"Who are they and how do we take them into account?"

Thoughts on incorporating specialist services into the planning of legal assistance services

Geoff Mulherin, NACLC National Conference
29 August 2018

Conference paper
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Thoughts on incorporating specialist services into the planning of legal assistance services
Presentation to NACLC National Conference
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Publisher
Law and Justice Foundation of New South Wales
Level 13, 222 Pitt Street, Sydney NSW 2000
PO Box A109 Sydney South NSW 1235
P: +61 2 8227 3200
E: publications@lawfoundation.net.au
W: www.lawfoundation.net.au

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Aim

- To take the discussion beyond ‘working well together’ to ‘how to we plan to work together in the current context’

- To find out more about:
  - What is currently happening
  - What data / information would be useful to assist

The Context

The legal need context

- Lots of legal need
- Not equally shared
- More need than available service delivery… 'a given'
- Clusters of need (legal / non-legal)
- Services need to be:
  - Targeted
  - Joined-up
  - Timely
  - Appropriate

Range of services

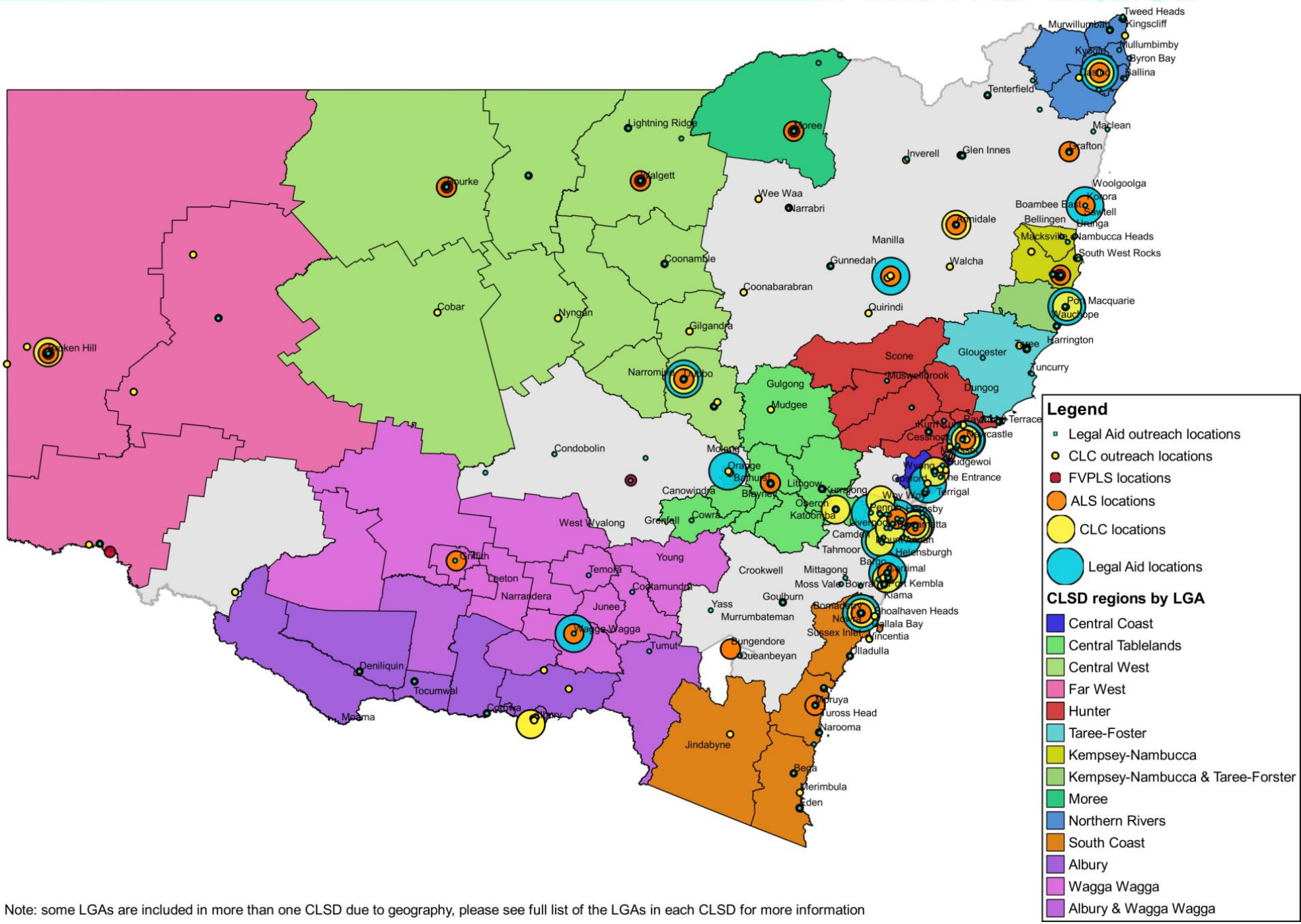
- Legal Assistance Services
  - LA
  - CLC
  - ALS
  - FVPLS
- Other
  - Law Access
  - CJCs
  - Ombudsmen
  - Private lawyers (either in paid or pro bono capacities)
- Modes of delivery
  - Generalist / specialist
  - Face-to-face / remote
  - In person / printed / web
  - Lawyer / paralegal / community partner

Types of legal assistance service

Generally LAS deliver these services*:

- CLE/ CLI
- Information
- (Triage/ legal health check (LHC), referral, case management)
- Task assistance (minor assistance)
- Advice
- Legal representation/ casework
- Specialist/ advice/ court work (litigation/ criminal defence, etc.)

*… But each of the services must be delivered to different people, with different capabilities in different circumstances…



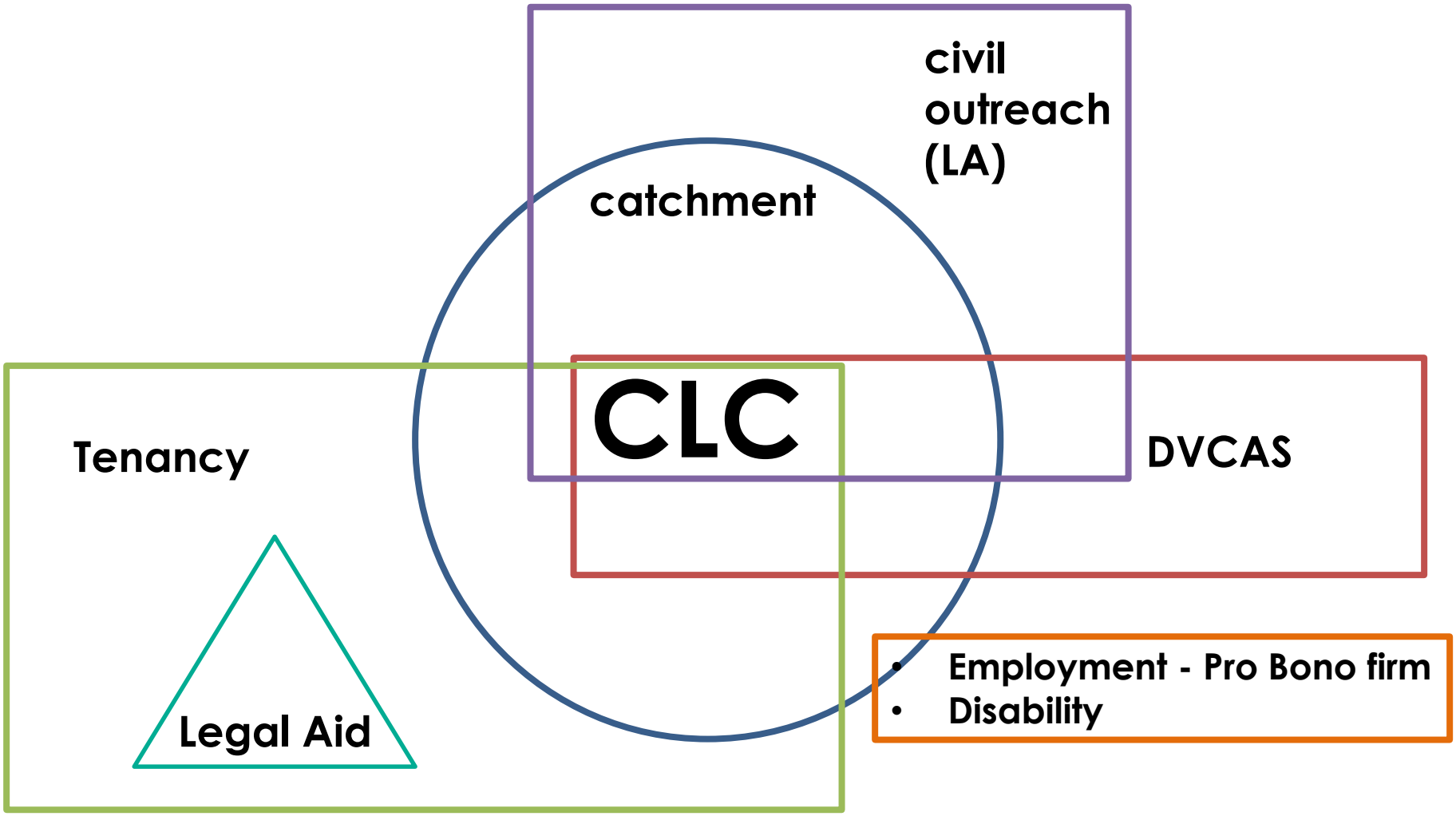
Legend

- Legal Aid outreach locations
- CLC outreach locations
- FVPLS locations
- ALS locations
- CLC locations
- Legal Aid locations

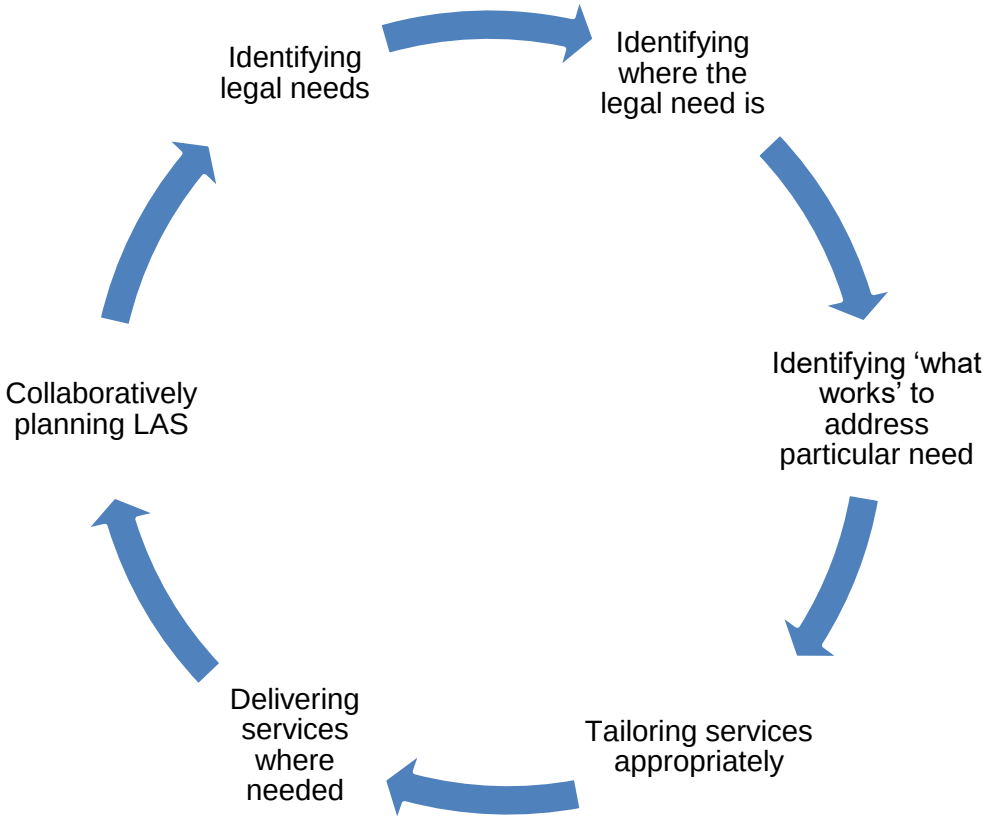
CLSD regions by LGA

- Central Coast
- Central Tablelands
- Central West
- Far West
- Hunter
- Taree-Foster
- Kempsey-Nambucca
- Kempsey-Nambucca & Taree-Forster
- Moree
- Northern Rivers
- South Coast
- Albury
- Wagga Wagga
- Albury & Wagga Wagga

Note: some LGAs are included in more than one CLSD due to geography, please see full list of the LGAs in each CLSD for more information


civil outreach (LA)
catchment
CLC
Tenancy
DVCAS
Legal Aid
• Employment - Pro Bono firm
• Disability

Context – towards a coherent process for client-centred service delivery



Thoughts: three related streams

Stream 2
What services, and who to deliver them?

What services, and who to deliver them?

We are making progress towards knowing:

- What the legal need is (who, what, etc)
- Where the legal need is
- What type of service(s) are effective or promising*
- What range of service(s) are likely needed for holistic approach

But, in mixed/ patchwork of LAS in NSW/ Australia - which to deliver what services?

*much less known about 'what works'

Types of legal assistance service

We start with the assumption that LAS delivers these services*:

- CLE/ CLI**
- Information
- (Triage/ legal health check (LHC), referral, case management)
- Minor assistance
- Advice
- Legal representation/ casework
- Specialist/ advice/ court work (litigation/ criminal defence, etc.)

