

**QUESTION ON NOTICE****INQUIRY INTO THE PLANNING FRAMEWORK****Western Region**

On 25 August, the Committee placed the following questions on notice during the Inquiry into the Planning Framework.

**The Hon. RICK COLLESS:** When you talk about a specific strategy for the western region, what actually is the western region that you talk about?

**The Hon. CHRISTINE ROBERTSON:** It sounds like that Murray-Darling catchment. It is the Murray-Darling basin, is it not?

**Ms STONE:** It is most of it, not all of it.

**Mr HADDAD:** I am happy to give you a map showing the western region. You will find that it is the Murray but I will provide you with a copy of our definition.

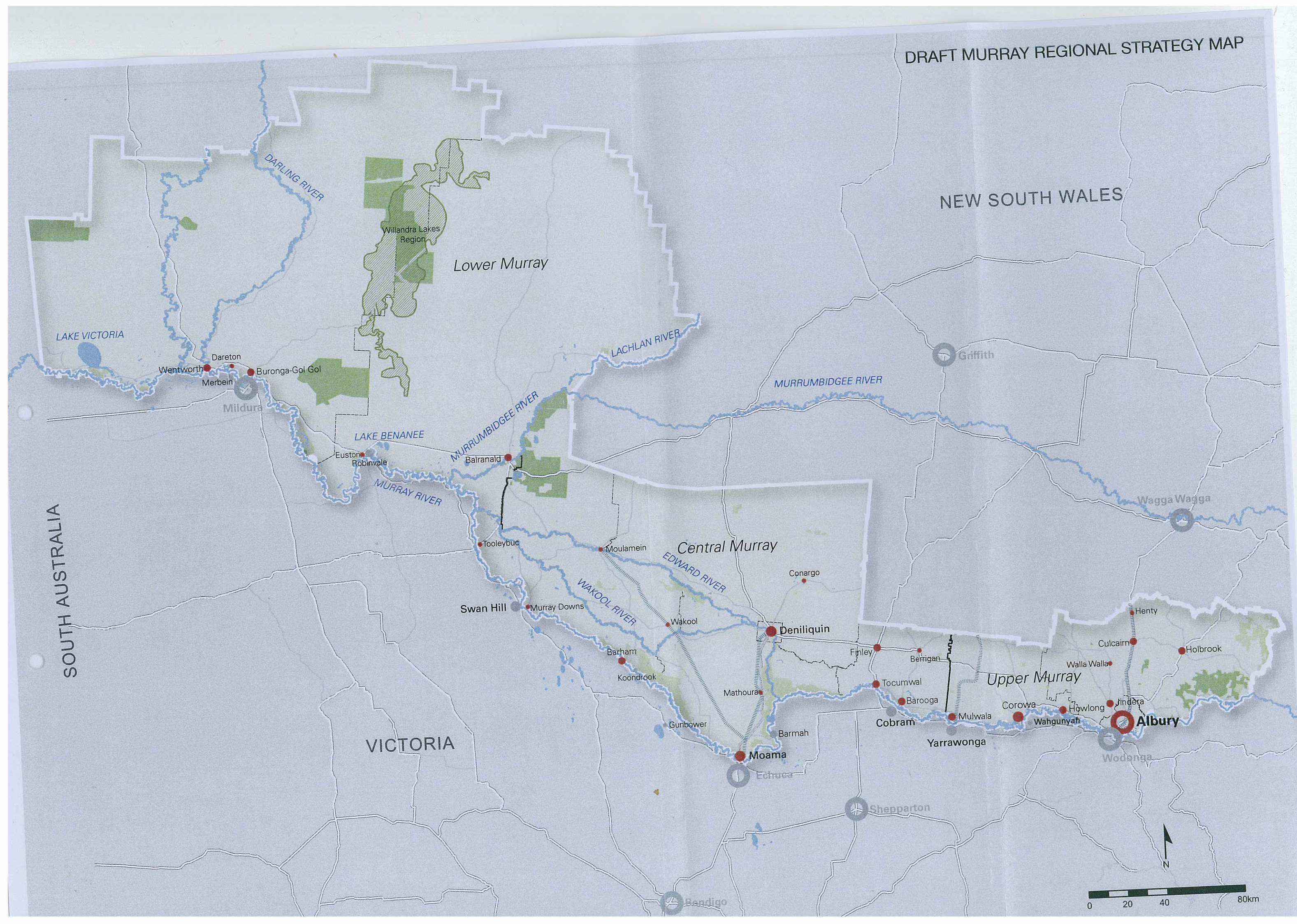
**Answer:**

The reference to a specific strategy for the western region is reference to the draft Murray Regional Strategy which will soon be released for public comment. The draft Strategy applies to the local government areas of Albury, Greater Hume, Corowa, Berrigan, Murray, Conargo, Deniliquin, Wakool, Balranald and Wentworth. A map is attached at A.

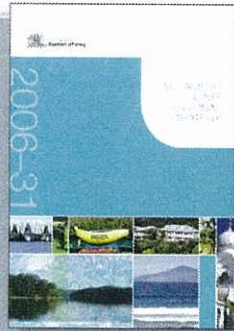
This is the most recent in a series of Regional Strategies produced by the State Government over the last 5 years as indicated on map B.

The Murray Region forms only part of the Department of Planning Western Region, together with areas of the Department's Southern Region. A map showing all of the Department's regional boundaries is attached at C.

