Offsets Scheme contains scathing findings on its efficacy. The Report (*'Effectiveness of the Biodiversity Offsets Scheme'*, 30 August 2022) details major concerns about most if not all aspects of the scheme including, but not limited to, the scheme's design, implementation, integrity, transparency, sustainability and the "risk that biodiversity gains made through the Scheme will not be sufficient to offset losses resulting from the impacts of development".⁸ This is exactly the situation with the Warragamba Dam wall raising and why the project should not go ahead.

The audit identifies many shortcomings of the scheme, for example:

- shortfalls of suitable offset credits;
- increasing offset obligations from developers that have not been acquitted (instead, these obligations have been acquired and stockpiled by the Biodiversity Conservation Trust for future acquittal, if and when possible);
- lack of ecological monitoring of offsets;
- lack of information regarding discretionary Ministerial (Planning Minister) discounting of offset requirements;
- possible conflicts of interest;
- lack of a required and complete register of credits and their transaction history being published, and many more.

The audit indicates that biodiversity gains required to offset biodiversity losses are not being achieved, that the scheme is not working and that there is no indication how or whether these concerns, documented by the Audit Office, will be addressed. Yet the Warragamba Dam wall raising Proposal ignores all this and wants the public to believe somehow this time it will be different.

- **Examples of the difficulty of genuinely offsetting biodiversity loss**

- i. The Box-Gum woodland is "critically endangered" and depleted to such an extent that no further loss can be acceptable. The reality is that although offsets are made, a net loss of the value is incurred.
- ii. The Regent Honeyeater is a critically endangered species that is nearing extinction in the wild and can afford no further loss. In addition, Box-Gum Woodland is the Regent Honeyeater's prime potential habitat. NSW Bionet Atlas has 132 records of Regent Honeyeaters across NSW in 2016, pre drought and fires, a worryingly low number; for 2021, post drought and fires, the Atlas has only 3 Regent Honeyeater records; and for 2022 to date, it is even worse, with only a single Regent Honeyeater record (north coast) across NSW.

⁸ Audit Office of NSW, 2022, *Effectiveness of the Biodiversity Offsets Scheme*, 30 August 2022, viewed 12 December 2022, <https://www.audit.nsw.gov.au/our-work/reports/effectiveness-of-the-biodiversity-offsets-scheme>.

- iii. The same situation applies to Camden White Gum, an endemic species, species at the edge of its range. It appears that the Biodiversity Conservation Trust is not purchasing offsets because suitable offsets are simply not available.

In the absence of any habitat which could credibly offset the loss from the Proposal, the Offset Scheme allows for monetary payment. However, the ability of Water NSW or the Biodiversity Conservation Trust (should WaterNSW propose to provide all or part of offsets by making a monetary payment into the Biodiversity Conservation Fund) to secure suitable available offsets is uncertain. The Audit Office report demonstrates that it does not address biodiversity loss.

Water NSW's comments in response to submissions by the International Council on Monuments and Sites (ICOMOS) and IUCN show note but disregard their conclusions on the Proposal:

Australia ICOMOS therefore supports Recommendation 9 of the Interim Report of the NSW Legislative Council Select Committee on the Proposal to Raise the Warragamba Dam Wall, that the NSW Government:

- *Not proceed with the Warragamba Dam wall raising project, if the proposal cannot maintain or improve the current and future integrity of the Greater Blue Mountains World Heritage Area, and*
- *Pursue alternative floodplain management strategies instead⁹*

The IUCN has similarly advised in its submission that it considers that Outstanding Universal Values (OUV) cannot be offset and therefore the concept of compensation plots for the planned loss of OUV is not appropriate.¹⁰

In litigation the NSW government policy requires government agencies and bodies which are party to legal action to behave as "model litigants". However, it is clear from the Proposal that this approach does not operate in the sphere of government-led development projects. WaterNSW is not a private sector developer and should take account of the advice received from both Australia ICOMOS and the IUCN.

- ***Suggestion of a boundary adjustment to the World Heritage Area***

In response to the argument that world heritage listed areas cannot be offset because of their exemplary values, the RTS notes that boundary adjustments are allowed. In this context it implies that this might be able to be used. However, in fact, boundary modifications to world heritage properties have to demonstrate that the modification will "improve the conservation and/or protection of the property".

⁹ NSW Government Major Projects, Australia International Council on Monuments and Sites Submission to Warragamba Dam Raising Project EIS, December 2021, <https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSI-8441%2120220127T001515.619%20GMT>.