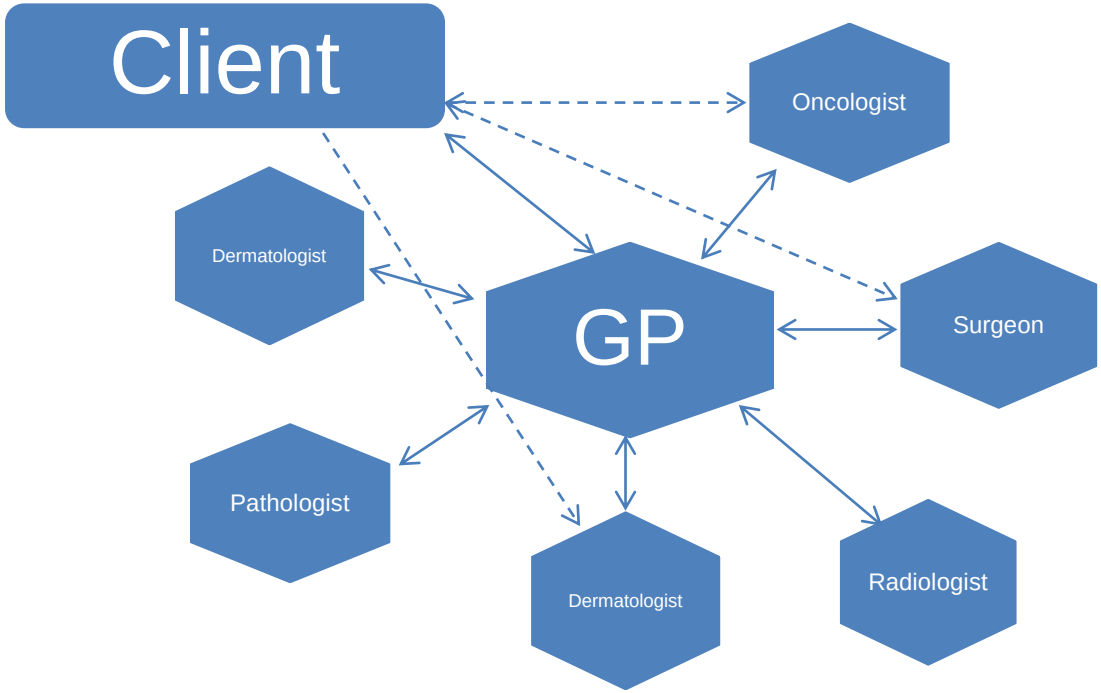
*… But each of the services must be delivered to different people, with different capabilities in different circumstances…

** CLE/ CLEI delivery (not necessarily development)

The role of the (legal) 'GP'

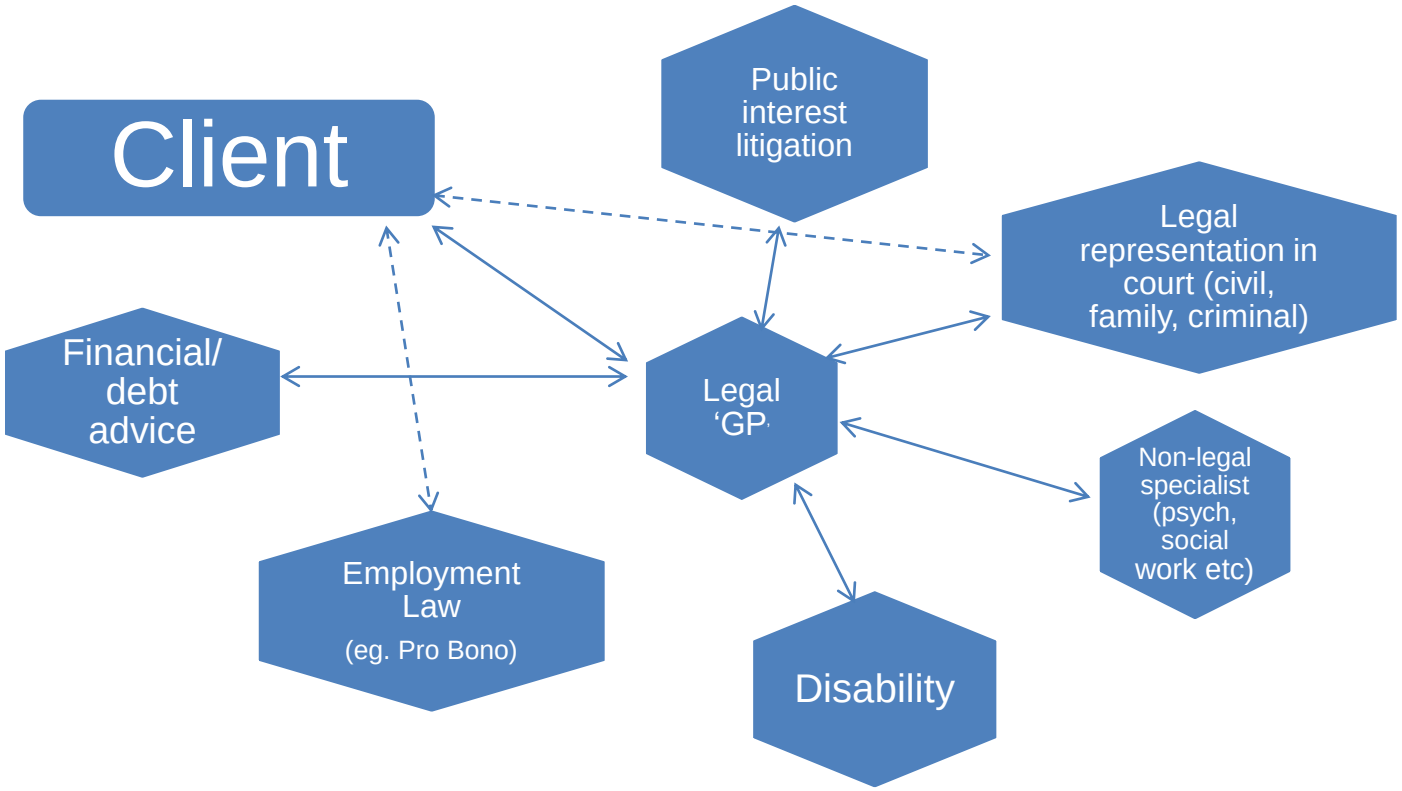
- Medical model: GPs are 'specialist generalists' and coordinate client treatment (ideally)

Medical Model



GP: Diagnosis, triage, general treatment, information, advice / referral to specialists / case management

LAS Model?



Legal GP: Legal diagnosis, triage, minor assistance, information, advice / referral to specialists / case management

The role of the (legal) 'GP'

- Medical model: GPs are 'specialist generalists' and coordinate client treatment? (ideally)
- Proposed legal assistance model. Similar role of legal 'GP' be:
    - A specialist generalist
    - Some expertise in priority areas
    - Coordinate holistic services

What might legal GP do?

- Provide information
- Diagnosis & Triage
- Minor assistance
- Advice
- Possibly some minor rep work in priority areas

<u>With emphasis in priority areas:</u>

- Tenancy/ housing
- Debt/ credit
- DV
- Parenting/ live with/ spend time with
- Consumer
- Perhaps local community priorities (eg. RRR, elder, LGBTQI)

Model 1: LAS as the GP only

- CLE/ CLI*
- Information
- (Triage(+ LHC), referral, Case management)
- Minor assistance
- Advice

GP (LAS)

- Representation
- Specialist services

Private practitioner + some specialist services

*delivery

Model 3 - mixed

- CLE/ CLI*
- Information
- Minor assistance
- Advice
- (Triage, LHC, referral, Case management)

GP

- Representation/ casework — Legal Aid
- Specialist services — Other specialist services

*delivery

Legal 'GP' – an aspiration?

- Aspiration: A legal 'GP' accessible in each region/ 'community that interacts together socially and economically'
- A legal GP that:
  - is well connected to legal specialists
  - is well connected to local community and services
  - is trained and equipped to perform 'GP' role
  - is economical

Stream 3
A strategic planning model

Planning levels/ Legal Assistance Services

National/ strategic level (*the NPA level*)

- Set priorities
- Allocate resources
- Secure cross sectoral support
- Set standards*
- Establish monitoring/ evaluation mechanisms

NPA level

Jurisdictional/ state level

- Confirm/ set priorities
- Allocate resources **
- Secure/ enforce cross sectoral support
- confirm/ set standards*
- Implement monitoring and evaluation mechanisms

Jurisdiction/ LAF level?

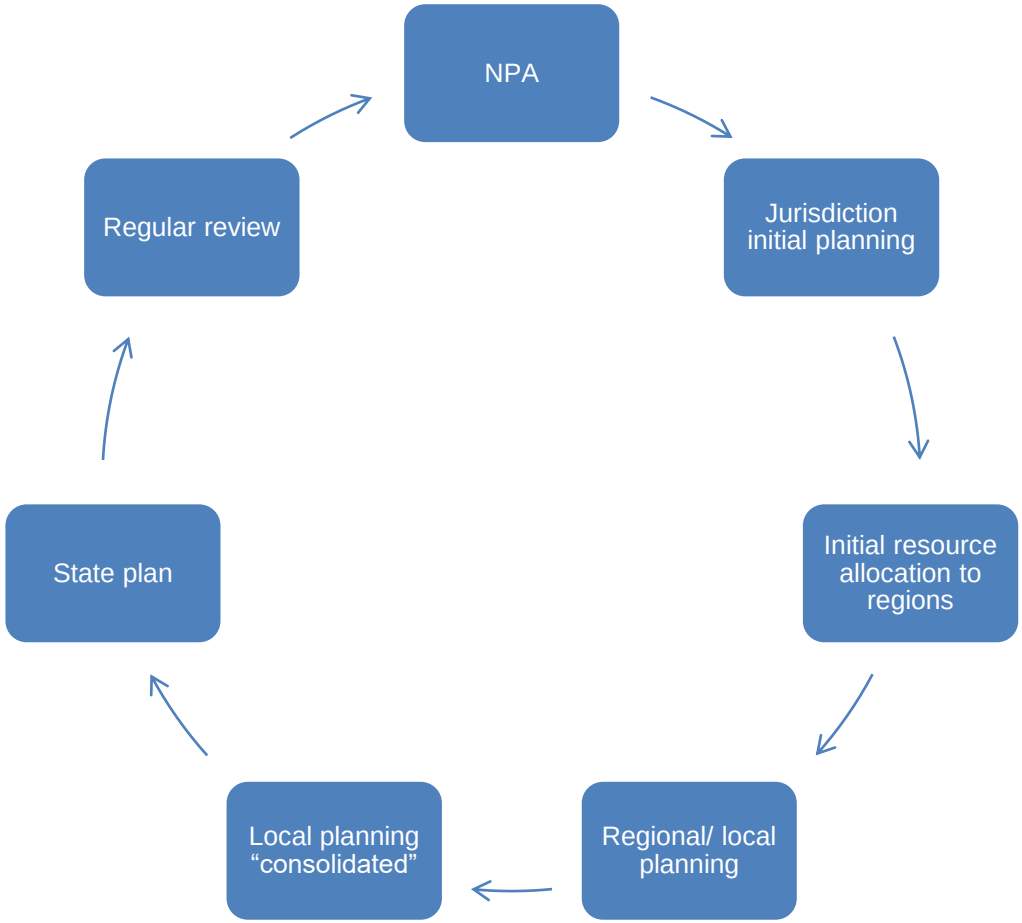
Regional/ local level

- Detailed local planning and collaboration
- Local plans to take into account actual resources + demand in specific contexts
- Best practice for service design

CLSD level?

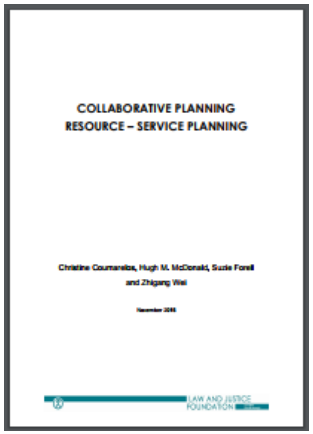
*eg: unit of service standards/ minimum standards (eg. crim legal advice etc.)
** to the extent flexibility remains

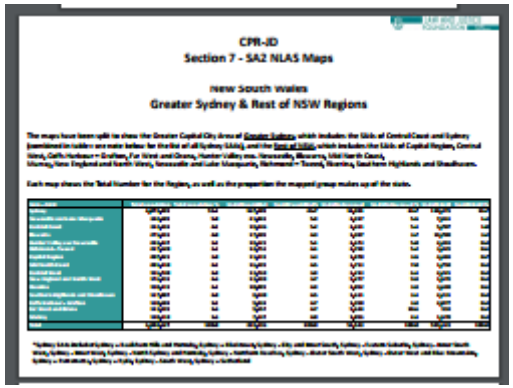
Planning Cycle



The 2015 Collaborative Planning Resource

- Funded by the Commonwealth to provide information in support of state and territory planning
- Included a synthesis of research evidence to inform the design of appropriate services for NPA priority groups
- Provided demographic data for priority groups in tables and maps
- Introduced the Foundation's Need for Legal Assistance (NLAS) indicators


COLLABORATIVE PLANNING
RESOURCE – SERVICE PLANNING


CPR-JD
Section 7 - SA2 NLAS Maps

New South Wales
Greater Sydney & Rest of NSW Regions

Need for legal assistance(NLAS) indicators

- A count of the number of people likely to require legal assistance services should they experience a legal problem with separate counts of those likely to require culturally appropriate services
  - NLAS(Capability) is a proxy measure of those least likely to have the capability to resolve their own legal problems - using educational attainment - and who are likely to qualify financially for legal assistance services
  - NLAS(ATSI) is a count of Aboriginal and Torres Strait Islander people with a low personal income
  - NLAS(CALD) is a count of residents whose main language is not English , with a low personal income
- NLAS provides an indication of how potential demand for services varies geographically

The 2018 Collaborative Planning Resource

- Uses 2016 Census data to update priority group information
- Revises NLAS(Capability) to take account of the increase in the cost of living, and educational trends
- Updates NLAS(ATSI) and NLAS(CALD)
- Introduces NLAS(65+) and NLAS($52k)
- Will be disseminated via Tableau Public with data available to download from the Foundation website

Using NLAS

- Use other sources of data to compliment NLAS
- NLAS is one measure and a static proxy of a dynamic construct
- There are other factors that may increase or decrease a particular geographic area's need for services:
  - Non-resident visitors to the area for:
    - Courts
    - Police station
    - Employment
    - Shopping
    - Health
    - Education
  - The level of community disadvantage: may depress community resilience/support
  - Accessibility to other legal and human services
- Local knowledge about the area is important

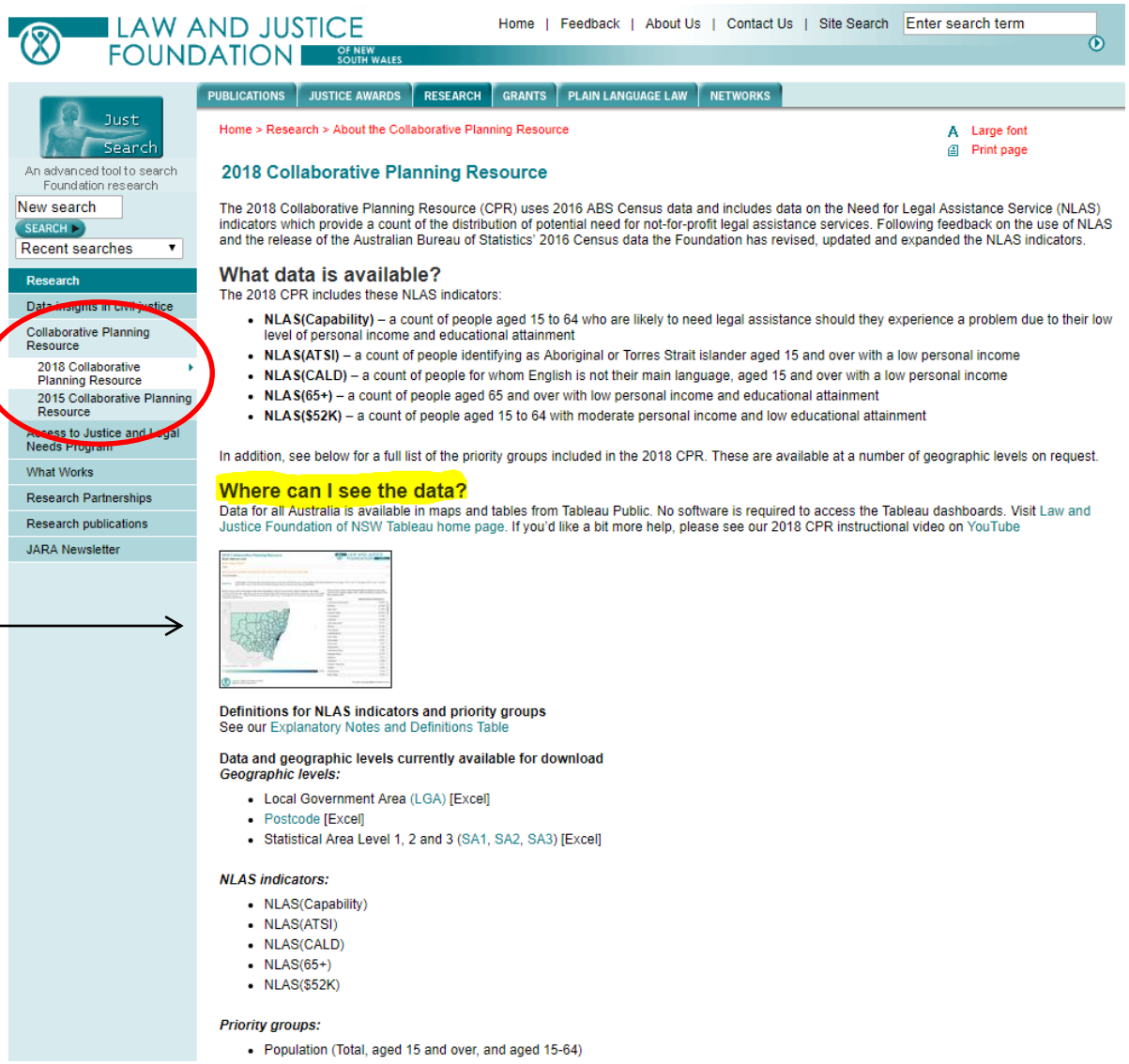
Using NLAS

- NLAS data is available at the following geographic levels:
  - State/Territory (STE)
  - Local Government Area (LGA)
  - Statistical Area Level 1 (SA1)
  - Statistical Area Level 2 (SA2)
  - Statistical Area Level 3 (SA3)
  - Statistical Area Level 4 (SA4)
  - Postal Areas (POA)