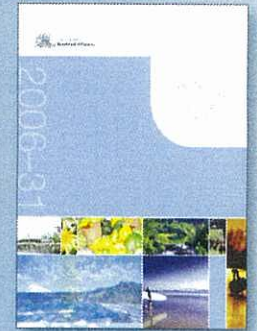
DRAFT MURRAY REGIONAL STRATEGY MAP



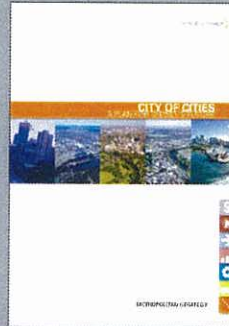
## Mid North Coast



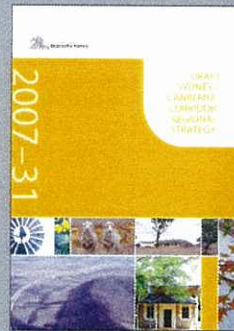
## Far North Coast



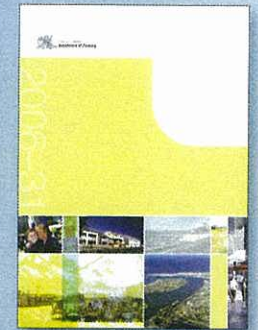
## Sydney Metropolitan Strategy



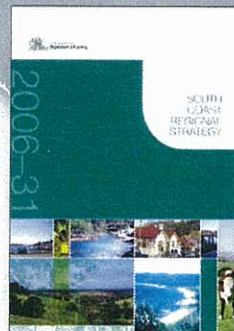
## Sydney - Canberra Corridor



## Lower Hunter



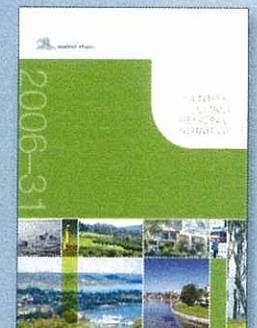
## South Coast

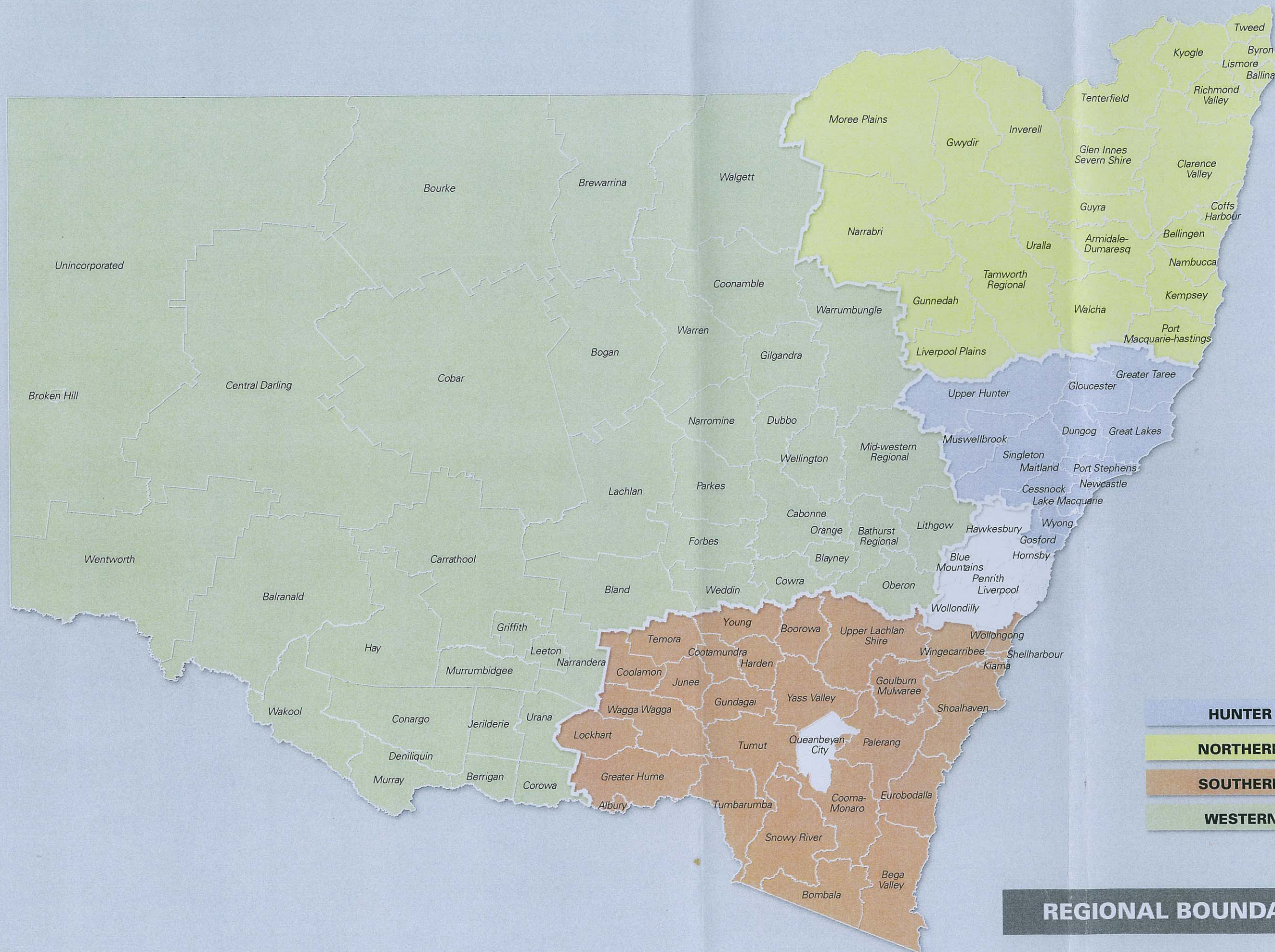


## Illawarra



## Central Coast





**HUNTER REGION**

**NORTHERN REGION**

**SOUTHERN REGION**

**WESTERN REGION**

**REGIONAL BOUNDARIES NSW**

**Community Consultative Meetings around NSW**

On 25 August, the Committee placed the following questions on notice during the Inquiry into the Planning Framework.

