

Director Regions, Western  
NSW Planning and Environment  
PO Box 58  
Dubbo NSW 2830

20 July 2016

### **Submission on Draft Riverina-Murray Regional Plan**

Dear Sir/Madam,

The Nature Conservation Council of NSW (**NCC**) is the peak environment organisation for New South Wales, representing over 150 member societies across the state. Together we are committed to protecting and conserving the wildlife, landscapes and natural resources of NSW.

We welcome the opportunity to comment on the *Draft Riverina-Murray Regional Plan*. This is an important strategy that will shape the future of South Western NSW over the next 20 years and will have significant impacts for the environment and communities.

We have previously raised concerns with the Department of Planning and Environment that the current roll out of Regional Plans is happening outside of a clear strategic planning framework. In our view, this does not provide a suitable basis for long term strategic planning that is consistent with the principles of ecologically sustainable development and which requires important environmental assessment and public participation.

We strongly recommend that the Government establishes mandatory requirements for strategic planning including proper environmental assessment, genuine community engagement and appropriate mechanisms for achieving environmental, social and economic outcomes.

Many of our members are concerned that regional plans prepared to date fail to resolve land use conflict or deliver robust protection for environmentally sensitive areas. There are also concerns that Regional Plans fail to adequately address key environmental challenges such as biodiversity loss, clearing of native vegetation and habitat, habitat connectivity, access to green space and infrastructure, population planning, air and water pollution, resource and waste management efficiency and impacts of climate change.

Our **enclosed** submission will outline in more detail:

1. Key concerns with the regional planning process and draft regional plans
2. Specific comments on the *Draft Riverina-Murray Regional Plan*

We strongly support improved strategic planning in NSW and hope to continue to work with Government to ensure that the planning system delivers improved outcomes for the environment and communities, now and for future generations.

Should you require any additional information, please do not hesitate to contact Cerin Loane, Policy and Research Coordinator, on (02) 9516 1488 or [cloane@nature.org.au](mailto:cloane@nature.org.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kate Smolski', written in a cursive style.

Kate Smolski  
Chief Executive Officer

# NCC SUBMISSION ON DRAFT RIVERINA-MURRAY REGIONAL PLAN

## 1. KEY CONCERNS WITH THE REGIONAL PLANNING PROCESS AND DRAFT REGIONAL PLANS

The Department of Planning and Environment (DOPE) is currently rolling out a new set of Regional Plans across eight regions of NSW. We have a number of overarching concerns with the process for developing the regional plans, and the failure of the plans to adequately address environmental challenges facing the regions and incorporate mechanisms for delivering improved environmental outcomes. Our key concerns with the new set of regional plans are outlined below.

### Lack of strategic planning framework

The current roll out of Regional Plans is happening outside of a clear legislative framework requiring mandated environmental assessment and public participation. In our view, this does not provide a suitable basis for long term strategic planning, including the proper consideration of vital long term issues such as ecologically sustainable development, biodiversity and connectivity, access to green space and infrastructure, climate change and population planning.

During the NSW Planning System Review process Moore and Dyer noted that:

*“During the course of the consultation process, a consistent theme was the lack of early strategic planning under the present planning legislation. A framework of strategic planning would inform local planning, apply across geographic areas wider than one council (potentially on a much wider basis than a small group of councils) and link with plans for infrastructure and its sequencing”.*

*“Two propositions were also near-universally supported across the spectrum of interests:*

- *express provision should be made for strategic planning in any new legislative framework*
- *such legislative provision should be accompanied by practical measures to encourage community engagement with, and participation in, the development of such strategic plans”.*

Moore and Dyer made a number of specific recommendations for strategic planning in a new planning system, including objects for strategic planning (Recommendation 8) and assessment of cumulative impacts (Recommendation 12 and 13)<sup>1</sup>.

Our 2012 report *Our Environment, Our Communities - Integrating environmental outcomes and community engagement in the NSW Planning System*, highlights the intrinsic link between land use planning and development, environmental protection, nature conservation and natural resource management<sup>2</sup>.