- NLAS data may be available on request for the following geographic levels:
  - Greater Capital City Statistical Areas (GCCSA)
  - Remoteness Area (RA) (not yet available for 2016)
  - State Suburbs (SSC)

Link to the data from the Foundation's webpage

Downloadable data



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- Research Partnerships
- Research publications
- JARA Newsletter

Home > Research > About the Collaborative Planning Resource

A Large font

Print page

2018 Collaborative Planning Resource

The 2018 Collaborative Planning Resource (CPR) uses 2016 ABS Census data and includes data on the Need for Legal Assistance Service (NLAS) indicators which provide a count of the distribution of potential need for not-for-profit legal assistance services. Following feedback on the use of NLAS and the release of the Australian Bureau of Statistics' 2016 Census data the Foundation has revised, updated and expanded the NLAS indicators.

What data is available?

The 2018 CPR includes these NLAS indicators:

- **NLAS(Capability)** – a count of people aged 15 to 64 who are likely to need legal assistance should they experience a problem due to their low level of personal income and educational attainment
- **NLAS(ATSI)** – a count of people identifying as Aboriginal or Torres Strait islander aged 15 and over with a low personal income
- **NLAS(CALD)** – a count of people for whom English is not their main language, aged 15 and over with a low personal income
- **NLAS(65+)** – a count of people aged 65 and over with low personal income and educational attainment
- **NLAS($52K)** – a count of people aged 15 to 64 with moderate personal income and low educational attainment

In addition, see below for a full list of the priority groups included in the 2018 CPR. These are available at a number of geographic levels on request.

Where can I see the data?

Data for all Australia is available in maps and tables from Tableau Public. No software is required to access the Tableau dashboards. Visit Law and Justice Foundation of NSW Tableau home page. If you'd like a bit more help, please see our 2018 CPR instructional video on YouTube

Definitions for NLAS indicators and priority groups
See our Explanatory Notes and Definitions Table

Data and geographic levels currently available for download
Geographic levels:

- Local Government Area (LGA) [Excel]
- Postcode [Excel]
- Statistical Area Level 1, 2 and 3 (SA1, SA2, SA3) [Excel]

NLAS indicators:

- NLAS(Capability)
- NLAS(ATSI)
- NLAS(CALD)
- NLAS(65+)
- NLAS($52K)

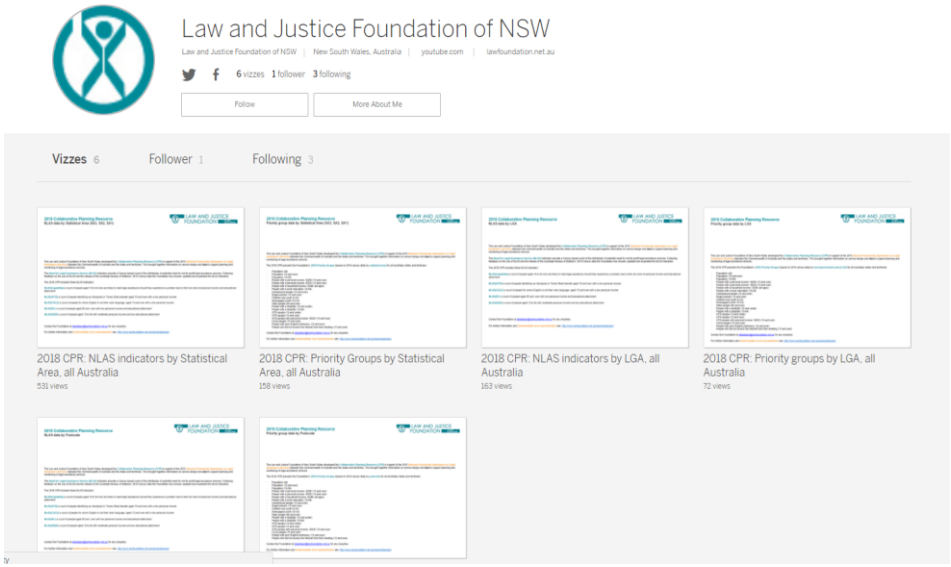
Priority groups:

- Population (Total, aged 15 and over, and aged 15-64)

Tableau Public

- The Foundation's Tableau Public page includes 6 dashboards:
  - NLAS for LGAs
  - NLAS for Statistical Areas
  - NLAS for Postal Areas
  - Priority groups for LGAs
  - Priority groups for Statistical Areas
  - Priority groups for Postal Areas

- Select (click) the dashboard of interest



QUESTIONS	EXAMPLES OF RELEVANT INFORMATION
Strategic priorities and resources	
Service priorities *What are the strategic service priorities?*	•National priorities •Jurisdictional/state plans and policies •Organisational plans and policies of individual service agencies
Resources and exisiting environment *What resources are available?* *What is the existing strategic, political, socioeconomic and service environment?*	•Federal/national funding •State funding •Other funding •Information on current legal services and other infrastructure
Who and where	
Priority clients *Who are the priority clients with high need for legal assistance services and where are they located?*	•Data on location of financially disadvantaged people with low capability •Data groups with high need for legal assistance •Other census, sociodemographic and administrative data (e.g. from local councils, courts, legal and human services) •local knowledge of legal and human services and stakeholders
Legal needs *What are the legal needs of these priority groups?*	•Data legal problem experience of target groups • administrative data held by legal services • local knowledge of legal and human services and stakeholders
Legal capability *What is the capability of these priority groups and what access barriers do they face?*	•Concerning responses of target groups and the constraints they face • local knowledge of legal and human services and stakeholders

What and how

Appropriate and accessible services *What services would be appropriate to the needs and capabilities of these groups?* *How can services be made accessible to these groups (i.e. via what modes of delivery)?*	• Data on appropriate and accessible services for target groups • local knowledge of legal and human services and stakeholders
Proportionate services *What services to these groups would be proportionate, affordable and sustainable?*	• Funding sources relevant for these services • local knowledge of legal and human services and stakeholders
Gaps in existing services *What are the gaps in appropriate and accessible services to these groups?*	• Information from legal assistance services on: types of local legal services (e.g. specialist or generalist; in office or outreach by telephone, online video link) & types of assistance offered by these services (e.g. CLEI, advice, minor assistance, representation) • information from human services and other stakeholders
Service innovation *What are the opportunties to serve these groups, including ideas for new service delivery strategies?*	• Data concerning appropriate and accessible services for target groups • Information on current legal services in the area • information on human services in the area • service innovation from other areas, jurisdictions, countries

Cautions

- Not an exact science!
- 'Numbers' good – but the right numbers used the right way!

'measure what matters'

vs

'what matters is what is measured'

- Must be clear about what you want to achieve
- Hard to collaboratively plan if not clear about your role/ objectives.

Disclaimers & Context

1. Thinking out loud – not a set position at all!

2. Tries to navigate between aspirations and reality
   - "clean sheet" v "existing structures/ inertia"

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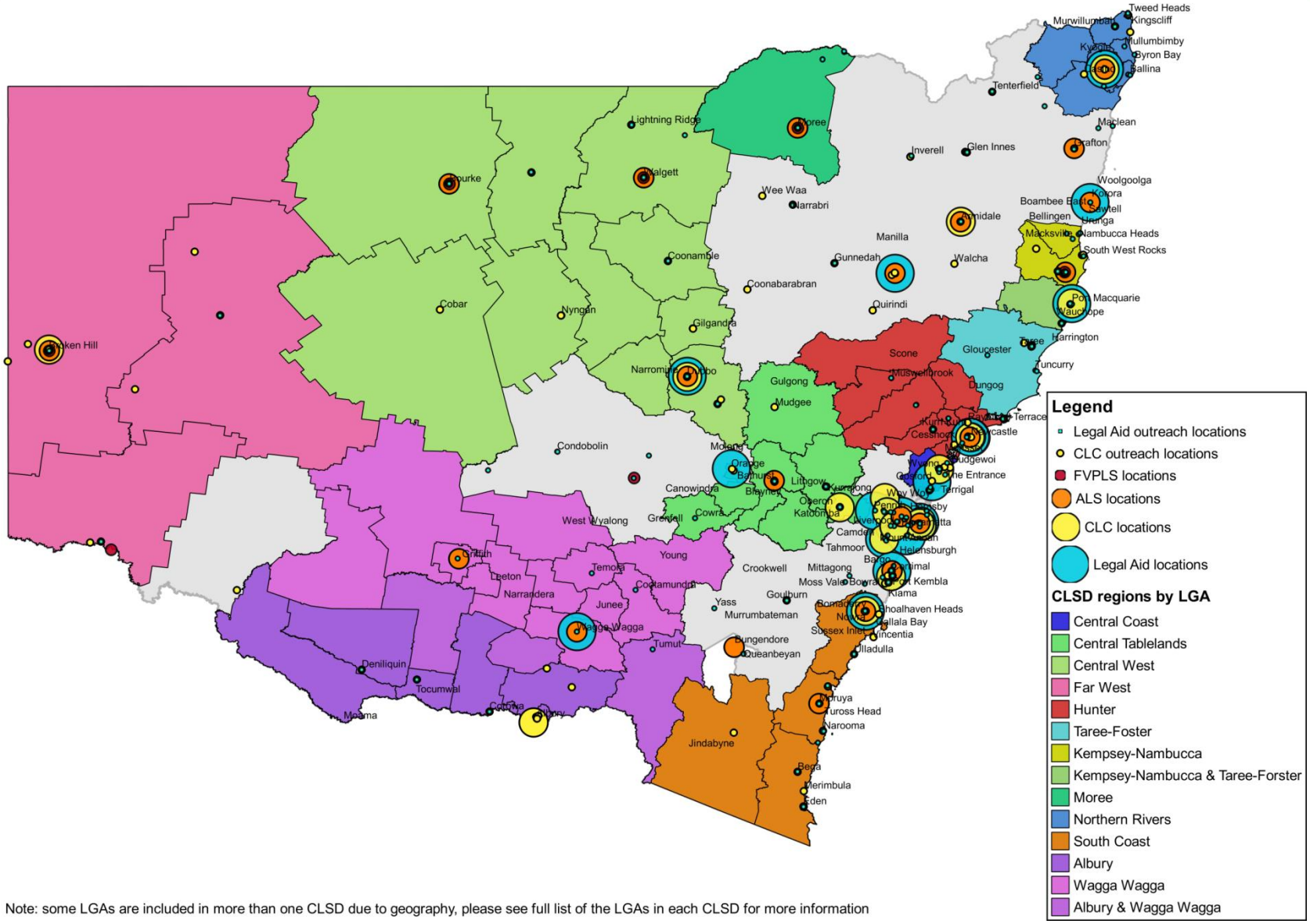


Note: some LGAs are included in more than one CLSD due to geography, please see full list of the LGAs in each CLSD for more information

Disclaimers & Context

1. Thinking out loud – not a set position at all!
2. Tries to navigate between aspirations and reality
   - "clean sheet" v "existing structures/ inertia"
3. City v RRR
4. Makes no statement about who and to what standard things are (or are not) presently done
5. But does not rule out changes/ increased standards required
6. Does not assume any funding increases, (although would help)
7. But does not exclude deckchairs shifting
8. Models/ implementation vary with location

I want you to tell me what is wrong with it!

Stream 1
What do we need to know, and how to find it?

Audiences for the information

- Policy makers (predominantly Government)
- Major state/ service provider agencies (courts, tribunals etc)
- Other service providers (Legal Aid, some of the clients of major agencies)
- Individual citizens and potential litigants

Examples of information ‘domains’

- Legal needs
- Legal assistance services
- Toward dispute resolution processes
- Clients of dispute resolution agencies
- And more…

To identify the legal needs of the community…

- What is the prevalence of legal problems?
- What types/ areas of problems experienced?
- What demographic groups likely to experience different types of legal problems?
- What demographic groups likely to experience multiple legal problems?
- What do people do when faced with legal problems?
- Where, who and how do people seek assistance?
- Why do some people not seek assistance?
- How are problems resolved?
- Where are geographic areas of high legal needs?
- What are the consequences experienced?
- What are the costs involved?

To deliver legal assistance services…

- Where are the areas of greatest legal need?
- Types of services most effective & cost effective to meet which needs, which groups & which circumstances?
- What services available and locations?
- How can most appropriate services be made available?
- How can we monitor and evaluate changing needs and impact of service delivery?

To provide formal dispute resolution…

- Who is suing whom?
- What are the types of civil claims?
- What value are the claims being pursued?
- What matters are defended and by whom?
- Who does and does not have legal representation?
- How are matters finalised?
- How long does it take to reach outcomes?
- What is the cost to the state?
- Etc

Users of dispute resolution services

- How long does it take?
- How much personal/ organisational time and effort will it take?
- How much will it cost me?
- What are my chances of success?

How do we find this information?