**The Hon. RICK COLLESS:** The New South Wales State Plan is currently under review, is that correct?

**Mr HADDAD:** That is correct.

**The Hon. RICK COLLESS:** And as part of that process you are conducting a series of community consultative meetings around New South Wales.

**Mr HADDAD:** That is correct.

**The Hon. RICK COLLESS:** How many of those meetings have been held to date?

**Mr HADDAD:** I will have to take this on notice. I am not sure that I would say probably about four or five, but to be credible I would like to get this on notice.

**Answer:**

- The Department of Premier and Cabinet (DPC) released the State Plan Consultation Draft on 4 August 2009. The document is being used as a basis for discussion at a series of Community Forums during August 2009. Community focus groups were encouraged to discuss priorities for action in their area. Feedback from the Community Forums will provide input to the DPC's review of the State Plan.
- The DPC held 16 Community Forums throughout the State during August 2009. The table below provides more detail:

<b>STATE PLAN REVIEW 2009 COMMUNITY CONSULTATION MEETINGS</b>		
<b>Date</b>	<b>DPC Region</b>	<b>Location</b>
4 August 2009	Sydney	Randwick
6 August 2009	Greater Western Sydney	Mt Annan
10 August 2009	Sydney	Sutherland
12 August 2009	Greater Western Sydney	Parramatta
12 August 2009	Sydney	Canterbury/ Marrickville
13 August 2009	Hunter	Maitland
13 August 2009	Illawarra	Shellharbour/ Albion Park
17 August 2009	New England/ North West	Armidale
17 August 2009	Greater Western Sydney	Penrith
18 August 2009	North Coast	Port Macquarie
19 August 2009	Greater Western Sydney	Liverpool
20 August 2009	Central Coast	Tumbi Umbi
24 August 2009	North Coast	Lismore
24 August 2009	South East	Cooma
25 August 2009	Western NSW	Dubbo

26 August 2009	Riverina/Murray	Albury
31 August 2009	Sydney	Drummoyne/Concord

- Outcomes of the Community Forums are available in summary form at <http://nswstateplan.net.au/>

**Department of Planning – Defining a Region**

On 25 August, the Committee placed the following questions on notice during the Inquiry into the Planning Framework.

**The Hon. CHRISTINE ROBERTSON:** I understand. In relation to that, when the Department of Planning is working on defining a region, does it use the socioeconomic data from the Australian Bureau of Statistics? Do you see that data? Currently Byron Bay is with Clarence, and that is a bit sad.

**The Hon. RICK COLLESS:** It is worse in the west.

**The Hon. CHRISTINE ROBERTSON:** Yes, but that is a really extreme one. All the regions have incredible issues.

**Mr HADDAD:** I do not know that we have used the data to define the region, but in formulating the strategies we use the data. In all our documents and background studies we use the data, but I am not sure to what extent. I need to get back to you on that after I have refreshed myself on how we define those regions.

**The Hon. CHRISTINE ROBERTSON:** Planning decisions for places such as Byron Bay are much different from those for Coffs Harbour, for example, because there are different humans there.

**CHAIR:** Mr Haddad, could you forward that information to the Committee?

**Mr HADDAD:** Sure, with pleasure.

**Answer:**

When defining a region for the purposes of preparing a Regional Strategy the criteria considered include:

- Recognition of existing, well-established regional areas;
- Recognition of communities of interest;
- Significant, integrating landscape features (such as the Murray River);
- Consideration of land use issues which require a regional response; and
- Inclusion of the whole of the constituent local government areas to provide ease of implementation for councils.

Socio-economic data from the ABS is not a factor in defining the boundaries of regions, but such data assists in the formulation of the Regional Strategies themselves.

**REVIEW OF THE PLANNING ACT**

On 25 August, the Committee placed the following questions on notice during the Inquiry into the Planning Framework.

**The Hon. CHRISTINE ROBERTSON:** This question is really on notice because it is far too complex to be answered in a short period of time. It relates to original statements about there being no requirement for review of the Planning Act. Much of the evidence we have received from planning experts has indicated that a long-term review—like, let us not write a new one next year but perhaps have the commencement of the process of the review next year—would give us an outcome that would mean that we would not have masses of pieces of legislation for the one process and perhaps stand the State in good stead for the future.

The question that will be sent to you on notice relates to exactly why you do not perceive that to be a good idea.

The other part of the question is, do you propose then—because we currently have a Commonwealth review going on of the planning process—to continue to amend the multitudinous Acts that planning persons are dealing with in order to deliver some real strategy for the future of New South Wales?

They are definitely on notice questions and they will be sent to you because they would probably take another an hour to discuss.