¹⁰ Water NSW, 2022, *Submissions Report: Warragamba Dam Raising - Application Number SSI-8441; EPBC ID Number 2017/794, Section C3*, viewed 12 December 2022, <https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AttachRef=SSI-8441%2120221118T052410.778%20GMT>.

This would not be the case with the Warragamba Dam raising proposal. Boundary modifications also have to be approved by the World Heritage Committee.¹¹

- ***The Proposal is at odds with current assessments to expand the GBM WHA for better protection***

The Society strongly condemns any suggestion that the dam wall raising proposal could avoid World Heritage obligations through administrative changes to the current World Heritage boundary. This is at odds with the Australian Heritage Council's (AHC) preliminary assessment to expand the current National (and World) Heritage area by around 20 percent to better protect its outstanding biodiversity values.¹² These surrounding high conservation value areas would be crucial, particularly in helping counter the obvious and increasing impacts of climate warming, already evident. The land under assessment includes the areas which the Proposal would flood and destroy yet are already being managed for their conservation values.

Indeed, the Society and other environmental and heritage groups have recommended further areas should also be assessed for National Heritage listing, particularly in the southern Blue Mountains. Expansion, not decrease of the World Heritage Area would protect the threatened species and communities which the State Government says it wants to protect.

The AHC is also currently considering adding cultural heritage, visual and geomorphology values to the GBM WHA nomination. These were part of the original nomination proposal but the case was not put strongly enough at the time and there was limited time. Knowledge of these values is now far greater. This is particularly relevant to Aboriginal heritage value where the concept of cultural landscape was not well understood back in 2000.

- ***Destruction of irreplaceable Aboriginal Cultural heritage***

The Society opposes the inevitable destruction of several hundred Aboriginal cultural sites from the flooding impacts brought by the Proposal. It is understood that the area and its significant cultural heritage is still under-surveyed.

The Society is aware of the great significance the area holds for local indigenous people and organisations as a cultural landscape, which embodies traditional stories and beliefs long held up until today. The southern Blue Mountains is an extensive and rich cultural landscape belonging to the Gundungurra People and the landscape of the valley, in particular, is the location of the Gundungurra creation songline, the Journey of Gurangatch and Mirrigan. This is their epic battle through the land which formed the southern Blue Mountains. It is understood that the Proposal would permanently destroy parts of this irreplaceable cultural landscape – the roots and heritage of the Gundungurra People.

¹¹ Operational Guidelines for the Implementation of the World Heritage Convention, *Minor modifications of boundaries of world heritage properties*, pp.154.

¹² The public consultation on this proposal for additional area and values for the Greater Blue Mountains has just closed.

The Commonwealth Government is currently assessing the Gundungurra Aboriginal Heritage Association Inc.'s application for the long-term preservation and protection of a significant Aboriginal Heritage area known as Burraborang Valley near Warragamba NSW under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)*. This amazing living legacy of indigenous culture should be preserved, valued and protected with pride.

Indigenous culture in Australia is significant at an international level for being the longest continuous culture in the world. The specified area must be physically protected so that it can be understood and passed on to future generations in a traditional and culturally appropriate way.

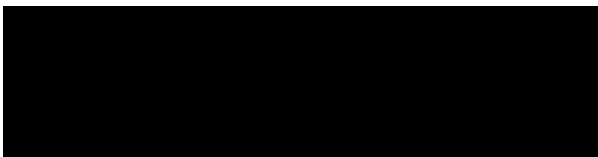
Alternative solutions to raising the dam wall for flood mitigation

As far as the Society is aware, alternatives to raising the dam wall are still not being seriously investigated and pursued. Alternative solutions need a greater investment of time and money, which is not happening, while the process to gain approval for the current proposal keeps being progressed so that it will seem as the only option available. This comes after many years of government inaction to address Western Sydney flooding which is now clearly increasing from climate warming impacts, with flooding at levels and frequencies previously rarely seen or predicted.

Conclusion

The Society continues to oppose development and is disappointed that Government appears to be ignoring the World Heritage Committee's advice when the Greater Blue Mountains World Heritage Area has been hammered by fires, floods, and climate change. The NSW Government has allowed the problem of housing on the floodplain to occur and should be looking to alternative solutions to the problem rather than degrading the globally significant World Heritage area.

Yours sincerely

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Madi Maclean
President
Blue Mountains Conservation Society
mobile 0412 428 202 or email president@bluemountains.org.au