

NSW



**DEFENDING THE ENVIRONMENT
ADVANCING THE LAW**

**Submission on the
*Draft Metropolitan Strategy for Sydney to 2031***

prepared by

EDO NSW

June 2013

About EDO NSW

EDO NSW is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 25 years' experience in environmental law, EDO NSW has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO NSW is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

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Introduction

EDO NSW is a community legal centre specialising in public interest environmental and planning law, and we welcome the opportunity to provide comment on *Draft Metropolitan Strategy for Sydney to 2031* (**Draft Strategy**). On account of the concurrent consultations on the Government's *A New Planning System – White Paper* (**White Paper**) and draft legislation, this submission is not able to canvas the Draft Strategy in detail. However, EDO NSW made a detailed submission to the previous *Sydney over the next 20 years* discussion paper (2012) (**Discussion Paper**). Many issues raised in that submission remain relevant here.¹

EDO NSW recently submitted its comprehensive submission on the White Paper.² That submission deals with issues relevant to the Draft Strategy such as vision and objects (part 1); community participation (part 2); integration of environmental and natural resource management (**NRM**) targets in 'Regional Growth Plans' and other strategic planning (part 3); and the need for new sustainability and building efficiency outcomes (part 8). We therefore draw on our analysis of the White Paper in this submission.

This submission comments on the following issues:

1. *Implementing Ecologically Sustainable Development and its Principles*
2. *Improving public engagement in line with new laws and planning hierarchy*
3. *The Metro Strategy must adopt a clearer triple bottom line focus*
4. *Clearer integration of environmental and natural resource management targets*
5. *Clearer emphasis on climate change mitigation in addition to adaptation*
6. *Update of urban sustainability and building efficiency requirements*

Before turning to these substantive issues, for ease of reference we suggest that in future consultations, draft strategic plans should be available as a consolidated version (in addition to a series of individual chapters where necessary). We also suggest that monitoring and evaluation plans denote the specific targets involved, not just 'benchmark against targets'.

1. Implementing Ecologically Sustainable Development and its Principles

According to the official submissions summary on the 2012 Discussion Paper, 'The most frequent comment in relation to the principles of the strategy was the inclusion of ecologically sustainable development (**ESD**) as one of the overarching principles of the Strategy.'³ EDO NSW and many other stakeholder submissions have argued that ESD should be the overarching object of the new State planning system, as a framework for sound development and decision making.⁴ However the Draft Strategy does not take up these recommendations.

Furthermore, the objects of the White Paper and Planning Bill 2013 (**Planning Bill**) propose to replace ESD and its principles with a much weaker definition of 'sustainable development'.⁵ The Planning Bill also adopts no explicit overarching object, or hierarchy between objects, but strongly emphasises economic outcomes over social and environmental factors. The strategic planning principles in Part 3 of the Planning Bill

¹<http://www.edo.org.au/edonsw/site/pdf/subs/120629%20Submission%20to%20Sydney%2020%20years%20discussion%20paper.pdf>

² Available at: http://www.edo.org.au/edonsw/site/planning_reforms.php.

³ NSW Government, *Metropolitan Strategy for Sydney – A Discussion Paper, Consultation Outcomes Report* (2012).

⁴ NSW Department of Planning & Infrastructure, *Green Paper Feedback Summary* (Dec. 2012), p 44.

⁵ The proposed definition removes all reference to the *precautionary principle, biodiversity and ecological integrity as a fundamental consideration; and improved valuation, environmental costing and incentives*. ESD principles are set out in the objects of the *Protection of the Environment Administration Act 1991* (NSW).

perpetuate this imbalanced approach.

This is very concerning because the Draft Metro Strategy and other regional plans will be strongly influenced by the new legislative requirements, and will need to be consistent with the strategic planning principles and higher-level plans. As proposed, the Planning Bill's narrow definition of *sustainable development* would be a significant step backwards for environmental protection in plan-making and development decisions.