**Answer:**

Since the introduction of the *Environmental Planning and Assessment (EP&A) Act 1979* in 1980, the Act, regulations and environmental planning instruments have undergone numerous amendments to deliver a robust planning regime.

These amendments were made to reflect and in response to changing social, economic and environmental conditions and associated community demands and expectations. Over the years, emerging issues such as sustainability, pollution controls, building controls, contaminated land, housing affordability, heritage, national parks and wilderness, biodiversity, water management, coastal development issues, climate change, ageing population, state and local infrastructure contributions, and depoliticisation of decision making have been integrated into the planning and development approvals systems.

The Department is currently implementing the 2008 planning reform. This is a high priority of the Government and the Department. These reforms addressed significant concerns with the planning system and are intended to:

- provide a planning system that is outcome based;
- produce efficient practices and processes and timely decision-making;
- provide a whole of government integrated approach;
- further depoliticisation of decision making;
- a transparent and up to date public participatory process; and
- decision-making at the most appropriate level.

During the course of the committee's hearings, there have been a number of suggestions that there should be new planning legislation – the legislation and practices developed over the last 30 years should be abandoned and a new approach taken. Sometimes this call is for one new Act, sometimes it is for two or more new Acts. Some advocate that the NSW system should be more like South Australia – others more like Victoria. In both cases, those States legislation has been or is being revised to be more like NSW.

The justification given by those wanting a new act or more than one act, generally falls into three reasons:

1. Some have said they want a new Act which is 'modern' so it can deal with the 'new issues' that have come up in planning since 1979 – the most recent of these being 'climate change'.
2. Others have said that the current Act is too 'complex' but apart from wanting a simpler system they again generally do not explain how one or two new Acts will achieve their desire for simplicity.
3. Finally, some rightly point to overlap with Federal and with other State legislation and the overlap in roles between Federal, State and local councils. However, they again do not explain what the remedy should be - a reduced role for NSW planning legislation, and for local councils that use it, where the Federal legislation is involved or something else.

#### **Modernising the Act, or bringing the Act up to date.**

It is 30 years since Parliament passed the EP&A Act. However, the Act has not been preserved in its 1979 form over that time. The Act has been through significant modernisations particularly in 1997, 2005 and 2008. The principles of ecologically sustainable development were introduced as an object of the Act along with consideration of housing affordability and the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats. Other issues such as contaminated land, water management, building controls, heritage, national parks and wilderness, coastal development issues, state and local infrastructure contributions, and depoliticisation of decision making have also been addressed.

Apart from wanting to see current issues, like 'climate change' dealt with in the Act, the submissions generally have not identified the benefits that 'modernising' the Act would achieve. It does not appear that there is general agreement about which parts of the Act need to be modernised, and which do not. The recent reforms have "modernising" the key aspect of the system

- focusing the local plan making process and removing a layer of plans and complexity
- removing complexity and the causes of delays in the development application process
- strengthening the certification process for both the private and council certification provisions,
- updating and focusing the development contributions regime
- providing review, advice and decision making options to strengthen and depoliticise decision making – with the introduction of the planning assessment commission and joint regional planning panels.

On the question of climate change, the Act, while it does not use the term 'climate change' nor has a definition of it, is more than capable of ensuring climate change issues are dealt with comprehensively, both at a statutory planning level and at a development approval level.

The Act provides a broad framework that enables the consideration of all relevant environmental, social and economic issues when developing statutory plans and in the development assessment undertaken under the Act. Even now, after 30 years, the objects of the Act are broad enough and the provisions of section 79C are comprehensive enough to ensure that climate change is considered by decision makers in those cases where climate change issues are relevant.

There is no justification to rewrite the Act to include climate change. As with biodiversity, if necessary, provisions can be inserted into the existing Act to provide for integrated consideration of climate change matters.

### **On the question of simplifying the Act, or removing complexity**

It is agreed that the State's Planning Act should be as simple and straightforward as possible. When considering the many different views expressed by witnesses before the Committee, it is obvious that there is no consensus on the shape of any new Act, or new Acts or as to the need for a radical change. While many called for simpler legislation, at the same time it was acknowledged that the range of issues to be addressed are increasingly complex.

One of the strengths of the EP&A Act that has not been recognised in some of the submissions to the Committee is the integration of plan making and development control into the one planning structure. This provides for the flexibility to consider issues in an integrated manner at the plan making stages, when development controls are being developed and when these provisions are being implemented on the ground at the development approval stage. To break these aspects into different acts, would result in unnecessary tensions and complexity, as currently often occurs when different Acts control different aspects of the one development. Another of the strengths is the integration of consideration of environmental, social and economic issues in decision making, an integrated systems approach rather than consideration of issues on a case by case basis.

Submissions have also acknowledged that the process of getting a new Act, or two or three new Acts, in place would take considerable time and resources, perhaps as long as four or more years. But that will not be the end of it, because with a new Act or Acts will come "savings and transitional" provisions and the need to get practitioners up to speed on the changes. A key consideration is the time required following the introduction of any new Act or Acts to change systems in councils, to change practices by proponents and their advisors and to change the understanding and expectations of the community resulting from the new provisions.

From the current experience in introducing the changes in 1997, as well as in 2005 and 2008, there will be at least another two years before practitioners would feel comfortable with new legislation, transitioning away from the previous processes. As a result, it is critical that the introduction of any new legislation does not divert resources from obtaining the best outcomes under the existing legislation while any rewrite is underway. This is the job being done now, with the current reforms to the Act.