The report identifies a number of key elements for effective strategic planning, including:

- a whole-of-Government approach to strategic and land use planning,
- baseline studies of environmental and natural resource values to underpin strategic and land use planning,

---

<sup>1</sup> See further Chapter 4 of the Moore and Dyer report *The Way Ahead for Planning in NSW - Recommendations of the NSW Planning System Review*, Volume 1 – Major Issues, May 2012.

<sup>2</sup> Nature Conservation Council of NSW, Total Environment Center, EDO NSW, *Our Environment, Our Communities - Integrating environmental outcomes and community engagement in the NSW Planning System 2012*

- strategic environment assessment that includes mandatory consideration of prescribed environmental criteria, and assessment of cumulative impacts,
- sharing of data across sectors,
- consistency with other government strategies, including, for example, in the areas of natural resource management, transport, infrastructure and health,
- identification of competing land uses and values and mechanisms for achieving environmental outcomes,
- early, sustained and genuine community engagement in strategic and land use planning processes,
- appropriate statutory weight for, and hierarchy, between planning instruments.

Without a clear framework for strategic planning that mandates key requirements such as environmental studies and strategic environmental assessment, regional plans will fail to deliver the necessary environmental outcomes that are needed for an ecologically sustainable future.

We strongly recommend that the Government establishes mandatory requirements for strategic planning including proper environmental assessment, genuine community engagement and appropriate mechanisms for achieving environmental, social and economic outcomes.

### **Failure to effectively integrate environmental outcomes in land use planning**

Regional plans fail to adequately identify environmental targets or clear environmental outcomes that are to be achieved within the region.

We have previously recommended that to improve integration between regional planning, natural resource management and environmental protection, regional plans should incorporate environmental targets set by Government<sup>3</sup>. This is particularly important for achieving environmental outcomes at a regional/landscape scale.

Previous examples of targets that could be incorporated into regional plans include Catchment Action Plan targets or Natural Resources Commission targets. We are particularly concerned that the current Government seems to have moved away from setting targets for the environment (e.g. NRC targets have been abandoned, CAPs will be replaced with new Local Land Service plans).

The current roll out of regional plans is an opportunity for the Government to better integrate environmental outcomes within the planning system and ensure that regional plans support a whole of Government approach to achieving environmental outcomes at a regional scale. This is extremely pertinent given that other Government processes, such as the Biodiversity Legislation Review and coastal protection reforms, are looking to regional plans to achieve certain biodiversity and coastal protection outcomes<sup>4</sup>.

---

<sup>3</sup> See Nature Conservation Council of NSW, Total Environment Center, EDO NSW, *Our Environment, Our Communities - Integrating environmental outcomes and community engagement in the NSW Planning System* 2012

<sup>4</sup> For example, the Independent Biodiversity Legislation Review Panel (Recommendation 15) recommends that biodiversity objectives and priorities, including priorities identified in a statewide framework or strategy for conservation or in plans prepared by Local Land Services —are: (a) reflected in any new state planning policies prepared under the Environmental Planning and Assessment Act 1979 and (b) incorporated in Regional Growth and Infrastructure Plans and Subregional Delivery Plans, instead of in separate Regional Conservation Plans

## **Failure to provide adequate protection for areas of high environmental value**

We have significant concerns that the NSW planning system is failing to protect areas of high conservation value. In our experience, the Government has failed to implement mechanisms that provide absolute protection for areas of high conservation value (e.g. no-go zones, prohibitions), leaving matters to be considered with significant discretion on a case by case basis at the development assessment stage, where, more often than not, private economic interests outweigh other social and environmental interests.

The current roll out of regional plans is no exception. Although regional plans identify areas of high environmental value there are no clear mechanisms in place that provide protection for those areas (i.e. identification as an 'area of high conservation value) does not provide any additional protection.

Until the Government commits to providing real protections for areas of high conservation value these areas will continue to be impacted by inappropriate and unsustainable development.