- Types of data
  - Administrative data
  - Official data
  - Data from bespoke research

Legal Needs

- Administrative data
  - Limited administrative data
- Legal needs survey
- Targeted studies for particular groups
- Local legal information for detailed planning

Mapping Legal Need

- The limits of survey data
- Using administrative data
- Using official data

Need for legal assistance services (NLAS) indicators

Towards meeting legal need

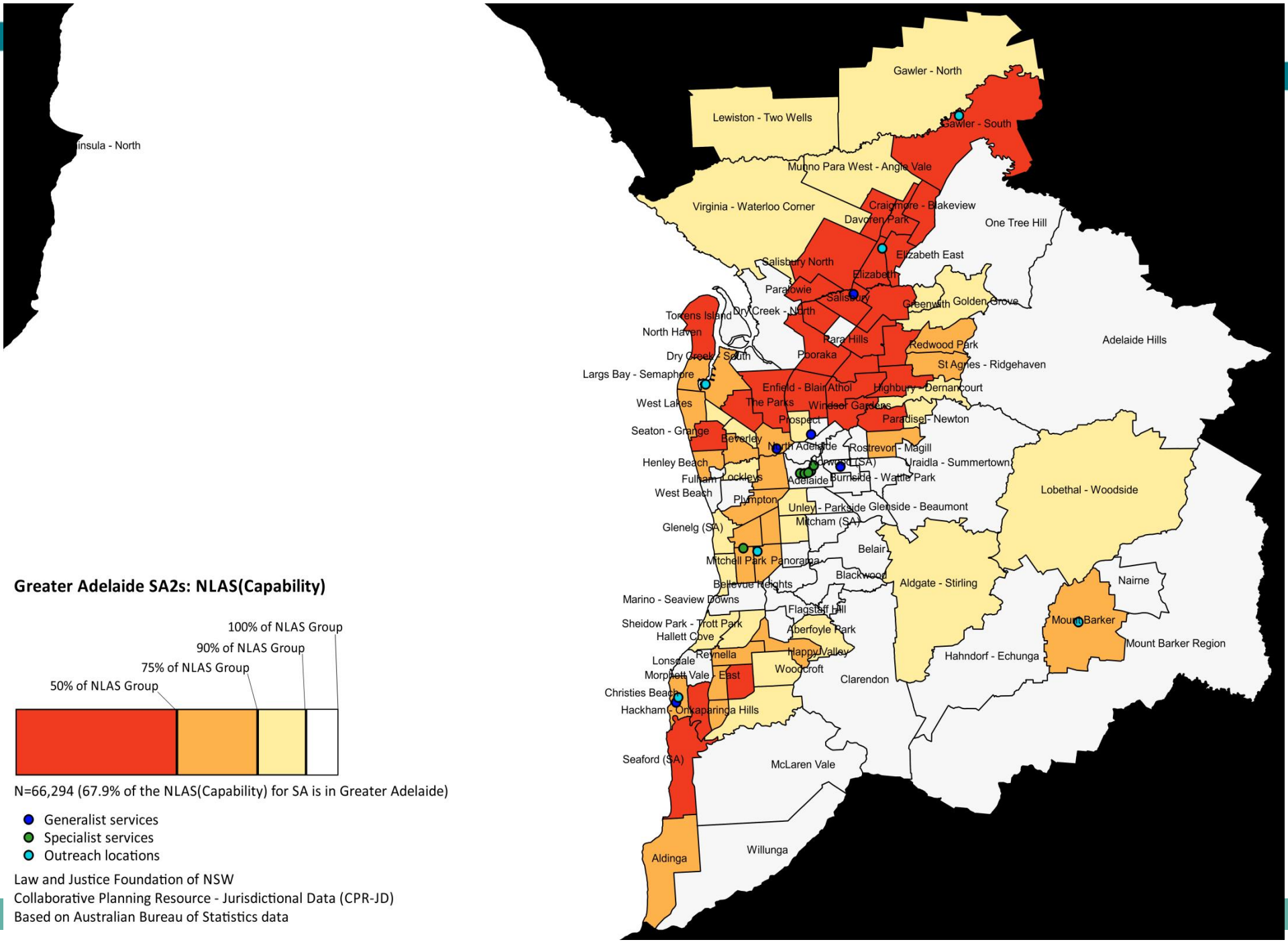
- Appropriate type of service. ie ‘what works’:
  - For whom (which people)
  - In what context:
    - Type of problem/ need?
    - Where?
    - When?
  - At what cost?

(Targeted, timely, joined up, appropriate)

Tools for planning legal assistance services

To be developed

Location of service providers



insula - North

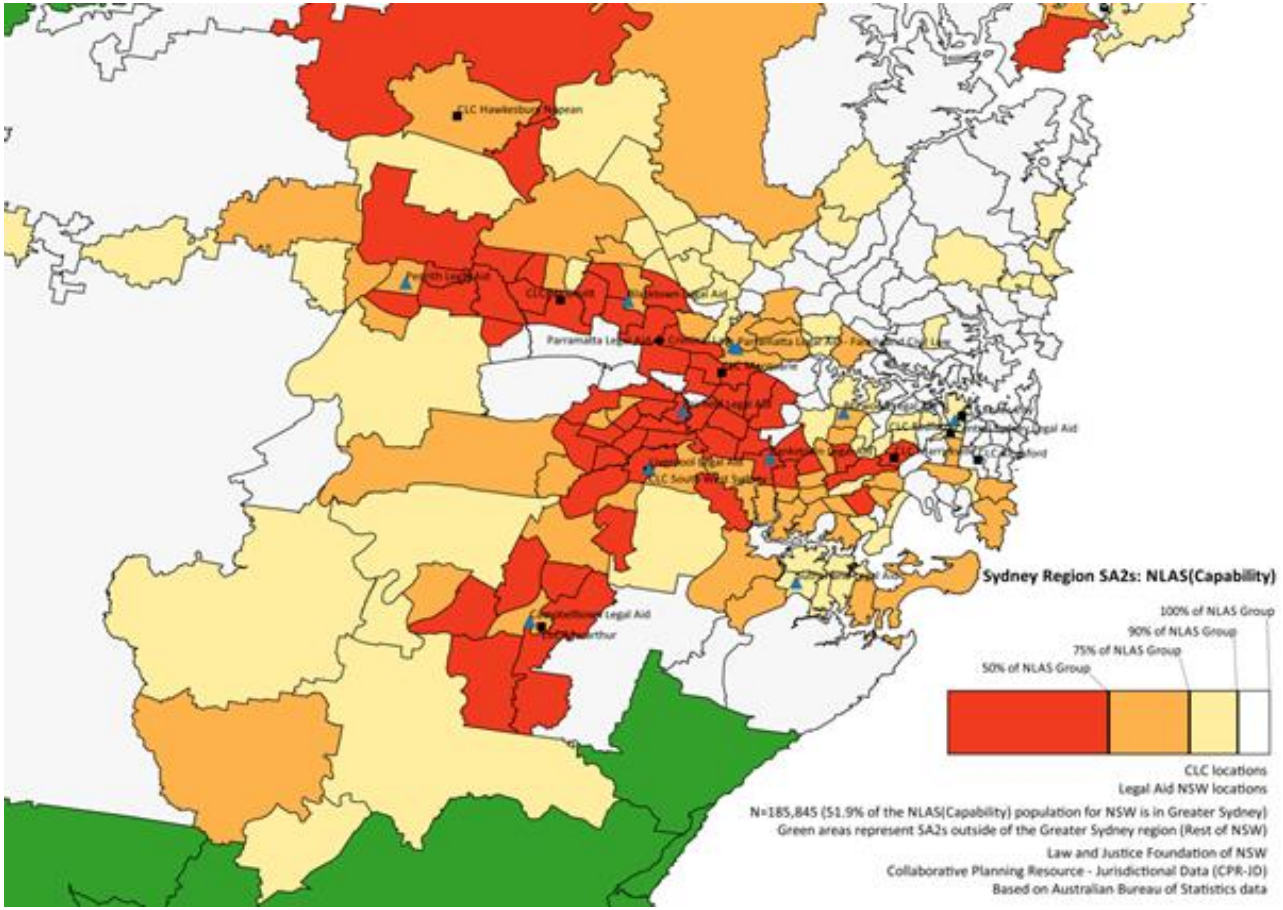
Greater Adelaide SA2s: NLAS(Capability)

N=66,294 (67.9% of the NLAS(Capability) for SA is in Greater Adelaide)

- Generalist services
- Specialist services
- Outreach locations

Law and Justice Foundation of NSW
Collaborative Planning Resource - Jurisdictional Data (CPR-JD)
Based on Australian Bureau of Statistics data

Sydney region: NLAS(Capability) with service locations by SA2



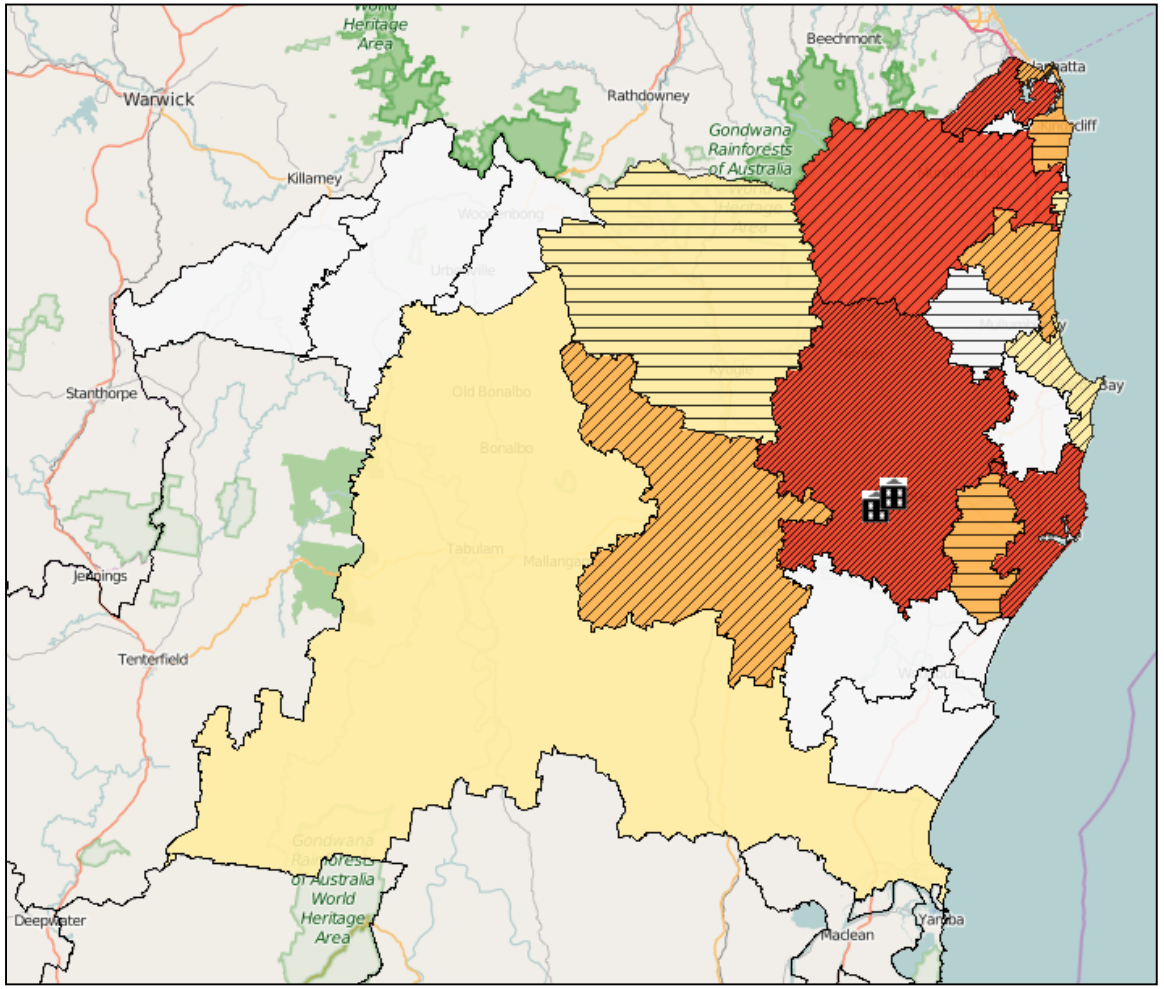
Where are services delivered?

NLAS(Capability) population and services provided by postcode – Proportion of residents (ABS, 2011) & proportion of services provided (All agency 2012-2013) by postcode

NLAS(Capability)
- 50% of NLAS group
- 75% of NLAS group
- 90% of NLAS group
- 100% of NLAS group

Number of services provided by postcode, all agency (2012-13)
- 50% of services provided
- 75% of services provided
- 90% of services provided
- 100% of services provided

Service locations



How and by whom, are services to be delivered?

- This is the 'missing information' that is essential for planning and funding allocation decisions
- There is an existing infrastructure – not a 'clean sheet of paper'!
- No sensible funding model (eg. for CLCs) possible without answering this question

(Criticism of 'historical and 'arbitrary' funding for CLCs, FVPLSs, etc probably justified, but in absence of the answer to this question – no alternative.)

What services, and who to deliver them?

- **Legal Assistance Services**
  - LA
  - CLC
  - ALS
  - FVPLS
- **Other**
  - Law Access
  - CJCs
  - Ombudsmen
  - Private lawyers (either in paid or pro bono capacities)
- **Modes of delivery**
  - Generalist
  - Specialist
  - Distance (remote)
  - Lawyer / ‘paralegal’?

Some differences: ‘legal & medical GP’

- Whole population v targeted (NPA) groups
- Ongoing relationships?
- Requirement to say “no”
- Much larger health infrastructure

But sufficient similarities

Who could provide (or host) the legal "GP" service?

- CLCs (centre/ outreach)
- LA (Office/ outreach)
- ALS ??
- Community/ Neighbourhood Centre (?) + legal outreach
  - CLC outreach
  - LA outreach
  - ALS outreach
  - Local solution?
- LawAccess?
- Pro Bono? (No)

CLCs	Legal Aid
Small, local (although level of engagement limited by capacity)	Larger, economies of scale, etc.
Can attract Pro Bono support as well as volunteers	Unlikely to attract Pro bono/ volunteers, save for law firm commitment to programs such as CLSD
Independent centres – need accreditation/ common practices to maintain consistency	Jurisdictional wide – maintains consistency
Legal representation (limited)	Legal representation (substantial)
Flexibility: in theory, not limited by government processes, this should be more flexible. However, this flexibility is, in fact, reduced or eliminated when funding is inadequate	Flexibility: Limited as a state ongoing, however, greater resources and state-wide structure provides significant flexibility
'independent' law reform	
Harder to maintain consistency and quality	Quality and consistency – easier to maintain
Cheaper (at least at salary level)	Possibly more expensive?
Not providing legal representation *(but what proportion require this?)*	
Multiple voices (association of 37 independent NGOs, no guarantee of consistency of approach)	

A funding model for LAS needs to:

- be based on:
  - Assessment of legal needs; their nature and location
  - Knowledge of what kind of service is appropriate to meet the particular need*
  - Focus on disadvantaged people (clients of LAS)
  - Client centred strategies

- recognise we are not working with 'a clean sheet of paper': In the context of the existing range of legal assistance services
  - 'patchwork' of services across the state

* *to the extent this is known*

Model 4 – all the above!

Who is the GP?

- Where there is an effective CLC → CLC
  - Lower cost than LA for 'GP' level work
- Where there is no CLC but LA → LA
  - LA
- Where there is neither LA or CLC, but there is ALS??
- Might ALS be appropriate place for GP for indigenous clients?
- Where there is no LAS, how to provide services?
  - Outreach (+ local community services)?
    - Eg. LAS + network of neighbourhood centres
  - ***New service? Which?***

Future steps

- Develop LAS 'GP' capability 'package'
  - Skills, capability, training, etc
- Develop specialist model?
- Implement and trial
  - 3 (?) regional areas
  - SW or Western Sydney

(possibly linked to collaborative planning trial)

Specialist Services

- *Representation* as a specialist service
- What other special services are needed?
- How are they to operate?
- How are they to integrate into planning process?
- Who should provide them?