It is also critical in this period of economic uncertainty, that further uncertainty is not introduced into the planning approvals regime with potential implications for outcomes for employment, housing, communities, conservation and environmental protection in NSW.

It is also important that the Committee looks carefully at what the witnesses have actually said about how a new Act would simplify planning and whether and how these suggestions would better deliver the important outcomes which users of the planning system seek. The Committee will need to be confident that the witnesses have identified a strong causal link between 'complexity' of the Act and inefficiencies in planning outcomes if a complete rewriting of the Act is to be justified.

Very often the inefficiencies are associated with the practices associated with implementing the law rather than the law itself. As a result, the Department of Planning is now implementing communications and education programs to raise applicants and councils' awareness of improved plan making and development assessment practices which will assist in delivering sound environmental, social and economic outcomes in a more efficient cost effective manner.

### **Overlapping of Federal and other State laws**

While it is acknowledged that there is overlap between Federal legislation and the EP&A Act, this overlap has grown significantly since the introduction of the Environmental Protection and Biodiversity Conservation Act 1999. The New South Wales Government is working with the Australian Government to ensure appropriate administrative procedures are in place to minimise duplication between the regimes.

Under the Constitution, the breadth of Federal environmental regulation is a matter for the Australian Parliament. Inquiries are currently taking place into the Federal legislation and one of the matters for review is the possibility of expanding Federal intervention in this area to climate change matters. The only certain thing about Federal involvement is that over time, the range of matters they will become directly involved with is likely to increase along with the pressure to have similar or the same planning regime in all States.

It is not clear how any new NSW Planning Act would be in any better position to respond to the changing goal posts of Federal regulation than the existing Act. It would appear that an administrative solution under the existing Act would be preferable to a statutory provision in a new Act. Any suggestion to remove any approval role by Councils or the State Government where a Federal approval was also required for a development, is not supported.

On the question of overlapping State laws, work is being done to minimise the duplication between the EP&A Act and other State legislation. The first step in this direction was the integrated assessment provisions introduced in the development approval process under Part 4 of the Act in 1997. Another step was the integrated approval process for major developments introduced in 2005. The removal in 2004 and 2008 of requirements for concurrences and referrals to other State agencies were further steps in providing more holistic and simpler assessment and approvals processes. These are important steps in simplifying the system and in due course more legislative amendments may be appropriate. But of themselves, the need to simplify the interaction between various State laws seem an insufficient justification for a full rewrite of the planning legislation.

### **The next steps**

The Government is committed to securing Australia's best planning system, in terms of practice, culture and legislation, including:

- a model legislative framework that is outcome based;
- efficient practices and processes and timely decision making;
- a whole of government integrated approach; and
- a transparent and up to date public participatory process

As the current reforms are being implemented, they will go a long way to achieving the above and should be afforded priority to progress. At this stage, any major legislative change would divert resources from a much needed focus on efficiently delivering appropriate outcomes and changing aspects of the "culture" to be more outcomes focussed to improve the planning system.

Reform must be on an as needs basis. It must be targeted and it must bring clear benefits that will outweigh the costs associated with implementing the change. When the Act commenced in 1980, it was considered state of the art legislation but it was also, in many ways experimental. It was an innovative and groundbreaking initiative. It sets out to provide a simple integrated framework for both planning and development delivery, which is still one of its major strengths.

The Government considers that the key emerging matters and directions for future reform are:

1. better alignment of strategic planning and development control (including rezoning);
2. strengthening land use and transport/infrastructure integration;
3. better integration of natural resources and planning;
4. leadership in dealing with medium and longer term sustainability challenges, including climate change and ageing population;
5. simpler procedures and elimination of duplicated processes with overlapping legislation;
6. a more outcome-based legislative framework; and
7. an improved framework for community engagement at the strategic level.

Some of these matters may require legislative change, many will require the development of strategic frameworks such as integrated transport and land use planning to provide for improved infrastructure, conservation and resource planning at the State, regional and local level, and some will require improved system at the State and local government level.

In order to progress the next step in improving the planning system in NSW, consideration could be given to establishing an Expert Group in 2010 to review and make recommendations on how these emerging issues can be better addressed. Any such review would need to be evidence based, with appropriate analysis undertaken of existing practices in NSW and other regimes. While the submissions received to this Inquiry would provide important input to the process, a more rigorous investigation based on research and analysis by an Expert Group would better inform the next step in the process.

Consideration could also be given to whether the remaining components of the 2008 reforms should be commenced prior to the recommendations of this Expert Group being received. These uncommenced components include provisions relating to development approvals and developer contributions. This would further avoid "change fatigue" currently being experienced by councils.

Instead, while waiting for the recommendations of the Expert Group, the focus could be placed on improving electronic planning systems with better integration of electronic information into the plan making and development approval system. In addition, electronic systems which improved the communities' access to information on planning and which provided improved opportunities for public participation in the planning system could be developed. Irrespective of the legislative framework under which these systems operate, there would be significant immediate benefits to all stakeholders to have efficient e-planning information in place in all councils across the State. This project would build on existing initiatives currently being developed by the Department of Planning, Department of Lands, Department of Environment, Climate Change and Water, Local Government and Shires Associations and a number of councils.

Further, to ensure that there is an appropriate regional strategic frameworks across the State as the basis for land use planning and the provisions of improved infrastructure, conservation and resource planning at the State, the focus over 2010 could be on the review and updating of the Metropolitan Strategy along with the development of regional strategies in the remaining regions in NSW for which regional strategies have not yet been developed.