## **Failure to resolve land use conflicts**

On a number of occasions, the Government has suggested that upfront strategic planning will identify and better balance competing interests and resolve land use conflicts. However, we have failed to see strategic plans or planning reforms achieve this to date (e.g. Strategic Regional Land Use Plans, NSW Planning System Review).

Although Regional Plans identify a range of land use values including areas of high environmental value, primary industries, agricultural land, drinking water catchments and identified and potential mineral resources, they fail to resolve conflicts between these various uses and defer important strategic planning and impact management to a later stage.

## **Heavy reliance on biodiversity offsetting**

Regional plans place too high an emphasis on biodiversity offsetting. Biodiversity offsetting is not appropriate in all circumstances, and should not be seen as a mechanism for justifying high impact development that will destroy areas of high environmental value (e.g. endangered ecological communities, threatened species habitat, wildlife corridors).

We have significant concerns that the existing NSW Biodiversity Offsetting Policy for Major Projects does not meet best practice principles for offsetting, and remain concerned with proposals to expand the use of that policy under new biodiversity conservation legislation. If biodiversity offsetting is to occur, it must meet best practice principles that require 'like for like' offsets and no net loss of biodiversity.

Further, certain areas must be off limits to offsetting (e.g. 'red flag' areas such as coastal catchments, areas of endangered ecological communities or threatened species habitat), and regional plans are one mechanism that could be used to identify those 'red flag' areas.

## **Action plan v final strategic planning document**

The Regional Plans identify 'Actions' to be carried out, including substantial further work to inform strategic planning outcomes (e.g. establish further strategies, undertake further mapping, develop new methodologies etc.), rather than outcomes to be achieved and mechanisms for achieving those outcomes. That is, Regional Plans read more like a work plan for undertaking further strategic planning work rather than a final strategic planning document that will deliver agreed environmental, social and economic outcomes.

Consideration should be given to using the current iteration of Regional Plans as intermediary documents for undertaking further strategic planning work, and informing a further set of regional planning documents that

work to resolve land use conflicts, establish clear outcomes and targets, and establish mechanisms for achieving those outcomes and targets.

There does not appear to be any financial or technical support from the NSW government to support the development and implementation of regional plans by Local Government. In order to properly implement regional plans there must be an increase in government regional staff support to ensure that the plan is actually delivered.

Further, a number of the actions relate to State-wide work that the State Government is already planning to do (e.g. implement the Integrated Mining Policy) or general work that State and local governments do in the usual course of planning (e.g. continue to work with councils to protect productive farmland).

## **2. SPECIFIC COMMENTS ON THE *DRAFT RIVERINA-MURRAY REGIONAL PLAN***

In addition to our overarching concerns with the regional planning process, we provide the following specific comments on key aspects of the *Draft Riverina-Murray Regional Plan* (Draft Plan).

### **DEVELOPMENT OF THE DRAFT PLAN**

We have significant concerns with the lack of community input into the development of the Draft Plan.

The Draft Plan suggests that the only engagement in developing the Draft Plan was with councils across the region, including the Joint Organisation and the Regional Organisation of Councils (page 7). There is no indication of having consulted with community members, industry, or interest groups.

We do not believe that this reflects genuine and meaningful community engagement. Effective strategic planning requires significant investment in upfront community engagement and buy-in from the local community. It is not enough to simply seek feedback from the community on an already developed plan as a 'tick-the-box' exercise. Claims by this Government that it is improving community engagement in strategic planning are undermined by the realities of its regional planning process.

It is important that DOPE acknowledges and responds to key issues raised during consultation and helps the community understand how final decisions have been made. We strongly encourage DOPE to ensure the community is aware of how feedback into the regional planning process has been dealt with, prior to the Plan being finalised.

### **ECOLOGICALLY SUSTAINABLE DEVELOPMENT**

The draft Plan makes only one reference to ecologically sustainable development (ESD) (page 7). We are concerned that this is simply a cursory mention, and that ESD is not effectively operationalised in the plan. We believe that the principles of ESD should be a core part of the vision, goals and actions for the Plan.

