

White Paper
A new Planning System for NSW

SUBMISSION

June 2013



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.

www.centroc.com.au

Chairman: Cr Ken Keith, Mayor, Parkes Shire Council

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Reference: kk:vp 061327
Enquiries: Ms J Bennett: 0428 690 935

Department of Planning and Infrastructure
GPO Box 39
Sydney NSW 2001

Thankyou for the opportunity to make comments regarding the White Paper on new Planning reforms.

About Centroc

Centroc is a large and long standing voluntary association of councils of varying sizes ranging from populations of around 2500 to populations of close to 40,000. It has received national recognition for its work in delivering measurable benefits to the members it serves. This recognition includes commentary and awards at the State and National levels for example the Productivity Commission and most recently the Minister for Local Government for NSW, The Hon Don Page. Most importantly, it is valued by its members.



Centroc Organisation and Structure

Central NSW Councils (Centroc) comprises the Local Government Areas of Bathurst, Blayney, Boorowa, Cabonne, Cowra, Forbes, Harden, Lachlan, Lithgow, Oberon, Orange, Parkes, Upper Lachlan, Weddin, Wellington, Young and Central Tablelands Water.

It has two objectives, one around advocacy and the other around supporting members operations.

For more detailed advice on Centroc activities please find attached the recent Annual Report 2011/2012.



The Centroc Board is made up of the 34 Mayors, elected representatives 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 at

www.centroc.com.au/publications

Regarding feedback to the recently released White Paper and building on the advice provided in past submissions, the region makes the following comments where individual member Councils are making submission and these will provide more detailed advice on impacts to their specific LGA. This only provides support to two important points from Central NSW. Firstly, legislation should enable development in a variety of LGAs and secondly, special review of legislation should be undertaken to ensure it does not adversely affect regional and rural communities.

Overall, the emphasis on strategy is warmly welcomed, though the region suggests that it may take quite some time to embed a culture of strategic development in planning in NSW communities. In this region's experience, a vast and silent majority of the community is not interested until it affects "their backyard." Getting the community involved at the strategic stage will be very challenging and require substantial resourcing to get it right.

Regarding resourcing, it is noted that retention of the Department's regional offices is essential for the Department to more fully comprehend the variety of issues particularly those relevant to inland NSW. Further, like much of the current crop of strategic work including advice to legislative reform, The White Paper very much reacts to metropolitan issues and not inland regional and rural ones. Further advice in this regard is provided below.

Bearing this resource burden in mind, it is noted that much of the change anticipated by the White Paper, especially in the implementation phase including training and professional development, will require considerable funding at both State and Local level. Ongoing performance monitoring will also be resource hungry well beyond the implementation period. To avoid the effect of unfunded mandates, what assistance will be provided to local government to implement the new legislation in both the short and long term? If funding is not available and red tape is a growing problem, what mechanisms will be in place to avoid the over-bureaucratisation of performance monitoring?

Centroc suggests that if it is unsupported and given the difficulty in attracting planning expertise to regional areas, the desired cultural change to be effected by the new legislation will be challenging.

Where ePlanning is supported but the ability to support ePlanning in terms of resources and IT infrastructure (e.g. internet speed) in regional and rural areas needs to be taken into account. At the recent meeting of the Centroc Board the growing problems being experienced by our communities yet to be included in the NBN roll out. The region would like assurances that the design of ePlanning is done with a view for all to engage in this process.

It is crucial for the Department of Planning and Infrastructure to ensure that all mapping is accurate inclusive of:

- Cadastral data supplied by NSW Land and Property Information which commonly contains errors of ± 20 metres within local villages and ± 200 metres in rural areas.
- Vegetation data supplied by NSW Office of Environment and Heritage.

From Centroc's perspective it is essential that only data that is fit for the proposed purpose be given legal recognition and members should be provided with the opportunity to assess the quality of any NSW Government spatial data proposed to be given legal recognition for its Local Government Area. Further, any spatial data which contains significant errors not be given legal recognition.

Regarding community participation, it is agreed that community participation in the decision making process should be proportionate to the significance and impact of the development.

There is also support for auditing of Community Participation Plans by an expert panel must recognise that again one approach will not suit all communities.

Regarding Sub-regional Plans, they should only be able to zone land with the concurrence of the relevant local council.

Where the devil will be in the detail on what constitutes a growth region, members are interested in the ways in which Sub-regional plans, their funding and their governance will be implemented in Central NSW, a region that has a very diverse fabric of community and growth which can vary substantially from lga to lga or as in the case of mining, have significant but varying affect over a number of neighbouring lgas. It is noted that commentary in the Local Government reform process is suggesting some type of relationship between a regional strategic Board of Local Government and the Sub-regional Planning structure and process.

Will local government be funded to participate in the sub-regional planning process and to support the Department's secretariat?

Further, in regional areas, a four year review period of the sub-regional plan may be too short.

Regarding development assessment it is noted that while Councils retain control, IHAPs are preferred. Again there is a question around resourcing where the issue is not only around funding of the structure but also to ensure that there is adequate, independent local expertise in all areas.

