

Inquiry into Regional Planning processes in NSW

February 2016



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Centroc's Mission is to be recognised as the lead organisation advocating on agreed regional positions and priorities for Central NSW whilst providing a forum for facilitating regional co-operation and sharing of knowledge, expertise and resources; effectively nurturing sustainable investment and infrastructure development.

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5 February 2016

Reference bw:vp 021605
Enquiries: Ms J Bennett: 0428 690 935

The Director
Standing Committee on State Development
Parliament House
Macquarie St
Sydney NSW 2000

To whom it may concern,

Re: Inquiry into regional planning processes in NSW

Central NSW Councils (Centroc) represents over 243,000 people covering an area of more than 72,500sq kms comprising the Local Government Areas of Bathurst, Blayney, Boorowa, Cabonne, Cowra, Forbes, Lachlan, Lithgow, Mid-Western, Oberon, Orange, Parkes, Upper Lachlan, Weddin, Young and Central Tablelands Water.

It is about the same size as Tasmania with half the population and a similar GDP.



Centroc's vision is to be recognised as vital to the sustainable future of NSW and Australia.

Its mission is to be recognised as the lead organisation advocating on agreed regional positions and priorities for Central NSW whilst providing a forum for facilitating regional cooperation and sharing of knowledge, expertise and resources.

Centroc has two core objectives:

1. Regional Sustainability - Encourage and nurture suitable investment and infrastructure development throughout the region and support members in their action to seek from Governments financial assistance, legislative and/or policy changes and additional resources required by the Region.
2. Regional Cooperation and Resource Sharing – Contribute to measurable improvement in the operational efficiency and effectiveness of Member Councils through facilitation of the sharing of knowledge, expertise and resources and, where appropriate, the aggregation of demand and buying power.

Fit for the Future 

Centroc was selected as one of five regional pilot Joint Organisations to assist the NSW Government strengthen and reform local government.

The Centroc Board is made up of the 32 Mayors and General Managers of its member Councils who determine priority for the region. These priorities are then progressed via sponsoring Councils. For more advice on Centroc programming and priorities, please go to our website <http://www.centroc.com.au>

We understand the terms of reference to be:

- (a) opportunities to stimulate regional development under the planning framework including through legislation, policy, strategy and governance.
- (b) constraints to regional development imposed by the planning framework, and opportunities for the framework to better respond to regional planning issues,
- (c) the suitability of a stand-alone regional planning Act,
- (d) the effectiveness of environmental planning instruments including State Environmental Planning Policies and Local Environmental Plans (including zoning) to stimulate regional development, and opportunities to improve their effectiveness,
- (e) opportunities to increase delegations for regional councils in regard to the planning making processes,
- (f) opportunities for strategic planning to assist in responding to challenges faced by communities in regional areas including through Regional Plans.
- (g) opportunities for government-led incentives that promote regional development,
- (h) pathways to improve decision making processes for regional development proposals, including increasing the use of complying development, improving negotiation processes for voluntary planning agreements, and reducing costs associated with assessment, and
- (i) any other related matter.

In the first instance the Centroc Board would like to acknowledge the efforts the NSW Government is going to in undertaking regional planning. While there are challenges, taking consideration of the regions and their potential to do more in building the economy and liveability of NSW is a very worthwhile activity.

As a Pilot Joint Organisation Centroc has for the past twelve months, had the task of regional planning and prioritisation. We base our comments on this work, feedback from members and a meeting attended by General Managers and Planners from the region 26 November 2015.

Overall we believe that there is an opportunity to be more effective through taking a regional strategic approach and looking at regional planning with new eyes.

It appears to this region that land use planning is too narrowly defined. We would argue that a more integrated and strategic approach should be adopted and that effort should be undertaken to develop a planning and prioritisation framework to stimulate regional economic development. Put simply, planning should be about enabling economic growth in this region, not a metro focussed compliance driven activity informed by trying to squeeze another 2 million people into Western Sydney.