### **AREAS OF HIGH CONSERVATION VALUE**

The draft plan identifies areas of high conservation value in Figure 17 – Environmental Assets (pages 70-71). Large areas of high environmental value in the region are located outside national parks and declared wilderness areas. Regional landscapes support over 180 threatened species of flora and fauna, while the region includes three listed Ramsar wetlands.

We have significant concerns that while regional plans identify areas of high environmental value, there are no clear mechanisms in place that provide protection for those areas. The Plan must clearly specify how the identified areas of high environmental value will be protected and enhanced. The plan should specify the major

areas on the map where conflicts between conventional land use and conservation of high value environmental land occur, and how these conflicts should be resolved.

The Riverina-Murray area of NSW has already been heavily cleared, with much of the landscape impacted by broad-scale land clearing. All remnant vegetation has environmental significance. The Plan must clearly outline mechanisms for protecting or enhancing these areas of high environmental value. Until the Government commits to providing real protections for areas of high conservation value these areas will continue to be impacted by inappropriate and unsustainable development. These areas will be at much greater risk of being cleared if the NSW Government's proposed biodiversity legislation is introduced.

## **POTENTIAL LAND USE CONFLICTS**

The draft Plan identifies a range of land use values including areas of High Environmental Value and Wetlands (Figure 17: Environment assets, p 70-71); Primary Industries, including Biophysical Strategic Agricultural Land, Irrigation Land and Forestry (Figure 8: Agriculture and Natural Resources, p24-25); and identified and potential mineral resources (Figure 9: Mining and Mineral Resources, p30-31). However the draft Plan fails to resolve conflicts between these various uses and defers important strategic planning and impact management to a later stage.

NCC supports the principle of identifying and protecting regionally important productive agricultural lands, as expressed on page 21 of the draft plan. The statement on page 21 that the *"NSW Government will protect land and resources for key agricultural industries from inappropriate development"* might be considered as some sort of guarantee that productive agricultural land will be protected from conflicts with mining proposals. However this has not historically been the case. The NSW Department of Planning has in recent times preferred coal mining to prime agricultural land (e.g. the Shenhua Mine on the Liverpool Plains).

The potential for land use conflict in the Riverina-Murray can be quickly assessed visually by examining Figure 8 of the Draft Plan (Agriculture and Natural Resources, pages 24-25), and comparing it with Figure 9 (Mining and Mineral Resources, pages 30-31). The major coal basin in the Jerilderie-Oaklands area lies under parts of the Murray Irrigation Area. The potential for land use conflicts between mining and irrigated agriculture is obvious. A 2014 report commissioned by Lock the Gate documents the extent to which coal mines in the Hunter Valley have sequestered water in the Hunter Valley catchment for their own uses<sup>5</sup>. Coal mines require large volumes of water to wash and prepare the coal and suppress the dust that is associated with coal mining. In the Hunter Valley, the coal industry has ended up owning the majority of the water allocations because the miners were prepared to pay up to 10 times the value of the water for agriculture. The same thing could happen in the Riverina-Murray Region unless landowners insist on some statutory protection for prime agricultural land where there are land use conflicts with mining proposals.

Current water sharing plans do not adequately protect the environment, so any coal mining proposals within the Murray Irrigation Area would not only subtract from the water allocations for agricultural water users, but would also further reduce water available for important environmental purposes. Any future coal mining in the Riverina-Murray region also has the capacity to adversely impact on the Water for the Future initiatives discussed on page 26 of the draft plan.

History shows that unless clear protection is provided for environmental assets and prime agricultural land, those values often lose out to economic interests where there is land use conflict.

---

<sup>5</sup> *"Unfair Shares: How Coal Mines Bought the Hunter River"*, Hydrocology Consulting, July 2014

## **FAILURE TO LINK CATCHMENT MANAGEMENT PLANNING AND NATURAL RESOURCE MANAGEMENT**

The draft Plan fails to adequately integrate catchment management planning. The plan rightly refers to the important role in the region for the Murray Darling Basin Authority (page 23), but it makes no reference to existing Catchment Action Plans (the responsibility of the catchment management arm of the Local Land Services) or the goals and objectives within those plans.

