



**Submission to NSW Government discussion paper
for a revised Sydney Metropolitan Strategy –
*Sydney over the next 20 years***

prepared by

**EDO NSW
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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 and planning 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 for free initial legal advice or information regarding an environmental problem, with many of our services targeted at rural and regional communities.

EDO NSW is part of a national network of centres that help to protect the environment through law in their [states](#).

Submitted to:

NSW Government
Metropolitan Strategy Team
PO BOX 39
SYDNEY NSW 2001
By email: metrostrategy@planning.nsw.gov.au

For further information on this submission, please contact:

Rachel Walmsley, Policy & Law Reform Director, EDO NSW
T: 02 9262 6989
E: rachel.walmsley@edonsw.org.au

EDO NSW

ABN 72 002 880 864
Level 5, 263 Clarence Street
Sydney NSW 2000 AUSTRALIA
E: edonsw@edonsw.org.au
W: www.edonsw.org.au
T: + 61 2 9262 6989
F: + 61 2 9264 2412

Introduction

EDO NSW, as a community legal centre specialising in public interest environmental and planning law, has a strong record of contributing to policy development on environmental planning at local and state levels. This includes submissions to the 2010 review of the existing metropolitan plan; a comprehensive report - *The State of Planning in NSW* (2010), and submissions to the ongoing NSW planning review (**Planning Review**).¹ EDO NSW encourages ongoing and meaningful community engagement on significant planning strategies such as the Metropolitan Strategy. We welcome the opportunity to comment on the *Sydney over the next 20 years* (**Discussion Paper**), and the commitment that the Strategy will be finalised “based on extensive consultation”.²

We provide comment on the following aspects of the Discussion paper:

- A vision for Sydney that places sustainability at the centre
- Guiding principles for the revised Metropolitan Strategy
- Key Themes of the Metropolitan Strategy
 - Protecting our environment and building resilience to natural hazards
 - Protecting productive rural and resource lands
 - Providing efficient transport networks
 - Providing equitable access to a great lifestyle
 - Delivering the strategy

A vision for Sydney that places sustainability at the centre

In submissions to the Planning Review, EDO NSW outlined our vision for a new planning system as one that:

- Places sustainability at the centre of planning and development decisions.
- Ensures early, high and sustained levels of public engagement on decision-making.
- Mandates engaging and effective processes for sustainable strategic land use planning – coordinated and translatable across state, regional and local levels.
- Improves the liveability of NSW communities – including a healthy environment; good public health; fair choices for transport, work and lifestyle; affordability; and a sense of community.
- Protects and enhances ecological integrity and services for public benefit, now and in the future.

¹ EDO NSW policy submissions available at http://www.edo.org.au/edonsw/site/policy_submissions.php#4. Eg, Submission on the Discussion Paper for the Metropolitan Strategy Review (April 2010), at http://www.edo.org.au/edonsw/site/pdf/subs/100430metro_strategy.pdf; *State of Planning in NSW*, at http://www.edo.org.au/edonsw/site/policy_discussion.php#stateofplanning. See also Submission to NSW Planning Review, Stage 1 (Nov. 2011); Joint submission to NSW Planning Review Issues Paper by Nature Conservation Council of NSW (**NCC**), EDO NSW and the Total Environmental Centre (**TEC**) (March 2012).

² NSW Government, *Sydney over the next 20 years: A Discussion Paper*, p 5. Available at <http://www.planning.nsw.gov.au/StrategicPlanning/MetropolitanPlanningforSydney/tabid/487/language/en-US/Default.aspx> (accessed June 2011).

- Requires accountability, integrity and transparency of all participants – including decision-makers, government agencies, development proponents and objectors.
- Provides for certainty of outcomes in a way that meets and manages diverse community expectations.³

Many elements of this vision can be extended to the Sydney Metropolitan Strategy. The vision is based on strategic planning that gives appropriate weight to environmental, social and economic factors, and gives effect to those considerations at the State, regional and local level in accordance with the principles of ecologically sustainable development (**ESD**).⁴

Consistent with the elements above, the Sydney Metropolitan Strategy should adopt as a primary economic objective the accelerated development of Sydney as a leading ‘green’ or ‘sustainable city’. Sydney and surrounding cities (such as Newcastle and Wollongong) should aim to have a smaller environmental footprint per capita than currently, and reduce their total footprint while continuing to grow. As sustainable cities become magnets for economic growth and new technology, this will also enhance our global competitiveness. It would also align with the Sustainability goal and objectives of our National Urban Policy.⁵ This submission outlines a range of policies and practices to assist and achieve this vision.

Guiding principles for the revised Metropolitan Strategy

The Government’s Discussion Paper sets out 11 principles to shape the planning of Sydney, and invites feedback. The proposed guiding principles cover a range of important areas. The way they are approached, prioritised and implemented under the revised Strategy will be central to their effectiveness. In our view, the principles should therefore be bolstered in three ways.

Firstly, ecologically sustainable development (**ESD**) should be added as the *overarching* guiding principle – both for the Metropolitan Strategy and the new NSW planning system.⁶ This is discussed further below.

³ See EDO NSW, *Submission to the Review of the NSW Planning System (Stage 1)*, November 2011; and joint submission to NSW Planning Review Issues Paper with NCC and TEC (March 2012); both available at http://www.edo.org.au/edonsw/site/policy_submissions.php#4.