A strategic planning model

- Levels of strategy
- Planning LAS - levels of strategy
- Planning thinking
- Planning – to use what resources
- Planning cycle

Further provisos + context

- Planning infrastructure less well developed – resources needed
- Best approach nationally, but possible just within NSW
- Recognises context of some state wide services (eg. LA) and some independent services eg. CLCs
- NOT suggesting “buckets of money” allocated to regions…
- Seeks to apply principle: responsibility delegated to level best able to exercise it

Levels of strategy

Grand or 'National' strategy

- Governments / politics, economics, social services, education, etc.

Military strategy (or diplomatic strategy/ health strategy etc)

- Based on overall direction set by grand strategy
- Role military plays in achieving the grand strategy

The operational level

- Between highest level and local detail
- Bridge governments overall aim and tactics used to achieve them

The tactical level

- The detail – the level that battles are fought

Planning thinking: three phases/ iterative

1. Top down direction

- Think two-down
- Task/ allocate one-down

ie strategic/ national level:

  - Think of needs of regional/ local level to then allocate resources/tasks at jurisdictional level

- 'Initial' state plan

2. Bottom up detailed planning

- Think two-up (ie 'intent' of two levels above)
- Back brief/ draft plan one-up

3. Consolidation: Regional plans to final State plan

Planning: National/ strategic level (the NPA level)

- Set priorities
- Allocate resources
  - (think down to regional level but allocate to jurisdictional level)
- Secure cross sectoral support
  - Facilitate between and within state and commonwealth levels
- Set standards
  - To include: unit of service standards; minimum service standards
- Establish monitoring/ evaluation mechanisms
  - Monitor delivery quality
  - Monitor delivery to need
  - Identify gaps

Planning: Jurisdictional/ state level

- Confirm/ set priorities
- Allocate resources
    - (think down to local/ organisational level, but allocate to regional level (within structures)
- Secure/ enforce cross sectoral support
- confirm/ set standards
- Implement monitoring and evaluation mechanisms

Planning: Regional/ local level

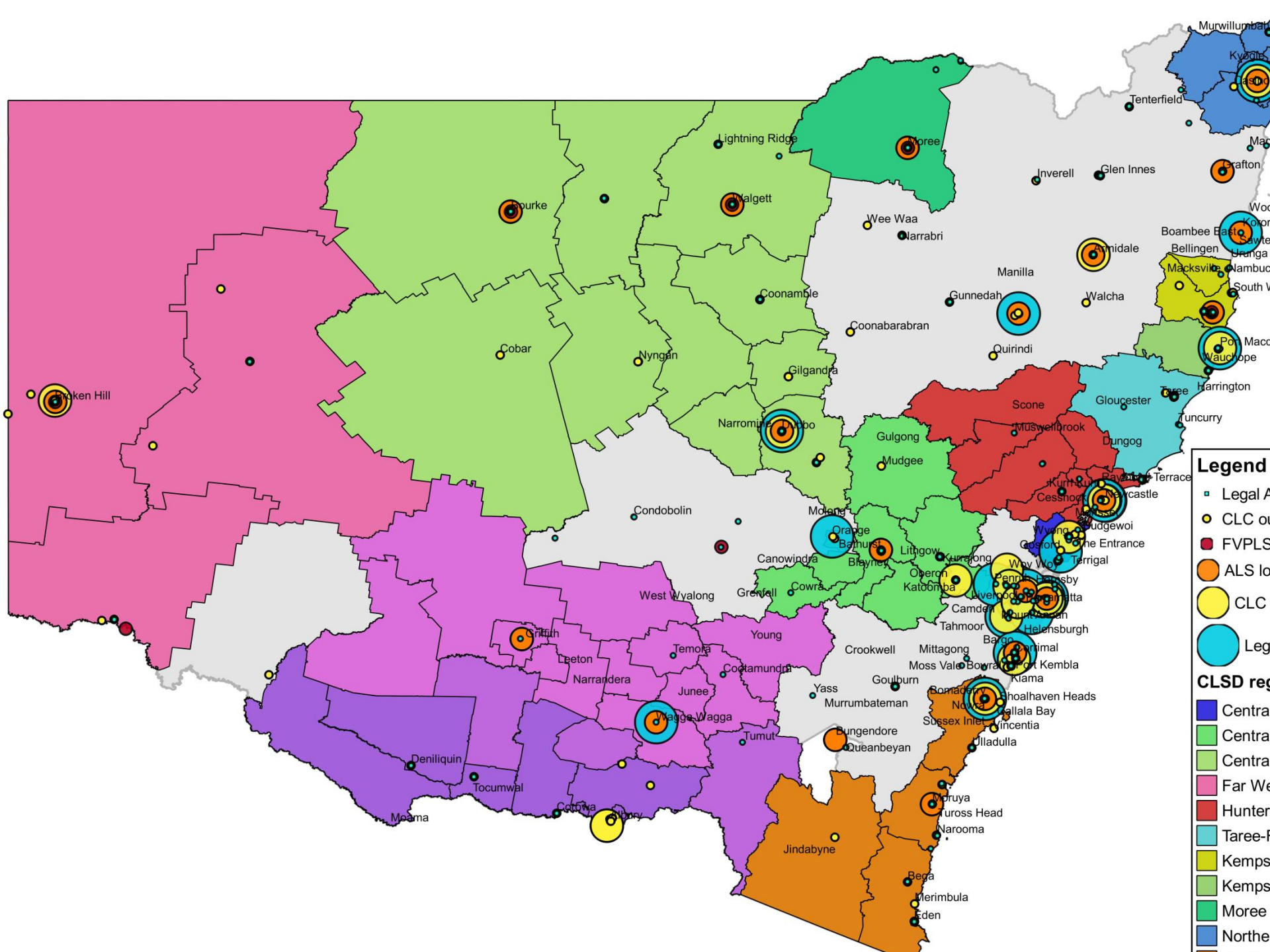
- Detailed local planning and collaboration
- Local plans to take into account actual resources + demand in specific contexts + local demographic/ transport/ other data
- Best practice for service design

(eg: CPR-SP tool)

NSW Collaborative Planning - Regional

Increased DoJ engagement (minor), which can facilitate:

- Developments and templates
  - State plan
  - Regional plan
- Facilitation of planning events/ meetings
- Coordination of data/ information to support planning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Bourke
Walgett
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Armidale
Boambee East
Bellingen
Coonamble
Manilla
Gunnedah
Walcha
Coonabarabran
Quirindi
Cobar
Nyngan
Gilgandra
Broken Hill
Narromine
Dubbo
Scone
Gloucester
Harrington
Tuncurry
Gulgong
Mudgee
Dungog
Cessnock
Newcastle
Condobolin
Molong
Orange
Bathurst
Lithgow
Canowindra
Blayney
Kurrajong
Oberon
Katoomba
Gosford
The Entrance
Terrigal
Wyong
Cowra
Grenfell
West Wyalong
Camden
Tahmoor
Helensburgh
Young
Griffith
Temora
Leeton
Narrandera
Coolamundra
Crookwell
Mittagong
Moss Vale
Bowral
Kiama
Goulburn
Yass
Murrumbateman
Junee
Wagga Wagga
Nowra
Shoalhaven Heads
Sussex Inlet
Vincentia
Tumut
Bungendore
Queanbeyan
Ulladulla
Deniliquin
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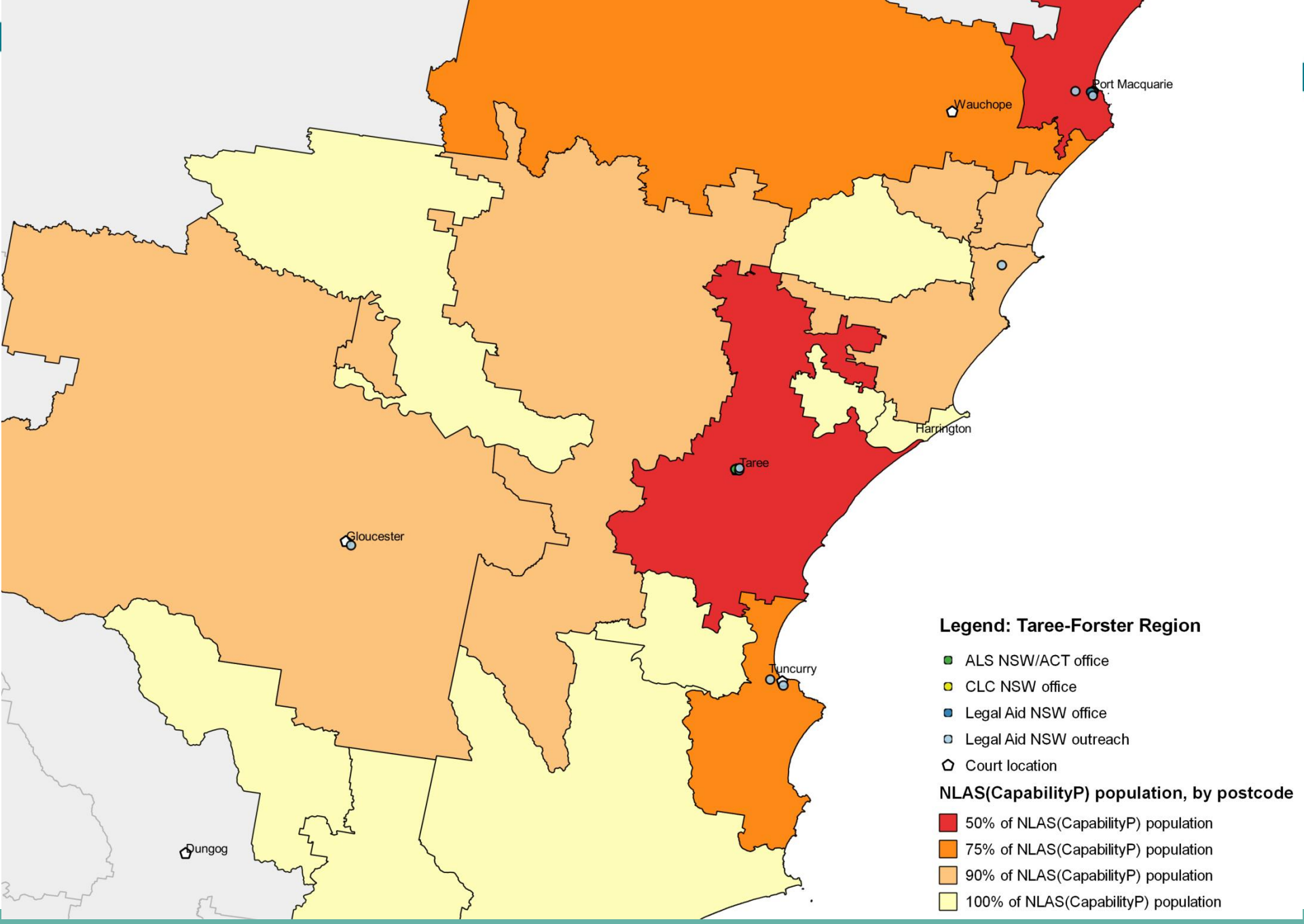
Port Macquarie
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Harrington
Taree
Gloucester
Tuncurry
Dungog
Legend: Taree-Forster Region
ALS NSW/ACT office
CLC NSW office