These initiatives would significantly contribute to securing Australia's best planning system, in terms of practice and culture with significant steps towards improved practices, more efficient access to information and better integration of infrastructure and natural resources.

## **Department of Planning (Submission – NSW Govt)**

### **Inquiry into the New South Wales planning framework**

#### **Additional questions from Members**

- Q1.** Re the regional planning for Western NSW. The Department website lists the particular challenges for planning for Western NSW, including supporting sustainable agriculture, and minimising land use conflict.

Throughout the Inquiry one of the land use conflicts frequently raised was that of farming versus mining and farming versus residential development. How will the regional planning assist to minimise these conflicts?

**Answer:**

Regional Strategies and regional planning generally manage potential land use conflicts by setting out clearly the future land use intentions in the area. These plans balance the demands for future growth with the need to protect and enhance environmental values and sustain productive agricultural land.

By publicly stating the broad future land use patterns for a region in this way, these strategies or plans provide clear direction for the community and guide Local Environmental Plans being prepared by local councils.

- Q2.** The Department website also notes that the department will work closely with councils, key agencies and groups across the region to provide the strategic planning direction to guide local initiatives.

What other agencies and groups will be involved in the regional planning and what input will they provide?

**Answer:**

In areas where a regional strategy is in place, the Department of Planning has worked with all State agencies through the Regional Coordination Management Group framework (supervised through the Department of Premier and Cabinet), and in particular with a number of agencies such as the Department of Transport and Infrastructure, the Department of Industry and Investment, the Department of Environment, Climate Change and Water, and the Catchment Management Authorities. All relevant agencies are able to provide input during consultation and through the Cabinet process.

In areas where there is no regional strategy, the Department ensures local councils work with the relevant agencies when undertaking local strategic planning and preparing new local environmental plans. Agencies and groups provide advice that they feel is relevant to the area, or specific local environmental plan.

The public consultation process for draft regional strategies, draft local environmental plans, and relevant development proposals, allows opportunities for the community and special interest groups to become involved in the planning process.

- Q3.** Throughout the Inquiry the Committee heard that the Exempt and Complying Code has not been able to be applied as widely as would have been hoped. With respect to the recent Affordable Rental Housing SEPP – were any lessons learned from this experience and do you expect that this new SEPP will be able to be applied widely?

Will the new SEPP apply to dwelling entitlements on agricultural land?

**Answer:**

The Affordable Rental Housing SEPP adapts the complying development provisions of the NSW Housing Code to secondary dwellings. A key lesson learned from the Code SEPP experience, and incorporated into the drafting of the new SEPP, is to ensure that when developing a secondary dwelling, the existing dwelling house on the land does not need to meet all the complying development standards – only the new extension or addition to make the secondary dwelling must meet the requirements of the SEPP, such as for building height and building setbacks. Furthermore, no additional private open space or parking space is required for the secondary dwelling, in addition to that already required for the original house. There has been strong interest in the new SEPP, and these provisions are expected to be applied widely throughout residential zones across NSW.

No, the new SEPP does not apply to dwelling entitlement on agricultural land. The new SEPP is targeted at increasing dwelling numbers in locations well located to services and transport.

- Q4.** The submission from the Local Government Planning Directors Group made the following recommendation:

That Regional Committees be established, led by the relevant Regional Office of the Department of Planning and comprising representatives from relevant state agencies and constituent councils and be responsible for:

Could you provide your assessment of this recommendation and advise whether, in your opinion, you think it is a feasible option for either now or into the future?

- Preparing, implementing and monitoring regional strategies
- Evaluating the compatibility of draft LEPs with the regional strategy and state policies – thereby enabling them to proceed in a timely manner without reference to the Head Office of the Department of Planning.

**Answer:**

Preparation of the various regional strategies was led by the regional offices of the Department. In preparing regional strategies, the Department established a number of regional stakeholder groups and working groups. These groups differed from region to region, depending on local needs and expectations. In many cases, these groups were constituted to examine a particular theme, such as transport or environmental issues.

It is a requirement that each regional strategy will be reviewed every five years. It is expected that regional working groups, involving relevant state agencies and local councils, will be used to inform the five-yearly review process.

With regard to the question on draft LEPs, the Department of Planning's LEP Review Panel considers draft LEPs and evaluates the compatibility of the draft LEP with state policies making recommendations to the Minister for Planning for a Gateway determination. As part of this consideration, the Panel receives an explanatory report and recommendation from the relevant regional office. The six Regional Directors of the Department of Planning regularly sit on the LEP Review Panel. The Panel also comprises a nominee of the Local Government and Shires Associations.

The Minister for Planning also has the option of requesting independent advice from the Joint Regional Planning Panels. It is possible that a Joint Regional Planning Panel could be asked to provide an evaluation of a draft LEP before the Minister makes a Gateway determination.

As the process for Gateway determinations has only recently been developed and established, and given that the Regional Directors of the Department of Planning are already represented on the LEP Review Panel, I do not feel that formal Regional Committees to review draft LEPs are warranted at this time. Any suggestion that regional LEP Review Panels could be established would need to be weighed against the benefits of a centralised system with broader representation, offering streamlined and consistent advice to the Minister.

