

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

4 July 2016

Submission on Draft Central West and Orana 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 Central West and Orana Regional Plan*. This is an important strategy that will shape the future of Central Western NSW over the next 20 years and will have significant impacts for the environment and communities.

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

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

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

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

1. Key concerns with the regional planning process and draft regional plans
2. Specific comments on the *Draft Central West & Orana 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', with a stylized, cursive script.

Kate Smolski
Chief Executive Officer

NCC SUBMISSION ON DRAFT CENTRAL WEST AND ORANA 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.

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,

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 Center, EDO NSW, *Our Environment, Our Communities - Integrating environmental outcomes and community engagement in the NSW Planning System 2012*

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

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

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

Failure to effectively integrate environmental outcomes in land use planning

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

We have previously recommended that to improve integration between regional planning, natural resource management and environmental protection, regional plans should incorporate environmental targets set by 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).

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.

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

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

Failure to provide adequate protection for areas of high environmental value

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

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

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

Failure to resolve land use conflicts

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

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

Heavy reliance on biodiversity offsetting

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

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

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

Action plan v final strategic planning document

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

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

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

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 CENTRAL WEST AND ORANA 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 Central West and Orana Regional Plan*.

DEVELOPMENT OF THE DRAFT PLAN

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

- Unlike some of the other regions (Illawarra, Central Coast, Hunter), the Draft Central West and Orana Regional Plan was not preceded by a Discussion Paper.
- The Draft Plan suggests that the only engagement in developing the Draft Plan was with councils across the region, including the Joint Organisations of Councils and the Regional Organisation of Councils. There is no indication of having consulted with community members, industry, or interest groups.

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

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

ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The draft Plan makes only one reference to ecologically sustainable development (ESD) (page 9). We are concerned that this is simply a cursory mention, and that ESD is not effectively operationalised in the plan.

We believe that the principles of ESD should be a core part of the vision, goals and actions for the Plan. For example, the vision could be amended to include the principles of ESD as follows:

"The vision for the Central West and the Orana is for a sustainable future centred on a thriving economy, with a diverse range of economic industries across each local government area; productive rural lands and natural resources; strong, resilient and well-serviced communities; and a healthy environment; in keeping with the principles of ecologically sustainable development".

AREAS OF HIGH CONSERVATION VALUE

The draft plan identifies areas of high conservation value in Figure 17 - Environment (pages 66-67).

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

Central West NSW is one of the most heavily impacted regions in Australia, with much of the landscape impacted from broad-scale clearing. All remnant vegetation has environmental significance. The Plan must clearly outline mechanisms for protecting or enhancing these areas of high environmental value. Until the Government commits to providing real protections for areas of high conservation value these areas will continue to be impacted by inappropriate and unsustainable development.

We note that the Draft Plan does not seem to identify the nationally listed upland swamps on Newnes Plateau, or the Gardens of Stone region, a biodiversity rich area with internationally significant pagoda landscapes, as areas of high conservation value. We strongly encourage these areas to be recognised in the Final Plan.

GARDENS OF STONE

The draft Plan does not recognise the important environmental and social values of the Gardens of Stone. Last year the Advisory Committee for the Greater Blue Mountains World Heritage Area recognised that the Gardens of Stone region had world heritage value. The potential of the Gardens of Stone Stage 2 reserve proposal for low-impact, nature-based recreation and tourism should be considered for inclusion in the final Plan⁵. This proposal has been considered by the Office of Environment and Heritage, and is consistent with findings by the Planning Assessment Commission that the highest and best use of the area is for conservation purposes⁶. It is well past time this area was protected.

FAILURE TO LINK CATCHMENT MANAGEMENT PLANNING AND NATURAL RESOURCE MANAGEMENT

The draft Plan fails to adequately integrate catchment management planning. It makes no reference to existing Catchment Action Plans or the goals and objectives within those plans.

CLIMATE CHANGE

We are pleased that the Draft Plan recognises climate change as a key threat for the Central West and Orana region, particularly in relation to water scarcity, ecosystems, natural hazards such as drought and bushfire and agricultural productivity. It is important for the community to see evidence of government recognition of climate change issues. That said, it is imperative that ongoing implementation of the Plan provides clear opportunities and action for addressing climate change impacts.