With respect to water management in the region, the regional plan should bring together all the agencies with responsibility for water management when considering the important subject of water in the Riverina-Murray region. The Water for the Future project (page 26)<sup>6</sup> indicates that there is also a role for the Commonwealth Government in water management in the Riverina-Murray region. The regional plan should embrace all the agencies in regional water management and indicate how their involvement can be integrated into the plan.

### **WATER**

The Draft Plan recognises that water resources are limited in the region but suggests that water resource management is an issue that is external to land use planning. This statement is somewhat misleading as the plan does identify actions for supporting the sustainable use and conservation of water resources and there is a clear opportunity to ensure future planning and development in the region does not impact on the quality and quantity of already scarce water resources.

### **CLIMATE CHANGE**

We are pleased that the Draft Plan recognises climate change as a key threat for the Riverina-Murray region, particularly in relation to water scarcity, ecosystems, natural hazards such as drought and bushfire and agricultural productivity. It is important for the community to see evidence of government recognition of climate change issues.

The draft plan notes that some of the most climate change vulnerable ecosystems in Australia are located in the Riverina-Murray region. While the plan does identify some actions for responding to climate change, including prohibiting new urban releases in high flood hazard areas it is imperative that ongoing implementation of the Plan provides clear, ongoing opportunities and action for addressing climate change impacts.

### **RENEWABLE ENERGY**

The expansion of renewable energy projects in the region, in particular solar and wind generated energy projects, is supported. While the draft Plan recognises the potential for renewable energy projects in the region, there needs to be a more detailed strategy for supporting the expansion of renewable energy projects in the region into the future.

Action 1.3.4 (pages 32-33) to implement the NSW Renewable Energy Action Plan is supported. We note that Central West-Orana draft regional plan acknowledges that the largest solar farm in the Southern Hemisphere is located at Nyngan. There are large areas of flat agricultural land within the Riverina-Murray region very similar to the area around Nyngan which would potentially suit the location of large solar farms. NSW government support for the three goals of the renewable energy action plan (as listed on page 32 of the Draft Plan), with possible Commonwealth government assistance, could result in the location of more solar farms at suitable locations (such as areas west of Griffith and Albury, see p28) in the Riverina-Murray region.

---

<sup>6</sup> [www.environment.gov.au/system/files/resources/7d4c4922-9374-4e19-bf8a-5b5c152ac6bb/files/](http://www.environment.gov.au/system/files/resources/7d4c4922-9374-4e19-bf8a-5b5c152ac6bb/files/)

## BIOSECURITY

We support Action 1.2.3 to encourage the increased use of biosecurity measures to protect the region's important agricultural assets, particularly given that the largest industry by gross regional product is agriculture, forestry and fishing (see p 18).

However we are concerned that the draft Plan considers biosecurity risks in the context of agricultural assets only and suggest that the draft Plan also recognise the potential biosecurity risks to the regions environment and natural assets. Biosecurity is at least as important (arguably more important) to the environmental portfolio as it is to the agriculture and considerably more challenging because of:

- The need to protect hundreds of thousands of species, and their populations and interactions that constitute ecosystems and ecosystem processes (in contrast, industry biosecurity is mostly focused on protecting a few particular economically valuable species).
- The irreplaceability of many conservation values under threat from invasive species (organisms of value to industry can usually be replaced by new breeds or new enterprises).
- The greater number and complexity of invasive species threats to environmental values than production values, and their interaction with other environmental threats (fire regimes, habitat fragmentation, climate change).
- The limited knowledge about biodiversity and invasive species threats to the environment and the long timeframes over which invasive species establish and spread.
- The often limited management options in natural environments, the lack of commercial incentives to manage environmental threats.
- The multitude of stakeholders, often with conflicting agendas, and limited resources compared to industry stakeholders.

We also suggest that the actions identified in the draft plan may be ineffective if just left to local councils to implement. Outside their traditional statutory area of noxious weeds, local councils have little to no biosecurity expertise and no statutory responsibility for biosecurity. We suggest that there is a need for both the Local Land Services and Office of Environment and Heritage to work closely with councils to minimise biosecurity risks for current and future industries, and the environment.