We would suggest that 'growth' in NSW is understood as population growth where this region and arguably much of NSW has concerns regarding the methodology used for calculating population growth and decline. We would suggest that regional growth should be more about economic contribution and its enablement. This region needs to plan to ensure it has the freight links, water supply, broadband capability, social structures and services, access to skills and the like; to sustain and grow our economy. Planning advice should inform a raft of activities including land use planning and control. Instead we have to manage death by a thousand cuts, as services and infrastructure are either provided or withdrawn inflexibly on the basis of capitation using, we believe, a flawed methodology.

Further, we need to manage the economic shocks of changes to mining and manufacturing. This is particularly challenging for smaller communities and the advice from the Mining Taskforce in this region is integral to building capacity to manage those shocks.

The region is concerned that there has been a hesitancy to embrace the potential of regional planning. We believe that this because there is a fear of over commitment and being held to account. We would argue that while there will always be politics, through the *Integrated Planning and Reporting* framework our communities are becoming more sophisticated in their understanding of planning and prioritisation. Not everything needs to come with immediate funding and it is better to be aspirational than not.

Overall, regional planning, particularly land use planning, is currently in a state of at best change and at worst churn.

Planning:

- is poorly understood;
- needs to be approached more strategically and in an integrated manner;
- suffers from churn, centralisation and sectoralisation and so needs enablement in the region through better resourcing and appropriate delegation;
- is confused with a number of organisations taking a strategic approach to "regional development" with variable alignment and approaches across the State;
- has a chequered history of engagement, alignment with local priorities and delivery of commitments in the development of plans in the region (for example TfNSW Plans);
- is poorly informed where there are significant challenges on getting useful data; and
- has ongoing issues as a result of boundary alignment, or lack thereof, though it is pleasing to see an improvement in this area in recent years.

(a) opportunities to stimulate regional development under the planning framework including through legislation, policy, strategy and governance.

This region has always argued that:

- One size does not fit all;
- Local communities should have land use planning control;
- Councils in this region have varying capacity to be able to resource the strategy to inform land use planning and stimulate economic development;
- Data is crucial to taking an evidence based approach to planning and all State agencies should be required to provide advice on their data so communities can inform themselves when developing strategy, cf the Bourke Justice Reinvest Project;
- The “Regional Impact Statements” of Legislation need to be optimised either through legislation or elsewhere. A salient example is the introduction of regulatory change requiring 14 days pre-assessment notice on complying development applications. This was a nonsense in this region and while its recent removal was welcome, if the “Regional Impact Statements” asked for advice from us, or listened to it when provided, the original administrative error would not have occurred;
- A consistent application of scenario planning tools should be applied regionally across the State, preferably developed under the auspices of the Department of Planning;
- Effort needs to be undertaken regionally, preferably co-ordinated through the Department of Premier and Cabinet; on legislative rollout that affects Local Government, the recent changes to the Health Act on drinking water quality being a case in point, please see the case study below; and
- Further alignment of boundaries should occur where possible and if not other mechanisms come into place to facilitate regional place based planning.

Our members also provide the following feedback:

- Some Centroc member Councils are impacted by significant parcels of State forest that do not pay rates but impact the road network.
- Bio-banking locking up land as energy offsets is also emerging as an issue as the land is not typically well managed from a weeds, pests and feral animal perspective.
- Concerns that there is not sufficient planning guidance/control for the development of wind farms.

We therefore suggest that to stimulate regional development under the planning framework including through legislation, policy, strategy and governance:

- the template approach designed to manage urban growth in metropolitan Sydney has not worked for this region and should be either amended substantially or scrapped;
- Planning and prioritisation frameworks be put in place that support cross sectoral, integrated and aligned effort to be undertaken regionally;
- The frameworks are properly resourced and have appropriate delegation;
- These frameworks include a place based approach;
- There be an ongoing effort to align planning boundaries around place where cross sectoral planning occurs;

- A consistent application of scenario planning tools should be applied regionally across the State, preferably developed under the auspices of the Department of Planning;
- Effort being undertaken to optimise legislation through better application of the regional impacts in the development of legislation;
- An audit of lga and regional “capability” be maintained that identifies the potential for regional lgas to support development;
- The State Government could look at incentives to invest in regional areas such as tax concessions or a first home buyers’ scheme for to everyone buying a home or investment property in a regional area;
- Changing policy setting enable a diversity of urban water use, for example, of the storm water recycling system at Orange;
- Offer flexibility in secure yield modelling, for example use international best practice stochastic models, to enable better and faster delivery of strategic work in water security;

We would argue that a regional planning framework should be set in stone through legislation to ensure an agreed and consistent process is adequately resourced. Given the potential for political reversals as has happened in Queensland, the plans themselves need not be Statutory– but rather used to inform activity at the State, regional and local level in support of communities.