⁵ For more detailed information on the Gardens of Stone Stage 2 proposal refer to the Blue Mountains Conservation Society (www.bluemountains.org.au/gos2.shtml) or Colong Foundation for Wilderness (<https://www.colongwilderness.org.au/campaigns/the-gardens-of-stone/about-gardens-of-stone>)

⁶ Refer to NSW Planning Assessment Commission Determination Report Invincible Colliery (07_0127 MOD 4) and Cullen Valley Mine (200 - 5 - 2003 MOD, October 2014, www.pac.nsw.gov.au/Projects/tabid/77/ctl/viewreview/mid/462/pac/418/view/readonly/myctl/rev/Default.aspx)

MINING AND EXPLORATION

Current coal mining, petroleum exploration, and mineral mining and exploration is so widespread in this region that the plan requires three maps to illustrate the extent of the various mining industries:

- Coal mining activities and exploration areas (pages 52-53)
- Petroleum (coal seam gas) exploration areas (pages 54-55)
- Non-coal mineral resource activities (pages 56-57)

Coal mining

Although the draft plan is dated April 2016, the plan relies on gross regional product and regional employment figures which cover the period 2006-2011⁷. This completely misses the significant downturn in the NSW coal industry over the last two years, with export thermal coal prices at a third of their peak (which occurred around 2011). In relation to employment, thousands of coal mining related jobs have been lost in NSW in the last two years⁸. By most independent accounts, thermal coal prices are in structural decline, with a significant number of NSW coal mines running at below the cost of production, under care and maintenance or closed.

The draft regional plan is neither accurate nor credible when it uses seriously outdated statistics to support its claim about the economic contribution of the regional coal industry. Some examples:

- *"In 2011, the total gross regional product for the Central West and Orana Region was \$12.5 billion. Mining was the biggest contributor at \$2.5 billion, and employed 4,885 people"*⁹.
- *"In 2011, mining contributed \$2.3 billion (25%) to gross regional production in the Central West sub-region. 55.6% (\$1.3 billion) of this was from coal mining concentrated around Lithgow and Mudgee. Mining was also the fastest growing industry employer in the Central West"*¹⁰
- *Figure 7 shows the top 5 industries in the Central West by gross regional product. Mining was way ahead of the other 4 industries, but the figures are from 2011, when coal export prices were at or near their peak.*¹¹
- *Figure 8 shows the highest employers by sector for the Central West and Orana Region. Again, the employment figures are from 2011, and will not reflect the recent serious downturn in coal mining employment across NSW.*¹²

This section of the plan should be revised using current coal industry figures which will reflect the coal industry downturn.

We are also concerned that the draft Plan fails to identify the urgent need to transition away from a coal mining economy. In light of the unequivocal evidence that the burning of coal contributes to anthropogenic climate change, a significant decline in thermal coal prices, and international agreement to keep global average temperatures to below 2 degrees Celsius, it is irresponsible to continue to identify the coal industry as a priority industry¹³. There needs to be greater emphasis on transitioning away from fossil fuels. The Draft Plan should

⁷ Draft Central West and Orana Regional Plan, Endnotes, p 90. Reference quoted: Deloitte Access Economics (2014) for NSW Trade and Investment, Gross Regional Product and Employment by Region, **2006-2011**, Sydney

⁸ <http://www.theguardian.com/australia-news/2015/jul/29/mining-industry-faces-job-losses-as-coal-and-iron-ore-prices-remain-depressed>

⁹ Draft Central West and Orana Regional Plan, p 19

¹⁰ Draft Central West and Orana Regional Plan, p 23

¹¹ Draft Central West and Orana Regional Plan, p 20

¹² Draft Central West and Orana Regional Plan, p 20

¹³ We note that research from the University College of London indicates that over 90% of Australasian coal reserves would have to remain unburnt before 2050 to meet the 2 degrees C warming ceiling.

prioritise a diverse economy that helps the region transition from the fossil fuel industry into expanded existing industries (e.g. manufacturing) and new industries (e.g. renewable energy, tourism).

Coal seam gas exploration and extraction

There is significant community concern in NSW regarding the environmental and health impacts of coal seam gas. Reflecting that community concern, *The People for the Plains* (south of Narrabri in the Pilliga region) have challenged Santos in the NSW Land and Environment Court over the approval for a CSG-related water treatment system.