⁴ The overarching aim of ESD is to achieve a level of development that meets the needs of the present without compromising the ability of future generations to meet their own needs. See World Commission on Environment and Development, *Our Common Future* (1987), at 43. The principles of ESD include: Applying the precautionary principle (to deal with environmental threats where there is scientific uncertainty); Intergenerational and intra-generational equity (taking account of the needs of present and future generations); Conservation of biological diversity and ecological integrity (as a *fundamental* consideration); and improved environmental valuation, pricing and incentive mechanisms (for example, internalising environmental costs and adopting the ‘polluter pays’ principle).

For example, ESD principles are set out in the *Protection of the Environment Administration Act 1991* (NSW) s 6

⁵ ‘Sustainability: to advance the sustainability of Australia’s natural and built environment, including through better resource and risk management’. 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. Australian Government (2011), *National Urban Policy*, available at <http://www.infrastructure.gov.au/infrastructure/mcu/urbanpolicy/index.aspx>.

⁶ As demonstrated by the current *Environmental Planning and Assessment Act 1979* (NSW) and its 10 equally weighted objects, a lack of hierarchy can lead to uncertainty, excessive discretion and inconsistent application.

Secondly, the principle referring to ‘adapting’ to climate change should be broadened to encompass the ‘mitigation’ of Sydney’s contribution to climate change.⁷

Finally, the Strategy should adopt these additional guiding principles to inform its themes:

- early, comprehensive and ongoing community engagement in planning and development decisions⁸
- requiring plans, policies and significant development projects to maintain or improve environmental outcomes, to ensure that ESD can be achieved⁹
- the integration of planning systems and strategies with natural resource management (NRM) goals, at the catchment level and State-wide¹⁰
- transparency, accountability and integrity of planning processes and decision making¹¹
- regular and meaningful progress monitoring, public reporting and review of plans and strategies.

Some of these matters are touched on in the Discussion Paper. As they are important to sound policy implementation across the Metropolitan Strategy’s themes, these matters should be elevated to guiding principles, with ESD as the centrepiece.

Key themes of the Metropolitan Strategy

The Discussion Paper seeks further feedback across nine key themes or ‘components that make up Sydney’. In brief they relate to: housing; jobs; transport; infrastructure; equity and lifestyle; environmental protection and resilience to natural hazards; agricultural, biodiversity and mining land; regional connections; and strategy implementation.

Our comments below focus on five of these themes:

- *protecting our environment and building resilience to natural hazards*
- *protecting productive rural and resource lands*
- *providing efficient transport networks*
- *providing equitable access to a great lifestyle*
- *delivering the strategy.*

See, for example, Independent Commission Against Corruption (ICAC), *Anti-corruption safeguards and the NSW planning system* (2012), key corruption safeguard 2 of 6, ‘Balancing competing public interests’; and recommendation 6.

⁷ This is important on a range of levels as explored under the ‘environmental protection’ theme below.

⁸ The Productivity Commission identified ‘Engaging the community early and in proportion to likely impacts’ as a ‘leading practice’ for planning systems. See *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments* research report (May 2011), ‘Leading Practices’, p XLV.

⁹ A standard that is already being adopted in NSW natural resource management, including under the BioBanking biodiversity offsetting scheme and the *Native Vegetation Act 2003*.

¹⁰ The NSW Natural Resources Commission has developed ‘Statewide Targets’ for biodiversity, land, water and communities. See <http://www.nrc.nsw.gov.au/WorkWeDo/StandardAndTargets/State-wideTargets.aspx>. At the catchment level, the Sydney Metropolitan and Hawkesbury-Nepean Catchment Management Authorities have developed Catchment Action Plans with goals and targets. See www.cma.nsw.gov.au.

¹¹ Another ‘leading practice’ identified by the Productivity Commission’s benchmarking report (2011), p XLIX.

In doing so we recognise that sustainability and environmental protection should be embedded across all components of the Metropolitan Strategy. We look forward to consultation on a future draft of the revised Strategy that places sustainability at the centre of Sydney's development, lifestyle and prosperity.

Key theme – ‘Protecting our environment and building resilience to natural hazards’¹²

Sydney's harbour, beaches, bushland and climate are iconic drawcards for visitors and residents alike. EDO NSW strongly agrees that ‘Continuing to protect and enhance the environment is critical to the long-term health of the city.’ In supporting this important aim, we consider the following issues:

- Placing ecologically sustainable development at the centre of planning decisions
- Making Sydney climate change ready
- Helping Sydney's economy become more productive and more sustainable

Placing ecologically sustainable development at the centre of planning decisions¹³

Establishing commitments, processes and monitoring to achieve ecologically sustainable development (**ESD**) is essential to better protect Sydney's precious environmental values into the future. As the federal *State of the Environment Report 2011* noted, ‘Australians cannot afford to see themselves as separate from the environment.’¹⁴ Placing the principles of ESD at the centre of strategic planning and development processes provides a framework for sound decisions that consider the whole community's short and long-term interests.

As the overarching guiding principle, ESD should be the common thread that binds the Strategy's various themes or components. This will ensure that:

- economic considerations (land release, housing, infrastructure, transport) are underpinned by environmental sustainability
- environmental and social equity considerations are integrated into all planning decision making processes, and
- Sydney's future direction promotes long-term prosperity and ‘cities for citizens’.¹⁵

The principles of ESD should not only guide the Strategy's development, they must guide its *implementation* through planning law and policy. While ESD has been a common point of reference in planning and natural resource law, it has not been fully applied in practice.¹⁶

¹² NSW Government, *Sydney over the next 20 years* (2012) (**Discussion Paper**), pp 24-25.

¹³ The Discussion Paper asks ‘How can the Strategy provide more support for environmentally sustainable development?’ (p 25).