Legal Aid NSW office
Legal Aid NSW outreach
Court location
NLAS(CapabilityP) population, by postcode
50% of NLAS(CapabilityP) population
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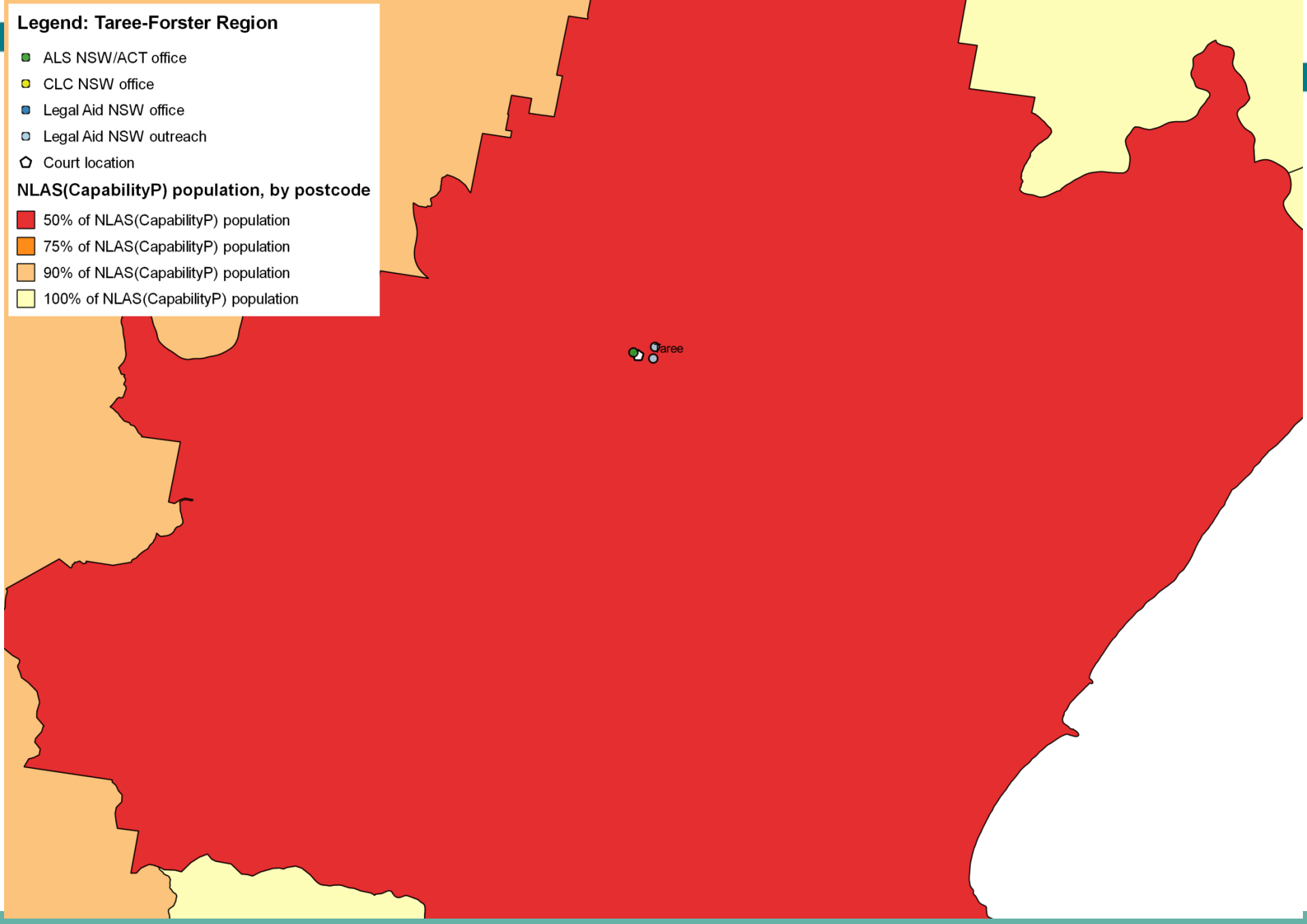
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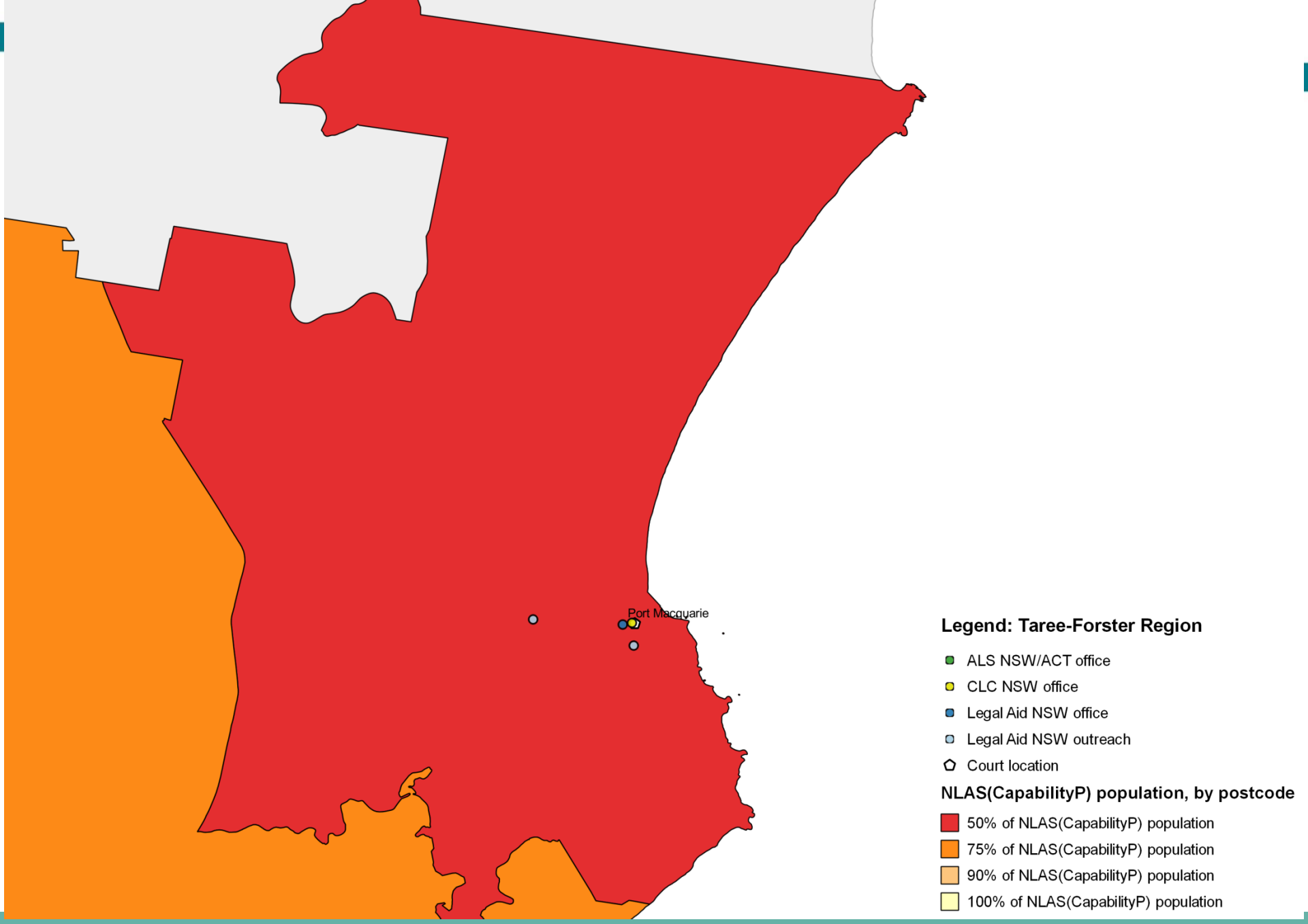
Taree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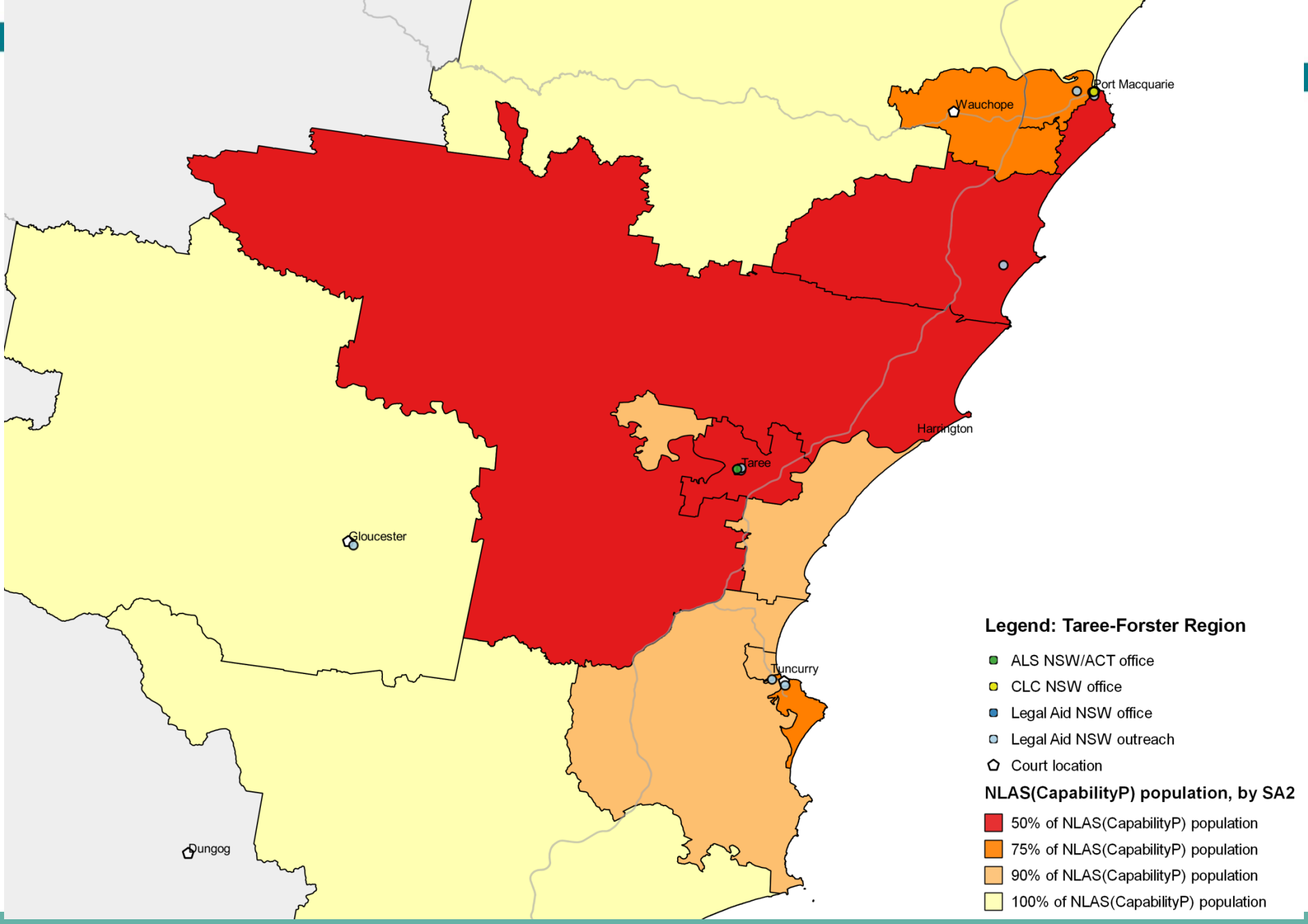
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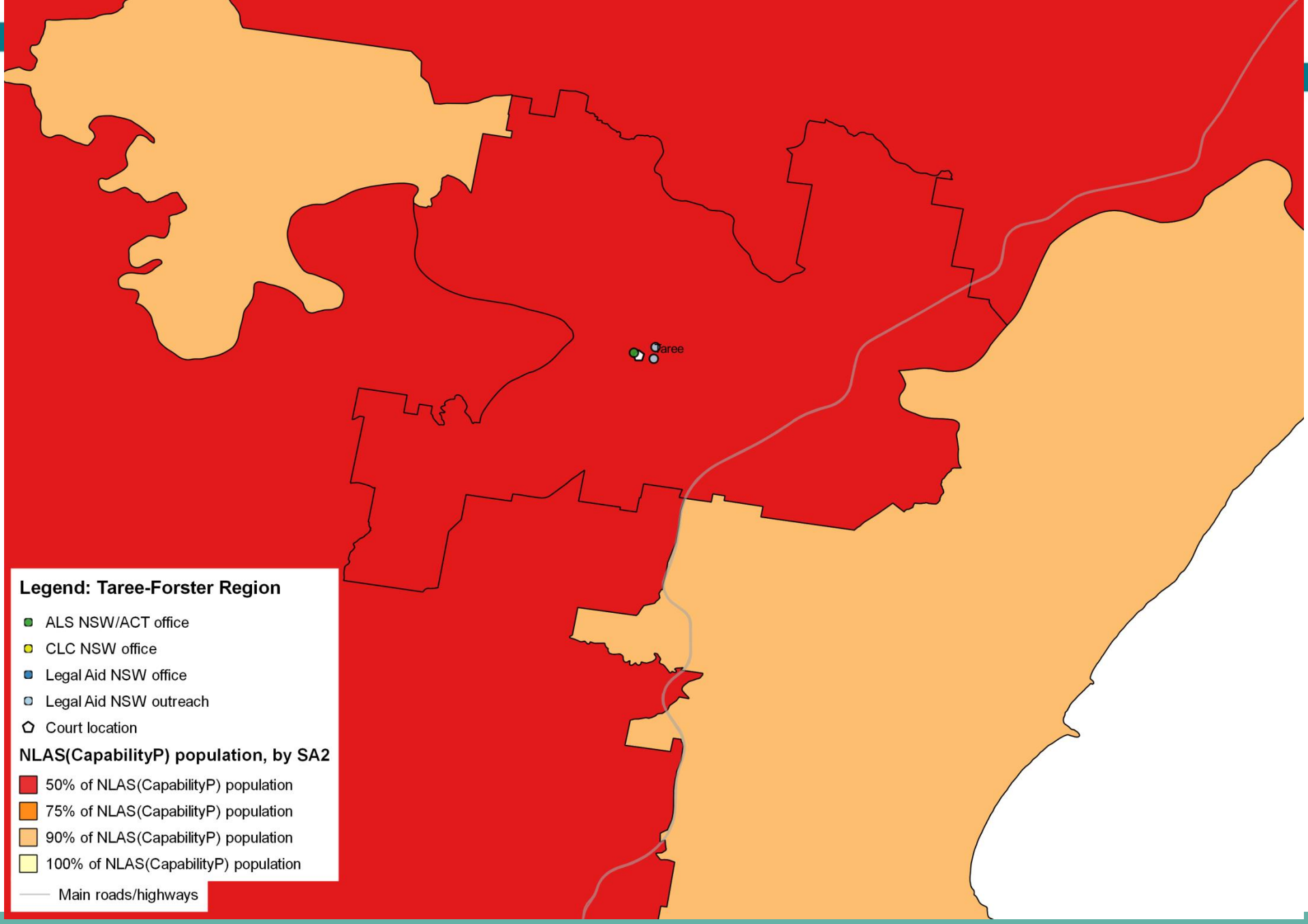
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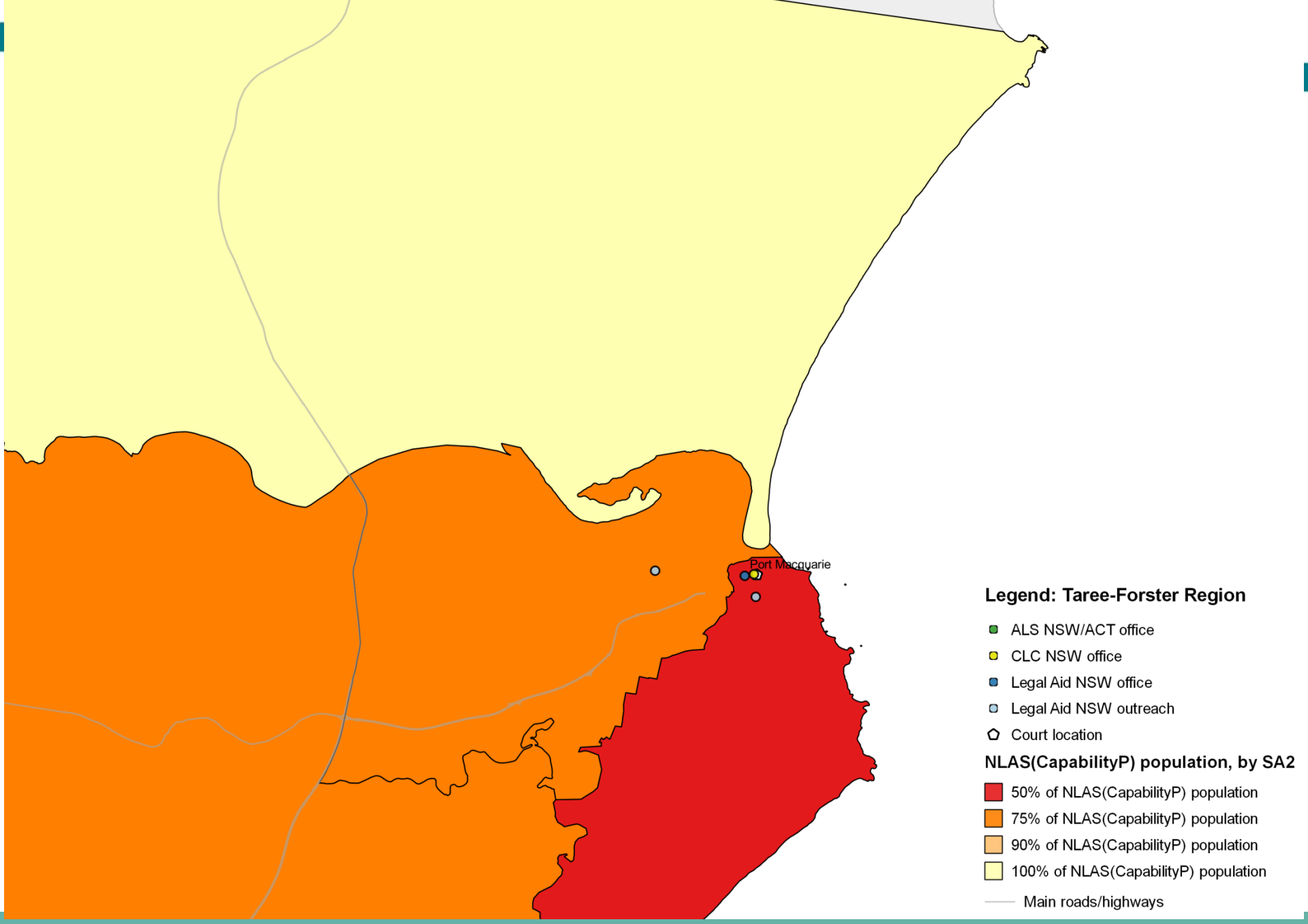
Main roads/highways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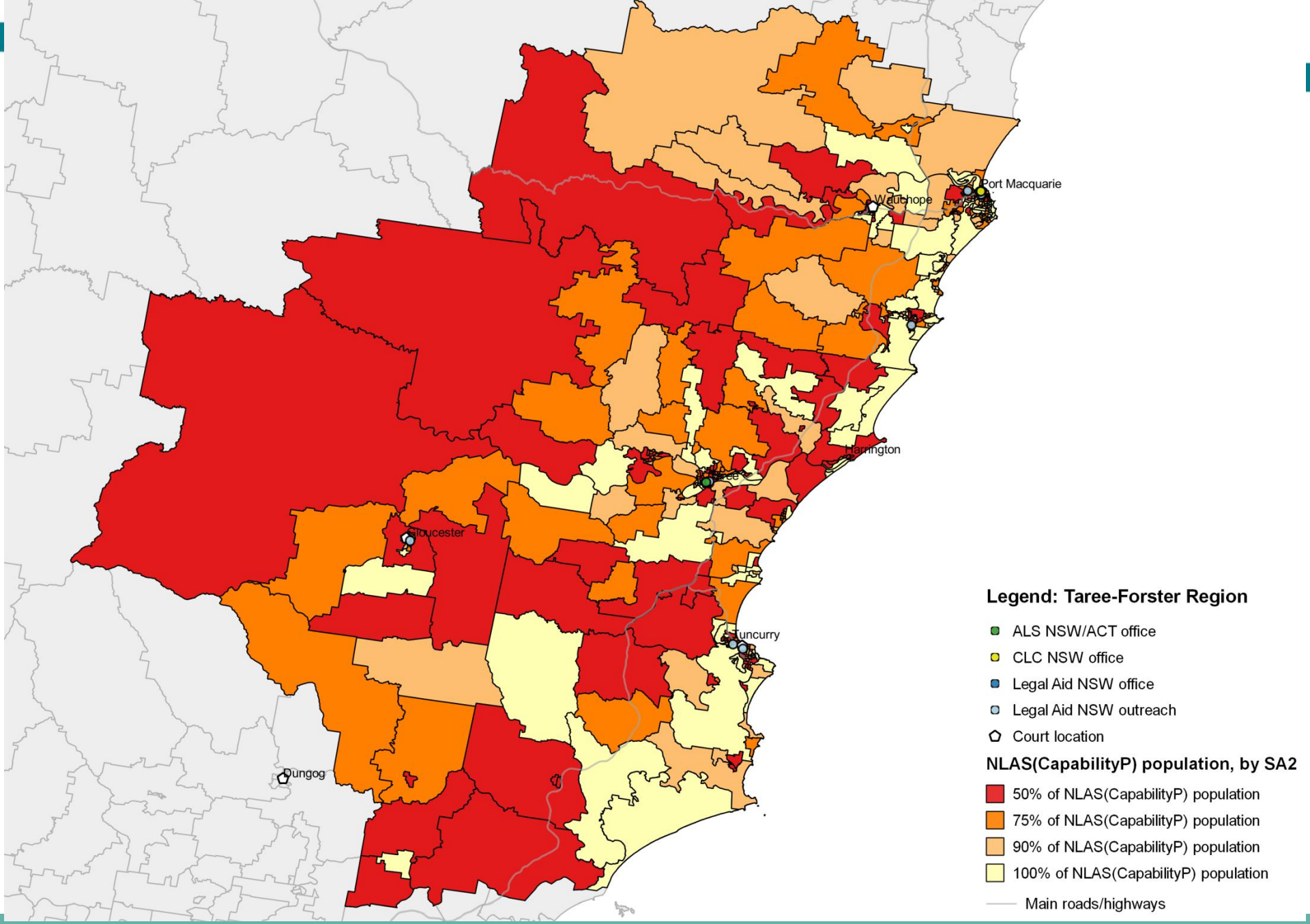
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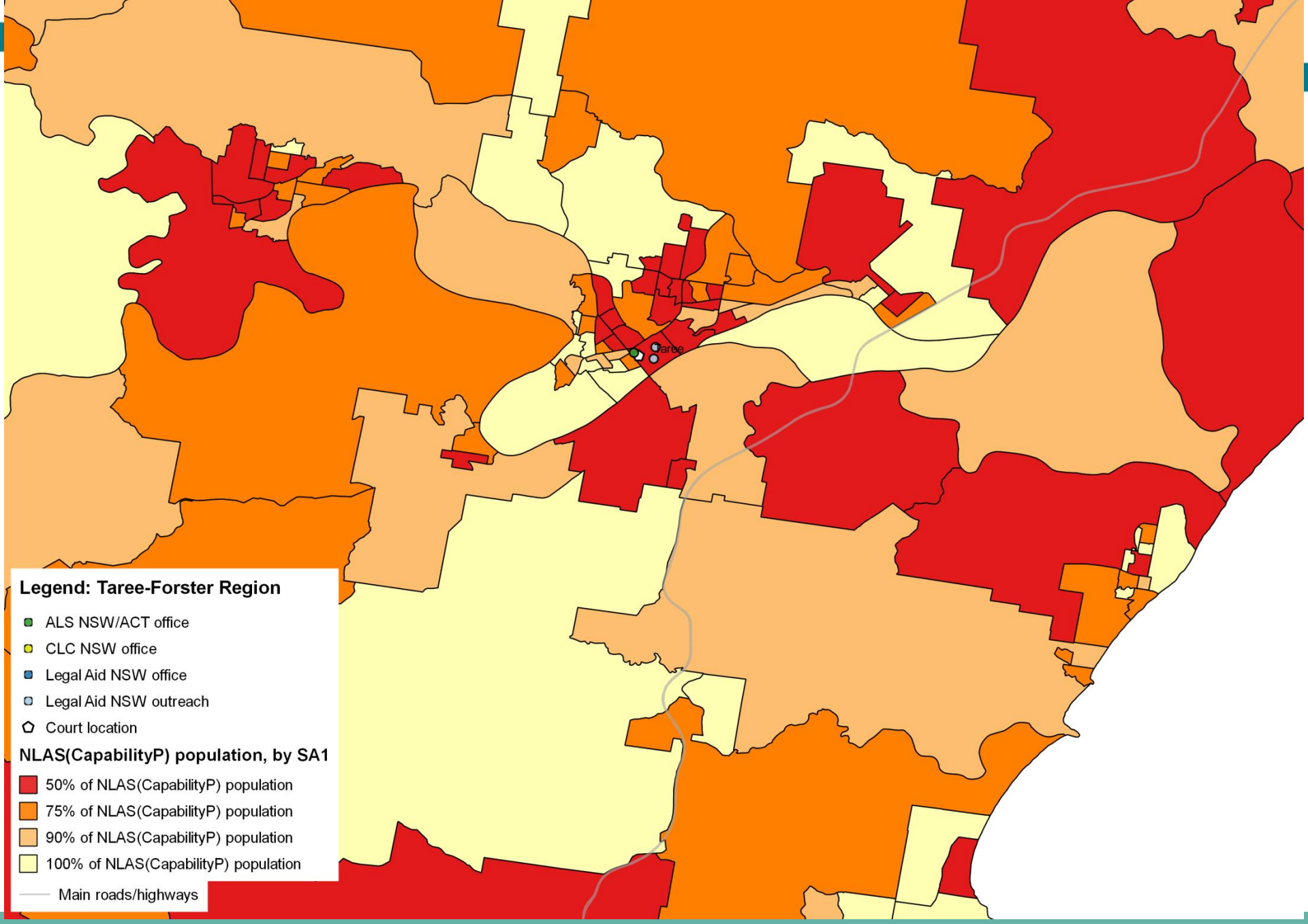
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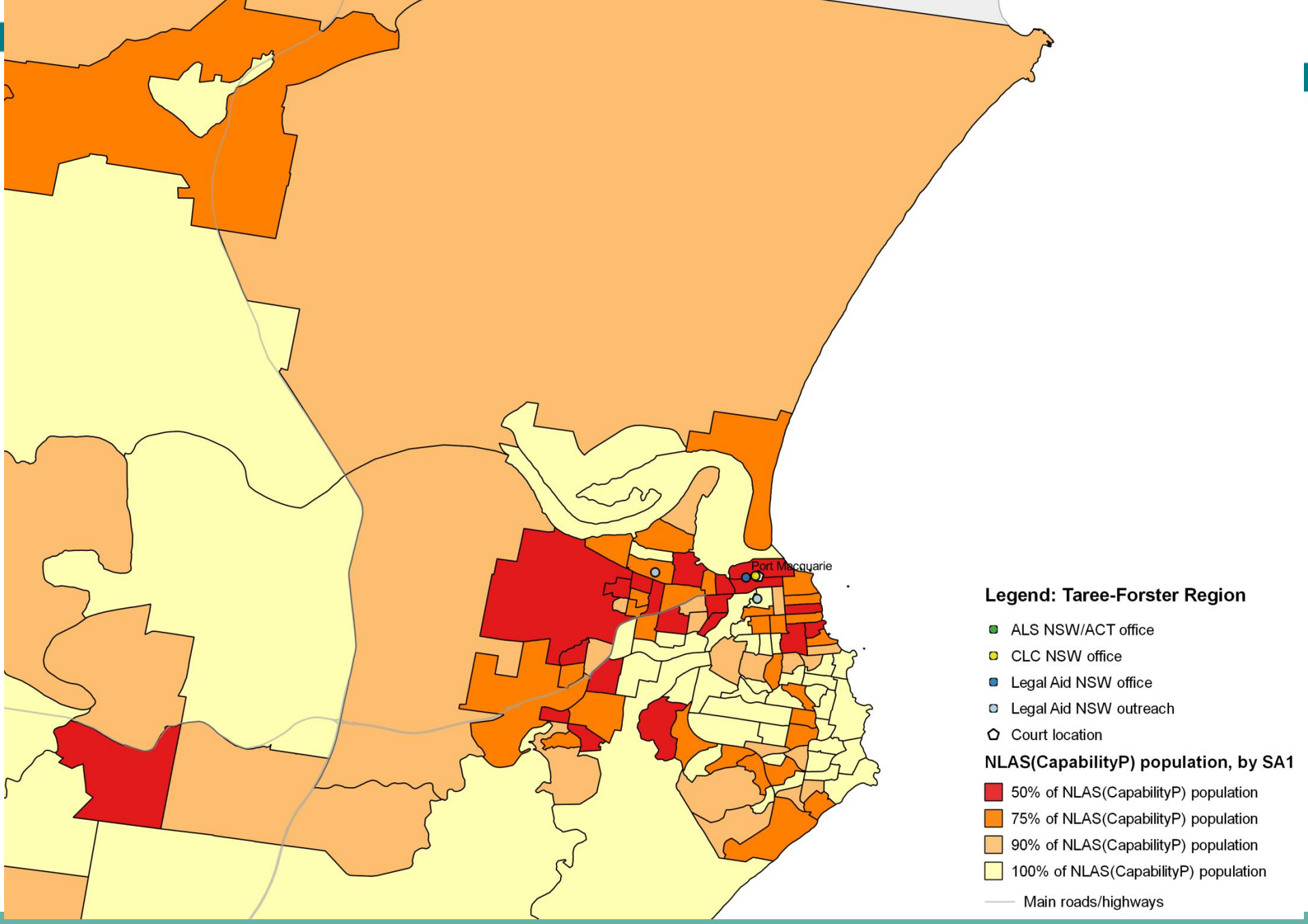
Main roads/highways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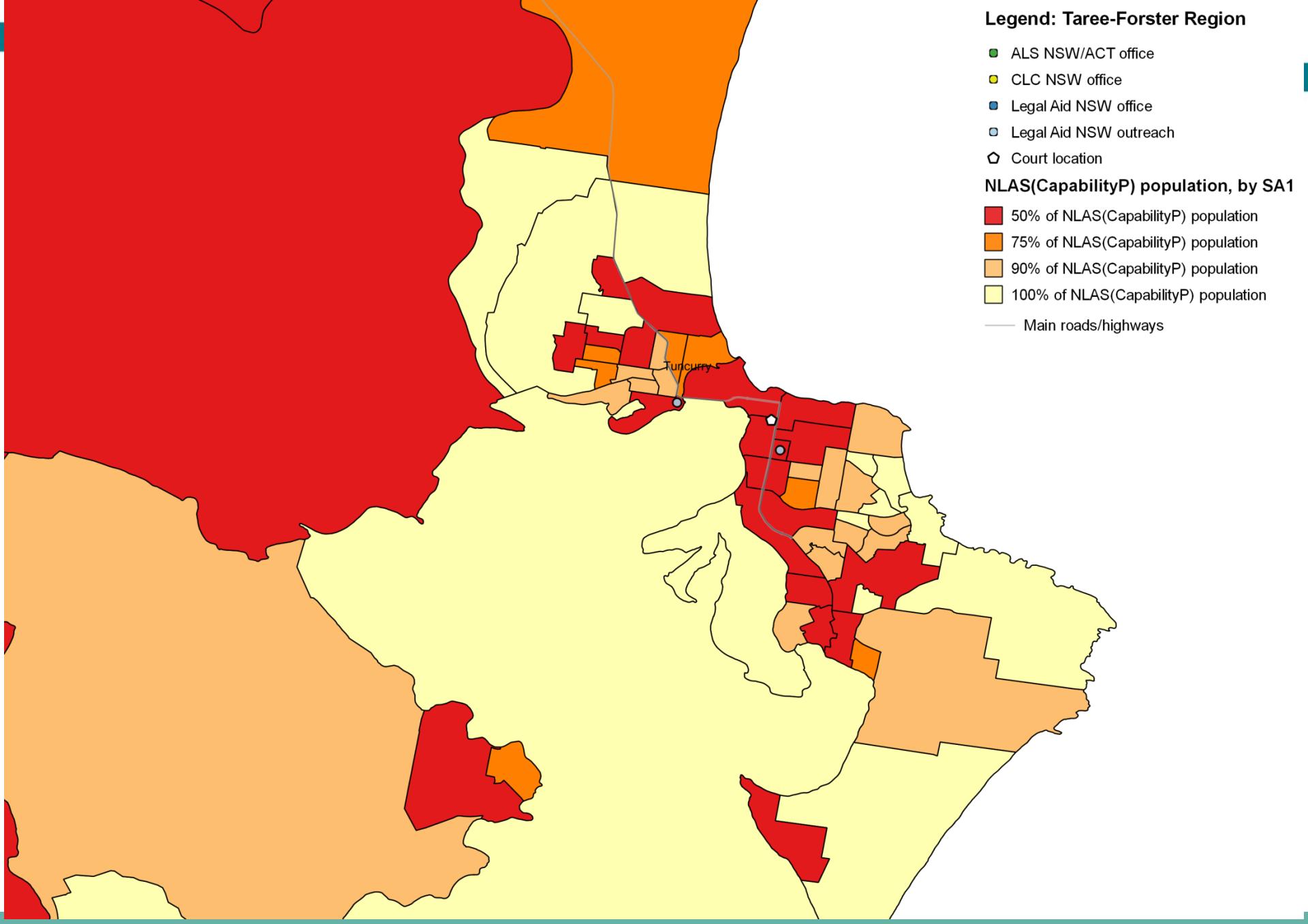
Main roads/highways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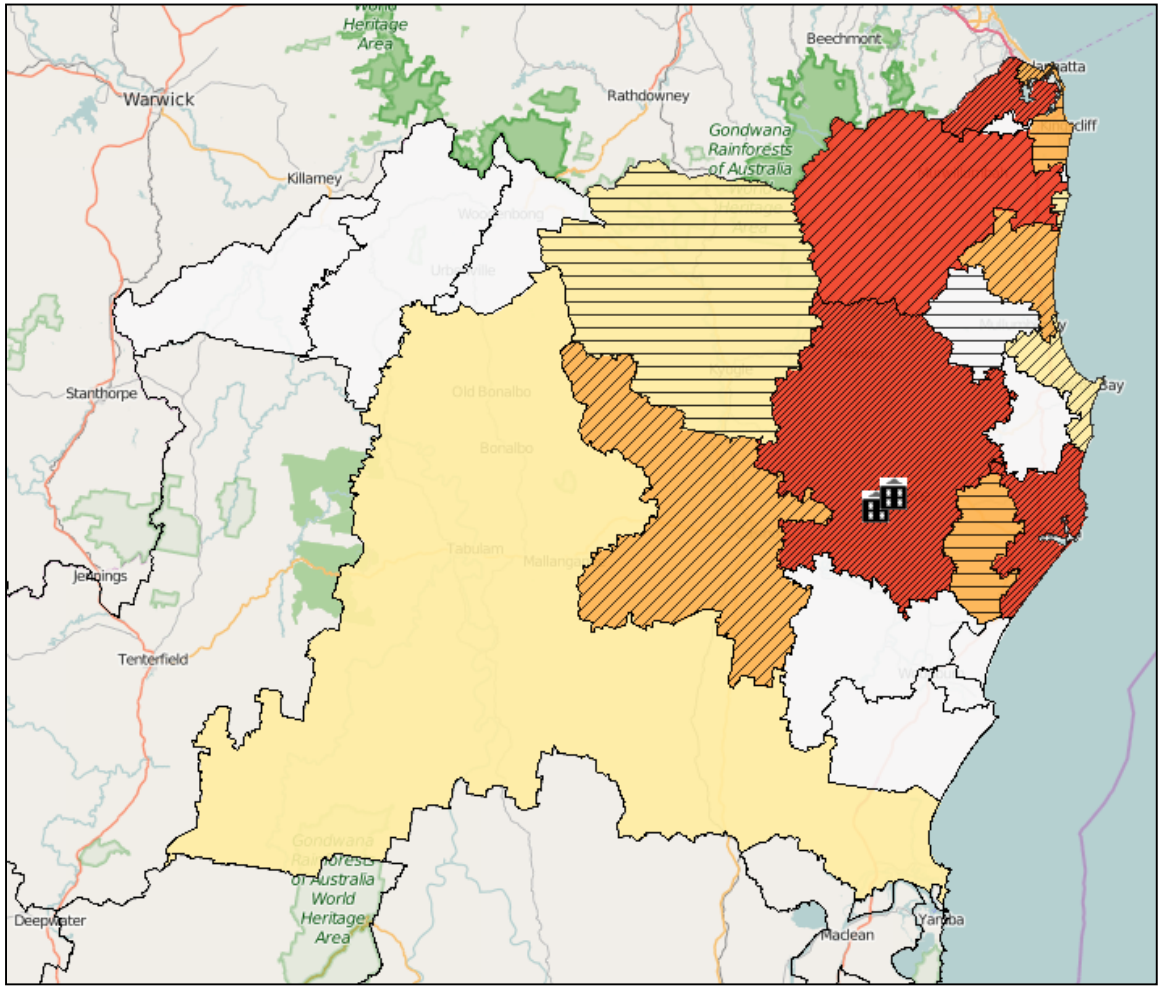
Main roads/highways
Tuncurry