The Draft Metro Strategy (Chapter 6) provides more detail than the White Paper regarding environmental protection. However, we are concerned about the Strategy's overall economic growth focus instead of ESD; its limited focus on key environmental assets, sensitive areas or 'green infrastructure' compared with the emphasis on economic 'city shapers' and precincts; and the lack of fully integrated targets for improving community engagement and environmental outcomes.⁶

Recommendations:

- *A best practice planning system needs to prioritise and implement 'ecologically sustainable development' (ESD) and its principles.*
- *ESD and its principles must be given effect throughout the planning system, including in the development of the Sydney Metro Strategy and other strategic plans.*
- *The Strategy must adopt a more balanced, triple bottom line focus and targets (see below).*

2. Improving public engagement in line with new laws and planning hierarchy

The 2012 Discussion Paper noted that the revised Metro Strategy will provide a vision to improve Sydney and manage future growth, change and opportunities – 'based on extensive consultation'. The Draft Strategy is informed by 155 submissions on the Discussion Paper, and by 240 people who attended 16 drop-in sessions. Compared with Sydney's population of 4.26 million (2010), this very low participation level highlights the need for engagement in the new planning system and Metro Strategy that is markedly different from traditional methods.⁷

The Government's White Paper refers to 'early community involvement' in plan-making at every level. It says this consultation will be required to comply with a new *Community Participation Charter (Charter)*, to be given effect in Part 2 of the *Planning Bill 2013*. The Charter is the centrepiece of community participation in the new planning system (although is proposed to be non-binding⁸). It is to apply to a broad range of planning authorities, from the Planning Minister to the Director-General, to local councils and other authorities.⁹

The Charter is to be given practical effect via Community Participation Plans (**CP Plans**) prepared in consultation with the community. Each planning authority is 'required to prepare' a CP Plan that 'provides guidance on how it will undertake community participation' for

⁶ For example, in 2012, when NSW residents were asked whether there is too much or not enough emphasis on protecting natural habitats, the most common response (45%) was 'not enough emphasis'. Only 9% thought there was 'too much emphasis', and 42% thought the 'balance is about right'. See NSW Office of Environment and Heritage, *Who Cares About the Environment? 2012*, p 45.

⁷ See, for example, The Grattan Institute, *Cities: Who Decides?* (2010), available at www.grattan.edu.au.

⁸ See Planning Bill 2013, clause 10.12(2). See also EDO NSW submission to the White Paper, Part 2.

⁹ Planning Bill 2013, clause 2.2. Including the Minister and Director-General of Planning (and committees or panels they establish), the Planning Assessment Commission, Regional Planning Panels, Subregional Planning Boards, Local Councils, and decision makers on strategic planning and development consents (Parts 3, 4, 5.1).

functions that come under the Charter (including strategic planning functions in Part 3 of the Bill).¹⁰ The Planning Department will also prepare Community Participation Guidelines to assist planning authorities to develop their CP Plans.

While the Planning Bill sets out an orderly, hierarchical process, EDO NSW is concerned that, in practice, consultation on the Draft Metro Strategy is proceeding before the Act or Charter is finalised, and before Community Participation Plans and new advisory bodies are in place (as is a Lower Hunter discussion paper, the exhibition period for which closed at the end of May). We are also concerned that there is no public information available yet on the specific content of NSW Planning Policies (the plans at the top of the new strategic planning hierarchy).¹¹

That is, while the top tier of policies remains outstanding, the Government is progressing consultations on the most influential strategic plan in the *second* tier of the new system (Regional Growth Plans). We note that public exhibition of the Draft Strategy was extended by a month, to 28 June 2013. However, the subsequent White Paper release, parallel consultations with the same closing date, and the intention to finalise the Metro Strategy ahead of higher-level strategic and community participation plans, suggests a lack of coordination. We submit that the Draft Strategy would have received more input and scrutiny if exhibition was not run in parallel with the White Paper. While many views on one would be relevant to the other, it is a hard ask for the community to give simultaneous comment on both.

EDO NSW suggests that the process of engagement on the Draft Metro Strategy, and subsequent regional plans, needs to follow the processes set out in the White Paper and Planning Bill (subject to our recommendations for improving those processes). This is essential for the new planning system to generate credibility, and to ensure significant levels of informed community engagement and buy-in. By contrast, according to the process in the Draft Strategy, the next phase will be consultation on a 'Final Metro Strategy'.¹² The Planning Bill prescribes a minimum of just 28 days for that exhibition stage (once passed).¹³

This scenario highlights the need for a further, concerted public engagement effort on a Draft Metro Strategy in line with the proper procedures. It also demonstrates the inadequacy of the proposed minimum exhibition period for draft strategic plans in the Planning Bill. EDO NSW supports a minimum period of 60 business days (12 weeks) for draft strategic plans. A three month exhibition is reasonable in the context of a complex 20-year strategy.