¹⁴ Independent Panel advising the Australian Government, *State of the Environment Report 2011*, ‘Headlines’, available at <http://www.environment.gov.au/soe/2011/summary/headlines.html>.

¹⁵ See selected OECD Governance Principles, under ‘Delivering the Strategy’ below.

¹⁶ See, for example, objects of the *Environmental Planning and Assessment Act 1979* (NSW); *Protection of the Environment Administration Act 1991* (NSW); *Environment Protection and Biodiversity Conservation Act 1999* (Cth); *Sustainable Planning Act 2009* (Qld). Notwithstanding these challenges, experts have noted that there is “no other credible candidate for an integrative policy framework.” Hawke, A. (2009), *Report of the*

There is a need to move beyond an approach where ESD must simply be ‘considered’ when making decisions. To achieve sustainable outcomes, ESD needs to move ‘up the chain’ to a position of prominence.¹⁷ The Metropolitan Strategy should reflect this.

Over the coming decades, Sydney faces growing pressures from development, demographic and environmental challenges. Placing the economy within the physical constraints of our environment should now be considered the norm as we seek to address these challenges. In this way, the Metropolitan Strategy can set the course for a resilient, sustainable and prosperous city over the next 20 years and beyond.

Making Sydney climate change ready

The *State of Environment Report 2009* details the projected impacts of climate change on NSW. These impacts of climate change will affect the NSW economy, public health, and the natural and built environment – including many of Sydney’s iconic values, landscapes and qualities of life.¹⁸

In response to these challenges, EDO NSW strongly supports prominent recognition of climate change impacts and actions in the Metropolitan Strategy. As a ‘global city’ in a leading developed nation,¹⁹ Sydney’s actions on climate change will be significant at an international, national and local level.²⁰

As noted above, climate change mitigation *and* adaptation must form a guiding principle for the Strategy.²¹ The cost of inaction on climate change mitigation is significantly greater than the cost of a constructive and proactive response.²² Mitigation activities also assist in meeting future adaptation costs.²³ The Metropolitan Strategy can provide a consistent framework for local governments and communities, and signal that climate change mitigation and adaptation are high priorities.

Independent Review of the Environment Protection and Biodiversity Conservation Act 1999, Final Report, October 2009. See also Dovers, S. (2008) ‘Policy and Institutional Reforms’, in D. Linenmayer, S. Dovers, M. Harriss Olson & S. Morton (Eds.), *Ten Commitments: Reshaping the Lucky Country’s Environment*, p 216.

¹⁷ For example, planning laws could require decision makers to be satisfied that a proposed development, or draft LEP, is sustainable (in accordance with the principles of ESD and other objective criteria) or it cannot be approved. See EDO NSW, Submission to NSW Planning Review (Stage 1), November 2011.

¹⁸ NSW Government, *State of Environment Report 2009*, Chapter 7, sections 2.1 and 2.3, available at: http://www.environment.nsw.gov.au/soe/soe2009/chapter7/chp_7.2.htm#7.2.13. Impacts will include increased weather variability, storm surges and sea level rise; bushfire threat; the urban ‘heat island effect’ (see: http://www.cdc.gov/healthyplaces/articles/Urban_Sprawl_and_Public_Health_PHR.pdf); exacerbated pressures on native species and habitat; and greater drought exposure for agricultural land and water supply.

¹⁹ Discussion Paper, p 11; see also UNDP, *International Human Development Indicators*, which places Australia at #2 in the world on the Human Development Index <http://hdrstats.undp.org/en/countries/profiles/AUS.html>

²⁰ See also Discussion paper graphic, p 30; table p 6; regarding population and ecological footprint.

²¹ The Discussion Paper does ask how the Strategy can ‘mitigate against the causes of climate change’, but mitigation is not included in the guiding principle of ‘adapting to a changing climate’ (p 7).

²²

See: <http://www.garnautreview.org.au/update-2011/update-papers/up1-weighting-costs-benefits-climate-change-action.html>. The federal *State of the Environment Report 2011* concluded that ‘Early action by Australia to reduce emissions and to deploy targeted adaptation strategies will be less costly than delayed action.’ See ‘Headlines’, at <http://www.environment.gov.au/soe/2011/summary/headlines.html>.

²³ Productivity Commission, *Barriers to Effective Climate Change Adaptation: Productivity Commission Draft Report* www.pc.gov.au/__data/assets/pdf_file/0007/116539/climate-change-adaptation-draft-report.pdf.

The Discussion Paper seeks input on climate change mitigation and adaptation measures, as well as planning and development for areas at risk from natural hazards more generally. EDO NSW and other organisations have made several key recommendations in these areas through the Planning Review.²⁴ We outline a range of measures in more detail below:

- *Make climate change a fundamental consideration in strategic planning*

Properly done, strategic planning should promote resilience to climate change for communities and their environments, addressing risks and opportunities via mitigation and adaptation. The requirements in strategic plans should be reinforced by requirements in planning laws, environmental planning instruments and approval processes, so that there is consistency and ‘flow-through’ between legislative, strategic and local planning controls.²⁵ As a long-term strategic roadmap, Sydney’s Metropolitan Strategy should set strong, measurable and time-based targets, actions to be implemented, and require progress reporting. These could build on relevant actions from the existing Metropolitan Plan such as actions to: reduce greenhouse gas emissions from the manufacturing and commercial sectors; review the scope and stringency of BASIX; and prepare a climate change adaptation strategy for Sydney.²⁶ Building on these actions is consistent with the Government’s State Plan target to ‘minimise the impacts of climate change in local communities’.²⁷ Making climate change a fundamental consideration in strategic planning should also be complemented by broader planning reforms to make climate change considerations mandatory in development assessment and approval processes.

