

Director Regions, Northern
Locked Bag 9022
Grafton NSW 2460

1 June 2016

Submission on Draft North Coast 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 North Coast Regional Plan*. This is an important strategy that will shape the future of the NSW North Coast 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, in addition to those recently introduced by Part 3B of the *Environmental Planning and Assessment Act 1979*, 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 North Coast 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.

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 NORTH COAST 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)¹.

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 management².

¹ 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.

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

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,
- 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 Government³. 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).

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

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 outcomes⁴.

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).

⁴ For example, the Independent Biodiversity Legislation Review Panel (Recommendation 15) recommends that biodiversity objectives and priorities, including priorities identified in a state-wide 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

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.

Failure to adequately address climate change impacts

Regional plans fail to adequately plan for climate change adaptation and mitigation. The only clear action in the plan is for the State Government to continue to support councils to consider the long term implications of climate change in decision-making. There should be more emphasis in Regional Plans on climate change risks as a constraint on development. The Government has a responsibility to the community to map areas that will be impacted adversely by climate change and implement appropriate development controls for those areas. This is particularly important for floodplains, low lying coastal areas and high bushfire risk 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.

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 NORTH COAST 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 North Coast Regional Plan*.

INTRODUCTION, VISION AND GOALS

While we are pleased to see a reference to ecologically sustainable development (ESD) as a high priority for the region in the Draft Plan (p5), it is important that it is not merely given a cursory mention, but rather operationalised by the plan. To that end, the principles of ESD should be a core part of the vision and goals for the draft Plan.

For example:

- The vision should be amended to include the principles of ESD as follows:

The vision for the North Coast is for a sustainable future, centred on a prosperous community, healthy environment and attractive lifestyle choices in keeping with the principles of ecologically sustainable development.

- Goal 1 should be amended to include ESD principles:

GOAL 1 – A natural environment, and Aboriginal and historic heritage ,that is protected consistent with the principles of ecologically sustainable development.

AREAS OF HIGH CONSERVATION VALUE

While the draft Plan appears to identify areas of high environmental value (Figure 1: High Environmental Values, p 6-7), the Plan suggests that the Government stills needs to review proposed urban and employment land identified in the urban growth area maps, to identify sites highly likely to have significant environmental, and aboriginal and historic heritage values that may constrain development (page 20). The plan does not identify when these maps will be available, or how local government will appropriately identify sites of high environmental value and preserve them before these maps are available.

Further, the draft Plan provides no clear mechanisms for protecting areas of high environmental value. The Plan must clearly specify how the identified areas of high environmental value will be protected and enhanced. 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.

The draft Plan also fails to provide adequate protection of wildlife corridors. The requirement to identify and protect wildlife corridors is a feature of the current North Coast Regional Environmental Plan, and should be carried through to the new draft North Coast Regional Plan.

Finally, the draft Plan recognises that fifteen of the region's reserves have World Heritage status, however there is nothing in the plan that provides clear actions for ensuring that the important values of those sites are protected in accordance with Commonwealth and international obligations. State and local governments must work together to ensure that future development in the region, including outside the boundaries of the World Heritage Areas, does not impact those areas.

FAILURE TO RESOLVE LAND USE CONFLICTS

The draft Plan identifies a range of land use values including areas of high environmental value (Figure 1: High Environmental Values, p 6/7); Resources and Farmland, including Regionally Significant Farmland, Biophysical Agricultural Land, and mineral resources (Figure 7: North Coast Resources and Farmland, p32-33), Proposed Urban Release Areas (Figure 13 (p44) and Figure 15 (p 45) and Urban Growth Areas (Appendix B). However the draft Plan fails to resolve conflicts between these various uses and defers important strategic planning and impact management to a later stage.

COASTAL PROTECTION

We recognise that the Government is currently in the process of making substantial changes to coastal protection laws in NSW. These changes will have a significant impact on how the North Coast region will manage impacts on the sensitive coastal environment into the future, including impacts from coastal hazards and climate change. We suggest that draft Regional Plans anticipate future coastal planning requirements, and incorporate necessary actions and outcomes to meet future coastal management initiatives.

While we generally support the Government's efforts to improve coastal protection mechanisms, we are concerned that the coastal reforms continue to leave it to local councils to assess and plan for climate risks. We believe there is a role for the State and Federal governments to assess climate risks, and to protect the community from their adverse impacts as much as is possible through planning and other mechanisms. Mapping of high risk areas, including updating 1:100 year flood maps to take into account climate change impacts, is an important part of this process.

CLIMATE CHANGE

The draft Plan fails to adequately plan for climate change adaptation and mitigation. The only clear action in the plan is for the State Government to continue to support councils to consider the long term implications of climate change in decision-making. There should be more emphasis in the document on climate change risks as a constraint on development. The State Government has a responsibility to the community to map areas that will be impacted adversely by climate change and protect appropriate development controls for those areas. This is particularly important for floodplains, low lying coastal areas and high bushfire risk areas.

Maximum temperature figures given in the North Coast Regional Plan (page 26) have already been exceeded by more current temperature figures. The World Meteorological Organisation announced in 2016 that the average warming for the planet since records began in the late 19th Century hit 1 degree C in early 2016. 2015 was the hottest year for the planet since records began, with some predictions already suggesting that 2016 will be even hotter. It is likely that the temperature increase predictions for the NSW North Coast are already out of date due to the pace of global warming.

Recent reports indicate that five of the Solomon Islands have recently been swallowed whole by rising sea levels⁵. The current rate of sea level rise of 3mm per year is predicted to accelerate to 7mm per year by the end of the century. Coastal planning should reflect this reality.