Recommendations:

- *Community engagement on the Draft Metro Strategy should be extended and expanded.*
- *The Strategy should be finalised in accordance with the requirements of new planning laws, NSW Planning Principles, the Community Participation Charter and relevant Community Participation Plans – and only once these laws and policies are in place.*
- *Minimum exhibition for regional plans should be increased to 60 business days.*
- *The Draft Strategy should also take into account public feedback on the White Paper.*

¹⁰ Other than the Minister. These planning authorities are to prepare CP Plans (Planning Bill, clause 2.4): the Director-General of the Planning Department, the Planning Assessment Commission (PAC), Regional Planning Panels, Subregional Planning Boards, Local Councils, and any public authorities prescribed in regulations.

¹¹ The Government intends to develop these policies before the planning laws enter Parliament, but timeframes and opportunities for consultation remain unclear.

¹² See the diagram in the 'Your future Sydney' summary document, p 24.

¹³ See Planning Bill, Schedule 2, Part 1, and note to clause 3.7: 'Part 1 of Schedule 2 requires a draft plan to be publicly exhibited for at least 28 days.'

3. The Metro Strategy must adopt a clearer triple bottom line focus

The EDO NSW White Paper submission included analysis and recommendations on Regional Growth Plans (RGP).¹⁴ Those comments are directly relevant to the Draft Sydney Metro Strategy as the first and most significant RGP, and are paraphrased below.

EDO NSW submits that the aims of regional and subregional plans should be healthy lifestyles, environmental benefits and socially inclusive communities – as well as economic development – supported by relevant triple bottom line indicators. This should be properly supported through the new Planning Act, consistent with an overarching aim to achieve ESD. Regional Growth Plans should therefore be called ‘Regional *Development* Plans’.

EDO NSW welcomes the inclusion of ‘Environmental and Natural Resources’ as a proposed section of RGPs, but further detail is required.¹⁵ The Planning Bill leaves wide discretion for how environmental targets may be integrated. This is of concern because RGPs will:

- be informed by the Bill’s Strategic Planning Principles (which downplay environmental considerations – see clause 3.3);
- aim to achieve the Bill’s objects (which emphasise economic considerations and weakly define ‘sustainable development’); and
- implement NSW Planning Policies (which are yet to be seen or consulted on).

To rebalance this equation, (among other things) the Planning Bill should be amended to link RGPs’ environmental targets directly with statutory environmental policies and reporting. This is consistent with the aim of integrating economic, social and environmental considerations. This should include the aims and targets of relevant national, state and regional environmental policies on water quality, energy and water efficiency, biodiversity strategies, native vegetation targets and pollution limits (discussed further below).

EDO NSW further recommends that regional strategic planning be based on environmental catchment boundaries instead of population and ‘economic catchments’ (White Paper, p 74).

Recommendations:

- *Regional Growth Plans should be renamed ‘Regional Development Plans’.*
- *Regional plans should aim to promote healthy lifestyles, environmental protection and benefits, socially inclusive communities and economic development – supported by relevant triple bottom line indicators.*
- *Regional plans should be based on environmental catchment boundaries where practicable.*

¹⁴ According to the Planning White Paper (at 5.4), Regional Growth Plans outline strategic objectives, policies and actions for regional or metropolitan planning over a 20-year period. They will:

- apply to all areas of NSW (with added detail where there is no subregional plan);
- deal with vision, spatial planning, housing, employment, environment and natural resources, infrastructure, subregional outcomes, and monitoring and reporting;
- incorporate ‘relevant aspects’ of existing regional plans and strategies;
- be led by the Planning Department and a new Chief Executive Officers Group;
- involve ‘significant’ community, state agency and local council collaboration; and
- be ‘underpinned by a detailed evidence base’.

¹⁵ The White Paper says these plans ‘may include established environmental targets for a region (for example air pollution targets), agreed areas of conservation and policies relating to state significant resources.’ (pp 75-77) The Planning Bill states that a draft RGP ‘is to identify... targets for achieving the planning outcomes for the region (including housing, employment and environmental targets).’ (clause 3.5(2)(d))

4. Clearer integration of environmental and natural resource management targets

The proposed outcomes, objectives and measures in the Draft Strategy¹⁶ are heavily weighted towards ambitious, 'hard targets' for residential, commercial and industrial growth.¹⁷ By contrast, targets for environmental values such as ecological footprint, 'regional open space' and biodiversity protection are limited and *relative* (such as 'increase on 2012'). Other environmental targets, such as for energy efficiency and 'healthy water environments', are quantitative but still vague.¹⁸ These need further context, such as proportion of buildings, resources (water, energy, carbon) saved; as well as additional *qualitative* indicators.