- *Sea level rise and climate change adaptation*

Strategic measures to deal with sea level rise and promote climate change adaptation must form part of the new Metropolitan Strategy. The strategic direction set by the new Strategy should draw on existing policy²⁸, and then be underpinned by planning laws that require local councils to factor climate change into all decisions (as noted above), and prohibit or restrict development in response to the projected impacts of climate change, such as sea level rise and increased storm surges.²⁹

²⁴ Joint submission from EDO NSW, NCC and TEC (March 2012), pp 24-26.

²⁵ For example, in identifying leading practices in planning systems, the Productivity Commission refers to ‘a consistent hierarchy of future oriented and publicly available plans – strategic, city, regional, local...’. See *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments* (2011), ‘Leading Practices’, p XLIV.

²⁶ NSW Government, *Metropolitan Plan for Sydney 2036 – Overview* (December 2010), ‘Strategic directions & key policy settings’ p 6.

²⁷ NSW Government, *NSW 2021* (2011), target under Goal 23. For example, the target says the Government ‘will assist local government, business and the community to build resilience to future extreme events and hazards by helping them to understand and minimise the impacts of climate change. ...’

²⁸ Such as the NSW *Sea Level Rise Policy Statement* (2009) and *Coastal Planning Guideline*.

²⁹ As EDO NSW has previously submitted, robust laws could include planned retreat policies in especially vulnerable areas, buffer zones in local planning policies, restrictive zoning, setbacks, resilience building measures (such as dune re-vegetation), early warning systems and emergency response plans. See also, R. Ghanem, K. Ruddock and J. Walker, ‘Are our laws responding to the challenges posed to our coasts by climate change?’ (2008) 31(3) UNSWLJ Forum, pp 40-46.

- *Biodiversity and climate change*

Maintaining green and open space is critical both for the wellbeing of communities but also for conserving biodiversity in the Sydney region. In particular for adaptation to climate change, conserving areas and networks of native vegetation will be critical to ensure that biodiversity within the Sydney region has scope to move and adapt, and to survive additional pressures placed on it by a changing climate.³⁰ Retaining vegetation and planting trees can also dramatically reduce impacts like the 'heat island effect'. Structured and sustainable planning can therefore realise a multitude of co-benefits to ecological integrity, liveability and the strengthening of local communities.

- *Whole of government approach*

While the State Plan and Discussion Paper do refer to certain plans and strategies,³¹ there needs to be clearer articulation of a whole-of-government approach to implementing the new Metropolitan Strategy. While the Office of Environment and Heritage (OEH) plays a crucial role in climate change policy development, the planning system is the central mechanism for land use planning, infrastructure, standards and regulation of the built environment. The planning system, including major city planning, is therefore fundamental to a whole-of-government response to climate change. EDO NSW would welcome an action oriented, whole-of-government climate change policy that sets strong targets and timeframes for both mitigation and adaptation.³² This would provide greater understanding, certainty and cooperation between all sectors on this important issue. We submit that the Department of Planning should consult with the OEH and other agencies to ensure that the Metropolitan Strategy supports and encourages timely whole-of-government action on climate change.

Helping Sydney's economy become more productive and more sustainable³³

EDO NSW welcomes further exploration of sustainability and productivity. This demonstrates that environmental protection, sustainability and Sydney's long term prosperity are closely interlinked. Relevant actions for the Metropolitan Strategy and planning system to focus on include:

³⁰ See also *Climate change and the legal framework for biodiversity protection in NSW: a legal and scientific analysis* (2009), available at http://www.edo.org.au/edonsw/site/policy_discussion.php#ccnsw. This paper also provides a set of recommendations for legislative and policy reform for biodiversity conservation.

³¹ The current State Plan makes high-level commitments to 'increase renewable energy' and 'minimise impacts of climate change in local communities' (Goals 22 and 23) – including a 'Renewable Energy Action Plan for NSW' with a target to 'increase renewable energy: 20% renewable energy by 2020', p 44. The Discussion Paper also refers to the development of a 'climate change adaptation strategy for Sydney'(p25) although timelines are not provided for these initiatives.

³² The status of the former government's *NSW Climate Change Action Plan*, which was being prepared at the time of the 2010 review of the existing Metropolitan Plan, is unclear.

³³ Discussion Paper, 'A new approach: jobs and economic opportunities', p 17. This section also asks 'How should the Strategy support clusters of commercial and industrial activity in emerging sectors such as sustainable energy?'

- Adopt urban sustainability goals
- Drive sustainability and energy efficiency (including through BASIX)
- Fast-track options for environmentally friendly development

Adopt urban sustainability goals³⁴

Urban sustainability is a critical part of achieving ESD, as cities consume vast amounts of energy, water and materials. The recent UNEP report on the Green Economy states:

the environmental performance of cities is dependent on a combination of effective green strategies and physical structure – urban form, size, density and configuration. They can be designed, planned and managed to limit resource consumption and carbon emissions. Or, they can be allowed to become voracious, land-hungry, all-consuming systems that ultimately damage the delicate global energy equation.³⁵

As noted earlier, NSW should have as a primary economic objective the accelerated development of Sydney, Newcastle and Wollongong as ‘sustainable cities’. There is already considerable council activity in this area,³⁶ and the federal government’s National Urban Policy also includes a Sustainability goal and related objectives.³⁷ However the focus to date has been on showcases, and a shift is needed to make urban sustainability the norm.