NCC appreciates the inclusion of Figure 5 on page 26 of the plan, indicating the number of natural disaster declarations from 2004/2005 to 2013/2014. However, we believe that there was a real missed opportunity in not including a similar graph showing the number of natural disaster declarations for the period 1994/1995 to 2003/ 2004 for comparison with Figure 5. Given the indicators that climate related disasters are increasing significantly on a decadal time frame, such a graph would be useful in demonstrating the trend to the public.

The 2005 NSW Floodplain Development Manual is mentioned on page 27. This manual is now over 10 years old. It is badly in need of an update in the light of the latest 2014 IPCC report and the current climate science findings which are indicating that global warming and its associated weather impacts are accelerating.

REGIONALLY SIGNIFICANT FARMLAND

The draft Plan establishes interim significant farmland variation criteria, which allows local government to make a minor variation to the mapped farmland boundary, where State or regionally significant farmland is unlikely to contribute significantly to future agricultural production (pages 22-23). We are concerned that many councils are more interested in rate earning subdivisions rather than the preservation of regionally significant farmland and may misuse this function. This potential conflict could be resolved by ensuring that there is proper oversight by the NSW Department of Primary Industries or the Local Land Services.

OFFSETTING

As stated earlier, NCC has the view that regional plans place too high an emphasis on biodiversity offsetting. We have significant concerns that the existing NSW Biodiversity Offsetting Policy for Major Projects and the proposed new Biodiversity Assessment Methodology (proposed as part of the biodiversity reform package currently on public exhibition) do not meet best practice principles for offsetting.

Biodiversity offsetting is not appropriate in all circumstances. The draft Plan must identify 'red flag' areas (e.g. coastal catchments, areas of endangered ecological communities or threatened species habitats) that are recognised as not appropriate for biodiversity offsetting.

⁵ New Scientist, 14th May 2016, p6

COAL SEAM GAS EXPLORATION AND EXTRACTION

The draft Plan suggests Clarence-Moreton Basin has potential coal seam gas resources that may be able to support the development and growth of new industries and provide economic benefits for the region (p28). There is significant community concern on the North Coast regarding the environmental and health impacts of coal seam gas. The draft Plan should provide certainty to the North Coast community and clearly state that coal seam gas exploration and extraction will be prohibited across the entire region.

FAILURE TO PROTECT IMPORTANT KOALA HABITAT

The draft Plan fails to recognise the importance of koala habitat in the North Coast region. In fact there is not a single reference to this iconic species in the draft Plan. The koala is listed as a threatened species under both NSW and Commonwealth laws, and specifically, the koala population between the Tweed and Brunswick Rivers east of the Pacific Highway was recently gazetted as endangered. The hinterland of the North Coast will become increasingly important for koala survival, particularly as climate change continues to take hold. Comprehensive koala plans of management are in place or being prepared for the majority of local government areas on the North Coast, but there is no indication of how those plans have been integrated into the draft Regional Plan.

IMPLEMENTATION OF THE DRAFT PLAN

The delivery of the final Plan will be by the Coordinating and Monitoring Committee, made of Government and two local government representatives determined by the Regional Organisations of Councils. The proposed committee is heavily weighted with NSW Government representatives, and does not provide adequate representation for the local government areas in the region.

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. For example, Illawarra Environment and Resources Groups have been identified as relevant supporting groups under the Illawarra-Shoalhaven Regional Plan.

ENGAGEMENT WITH LOCAL COMMUNITY ENVIRONMENT GROUPS

Communities on the North Coast are concerned that the NSW Government and Department of Planning and Environment have failed to follow existing planning controls and strategies in making recent planning decisions on the North Coast.

For example:

- The West Byron Urban Release Area was approved without first preparing a Growth Strategy, and allowed areas to be developed in contravention of the Settlement Planning Guidelines, despite these being existing requirements. The draft Plan suggest that Growth Management Plans will continue to be required to be prepared before land can be zoned for urban developments (p35), and that the Settlement Planning Guidelines will have to be complied with (p50), however communities have little confidence that these requirements will be followed.

- Rural land at Ewingsdale is being developed for 260 houses and a shopping centre despite both the draft Plan and existing strategies clearly identifying the land as both regionally significant farmland and Biophysical Strategic Agricultural Land. Although the land has not been rezoned, the decision to allow urban development in a rural zone contradicts the intent of strategic planning documents.
- Land on Harwood Island has been rezoned industrial despite previous strategies and Figure 7 of the draft Plan identify the land as regionally significant farmland and communities being told the farmland will be protected against development.

There is little confidence that the draft North Coast Regional Strategy will be properly applied in future planning decisions.

NCC has a number of member groups on the North Coast including the North Coast Environment Council, Bellingen Environment Centre, Nambucca Valley Conservation Association Inc., Clarence Environment Centre, National Parks Association Branches, Pikapene & Cherry Tree Environment Centre, Caldera Environment Centre, Friends of the Koala, North Lismore Plateau Protection Association Inc. and Tweed Climate Action Now. These groups have a strong knowledge of the region and a keen interest to see positive environmental outcomes through effective strategic planning.

We understand that a number of these groups have engaged directly with DOPE regional planning officers in relation to the draft Plans and will be providing written submission on the draft Plans. We encourage DOPE to continue to engage with local environment groups and the broader community to address key concerns and recommendations before the North Coast plan is finalised.

A list of NCC members on the North Coast can be found on our website: www.nature.org.au/members