It is also notes that replacing determination by Councillors with determination by an IHAP is unlikely to make the process any quicker. The significant delay in the process is inevitably the scheduling of the meeting as opposed to which body is making the decision.

Whilst making clear the types of information that should be submitted with an application would greatly assist in speeding up the process it must be acknowledged that there is currently a reticence to engage expertise in many regional centres.

For example, the nearest registered surveyors to the main population centres within the Lachlan Shire would need to travel for 100 kilometres or more to undertake a location survey. Assuming that a surveyor was available when required, this is expected to add a minimum of \$2,000 to the cost of each development, regardless of its nature or value. This must be avoided where a suggestion is, in a not one size fits all approach that location surveys for building work are only required if a building is more than 2 storeys high or will be constructed less than 0.9 metre from any lot boundary.

Statewide standard conditions (provided they are not mandatory) would be supported. A tool box approach is recommended.

The following two examples illustrates why the approach should be non- mandatory.

1. A large proportion of the state has a semi-arid climate and the average ground coverage provided by vegetation is less than 50%. On slopes less than 1 degree, there is little point in applying sedimentation controls in this region because the low gradient means that there will be minimal erosion. Furthermore, exposed and disturbed soil on a building site, is unlikely to increase erosion when a significant proportion of soil is naturally exposed in the vicinity. Compliance with the mandatory site sedimentation controls in this context will literally achieve nothing, other than wasting money on materials and labour.

2. In rural areas, it is not uncommon for rural dwellings to be located several kilometres from each other. Compliance with mandatory restrictions on hours of construction in this setting is pointless.

The assessment tracks (figure 32) are set up for metropolitan areas and do not account for what is considered by communities to be minor and major development types in rural and regional areas. For example an 8 unit residential unit development is a major development in a neighbourhood of Central NSW yet a 60m² floor area shed is considered minor and incidental development (treated as exempt development). The unit DA is fairly rare, the shed very popular. Therefore there is little benefit in creating a faster approval track for the unit development but significant benefit in removing the approval process for the shed. The assessment track system must therefore be set up to suit the circumstances of the local area.

Centroc members agree that the current caps on Section 94 contributions are arbitrary and inefficient and should be abandoned.

Deferral of contribution payments to “point of sale” is not supported. Councils should not be part of the developer’s cash flow management. Payment of contributions prior to the issue of either a subdivision or construction certificate is the best timing to ensure payments are made.

Further, a three year limit on holding contributions revenue in regional localities is not realistic. A much longer expenditure timeframe is required for estates to reach full development and sufficient monies to be collected to enable infrastructure expenditure. Likewise three months to rectify problems associated with accumulated funds or significant delays is too short to be meaningful.

Imposing a regulatory requirement for all class 1b to 9 buildings to have a building manual will create major cost burdens on building owners and additional work for building certifiers.

All building manuals should be held with construction certificate and complying development certificate information in the single NSW repository for planning and construction approvals to avoid waste and duplication of resources.

Further, diligent consideration be given to practical issues associated with the implementation of a building manual requirement for class 1b to 9 buildings to avoid unnecessary and unreasonable costs being imposed on developments in rural NSW.

With regard to Building Regulation and Certification Centroc members also suggest:

- Having people certifying plans during their preparation is an unnecessary step. Surely this is the role of the certifying authority.
- The capacity to impose conditions on Construction Certificates relating to the construction process would simplify the process markedly.
- Likewise the capacity to impose conditions on Construction Certificates and CDC’s to address minor BCA non-compliance will streamline the process markedly.
- Combining the role of the accredited certifying and the principal certifying authority into a single person is strongly supported. The current system of having two different appointments and two different steps in the process has always been unwieldy.
- The introduction of the premises code has led to significant problems for applications for older buildings. Accredited access consultants may be appropriate for larger jobs however at the smaller end of the spectrum there needs to be opportunities for

alternatives/variations without the necessity of going through the current BPB unjustifiable hardship. Perhaps the accredited access consultants could certify this aspect of the development rather than going through the BPB process. For smaller communities, consideration should be given to access reports only being required for new development with a floor area over 500 m² or where the affected part of the building is associated with buildings with a floor area of more than 500 m².

- Having another accredited person to certify whether a modification is required will not minimize delays but instead add another unnecessary layer. This region would prefer the provision of clearer guidelines for what constitutes a modification during the construction process.
- Ambiguity still exists in relation to the amount of upgrading that may be required for a change of building use. The requirement to examine issues such as accessibility and facilities is not explicit beyond the requirement to ensure that the building is “suitable for use” in accordance with its class.

Once again thank you for encouraging Centroc to provide advice on the suggested changes to the legislation to improve planning in NSW.

For further advice please contact the Centroc Executive Officer, Ms Jennifer Bennett on 0428 690 935.

Yours sincerely,

A handwritten signature in black ink that reads "Ken Keith". The signature is written in a cursive style with a horizontal line underneath the name.

Cr Ken Keith
Chair
Central NSW Councils (Centroc)