NSW Government agencies and local councils have already invested in preparing and implementing such targets. For example, in:

- State standards and targets recommended by the Natural Resources Commission;¹⁹
- State of the Environment reporting;²⁰
- regional Catchment Action Plans (likely to become 'local strategic plans');²¹ and
- local councils' biodiversity, coastal management and other NRM strategies.

To date, poor strategic planning has failed to capitalise on these investments and link planning with NRM and environmental outcomes as noted. The Government's commitment to 'evidence based, whole of government strategic planning' in the new planning system (White Paper, p 7) is a unique opportunity to remedy this.

In particular, EDO NSW strongly recommends integrating the 13 targets from the NSW Government's Natural Resource Commission across four key areas – biodiversity, water, land and community into strategic metro planning. These targets are used by catchment management authorities (**CMAs**) to develop and implement regional targets, including for the Hawkesbury-Nepean Catchment Action Plan for Sydney. The statewide targets include improvements in condition, extent and/or numbers for native vegetation, native fauna, threatened species, riverine ecosystems, wetlands, soil and other environmental assets. They aim to achieve one overarching goal: 'Landscapes that are ecologically sustainable, function efficiently and support the environmental, economic, social and cultural values of our communities.'²² National targets in native vegetation, biodiversity protection and sustainability strategies are also relevant.²³

The weak and poorly integrated environmental indicators in the Draft Metro Strategy demonstrate EDO NSW's concern about the lack of specific references to environmental and NRM outcomes in the Planning Bill (as noted above). EDO NSW welcomes the White

¹⁶ Summarised at Appendix C (Monitoring and Evaluation Plan) to the Draft Strategy document.

¹⁷ Such as 27,500 new homes per year; 625,000 jobs by 2031, annual targets for amount of employment land.

¹⁸ For example, 'number of precinct-scale energy, water and resource use efficient projects'; 'number of new developments managing the risk of pollution and degrading the water environment'. Draft Strategy Ch 6; App. C).

¹⁹ See *Natural Resources Commission Act 2003* (NSW), section 13; and see targets at

<http://www.nrc.nsw.gov.au/content/documents/Standard%20and%20targets%20-%20The%20Standard%20and%20targets.pdf>.

²⁰ See Environment Protection Authority, *State of the Environment* reports: www.environment.nsw.gov.au/soe/.

²¹ Established under the *Catchment Management Authorities Act 2003* (NSW), CAPs are made by Catchment Management Authorities (CMAs) in partnership with local communities. CMAs and CAPs are proposed to be replaced with Local Land Services in 2014, pursuant to the Local Land Services Bill 2013 (introduced to NSW Parliament in May 2013).

²² Natural Resource Commission, 'The Standard and targets', available at

<http://www.nrc.nsw.gov.au/content/documents/Standard%20and%20targets%20-%20The%20Standard%20and%20targets.pdf>.

²³ See COAG, Australia's Native Vegetation Framework (2012),

www.environment.gov.au/land/vegetation/nvf/index.html; National Biodiversity Strategy 2010-2030, www.environment.gov.au/biodiversity/strategy/; National Sustainability Council, *Sustainable Australia Report 2013*, www.environment.gov.au/sustainability/measuring/publications/sustainable-australia-report-2013.html.

Paper's statement that (p 67): 'The hierarchy of plans will also address other key state policies including *NSW 2021* [State Plan], Regional Action Plans, Catchment Action Plans and Community Strategic Plans.' However, Part 3 of the Planning Bill translates this intention too vaguely.²⁴ We recommend that the Bill and regulations be amended to require more specific integration of planning and NRM outcomes. EDO NSW has outlined a range of practical proposals to integrate NRM and environmental protection into strategic planning and the planning system generally, including in our submission on the White Paper (Part 3).²⁵

Recommendations:

- *The Planning Bill should directly link environmental targets in regional plans, such as the Sydney Metro Strategy, with statutory environmental policies and reporting. For example, the Sydney Metro Strategy should integrate the 13 NRM targets from the NSW Natural Resource Commission for biodiversity, water, land, community,²⁶ and relevant targets from the Hawkesbury-Nepean CAP, 'A Plan for Sydney's Liveability'.*
- *The Planning Bill should be amended to require that strategic plans including the Sydney Metro Strategy:*
 - *are based on **best scientific information** available (including baseline environmental studies, strategic environmental assessment, and environmental accounts²⁷);*
 - *identify and protect valuable and **sensitive natural areas** from development;*
 - *ensure **cumulative impacts** are properly assessed and considered (the Government's support for identifying and considering cumulative impacts²⁸ has not translated to the Planning Bill);*
 - ***integrate national, state and regional NRM targets, Catchment Action Plan targets (CAPs) and agency expertise;***
 - *use **Strategic Environmental Assessment** to complement, not replace, site-based assessment;²⁹*
 - *include a comprehensive range of environmental and sustainability **performance indicators** by which the new planning system will be assessed.*
- *The Draft Sydney Metro Strategy should be updated in line with these requirements.*

²⁴ For example, the Bill only requires Regional Growth Plans to include 'environmental targets' (among others), and that Subregional Delivery Plans explain how these targets 'are to be achieved' (clauses 3.5-3.6).

²⁵ See also EDO NSW, *Submission to Planning Review Stage 1* (2011), 'Ensuring integration with other environmental legislation' and 'Applying a meaningful "maintain or improve" test to key developments'; see further Nature Conservation Council NSW, EDO NSW and Total Environment Centre, Joint submission to the Planning Review Issues Paper (March 2012), pp 11-12; and *Our Environment, Our Communities* report (August 2012).

²⁶ Adopted on the advice of the NSW Natural Resources Commission. See targets at <http://www.nrc.nsw.gov.au/content/documents/Standard%20and%20targets%20-%20The%20Standard%20and%20targets.pdf>

²⁷ See ABS, 4655.0.55.002 - *Information Paper: Towards the Australian Environmental-Economic Accounts*, 2013 at www.abs.gov.au. See further Wentworth Group of Concerned Scientists, *Accounting for Nature: a Model for Building the National Environmental Accounts for Australia*, (2008); and National Plan for Environmental Information (<http://www.environment.gov.au/npei/index.html>).

²⁸ See for example T. Moore & R. Dyer (Independent Planning Review Panel), *A New Planning System for NSW*, Vol. 1, recommendations 12, 13, 73. See also NSW Government, Green Paper p 34; White Paper pp 88, 134.

²⁹ The new Planning Act must set out rigorous and objective requirements for Strategic Environmental Assessment. See EDO NSW White Paper submission, 'Sectoral strategies and Growth Infrastructure Plans'.

5. Clearer emphasis on climate change mitigation in addition to adaptation

EDO NSW welcomes the recognition of climate change in the Draft Metro Strategy, however we are concerned that the Draft focuses almost exclusively on *adaptation*, and provides no hard targets for *mitigation*, such as reduction of greenhouse gas emissions for the city. According to the submissions summary on the 2012 Discussion Paper, 'The second most frequent comment' on the paper (after including ESD) 'was to include mitigation as well as adaptation when addressing climate change.'

Counter-intuitively, and contrary to this feedback, the Draft Strategy has removed pre-existing and positive policies from the existing *Metropolitan Plan for Sydney 2036*, to:

- *Reduce greenhouse gas emissions from the manufacturing and commercial sectors*
- *Review the scope and stringency of BASIX (for energy and water efficiency).*³⁰

This is a significant step backwards, including for the Government's own State Plan goal to 'minimise impacts of climate change in local communities'. The commercial, manufacturing and industrial sectors together make up 55% of Sydney's greenhouse emissions, while the BASIX tool is currently limited to improving residential sector efficiency (which nonetheless contributes 25% of emissions).³¹ The challenge of climate change also presents new opportunities for cleaner industries in NSW.³²

EDO NSW submits that a prosperous, liveable and productive 'global city' must take leadership on the global problem of climate change. Mitigation and adaptation must be seen as two sides of the same coin.³³ The Draft Strategy should therefore be amended to adopt specific and ambitious targets for greenhouse emissions reduction, and a smaller ecological footprint.