Case Study: The introduction of Drinking Water Management Plans by NSW Department of Health

Problem: Poor introduction to Local Water Utilities (LWUs) of legislation/regulation regarding the management of the supply of drinking water by the Department of Health (DOH).

Summary of Implementation in the Centroc region

- The NSW Public Health Act 2010 and Public Health Regulation 2012 have requirements of Local Government LWUs in relation to safety measures for drinking water including a quality assurance program that must address the elements of the Framework for Drinking Water Quality as set out in the *Australian Drinking Water Guidelines* (ADWG) developed in 2004 and reissued in 2015.
- In this region there was no co-ordinated collaborative work on the implementation of these legislative requirements with Local Government. Instead the focus was on the development of Drinking Water Quality Management Plans (DWQMs) without reference to broader Local Government responsibilities, other water planning processes and often undertaken at arms distance from the LWU.
- Three member Councils were asked by the Public Health Unit (PHU) to trial DWQM plan development with DOH funding to inform the development of the NSW Guidelines. These included Lithgow, Lachlan and Cabonne.
- The funding was extended to Boorowa, Oberon, Forbes, Cowra, Parkes and Central Tablelands Water for the development of Plans under an adhoc process without a formal application.

- Consultants were procured by NSW Health Water Unit with no input from the LWUs and initial contact sometimes occurring out of the blue. For the most part LWUs had no input to the methodology to be used in Plan development or in quality control on the final Plan.
- Plans were developed to be lodged with DOH Western Area Local Health District PHU by 1 September 2014 following which LWUs have been unable to obtain written feedback from the PHU on their DWMPs.
- Verbal advice from the PHU to the bi-monthly Centroc Water Utilities Alliance (CWUA) meeting has been that all DOH funded DWQM Plans have issues and require gap analysis to be undertaken in consultation with the Environmental Health Officer (EHO) to rectify. In the case of Lachlan Shire Council consultants have been contracted by DOH to revise the methodology used in the original DWQM Plan. Again this has involved little, if any, negotiation with the LWU.
- Despite repeated attempts LWUs are unable to obtain written feedback from PHU on the potential issues /gaps requiring attention with the onus on LWUs to arrange meetings with the EHO to review Plans to identify problem areas requiring rectification.
- Verbal advice has been provided by the EHO at the bi-monthly CWUA meeting that additional funding is available through the EHO for project work around implementation of DWQM plans. Again this has been provided in an adhoc and informal manner.
- Given this is about drinking water quality, a priority for this region, innumerable attempts have been made to improved advice and governance. This culminated in In July 2013 Centroc proposed a Memorandum of Understanding (MOU) be developed with DOH PHU to strategically guide the collaboration between NSW Health and LWUs on progressing best practice in drinking water quality. This has taken over 2 years to negotiate. As of February 2016 we are still attempting to progress the MoU.
- It is hoped that the MOU negotiation will provide clarity around some of the key implications for Local Government under the Public Health Act and Regulation, for example in relation to private suppliers of drinking water.

Solution: That the NSW Department of Health partner with Local Government and other relevant State agencies and stakeholders to negotiate the roll out of legislation and regulations pertaining to safety measures for drinking water to ensure a wholistic approach achieves the outcomes required to the benefit of communities.