This vision should be reflected in the Metropolitan Strategy and underpinned by a new planning Act that mandates urban sustainability goals at strategic and local planning levels for the use of energy, water, transport, waste reduction and protection of remaining bushland. A new Act should also contain a short-term timetable for the rapid adoption of specific targets, monitoring, auditing and reporting processes that would apply to all types of built development – from factories to commercial buildings to higher density residential. Infrastructure should similarly be required to meet sustainability targets.

Drive sustainability and energy efficiency (including through BASIX)

Amendments to planning laws, policies and incentives are needed to enhance and encourage energy, waste and water efficiencies. This would contribute to mitigating and adapting to climate change, and adopting sustainability as a central driver within Sydney’s Metropolitan Strategy.³⁸ Innovations such as using thermal conservation and renewable energy sources (particularly solar) are likely to have multiple benefits by way of energy conservation, cleaner technology and expanding industries. The Discussion Paper’s figures

³⁴ See EDO NSW, NCC and TEC joint submission to NSW Planning Review Issues Paper (March 2012), pp 10-11.

³⁵ United Nations Environment Programme (UNEP), *Green Economy Report*. (2012), p 463.

³⁶ See, for example, City of Sydney Council, *Sydney 2030 – Green/Global/Connected*, at www.sydney2030.com.au.

³⁷ ‘Sustainability: to advance the sustainability of Australia’s natural and built environment, including through better resource and risk management’. See National Urban Policy (2011), available at: <http://www.infrastructure.gov.au/infrastructure/mcu/urbanpolicy/index.aspx>.

³⁸ Opportunities for NSW in a low-carbon economy are also explored in a report commissioned by the NSW Innovation and Productivity Council. See Ernst & Young, *Business Opportunities in a Low Carbon Economy* (February 2011).

reinforce the need for greater focus on the commercial, manufacturing and industrial sectors, which together account for 55% of Sydney's energy-related GHG emissions.³⁹

The revised Metropolitan Strategy should commit to reviewing the scope and stringency of BASIX⁴⁰ with a view to:

- strengthening the minimum requirements of BASIX to reflect technological advances (efficiency standards have not been updated since 2006)⁴¹
- extending its operation to commercial and industrial sites (not new dwellings only)
- raising standards for multi-unit dwellings that are currently subject to lesser targets, noting the proliferation of multi-unit dwellings in Sydney⁴²
- establishing mandatory sustainability requirements in law for retrofitting existing buildings (in particular commercial and industrial – this area is currently unregulated and is particularly important given the emphasis on urban renewal⁴³)
- remove the prohibition on consent authorities (for example, local councils) from imposing more stringent water and energy use limits than BASIX.⁴⁴

On the adaptation side of building regulations, EDO NSW welcomes endeavours to set national climate change adaptation standards for settlements and infrastructure.⁴⁵ The revised Metropolitan Strategy should take advantage of such emerging initiatives, and be flexible enough to incorporate advancements over time, through reporting and review.

All of these measures would contribute to the State Plan's target to 'minimise impacts of climate change in local communities'; and the Discussion Paper's guiding principle of 'building new places and improving existing places through a high standard of design, energy efficiency and excellent public spaces'.

³⁹ NSW Government, *Sydney over the next 20 years*, table p 24: 'Sydney Metropolitan Area's 2008 Energy-Related Greenhouse Gas Emissions By Sector' (Arup 2010). The figures attribute 24% of emissions to the commercial sector, 31% to manufacturing and industrial, and 25% to residential.

⁴⁰ BASIX is the principal building regulation relating to sustainability. It applies to all residential developments in NSW that cost \$50,000 or more, including alterations and additions to existing dwellings. See the *State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004*.

⁴¹ 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. See Nicholas Landreth, Kevin WK Yee and Scott Wilson, 'Assessing the Effectiveness of Building Simulation to Regulate Residential Water Consumption and Greenhouse Gas Emissions in New South Wales, Australia, *Proceedings of Building Simulation 2011: 12th Conference of International Building Performance Simulation Association, Sydney, 14-16 November, 2859, 2864*.

⁴² Under BASIX, multi-unit residential developments of over 6 storeys are only required to meet reduction targets of 20%. See also *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.'

⁴³ See, for example, *Sydney over the next 20 years*, p 13.

⁴⁴ The BASIX SEPP overrides any environmental planning instrument that is inconsistent with it. See *BASIX SEPP 2004*, cl 7. See further A. Thorpe and K. Graham, 'Green Buildings – are Codes, Standards and Targets Sufficient Drivers of Sustainability in New South Wales?' (2009) 26 *Environmental and Planning Law Journal* 486, 489.

⁴⁵ Currently being undertaken by Standards Australia: see sdpp.standards.org.au/ActiveProjects.aspx?CommitteeNumber=BD-103&CommitteeName=Climate%20Change%20Adaptation.

Fast-track options for environmentally friendly development

In recent years, governments of all persuasions have focused on the idea of ‘cutting red tape’ as a means of fast-tracking development and economic productivity. Rarely do such initiatives target projects on the basis of fulfilling best practice standards of sustainability or environmental sensitivity. In some cases the opposite is true. Many eco-friendly retrofitting initiatives (for example, introducing residential renewable or low-emissions generation, building houses with recycled material) are currently hampered by planning laws and building regulations.⁴⁶ This imposes a regulatory barrier to green businesses, and impedes improvements in the efficient use of resources.