In contrast to the Draft Metro Strategy, it is striking that the Planning White Paper does not discuss climate change at all, despite the Government's commitment to comprehensive, evidence-based strategic planning and integrated NRM outcomes. EDO NSW has recommended that the Planning Bill be amended to clarify how the new planning system will engage with and manage these risks in the coming decades – via mandatory mitigation and adaptive management mechanisms, and adaptation policies. This should begin at the strategic level with all relevant NSW Planning Policies, and include regional and lower plans.

Recommendations

- *The Metro Strategy must reinstate and consult on meaningful targets to reduce greenhouse gas emissions produced by (and for) metropolitan Sydney. This should include the manufacturing, commercial, industrial, residential and transport sectors.*
- *The Planning Bill should be amended to:*
 - *make the direct and indirect impacts of climate change a mandatory consideration in strategic planning;*³⁴
 - *establish an effective hierarchy of mitigation and adaptation responses in urban,*

³⁰ NSW Government (2010), *Metropolitan Plan for Sydney 2036*, 'Overview', p 6.

³¹ See NSW Government, *Sydney over the next 20 years – A Discussion Paper* (Discussion Paper), p 24.

³² See for example, Ernst & Young, *Business opportunities in a low carbon economy*, Report to Industry and Investment NSW (2010).

³³ See for example, US mayors' 'Resilient communities for America Agreement – Paths to Resilience' (2013).

³⁴ The Independent Planning Review Panel proposed a strategic planning object to: *Consider the scientifically anticipated impact of climate change within the footprint of the strategic planning study area and the broad measures required to mitigate its impact.* Dyer & Moore Report, Vol. 1, rec. 8. See also rec. 19 on local plan objects: *Provide controls for any anticipated specific impacts of climate change within the local government area.*

- rural and coastal areas,³⁵
- adopt a comprehensive assessment framework for the climate change implications of development, particularly major projects (mitigation/adaptation); and
- include Standard Instrument provisions for relevant local government areas that address buffer zones, restrictive zoning, setbacks and resilience measures.
- The Sydney Metro Strategy should be revised to address these measures.

6. Update of urban sustainability and building efficiency requirements

There is growing industry awareness that *sustainability of development* needs to become the mainstream³⁶ – for long-term economic prosperity, social development and environmental conservation and management. The new planning system should be aiming to ‘make NSW number 1’ in building sustainability, through a mix of mandatory standards and voluntary incentives. This should be reflected in the new Planning Act, and in targets set in the Sydney Metro Strategy.

Cities consume vast amounts of energy, water and materials. Urban sustainability is therefore a critical part of achieving ESD and triple bottom line outcomes for Sydney. Around 43 out of 155 submissions on the 2012 Discussion Paper ‘explicitly addressed sustainability and the concept of [ESD].’³⁷ However, sustainability standards have not been ‘mainstreamed’ beyond the development of the Building Sustainability Index (**BASIX**). BASIX has been positive in setting minimum standards since its inception – but a lack of regular updates, and limitations in the BASIX SEPP, now hinder incremental improvements in efficiency.³⁸

As the Discussion Paper submissions summary found, ‘Every submission that mentioned BASIX... suggested that it should be reviewed, and many supported its expansion to commercial development.’³⁹ It is disappointing that, instead of adopting this consistent message from stakeholders, the Draft Strategy merely relies on existing standards for BASIX and NABERS (p 60).⁴⁰ Notwithstanding significant increases in residential and commercial building targets from the existing Metro Strategy, the Draft Strategy posits no objectives to improve or expand these efficiency initiatives. Indeed, the Draft Strategy actually resiles from the existing Metro Strategy’s commitment to review and update BASIX (noted above).

EDO NSW strongly recommends that the Planning Act and NSW Planning Policies apply mandatory urban sustainability goals at strategic and local planning levels. These goals should apply to areas such as energy and water use, construction,⁴¹ transport, waste reduction, biodiversity and bushland protection. To achieve these goals, the new system should also adopt specific targets, monitoring, auditing and reporting processes that would apply to all types of built development. This includes industrial, commercial and residential (especially higher density) buildings. Infrastructure should similarly be required to meet sustainability targets, given its pervasive nature, embodied energy and long lifespan.

³⁵ See EDO NSW coastal planning law reform submissions available at www.edo.org.au/edonsw.

³⁶ See, for example, Siobhan Toohill, “Embedding Sustainability at Stockland”, Centre for Social Impact: http://www.csi.edu.au/site/Knowledge_Centre/Asset.aspx?assetid=c9627ec3f646d127.