The draft regional plan illustrates potential CSG impacts in the region on pages 54-55. While the areas shown on the map where the NSW government has bought back CSG exploration titles should be acknowledged, much larger areas are still subject to Petroleum Exploration Titles. In the future, any of these areas shown in red on the map at Figure 14, page 54 could generate the sort of problems associated with CSG exploration activities that have been experienced by communities elsewhere in NSW, such as the NSW North Coast, Gloucester and Camden areas.

The draft Plan should provide adequate protections for communities within the Central West and Orana region by clearly prohibiting CSG activities that could impact on productive farmland, special wild places, water resources, and communities.

RENEWABLE ENERGY

The expansion of renewable energy projects in the region is supported. While the draft Plan recognises existing renewable energy assets, there needs to be a clear strategy for supporting the expansion of renewable energy projects in the region into the future.

WATER RESOURCES AND DRINKING WATER CATCHMENTS

The availability of water resources is a major constraint to growth in the region, and more strategic work is required to develop water efficiency initiatives for this region. Urban development and mining growth must be made more water efficient through less water use and more water reuse.

The draft Plan also fails to provide adequate protection for the region's drinking water catchments. In particular, coal seam gas and long wall coal mining activities should be banned in those parts of the region that form part of the Sydney Drinking Water Catchment and Special Areas.

REGIONALLY SIGNIFICANT FARMLAND

NCC supports the principles of protecting and enhancing productive agricultural land, natural resources and environmental assets stated in Goal 3 of the draft plan. However, the statement on page 45, that "*The NSW Government will actively plan to protect productive agricultural lands...*" is inconsistent with the Government's position when the preservation of productive agricultural land conflicts with coal mine proposals, for example:

- The Shenhua coal mine proposal impacting on prime agricultural lands on the Liverpool Plains
- The Drayton South mine proposal on productive agricultural lands in the Hunter Valley

The statements made in Goal 3 about the protection of productive agricultural lands lack credibility given the history of preference for resource extraction over preservation of productive agricultural lands in other parts of NSW.

PROTECTION OF TRAVELLING STOCK RESERVES (TSRs)

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

We welcome the draft plan's acknowledgement (page 45) of the high biodiversity and Aboriginal cultural heritage values of many travelling stock reserves (TSR's), and recognition that these lands need to be protected from the encroachment of incompatible uses. Further information is needed as to how this is going to be achieved.

We also note that consideration should be given to the NSW Travelling Stock Reserves State Planning Framework 2016-19 currently being prepared by the Local Land Service¹⁴.

OFFSETTING

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

We do not agree with the statement on page 65 that the *NSW Biodiversity Offsets Policy for Major Projects* applies to all biodiversity in NSW. That policy only applies to the assessment of biodiversity impacts from major projects. Other types of development are subject to different offsetting rules (e.g. Biocertification and BioBanking). Further, the Draft Plan does not acknowledge that significant changes to biodiversity laws is currently proposed as part of the Government's land management reforms¹⁵.

IMPLEMENTATION OF THE DRAFT PLAN

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

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

Consideration should also be given to community input into the implementation of the plan. For example, Illawarra Environment and Resources Groups have been identified as relevant supporting groups under the Illawarra-Shoalhaven Regional Plan.

¹⁴ Our support for protecting and enhancing the environmental and cultural values of TSRs are set out in our submission to the NSW Travelling Stock Reserves State Planning Framework 2016-19, www.nature.org.au/media/213729/151204-ncc-submission-nsw-tsr-draft-state-planning-framework.pdf

¹⁵ A draft Biodiversity Conservation Bill 2016 and Draft Local Land Services Amendment Bill 2016 have recently been on public exhibition, www.landmanagement.nsw.gov.au/

ENGAGEMENT WITH LOCAL COMMUNITY ENVIRONMENT GROUPS

NCC has a number of member groups in the Central West who are working for the environment, including the Central West Environment Council, Bathurst Community Climate Action Network, Capertee Valley Alliance, Dubbo Field Naturalist and Conservation Society, Environmentally Concerned Citizens of Orange, Friends of the Pilliga, Lithgow Environment Group, Little River Landcare Group, Mudgee District Environment Group, Orange Field Naturalist and Conservation Society and Rylstone District Environment Society.

We understand that a number of our member 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 plan is finalised.

Contact details for NCC members can be found on our website: www.nature.org.au/members