To increase incentives for green development and allow Sydney to develop as a sustainable global city, EDO NSW would support measures to encourage proactive innovation in building and planning. For example, in 2011 the Queensland government announced a ‘Green Door’ policy to accelerate decisions for development proposals that are deemed to be the most sustainable in Queensland (albeit on a small scale). Projects are expected to demonstrate exceptional performance across four principles that identify key sustainability outcomes.⁴⁷

We advocate similar incentives for Sydney and NSW, but on a broader scale. Significant efficiency gains can be made through processes that streamline approvals for forward-looking, low-impact, efficient and climate-adapted planning proposals. While this would be a first step, such policies should also implement mechanisms that will progressively discourage development that is not sustainable across a range of relevant indicators.

Key theme – ‘Protecting productive rural and resource lands’

EDO NSW supports the Discussion Paper’s recognition of the importance of agricultural lands in Sydney’s fringe areas,⁴⁸ and the need to protect those lands from incompatible and inappropriate uses. This is essential given the need to enhance food security for the Sydney Basin under climate change, and to reduce greenhouse gas emissions associated with long distance food transportation.

Greater focus on ‘green infrastructure’⁴⁹

The Discussion Paper focuses on the need to protect agricultural lands on Sydney’s fringe, and balance these with mining interests. There is very little detailed discussion of the value of biodiversity and ecological services (such as a clean drinking water catchment for Sydney), or actions being taken to account for, protect and improve these vital qualities of

⁴⁶ As with restrictions on LEPs imposing more stringent housing construction standards than BASIX (see above).

⁴⁷ The principles relate to exemplary planning processes; ecological processes (including improved potable water use; reduction in waste; increase in ecosystem quality and production of energy from renewable sources and a reduction in carbon footprint); economic development and community wellbeing. Growth Management Queensland, *Green Door Information Paper*, July 2011 (formerly at www.dlqp.qld.gov.au/development-applications/green-door.html).

⁴⁸ Discussion Paper, pp 26-27.

⁴⁹ For example, bushland, parks, gardens, waterways. See Australian Institute of Landscape Architects: *‘the term “green infrastructure” describes the network of natural landscape assets which underpin the economic, socio-cultural and environmental functionality of our cities and towns...’*, at <http://www.aila.org.au/greeninfrastructure/>.

Sydney and its surrounds.⁵⁰ The Strategy should also focus more on the importance of protecting green and open spaces throughout urban areas across Sydney, including promoting the use of land in urban areas for food production, such as on street verges and in community gardens. These initiatives can be achieved in high density areas, such as is currently occurring in the suburb of Chippendale. Collectively, this is Sydney's 'green infrastructure'.

Consistent with the vision of the new Metropolitan Strategy, there are a number of ways that these important land types and uses could be better protected. This could include environmental planning instruments (such as SEPPs) that place special controls on development on land identified as agricultural land (as well as adjacent land). This would ensure that there are no conflicting and inappropriate uses of land on surrounding lands that diminish those important values in the future.⁵¹ Additional planning controls could be introduced to facilitate the greater use of urban open space for growing food, as well as to be used for community recreation and habitat for native fauna and flora.

The Metropolitan Strategy, supported by these other instruments, should therefore identify key agricultural food production land in the Sydney Basin and set the clear goal to protect it from incompatible conflicting land uses such as mining and urban development. EDO NSW submits that the NSW Government should also investigate ways to further encourage local food production in the Basin.⁵²

Key theme – 'Providing efficient transport networks'

EDO NSW submits that ESD should be the central consideration in integrating land use with transport, consistent with our submission to the 2010 Metropolitan Plan review. Australian cities have largely been constructed around the car, creating a culture heavily reliant on private car use, which has negative environment, economic, social and health impacts.⁵³

To achieve ESD, the Metropolitan Strategy should focus on measures to reduce car dependency and improve public transport and 'active' transport in Sydney. This would help to meet the demand for transport services that will result from a growing population, contribute to climate change mitigation, reduce the social costs of congestion,⁵⁴ promote healthy lifestyles, and bring economic benefits in the transition to a low carbon future.⁵⁵

The EDO therefore strongly supports the integration of land use with transport, and particularly calls for a focus on investment in public passenger transport infrastructure and

⁵⁰ See Discussion Paper, 'Our current focus', p 27.

⁵¹ In a related context the EDO NSW has made submissions on the two draft Strategic Regional Land Use Policies, available at <http://www.edo.org.au/edonsw/site/pdf/subs/120503srlup.pdf>.

⁵² See for example, www.sydneyfoodfairness.org.au.

⁵³ See House of Representatives Standing Committee on Environment and Heritage, *Sustainable Cities* report, August 2005, p 59.

⁵⁴ Mrdak, M. 2010 "The infrastructure challenge", *Public Administration Today*, No. 23, Pgs 9-11.

⁵⁵ Newman, P. 2005, "Pipe Dreams and Ideologues: Values and Planning", *People and Places*, vol. 13, no. 3. Road transport is by far the largest contributor to transport emissions, accounting for 88 per cent of total emissions in 2005: Department of Climate Change, Transport Sector Greenhouse Gas Emissions Projections 2007 (February 2008), p 17. Available at: www.greenhouse.gov.au/projections/pubs/transport2007.pdf.

services to address the negative impacts of car dependence. This means instead of building more roads, promoting sustainable modes of transport such as walking, cycling and public transport, as well as strengthening urban centres around transport hubs (such as train stations). As noted in the Discussion Paper, the renowned urban planner, Jan Gehl, poses an important question: ‘what do you value more – your people, or your cars?’ and put forward a number of ideas in relation Sydney’s future vision, to increase the liveability through investment in public transport and cycle ways.