(b) constraints to regional development imposed by the planning framework, and opportunities for the framework to better respond to regional planning issues

In our view, there is no regional planning framework. There is churn and change typified in the past twelve months by:

- Regional (Growth) Plans taking up to four years to develop (the Illawarra) and having highly iterative timeframes, scope and ultimately outputs;
- Regional Action Plans (RAPs) over promising and under delivering then being dumped;
- The State Plan being replaced by NSW Making it Happen with its focus on the Premier's Priorities;
- The Department of Planning and Environment having a very urban focus with poor resourcing and delegation into the regions where for the past twelve months there has been substantive staff change;
- State agencies responsible for regional development being both centralised and sectoralised;
- A review of "regional governance" where this region has been given no formal role, the Pilot JOs were not even thought of as being included in the process;
- Local Government Reform;
- Pilot Joint Organisations being given the role of "intergovernmental collaboration: and "regional strategic planning and prioritisation"
- The stalling of the Planning Reforms;
- No integrated regional planning framework or approach to planning, even by sector, take for example water, though a plethora of "regional plans";
- The Department of Planning and Environment having a rusted on view about planning and "growth" being about how to fit two million more people in western Sydney rather than planning for economic growth and liveability in regional NSW; and
- Member Councils are reporting issues with mining approvals. A framework that aligns the approvals process between the State and Federal Governments' would be welcomed. Timeliness where one Council reported over 1000 days is also emerging as an issue.

All of this causes wasted resource, confusion and limits the responsiveness of regions to contribute to wealth creation.

The solution here is quite simply to develop a consistent, preferably Statutory process, to undertake regional planning and prioritisation. That is, the process is mandatory but the Plan itself is not.

Case Study: Spring Vale Coal Mine, Lithgow

Problem: There is no higher level strategic foresight on proposed State Significant Development to see what additional development could be potentially leveraged off a proposed development to create additional opportunities.

An example is the recent SSD for the Springvale Coal Mine in Lithgow, and in particular water discharge into the Cox's River. Had this potential issue been identified earlier, the water could have been pumped west to Bathurst and then onto Blayney, potentially allowing Regis Gold Mine at Mount Fitzgerald in Blayney to secure a water supply and create 150 fulltime jobs for the region. The estimated cost, according to Regis to pipe it from Springvale to Bathurst to Regis is \$30M (Bathurst to Blayney would be paid for by Regis).

Additionally costs could have been funded by:

- NSW Government: NSW Trade and Investment through the Regional Industries Investment Fund
- Federal Government: National Stronger Regions Fund

Solution: State Significant Developments or regional projects should be discussed region wide through the Joint Organisation to allow for consideration of flow on economic stimulation within the region (ideally without slowing down approval process). This could be further supported by creation of a tool that facilitates sharing advice detailing future large scale employment development and factors limiting the development so neighbouring LGA's are aware of potential limitations that exist within an adjoining LGA.

(c) the effectiveness of environmental planning instruments including State Environmental Planning Policies and Local Environmental Plans (including zoning) to stimulate regional development, and opportunities to improve their effectiveness

The use of Local Environmental Plans (LEPs) in rural areas as a tool to stimulate growth under the current SI framework is limited. Our members Councils provide the following feedback regarding the effectiveness of environmental planning instruments:

- The costs of servicing (s68 changes) are the same if not higher in regional areas yet the returns of investment in terms of the end cost of developed land is significantly lower. Investment in water and sewer infrastructure by the state government is needed to deliver housing on a level playing field.
- Section 64 of the Local Government Act – Members have noted that s64 policies need to be integrated into planning. As it stands members are of the view that s64 is stifling development.
- The statutory framework is not kind to regional NSW. While the Department of Planning & Environment (DP&E) claim to have given back plan making powers to local councils where we really need flexibility is in the regulation around CDCs. The Codes SEPP is one of the most significant obstructions to local development in Mid Western Regional Council at the present time. Councils need to be in a position to retain an option to prepare their own Exempt and Complying Development provisions. This wasn't broken out here until the DP&E tried to "fix" it.
- The plethora of State Environmental Planning Policies (SEPPs) is also difficult to navigate. Of considerable concern is that their provisions often inappropriately override local plans developed based on local knowledge and community consultation. SEPP Seniors Living and SEPP Affordable Housing, for example, both permit the intensification of residential development contrary to the provisions of the local plan. This leads to "development by stealth" where initial advice is for Seniors Living or affordable housing and subsequently residential.
- The Joint Regional Planning Panels (JRPP) remains a useful mechanism for improving decision making for large scale developments. Delays in the JRPP being able to meet and deal with matters adversely impacts on regional development.
- The current Heritage Standards within the Standard Instrument LEP, and the 'Disability (Access to Premises) Standards' can make the reuse of existing buildings within the CBD cost prohibitive. More flexibility of the reuse of buildings needs to be implemented to allow for easier reuse of buildings within the CBD.
- Investment in aged housing is needed. The SEPP Senior Living and SEPP Affordable Housing policies are the wrong fit.