NLAS(Capability) population and services provided by postcode – Proportion of residents (ABS, 2011) & proportion of services provided (All agency 2012-2013) by postcode

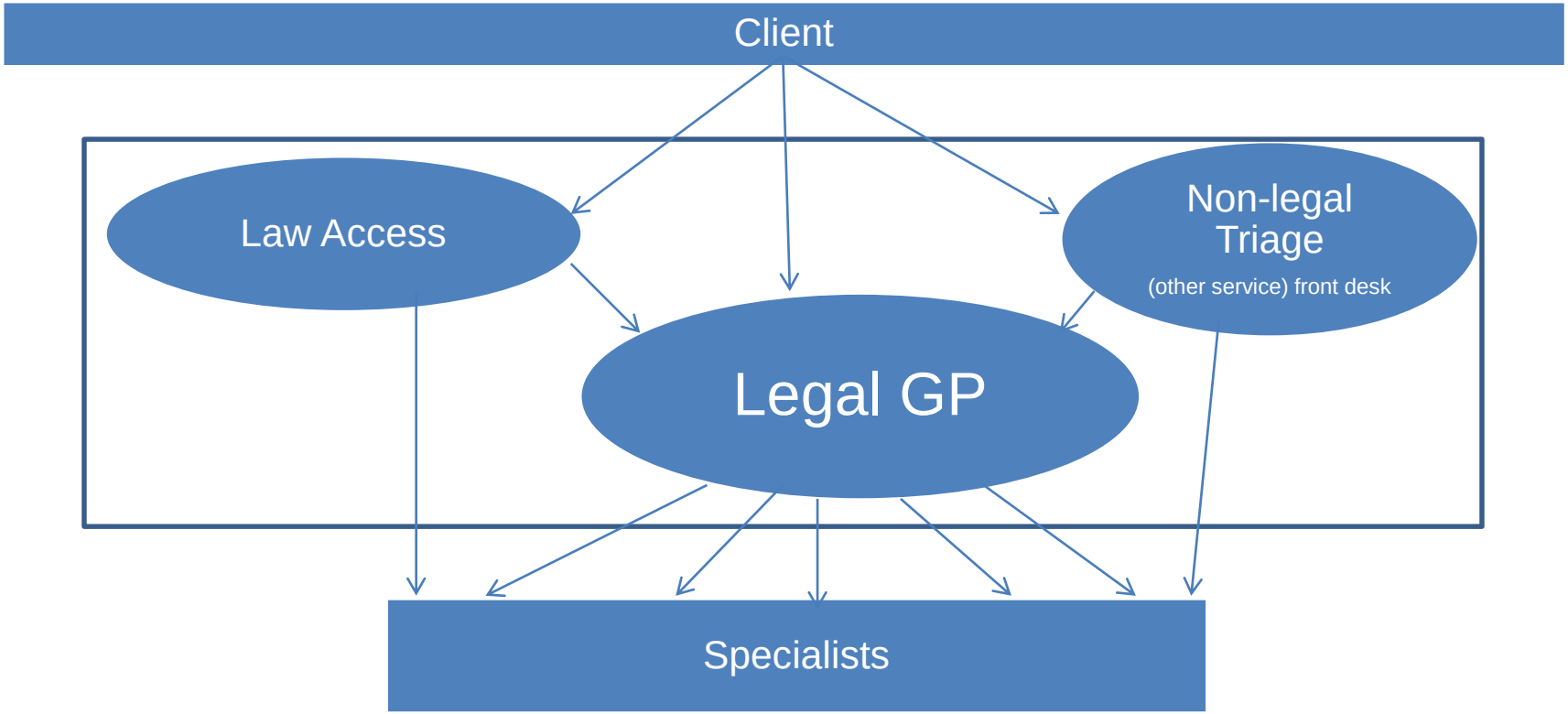
NLAS(Capability)
- 50% of NLAS group
- 75% of NLAS group
- 90% of NLAS group
- 100% of NLAS group

Number of services provided by postcode, all agency (2012-13)
- 50% of services provided
- 75% of services provided
- 90% of services provided
- 100% of services provided

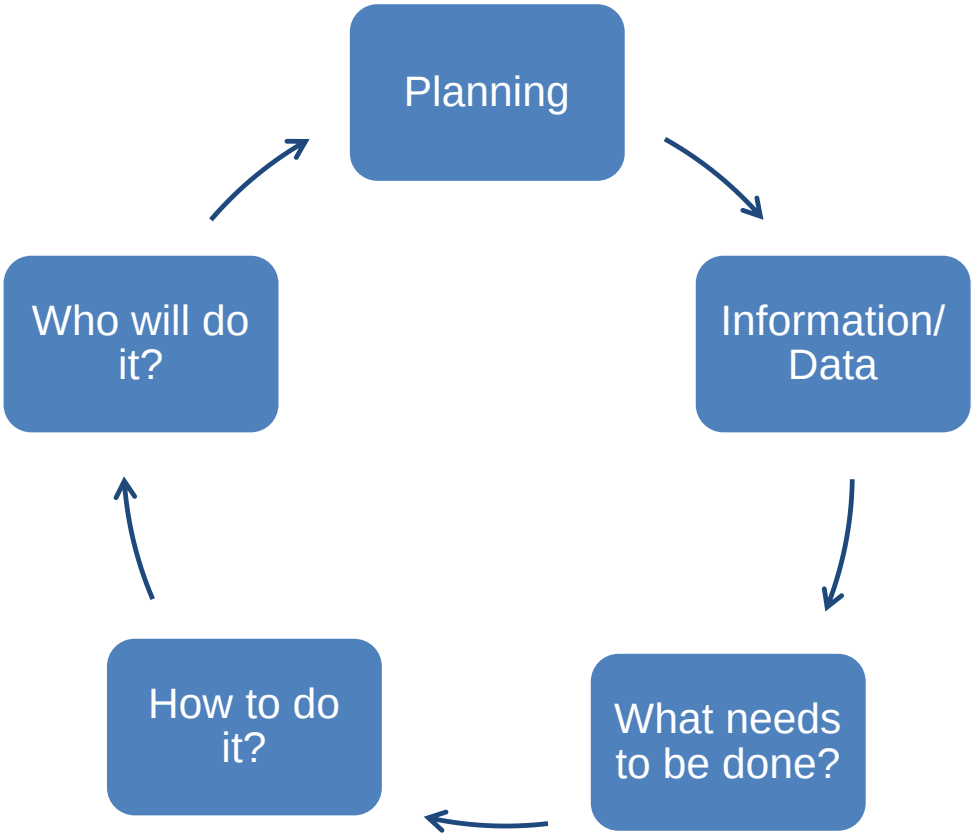
Service locations



Broader triage model



What is this about and why?



Model 2 (a): one agency does it all

- CLE/ CLI*
- Information
- (Triage (+LHC), referral, Case management)
- Minor assistance
- Advice
- Legal representation/ casework
- Specialist/ advice/ court work (litigation/ criminal defence)

All one agency

*delivery

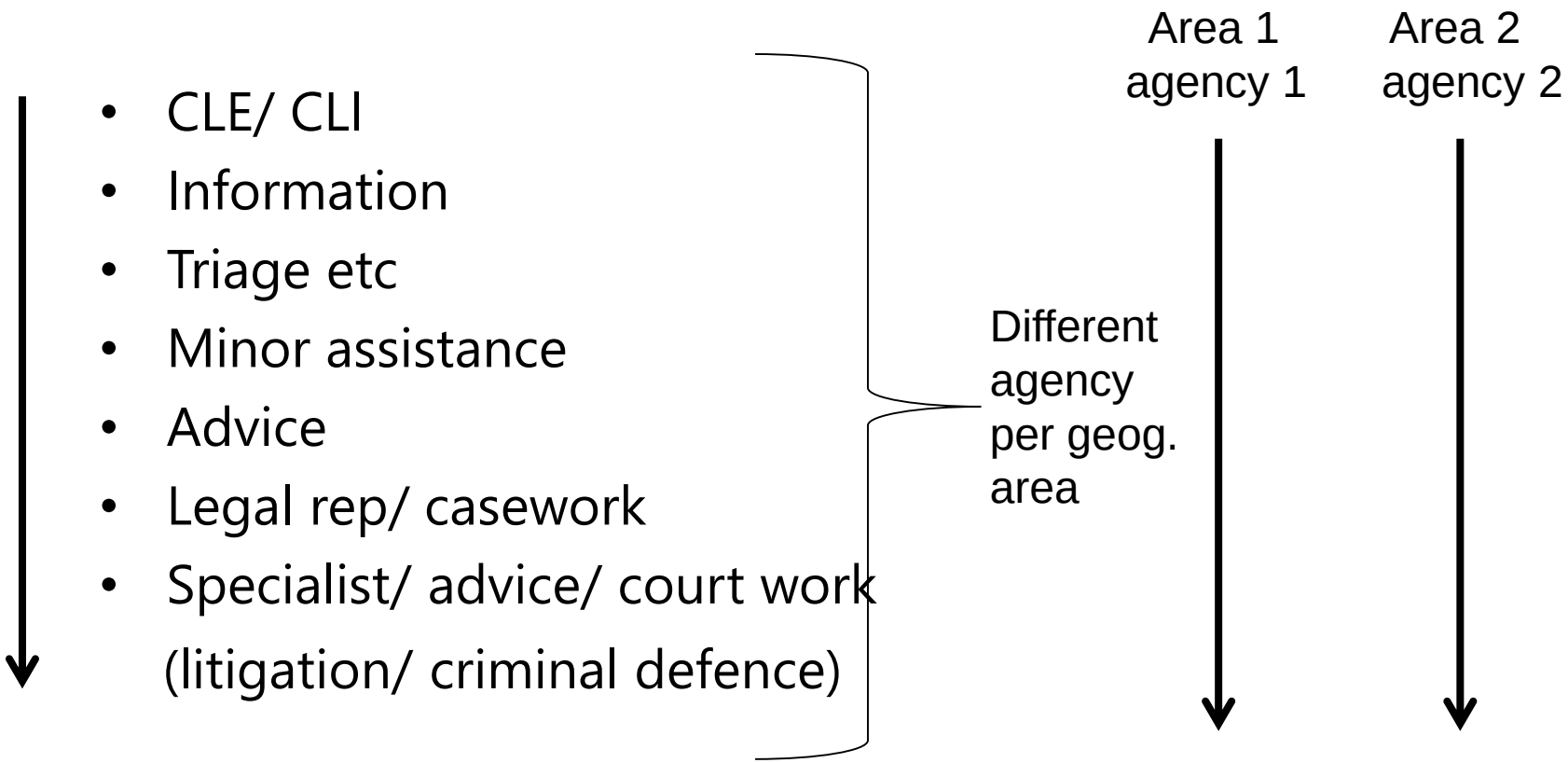
Model 2 (b): targeted at priority groups

- CLE/ CLI *
- Information
- Triage etc
- Minor assistance
- Advice
- Legal rep/ casework
- Specialist/ advice/ court work (litigation/ criminal defence)

Different agency per group

Group 1 agency1

Group 2 agency 2

*delivery

Model 2 (c): Geographical reality