³⁷ See official submissions summary on the 2012 Sydney Discussion Paper, p 62, 3.8.5 – Sustainability.

³⁸ The BASIX SEPP overrides any environmental planning instrument that is inconsistent with it. See *SEPP (Building Sustainability Index: BASIX) 2004*, cl 7.

³⁹ See Department of Planning & Infrastructure, www.planning.nsw.gov.au/sydney-over-the-next-20-years.

⁴⁰ National Australian Build Environment Rating System is an intergovernment initiative for commercial buildings.

⁴¹ For example, see: *Discussion paper on cool roofs regulation in South Australia* (Dec. 2010), available at http://www.sa.gov.au/upload/franchise/Water,%20energy%20and%20environment/climate_change/documents/cool_roofs/Cool_roofs_discussion_paper.pdf.

There is already considerable local council activity in encouraging sustainable cities.⁴² The 2011 National Urban Policy also includes *Sustainability* as a primary goal.⁴³ The new planning system and the Sydney Metro Strategy need to demonstrate how these broad national objectives will be achieved in NSW. This should include a hierarchy of binding sustainability targets.

As an immediate demonstration of its commitment to sustainable development, the NSW Government should commit to overhauling BASIX, to mandate leading practice building sustainability and efficiency standards.⁴⁴ EDO NSW has also previously suggested that the Government provide more detail on its 50% four-star NABERS target, and include sub-targets for five and six stars.⁴⁵ These initiatives could be integrated into a new NSW Planning Policy on *Sustainability* and given effect through development codes and Local Plans.

Recommendations:

- *The Planning Bill and the Sydney Metro Strategy should adopt processes and standards that encourage and reward green innovation. This could include:*
 - *Simpler, cheaper or faster approval of projects that demonstrate leading practices including low-impact and sustainable design, climate change readiness, economic development, community engagement and social inclusion.*
 - *Linking new ‘code assessable’ development with an updated and expanded BASIX sustainability tool for residential, commercial and industrial buildings.*
- *The Government should commit to update and expand BASIX in time for the new planning system to take effect, and link BASIX with code assessment. In particular:*
 - *strengthen minimum requirements of BASIX to reflect technological advances;⁴⁶*
 - *extend its operation to commercial and industrial sites (not dwellings only);*
 - *raise standards for multi-unit dwellings that are currently subject to lesser targets;⁴⁷*
 - *establish mandatory sustainability requirements in law for retrofitting existing buildings (in particular commercial and industrial); and*
 - *set minimum baselines, but removing the prohibition on councils and other consent authorities from imposing more stringent water and energy use limits.*
- *The Government should provide more detail for the public to assess its 50% four-star NABERS target, and should adopt sub-targets for five and six stars.*

⁴² See, for example, City of Sydney Council, *Sydney 2030 – Green/Global/Connected*, at www.sydney2030.com.au.

⁴³ That is: ‘to advance the sustainability of Australia’s natural and built environment, including through better resource and risk management’ and corresponding objectives. See Australian Government Department of Infrastructure and Transport, Major Cities Unit, National Urban Policy (2011), at: <http://www.infrastructure.gov.au/infrastructure/mcu/urbanpolicy/index.aspx>. Objectives include: 4. *Protect and sustain our natural and built environments*; 5. *Reduce greenhouse gas emissions and improve air quality*; 6. *Manage our resources sustainably*; 7. *Increase resilience to climate change, emergency events and natural hazards*.

⁴⁴ The *State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004* is the principal building regulation relating to sustainability.

⁴⁵ EDO NSW, Submission on Draft Renewable Energy Action Plan (October 2012), at www.edonsw.org.au.

⁴⁶ At their most stringent, the BASIX energy and water efficiency targets require energy and water use reductions of 40% over existing dwellings. The targets are set by comparison to average NSW water consumption and greenhouse gas emissions as at 2002-03.

⁴⁷ Under BASIX, multi-unit residential developments of over 6 storeys are only required to meet reduction targets of 20%. Note also the proliferation of multi-unit dwellings in Sydney, described in the Government’s Metro Strategy discussion paper, *Sydney over the next 20 years* (p 13): ‘Over the last 20 years, most new homes have been multi-unit dwellings. In recent years... the proportion of new dwellings that are multi-unit types [has gone] above 80 per cent – a marked difference to other cities.’