The Strategy should also embrace other policy measures to drive behavioural change and ensure better integration of land use with transport. This could include the use of levies such as congestion charges as used in other major cities like London and Stockholm.⁵⁶ Such levies reduce the number of private cars on city roads, and encourage the use of other, more sustainable modes of transport. Other incentives could include ‘green car’ incentives, for example, providing benefits for the use of hybrids and ‘car-sharing’ vehicles, such as lower registration fees and greater use of transit lanes.

Key theme – ‘Providing equitable access to a great lifestyle’

Part of the EDO’s vision for planning in NSW is a system that ‘Improves the liveability of NSW communities – including a healthy environment; good public health; fair choices for transport, work and lifestyle; affordability; and a sense of community.’⁵⁷

In considering issues of ‘lifestyle’, it should be noted that quality of life and wellbeing can be highly subjective concepts. Ongoing public participation and community engagement is needed to develop these concepts in a way that is meaningful to the people of Sydney.⁵⁸

The Grattan Institute’s study, *Cities: Who Decides?* refers to the decision making arrangements in international cities comparable to cities in Australia. Essentially it asked, ‘in successful cities, who made the decisions and how?’ It was found that in successful cities:

*it became clear that where hard decisions had been implemented, there was early, genuine, sophisticated and deep public engagement [and that]... if we want to face our hard decisions in a way that makes our cities better places to live, involving residents is not optional.*⁵⁹

This reflects our proposed guiding principle of ‘early, deep and ongoing community engagement in planning and development decisions’ to inform the Metropolitan Strategy.

⁵⁶ See for example, D. Albalade et al, ‘What local policy makers should know about urban road charging: lessons from worldwide experience’ (2009), *Public Administrative Review*.

⁵⁷ EDO NSW, Submission to NSW Planning Review (Stage 1), November 2011, p 2.

⁵⁸ For example, a federal Department of Infrastructure and Transport discussion paper defined ‘liveability’ as “the way the urban environment supports the quality of life and well-being of communities.” See *Our Cities – building a productive, sustainable and liveable future* (2010), p 42.

⁵⁹ Available at: http://www.grattan.edu.au/news/20101018_media_release_cities_who_decides.pdf.

Key theme – Delivering the strategy

EDO NSW supports the Discussion Paper's renewed commitment to delivery or implementation of the Metropolitan Strategy.⁶⁰ This should be guided by the additional principle of 'requiring accountability, integrity and transparency' suggested above. In response to the Discussion Paper's questions, we would support:

- 'each action in the Strategy [having] clear accountabilities for delivery in terms of the agency responsible and agreed timeframes';
- 'clear performance measures in the Strategy... to test the progress and success of each action';
- an 'integrated monitoring framework across the Metropolitan Strategy, the Long Term Transport Master Plan and the State Infrastructure Strategy' that manages complexity, and caters to different levels of community understanding (accessibility);
- requirements to publish 'an annual Metropolitan Strategy Update Report', which synthesises information from across government, and provides a full and frank assessment of progress, and achievement of sustainability and NRM targets;
- 'other ways to ensure consistent, strong implementation' as outlined below.

Reporting on sustainability indicators, NRM goals and environmental accounts

The efficacy of the Sydney Metropolitan Strategy should not be judged solely on its ability to achieve development approval rates or numerical employment and housing indicators. As the Productivity Commission noted in its 2011 report on Australian planning systems, 'a combination of several benchmarks is often needed to reflect system performance...'.⁶¹ Fast approvals that deliver poor quality, high risk or unsustainable development are not in the public interest. More fundamental is the planning system's effectiveness in producing ecologically sustainable outcomes that maintain or improve our environment and wellbeing.

This requires a genuinely 'new approach' to reporting of strategic planning outcomes, in a way that integrates urban sustainability indicators, NRM goals and community engagement. Progress against these factors could be published in annual reports – both for the Metropolitan Strategy, and alongside traditional economic indicators in the State budget. As noted above, this must be part of a whole-of-government approach.

Sound strategic planning must be based on the best available science and other information, and full cost accounting for environmental values and ecological services. In this respect there is an opportunity for the Government to review how it deals with planning and environmental information. Strategic planning for Sydney and NSW would benefit greatly from a centralised system – to collate, share and publish data across sectors in ways that

⁶⁰ Discussion Paper, p 31.

⁶¹ 'For example, while longer development approval times may seem to be less efficient, if they reflect more effective community engagement or integrated referrals, the end result may be greater community support and preferred overall outcome.' Productivity Commission, *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments* research report (April 2011), Vol. 1, p xxviii.

promote accuracy, transparency and evidence-based decision making.⁶² Government agencies already hold a substantial amount of information that could feed directly in to a centralised information system, including from catchment management authorities, and state and federal departments.⁶³

This system could be expanded to develop and monitor sustainability indicators and NRM targets, which arm decision makers with information on the value of biodiversity and ecological services.⁶⁴ Progress could be published in annual reports – both for the Metropolitan Strategy, and alongside traditional economic indicators in the State budget.

The NSW Planning Review provides a unique opportunity for the NSW Government to commit to an integrated system of State environmental accounts that links to natural resource management targets.⁶⁵ This commitment should include resources and timeframes for development, and link clearly with high-level planning documents like the Metropolitan Strategy.

While environmental accounts are not yet well established in Australia, there are initiatives underway at the federal level,⁶⁶ including as recommended by the Hawke Review of the EPBC Act.⁶⁷ In the UK, an Independent Committee has been established ‘to advise the Government on the State of English Natural Capital’.⁶⁸ The new Metropolitan Strategy

⁶² See EDO NSW, NCC & TEC joint submission on the Planning Review Issues Paper (March 2012), p 19.