The region has suggested some activities that could assist with their work:

- Environmentally sensitive land overlays: orthorectification of various data sets required to provide an accurate series of maps for the region, eg bushfire maps inaccurate generally at local level in rural areas;

- It is important that environmental layers are accurate; particularly if development applications for land clearing are to be instigated. The RU1 zone mandates extensive agriculture without consent therefore biodiversity laws likely to affect extensive agricultural enterprises. The Office of Environment and Heritage is the owner and coordinator of environmental layers for councils;
- Further support from State Government to support the maintenance of local heritage items would assist in maintaining and promoting the heritage that is unique to Central NSW;
- Issues with the Rural Fire Service having devolved responsibility back to Councils and landowners;
- Bushfire mapping and biodiversity layers need to be updated and available as live documents;
- There need to be better guidelines for better housing design on smaller urban lots in a regional context;
- There needs to be more flexibility in the re-zoning process to deliver land where ownership patterns rather than the market are retarding expansion;
- Amendments to the Codes SEPP to address regional concerns and issues is underway. Similar review needs to be undertaken of the Affordable Housing SEPP to offer more regionally appropriate concessions and incentives for the delivery of affordable housing;
- Access to detailed mapping of EEC and karst systems is a significant data gap in the region and therefore it is difficult to make accurate assessments of the current situation. Further studies in these areas are required to direct future planning.

Case Study: Bathurst and the Code SEPP

Problem: State Government's one size fits all approach to plan making, with mandated planning controls. What is relevant to metropolitan areas is not necessarily relevant to regional and rural locations.

Example: Bathurst LGA is unique in that it has been permitted to operate local exempt and complying development provisions in parallel to the State Codes SEPP. Under the Bathurst Regional LEP 2014 exempt and complying development provisions it is estimated that one third of development activity is able to be dealt with as exempt development and some 80% of new dwellings are approved as complying development. On the two occasions when the local Bathurst provisions were switched off by the Codes SEPP virtually no complying development was approved and considerable exempt development was lost. Thus under the Codes SEPP approval times and the cost of development increased in the Bathurst region. Under local provisions approval times and costs of development have been reduced.

Solution: the State government policy development/plan making would be better implemented using a "tool box" approach for councils to choose from as may be relevant to their local area or to set a minimum bench mark with councils able to go beyond that benchmark if appropriate, based on their own community consultation.

(d) The suitability of a stand-alone regional planning Act.

Centroc Board Policy is that communities should have control over the development around them. At the same time the Code SEPP has not served our communities well. We would therefore be supportive of changes to the Planning Act that ensured local communities retained control over planning but was developed to meet the needs of regional NSW communities.

The issues Central NSW experiences regarding the Planning Act not being suitable for our region are symptomatic of a consistent problem in NSW where Legislation, regulation and delegation have neither a good fit with the Local Government sector or with regional communities.

This region does not have confidence at this time that a stand-alone Regional Planning Act will solve the problems we are experiencing although we would be very interested in continuing a conversation with the Committee on their thoughts in this regard and how they might impact and preferably improve regional communities.

(e) opportunities to increase delegations for regional councils in regard to the planning making processes.

Delegation of plan making processes to the Department's regional offices and to councils has recently been improved and has sped up the plan making process. In particular gateway determinations made at the regional office level have substantially improved the LEP plan making timeframe.

The impediment to effective plan making is not so much delegations to councils but rather the ability for councils to lead local planning and not to be bound by barriers imposed by the standard instrument LEP and various SEPPs.

(f) opportunities for strategic planning to assist in responding to challenges faced by communities in regional areas including through Regional Plans.