**Q5.** In your response to a written question following your first appearance, you said; that it is the Department's policy in the roll-out of the new SI for councils to provide for the broadest possible range of compatible permissible uses in rural, residential, commercial and industrial zones to minimise the need for future rezonings and to only allow the prohibition of land uses that are clearly incompatible with the objectives of the zone. As well as reducing the need for rezonings this encourages innovative responses over time.

In the new model with the standard zones, is it up to councils to set the objectives of the zone or are the objectives standardised as well?

In evidence the mayor of North Sydney related the case of Cremorne Point, which she said has a unique history. The mayor said that council had to shoehorn that area into a residential C zone, and that she thought that as a result there would be a whole lot of development there that the community will be furious about. Do you think the mayor's fears are well-founded, or is there scope for the council to preserve its local character?

**Answer:**

1. Is it up to councils to set the objectives of the zone or are the objectives standardised as well?

Each zone has mandatory objectives that form part of the Standard Instrument Order. Council may provide additional local objectives to give further guidance on how the zone may be applied.

The Department of Planning has recently released an LEP Practice Note to assist councils when drafting local zone objectives.

2. Cremorne Point

The Mayor's fears are not considered well-founded as there are options in the Standard Instrument LEP which will assist in maintaining the character of the Point including:

- the use of local objectives, where appropriate;
- application of a floor space ratio;
- setting building heights;
- the management of the many heritage items on the Point through the compulsory *Heritage conservation* clause in the LEP.

**Q6.** The Urban Taskforce is strongly in favour of mixed use zones, they said– “there is an opportunity in urban centres and in corridors to create mixed-use zones where residential, commercial office space and retail development are all allowed within a reasonable distance of the transport infrastructure concerned at high densities. The Taskforce argued for less zones – seven to eight rather than 36. It appears you can not please anyone. Are you familiar with this view of the Taskforce, do you think it has merit?

**Answer:**

It is considered that the Urban Taskforce’s views about reducing the number of zones in the Standard Instrument (SI) from thirty four (34) to seven or eight would reduce flexibility and the ability to cater to more localised issues. The current system enables councils to choose from a ‘palette’ of zones (i.e. not all of the zones contained in the SI have to be used) - depending on what is appropriate for the area and which can apply in urban, regional and rural contexts across the State.

The Department is aware of the Urban Taskforce’s views on mixed use development and zoning through their ‘Liveable Centres Report’ and their submission on the Department’s ‘Draft Centres Policy’, amongst other submissions.

The SI has a specific mixed use zone ‘B4 Mixed Use’ but the use and location of this zone is at the discretion of councils, with advice given by the relevant regional office of the Department. In addition, councils are encouraged to promote a mix of compatible uses within all zones to cater for the needs of residents, workers and visitors in a sustainable manner in accordance with the zone objectives, and to ensure walkable environments and integration with public transport is considered as part of their structure planning for centres and zone these appropriately.

Finally, the Urban Taskforce has misinterpreted the use and purpose of corridors as discussed in the Metro Strategy. Not all corridors are suitable for intensive development as this may detract from the role of nearby strategic centres and will have significant flow on effects in regards to traffic congestion and health impacts for residents and workers.

**Q7.** In evidence a number of councils lamented the loss, through the standard instrument LEP, of local provisions that they had developed and used to realise positive outcomes (e.g. evidence 21 May Taree City Council p 36 – provision to consider any form of development outcome on the basis of a public conservation value arising). What is the current process for councils to have such provisions included?

**Answer:**

Councils can add a local objective and insert appropriate land uses consistent with the relevant LEP zones in the principal LEP.

Additional development controls can be applied in the form of local provisions for areas requiring special consideration. Model local provisions e.g. for acid sulphate soil areas or foreshores are available on the Department's website for inclusion in the LEP at council's discretion.

To assist councils, the Department is also preparing other model clauses including for flooding and natural resource management. Where there is a need for a local provision, this should be discussed with the Department, to save council's drafting time, where possible.

- Q8.** In evidence the former Planning Minister, Mr Sartor, said he thought there was a strong argument for more flexibility in country areas because you are less likely to set development precedents that you would set in high-pressure parts of Sydney, particularly in country areas that are not under a lot of growth pressure. He did say that how to fix it would be difficult but it would require better crafted planning controls and making sure local councils in those country areas get a bit more flexibility in what they can do. Do you agree? Does the current system allow for flexibility to be granted to such country areas?

**Answer:**

It is agreed that the Standard Instrument (SI) needs to be flexible enough to cater for the range of councils throughout NSW, and it is considered that it does provide this flexibility for the following reasons:

1. All of the zones and clauses contained in the SI do not have to be used – they provide a 'palette' for councils to choose from depending on what is appropriate for their area.
2. Councils may add additional local zone objectives to further tailor standard zones to their local circumstances.
3. The composition of land use table is at councils' discretion apart from certain mandatory permitted and prohibited land uses that are included as a basic guideline which describe the overall purpose of the zone.
4. Principal development clauses such as minimum subdivision lot size, height of buildings or floor space ratio are *optional* and rural councils in particular may determine that they are not required for their area and chose not to include them.
5. Where justified, councils can also add additional local provisions in consultation with the Department, and many rural councils have included provisions catering to their specific requirements.

6. Council's Development Control Plans (DCPs) can also include specific locational and design controls consistent with, and to support, controls contained within the LEP.

The Standard Instrument and the planning system as a whole provide metropolitan and non-metropolitan areas councils with flexible planning tools to apply when drafting their local plans.