⁶³ For example:

- information accumulated by catchment management authorities, particularly as part of their work in preparing regional catchment action plans
- information held by the various divisions of the Office of Environment and Heritage, with respect to water, threatened species, endangered ecological communities
- statistics and projections held by transport and infrastructure agencies
- state and Federal State of the Environment Reports, and
- statistics and projection from the Australian Bureau of Statistics.

See EDO NSW, NCC & TEC submission to NSW Planning Review Issues Paper (March 2012), pp 52-53.

⁶⁴ See eg, *The Economics of Ecosystems and Biodiversity* (TEEB) project, at www.teebweb.org.

⁶⁵ For biodiversity, land, water and communities. See NSW Natural Resources Commission, ‘Statewide Targets’, at <http://www.nrc.nsw.gov.au/WorkWeDo/StandardAndTargets/State-wideTargets.aspx>.

⁶⁶ See *Australian Government Response to the Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act* (August 2011), recommendation 67 (‘accepted in principle’), pp 109-110.

⁶⁷ Such a system should:

- provide measurable ways of comparing and assessing environmental assets over time
- provide a practical base for investing in future actions for environmental assets
- provide information to underpin evidence based decision making
- better target private and public investment at the program and project level
- provide for measurement and understanding of the impacts and effectiveness of policies and investments,
- allow for better identification and management of risks
- provide greater community visibility on environmental outcomes
- guide environmental and land-use planning, including through environmental impact assessments and regional planning, and
- identify and address gaps in reporting requirements and inform the State of Environment reporting process.

See Hawke, A. (2009), Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999, Final Report, October 2009, Chapter 19; Wentworth Group of Concerned Scientists *Accounting for Nature: a Model for Building the National Environmental Accounts for Australia*, (2008) .

⁶⁸ See UK environment department website, at <http://www.defra.gov.uk/naturalcapitalcommittee/about/>.

should commit to establishing environmental accounts for Sydney.

Existing Metropolitan Plan – continuity and differences should be made clear

The pre-existing strategy, most recently the *Metropolitan Plan for Sydney 2036*, was first developed by the former State government in 2005, and reviewed in 2010.⁶⁹ However, the Discussion Paper does not refer to or compare the directions, strategies, goals or outcomes of the former government's *Metropolitan Plan for Sydney 2036*. This makes it more difficult to assess proposed changes or policy continuity between the two strategies. Research from the Grattan Institute suggests that successful city planning involves a vision of the city that is able to establish continuity between successive governments, regardless of political persuasion.⁷⁰

We note that the Discussion Paper's nine key themes are similar, but not identical, to those outlined in the existing Metropolitan Plan.⁷¹ We would welcome further cross-reference and comparison to ensure that the new Strategy captures feedback and lessons learned from the 2005 Plan and the 2010 review process. It is not clear what the current Government's position on the previous laudable goals is, or whether they will be strengthened, weakened or retained. To provide appropriate continuity, the new Strategy should build on and consolidate the strengths of the existing plan; address relevant gaps identified from previous consultation processes; and clearly identify and revisit areas that have been less successful, poorly implemented or affected by new science and research.

Measuring effective implementation of the Strategy

On a final note regarding delivery of the Metropolitan Strategy, the Organisation for Economic Co-operation and Development (**OECD**) developed a series of principles to be followed to ensure adequate metropolitan governance, including:⁷²

Cities for Citizens – governance should meet the needs and aspirations of people who live in them.

Coherence – 'who does what' should be clear to the electorate.

Coordination – local authorities and regional agencies should work together, particularly on strategy planning.

Effective financial management – the costs of measures should reflect the benefits received.

⁶⁹ The existing Plan grew from the 2005 *Metropolitan Strategy – City of Cities* and the 2010 *Metropolitan Transport Plan* (see *Metropolitan Plan for Sydney 2036*, p 9). The existing Plan will continue to shape Sydney until the Strategy is revised. See NSW Department of Planning, *Sydney over the next 20 years* landing page, at <http://www.planning.nsw.gov.au/StrategicPlanning/MetropolitanPlanningforSydney/tabid/487/language/en-US/Default.aspx> (accessed June 2012).

⁷⁰ "...there was generally a consistency of strategic direction, including across political cycles – some level of bipartisan consensus being required not least because real change takes a long time." J.F. Kelly, *Cities: Who Decides?* (2010), Grattan Institute, at <http://grattan.edu.au/publications/reports/post/cities-who-decides/>.

⁷¹ The former government's Metropolitan Plan themes were: Strengthening a city of cities; Growing Sydney's economy; Growing and renewing centres; Tackling climate change and protecting Sydney's natural environment; Transport for a connected city; Housing Sydney's population; Achieving equity, liveability & social inclusion; Balancing land uses on the city fringe; Delivering the Plan.

⁷² Kelly, J.F., *Cities: Who Decides?* (2010), Grattan Institute, Melbourne.

Flexibility – institutions should be able to adapt as necessary to changing economic, social, and technological change.

Participation – community representation should be open to a diverse range of groups.

Social cohesion – institutions should promote non-segregated areas, public safety, and opportunity.

Subsidiarity – services should be delivered by the most local level that has sufficient scale to reasonably do so.

Sustainability – economic, social, and environmental objectives should be integrated and reconciled.

The EDO NSW submits that the new Metropolitan Strategy should be assessed against these principles.

For further information, please contact rachel.walmsley@edonsw.org.au or 02 9262 6989.