Through its activities as a Joint Organisation Pilot it has become clear to Centroc that there is a significant, State wide opportunity to develop consistent frameworks for regional planning and prioritisation that:

- Are informed bottom up from Community Strategic Plans recognising that iterative work will need to be undertaken to optimise the advice from them;
- Provide advice on opportunities for investment;
- Are informed by data from all State agencies including health, education, justice, emergency services, family and community services etc. There is enormous scope for Local Government

to provide advice to the State about the data it needs to help communities inform themselves when planning for their futures;

- Have some type of ongoing governance arrangement to ensure implementation;
- Take a place based approach, are resourced and have agencies come to the table with appropriate delegation; and
- Create alignment between State and Local priorities.

In our region we have identified the need for integrated and aligned planning where current examples of work needing to be undertaken include to:

- Stimulate development where the current focus in this region is on agriculture
- Provide advice to optimise water sharing and use
- Optimise the use of existing services and infrastructure and then augment
- Manage the impacts to community of the boom/bust mining economy

(g) Opportunities for government-led incentives that promote regional development,

Government led incentives that will have the greatest impact on regional development include:

- Funding economically significant infrastructure;
- Royalties for the regions;
- Taxation incentives;
- Ensuring the requisite services are in place in the region to support community and stimulate growth;
- NSW Trade and Investment could work with Joint Organisations across the State, develop a tool that markets strengths of each LGA so that those looking to undertake large scale investment are alerted to potential more suitable locations in regional NSW;
- Critical to regional development is regionally based state government representation especially in relation to the NSW Department of Planning and Environment;
- Most LGA's identified that the decentralisation of Government Services would be beneficial for the Region and represents an opportunity for more agencies to locate to Regional NSW, creating employment opportunities and some population growth for regional centres; and
- At the very least those agencies, such as the Department of Planning and Environment should have delegation and resourcing to develop strategies that stimulate growth.

Case Study: IKEA, Blayney

Problem: There is no state wide framework to support the details potential strengths of Local Government Areas of regions for specific development. For example, Blayney would be listed as having CTLX, larger freezer complex, Intermodal rail facility, as such if someone was looking to establish or relocate a food processing or food related business Blayney could be identified to the developer as a potential suitable location which the developer had previously not considered.

Example: IKEA are building a huge national distribution warehouse at Marsden Park (State Significant Development currently under assessment). Everything will be shipped in, trucked to Marsden Park and then distributed nationwide. When contacted the lead consultant did not consider a location outside of Sydney.

Solution: Potential for NSW Trade and Investment to work with Joint Organisations across the State to develop a tool that markets strengths of each lga so that those looking to undertake large scale investment are alerted to potentially more suitable locations in regional NSW.

(h) pathways to improve decision making processes for regional development proposals, including increasing the use of complying development, improving negotiation processes for voluntary planning agreements, and reducing costs associated with assessment

Advice from this region on pathways to improve decision making processes for regional development proposals is that:

- The JRPP remains a useful mechanism for improving decision making for large scale developments. Importantly it removes the potential for the politicisation of larger scale decision making. Delays in the JRPP being able to meet and deal with matters adversely impacts on regional development.
- The Urban Release certification process required now under the LEP to enable certification for state infrastructure contribution funding has significantly slowed the development process in terms of new residential subdivision release.
- This region suggests that the Voluntary Planning Agreement (VPA) (now called Planning Agreement) process having a greater community focus and commends the work undertaken by the Mining Taskforce;

- The use of VPA's in negotiations for large projects, is also an issue and can undermine the schedule of works in a Section 94 Plan;
- In assessing major projects, the Department of Planning needs to be more responsive to the needs of individual communities impacted rather than focusing on negotiating an approval with the proponent. In determining rates for a VPA beyond road infrastructure, the assessment needs to consider the schedules in any developer contributions plan as a starting point; and
- Resourcing by the State on both strategy development and implementation.

Conclusion

Once again, thank you for the opportunity to provide feedback to this process. This region is aware that the government is seeking to change and improve regional governance with a view to improving outcomes for our communities. We are very supportive and seek to work with the government in any way we can.

Please contact Executive Officer Jennifer Bennett on 0428 690 935 if you wish to discuss further.

Yours sincerely,



Cr Bill West
Chair
Central NSW Councils