- Q9.** The issue of needing to have a mechanism by which to resolve conflict between referral agencies has been raised often. Many participants have called for a structure that supplies what has been variously called, a decision-maker, advocate or project manager – essentially someone with the power to make the final decision. Do you agree there is such a need, and, if so, how could this best be achieved?

**Answer:**

- A number of initiatives have been introduced to reduce timeframes in the plan making and development assessment processes particularly where there is a need to co-ordinate a whole of government approach.
- Over the last 5 years, the Department of Planning has removed more than 2470 referrals and concurrence requirements in planning instruments where they were no longer required.
- In July 2009, the Department of Planning introduced the gateway plan-making process to change the way that local environmental plans (LEPs) are prepared and approved. This system provides for targeted consultation with State agencies only when necessary and ensures that State agencies are consulted at an early stage. Where there are delays in the plan making process, the Minister can ask the Department or the Joint Regional Planning Panels to step in and assist with resolving issues, for example in relation to State agency concerns.
- The Department has also recently set up a Project Delivery Unit that has been operating since April 2009, which includes a team of Project Delivery Managers to provide a single point of contact for delivering important planning outcomes. These managers co-ordinate input from relevant State agencies, and provide critical issue management and resolution. They have been given delegated responsibility to ensure timely decision making. One of the responsibilities of the Project Delivery Unit is to ensure State agencies set up tracking and business systems to ensure concurrences and referrals are dealt with by those State agencies in a timely manner.
- The Department of Planning is developing a whole of government approach to the development assessment process under Part 4 of the *Environmental Planning and Assessment Act 1979* and is developing Best Practice Guidelines for development applications, including applications requiring referrals or integrated development applications. The Department has been consulting State agencies and councils in order to simplify and better articulate policy requirements for applicants

wherever practicable. This will streamline the delivery of development approvals.

- The Department of Planning has also established a *Register of Development Assessment Guidelines* to provide a one-stop-shop for developers and councils to readily access information that will assist in improving the quality of development applications and environmental assessments.
- In addition, the NSW Government has established a Planning and Approvals CEOs Group comprising of all State agencies with responsibilities for issuing permits, concurrences or referrals for development applications or plan making. This Group will ensure that at the highest level there is a resolution of issues relating to timely delivery of approvals consistent with the State Plan.

**Q10.** The Farmers Association have consistently raised the conflict between farms and encroaching rural residential development. Among other things they have called for buffer zones to be included in any adjoining residential development, and for sec 149 certificates to include warnings alerting people to the presence of farming activity nearby.

Is the Department aware of this conflict and these concerns?

**Answer:**

Yes, the Department is aware of concerns regarding conflict between farms and rural residential development.

The Department has addressed these concerns through the implementation of the *State Environmental Planning Policy (Rural Lands) 2008*. Clause 10 of the Rural Lands SEPP specifies matters that are to be taken into consideration when determining development applications, including whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone, and any measures that would be used to avoid land use conflict. This would include the option of using buffer zones.

The NSW Government's regional strategies also contain actions to prevent land use conflict in rural areas. For example, the Mid North Coast Regional Strategy contains an action requiring new development adjacent to farmland to include buffers.

The Department is also working closely with local councils as they prepare new local environmental plans for rural areas. This involves planning the best location for rural residential or rural lifestyle development, which will avoid or minimise impacts on working farms.

**Q11.** With respect to the Rural lands SEPP, schedule 2 is to list state significant agricultural land. Is there any move towards identifying and listing such land?

Can you advise the Committee on how and where important agricultural land is identified and listed?

**Answer:**

*State Environmental Planning Policy (Rural Lands) 2008* provides the ability for the Minister for Planning to list lands within Schedule 2 of the SEPP that are of agricultural significance to the State. This provides the opportunity to protect land that has State or regional significance. These provisions are only likely to be used in exceptional and limited circumstances.

Land that may be included in this schedule is agricultural land of State and regional significance, which may be under pressure from uses not compatible with the current agricultural use and where its protection will result in a public benefit. There is no land currently listed in Schedule 2 of the SEPP. Should land be identified as of agricultural significance to the State, the Minister for Planning may amend the SEPP by listing that land in Schedule 2.

- Q12.** The submission from the NSW Farmers Association said that from the point of view of farmers the Government does not appear to have a clear vision of where agriculture fits in the NSW landscape, particularly in the more fertile, better watered peri-urban regions. The Association also lamented the lack of farm sector representation on land-use advisory panels.

Do you think there is a need to increase the level of input from the farm sector in planning reform issues?

**Answer:**

The Minister for Planning and Department of Planning engage with relevant key groups when undertaking planning reform as appropriate. The Department engages with the NSW Farmers Association on key planning initiatives.

By way of example Sydney's Metropolitan Strategy contains key actions to protect valuable rural activities and resource lands. In pursuit of these actions the Department of Planning is working with the former Department of Primary Industries, now the Department of Industry and Investment, as part of a Working Group to determine options to facilitate sustainable agricultural industry development in the Sydney Basin.

To support the Working Group, the Agricultural Reference Group has been established, on which the Farmers Association has been invited to participate.

In addition, when undertaking the review of Land Use Planning in the Central West the then Minister appointed a Panel to undertake the review. The Panel's membership included the then President of NSW Farmers, Mr Jock Laurie. The outcomes of the Panel recommendations resulted in the development and implementation of the State Environmental Planning Policy (Rural Lands) 2008, a key planning policy to guide rural planning in NSW.