## PROTECTION OF TRAVELLING STOCK ROUTES AND RESERVES (TSRs)

Travelling stock routes and reserves contain important remnants of woodland vegetation in the otherwise highly cleared wheat and sheep farming belt of NSW. Often, these remnants are the best examples of ecosystems and communities that are not well represented in the National Parks estate. The TSR network also contains many Aboriginal sites.

We welcome the draft plan's recognition that these lands need to be protected from the encroachment of incompatible uses. Further information is needed as to how this is going to be achieved. Further, the text on page 20 of the Plan should recognise not only the agricultural value of TSRs, but also the important the environmental, social and cultural values of TSRs. For example the following sentence from the Draft Central West-Orana regional plan is missing from the Draft Riverina-Murray plan: *"Many travelling stock reserves have high biodiversity and Aboriginal cultural heritage values"*.

We recommend that a similar statement on the important environmental, social and cultural values of TSR's be included in the Draft Riverina-Murray plan. We also note that consideration should be given to the NSW Travelling Stock Reserves State Planning Framework 2016-19 currently being prepared by the Local Land Service<sup>7</sup>.

## **OFFSETTING**

The draft Plan places too high an emphasis on biodiversity offsetting. Biodiversity offsetting is not appropriate in many circumstances. The draft Plan must identify 'red flag' areas (e.g. areas of endangered ecological communities or threatened species habitat) that are not appropriate for biodiversity offsetting. If biodiversity offsetting is to occur, it must meet best practice principles that require 'like for like' offsets and no net loss of biodiversity.

We do not agree with the statement on page 73 that the *NSW Biodiversity Offsets Policy for Major Projects* applies to all biodiversity in NSW. That policy only applies to the assessment of biodiversity impacts from major projects. Other types of development are subject to different offsetting rules (e.g. Biocertification and BioBanking). Further, the Draft Plan does not acknowledge that significant changes to biodiversity laws is currently proposed as part of the Government's land management reforms<sup>8</sup>.

## **RESOURCING**

There has been an ongoing decline in Government support for regional areas, with many regional areas and agencies lacking necessary staffing or expertise to achieve improved environmental, social and economic outcomes. Many of the actions identified in the draft Plan require ongoing collaboration between the NSW Government and local councils, and further work to develop and implement plans and strategies within the region. Substantial additional support and resourcing will be required to ensure regional agencies and local councils have the necessary capacity to deliver the plan.

## **IMPLEMENTATION OF THE DRAFT PLAN**

The delivery of the final Plan will be by the Coordinating and Monitoring Committee, made up of Government and local government representatives determined by the Regional Organisations of Councils. NCC suggests that there should equal representation between local and State government representatives.

In order to provide improved links with agricultural and natural resource management objectives, representatives from the relevant Local Land Services should also be included on the Coordinating and Monitoring Committee.

Consideration should also be given to community input into the implementation of the plan.

## **ENGAGEMENT WITH LOCAL COMMUNITY ENVIRONMENT GROUPS**

We encourage DOPE to engage with local environment groups and the broader community to address key concerns and recommendations before the plan is finalised.

Contact details for NCC members in the region can be found on our website: [www.nature.org.au/members](http://www.nature.org.au/members)

---

<sup>7</sup> Our support for protecting and enhancing the environmental and cultural values of TSRs are set out in our submission to the NSW Travelling Stock Reserves State Planning Framework 2016-19, [www.nature.org.au/media/213729/151204-ncc-submission-nsw-tsr-draft-state-planning-framework.pdf](http://www.nature.org.au/media/213729/151204-ncc-submission-nsw-tsr-draft-state-planning-framework.pdf)

<sup>8</sup> A draft Biodiversity Conservation Bill 2016 and Draft Local Land Services Amendment Bill 2016 have recently been on public exhibition, [www.landmanagement.nsw.gov.au/](http://www.landmanagement.nsw.gov.au/)