

Private Property Rights and the Public Interest in Land Use Conflicts: The Case of Sydney's Lost Greenbelt

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Abstract: Conflicts between the rights of private landowners and wider public interests are of central concern in urban planning. Increasing rates of urbanisation mean cities continually intrude into fringe rural land fostering expectations of windfall gains by some landowners and threatening the agricultural livelihoods of others. While such land use change is not new, increasing sustainability imperatives require consideration of biodiversity conservation, green space, bushland and the retention of sustainable rural operations within and around cities. However, strategic planning is often constrained by the strengths of the market and landowners' assumed rights and expectations.

This paper examines such conflicts through a review of the relationship between property rights and social responsibilities. The role of neoliberalism in strengthening property rights and fostering land development is also explored. The paper analyses the case study of the policy reversal of a greenbelt proposal under Sydney's latest metropolitan strategy due to a landowner backlash in light of these considerations. The implications of the Sydney case are explored and a discussion of planning policy and process in an era of renewed focus on the market is presented. The need for a re-examination of property rights and responsibilities and strategic planning approaches becomes apparent if cities like Sydney are to move closer to a sustainable future.

Introduction and Overview

"Never before has it been so evident that proprietary rights and proprietary duties are ultimately also social rights and social duties." (Gray, 2007, p. 26)

The balance between private property rights and the public interest is one of the most fundamental roles and challenges of urban planning. The extent of private property rights in society evolves and changes over time and space and is arguably as strong as ever in Australia currently. This complicates the role of planning which is aiming to focus on the provision of sustainable cities against a background of more rapid urbanisation than at any time in history. The conflicts involved are starkly portrayed by policy reversals due to political pressure from individual landowners (in organised groups) seeking to maximise financial returns from private property rights over and above the interests of the wider community and future generations.

This paper examines the dilemma raised by one such example – the withdrawal of proposed greenbelts around the two sectors earmarked for future urban growth in the latest Sydney metropolitan planning strategy, *City of Cities*. The research was conducted in order to explore the issues concerning one case study that provides an interesting example of some of the conflicts concerning private property rights and the wider public interest. An understanding of the issue requires an exploration of the relationship between private property rights, social rights and responsibilities, regulation and the role of the market. A brief review of literature concerning these conflicts is presented in the first section of the paper.

Following this, the case of the proposed greenbelt and the aftermath of its demise is analysed through the examination of ecological reports, planning documents, submissions, media items and releases, and through interviews with departmental officers. The analysis highlights the conservation and environmental imperatives for the proposal and the lost planning opportunities in the face of development pressures and strong opposition from individual landowners. The role of planning in legitimising an expectation of windfall gains in the land market is also noted.

The lessons from the case study lead into a discussion of the need to recognise the issues facing planning in the 21st Century and to question whether a re-examination of the extent of property rights and responsibilities is needed, given the environmental imperatives currently faced by cities. The issues raised and the implications for future strategic planning demonstrate the need for political will and a stronger basis for planning decisions. The rise of neoliberalism increases the difficulties in driving each of these changes. Finding ways to overcome or work with the prevailing culture of market dominance to plan sustainable cities for current and future generations will be an ongoing challenge, but one that is crucial for the outcomes society needs.

Property Rights, Regulation and the Public Interest

Overview

Property rights commentators generally agree that private property ownership relates to an open-ended bundle of diverse rights and that regulation can result in diminishing some of these rights (for example, Hallowell, 1943; Richards, 1991; and Kasper, 2004). Hallowell (1943) emphasises that property is *not* a single right or an absolute right. He and others such as Boydell (2006) and Gray (2007) note that property rights exist in a variety of combinations across different cultures and with various restrictions across societies and throughout time. While property rights involve obvious legal and economic implications, the social aspect of property ownership has long been recognised. Hallowell (1943) noted that property rights involve powers, privileges, duties and forbearances of various kinds that reflect the values and institutions of a society. Boydell (2006), Gray (2007) and others agree that purchasing a bundle of property rights involves the acquisition of a bundle of limitations that include various roles, obligations and responsibilities. Furthermore, Gray notes that the community has always been entitled to the benefit of a public interest forbearance on the part of the land owner.

Despite this, in recent decades, various influences including the impact of neoliberalist regimes that favour market forces over regulation have served to focus on the sacrosanct nature of the rights of individual property owners in democratic capitalist societies including Australia. Outcries about heritage restrictions, native vegetation regulations, unpopular zoning proposals, building and development controls and other regulation such as those raised by Kasper (2004) are becoming more frequent and appear to be influencing state planning policy. The conventional understanding of property rights is losing sight of the public interest/social aspect. In response, Gray (2007) suggests our understanding of property is becoming increasingly outdated. He argues for the need to define the social limits of property ownership, to debate the correct political balance between individual and community interests and in effect, to work out a modern civic morality of property.

The Emergence of Private Property Rights and Capitalism

The notion of *rights to use* land rather outright ownership was introduced by the feudal system (Balchin, Kiev and Bull, 1991) which involved a chain of contractual relationships through a hierarchy of individuals holding land or property rights from the King down to landlords and eventually the farmworkers (serfs) at the bottom. Later, the use of commons (open fields of common arable land) grew in England from the eleventh century and spread across parts of Europe (Runge and Defrancesco, 2006). The gradual transformation of the feudal economy into capitalism resulted from philosophical influences in western Europe which led to the age of scientific reason, increased trading and a religious reformation which advocated a frugal work ethic which justified the accumulation of wealth (Pejovich, 1990). Capitalism and the importance of the market grew along with individualism, freedom of choice and later, industrialisation.

The right to exclude others from property evolved in a historical process known as enclosure (Runge and Defrancesco, 2006). The enclosure and privatisation of the commons began in Great Britain in the 1500s and continued through to the nineteenth century, with Enclosure Acts between 1720 and 1840 abolishing most remaining common arable land. In the "Tragedy of the Commons" Hardin (1968) restated the ideas from the 1830s of William Lloyd and suggested that

commons work until overgrazing occurs due to the free rider principle. The inclination of any individual farmer to increase stock beyond the common's carrying capacity results from the realisation that private profits can be gained. While the eventual impact on productivity for all farmers results in costs as well, these are public costs. The existence of commons still in some parts of the world including England, Italy and even Australia (eg Stroud, NSW) demonstrates that such anti-communal activity has been avoided at least in some cases by various means. Hardin himself has since clarified his view to suggest that only unmanaged commons suffer such consequences (1991). Such public costs and externalities are fundamental to the emergence of town and regional planning at the end of the nineteenth century in response to the negative impacts of industrialisation in Victorian times. As Gleeson and Low (2000) suggest, planning arose to counter the social and environmental problems that free market economies inevitably impose on capitalist societies.

In Australia, political support for the dream of home ownership has traditionally been bipartisan, encouraging the spread of cities. Development pressures during the 1920s and again after World War II meant rapid construction and new efficient building techniques promoted growth, which quickly became the prevailing aim for society. Development flourished and pockets of natural bushland survived only in fragments, backyards, some parks and public sites, although some revolutionary environmental planning legislation was introduced in the 1970s. Intervention, regulation and the Keynesian age of state macroeconomic management continued until this time.

The Impact of Neoliberalism and the Problems of the Market

However the growth in unemployment, inflation and interest rates as part of the global crisis of the 1970s signalled the end of the post war boom years and led to the adoption by western governments of the neoliberalist paradigm of governance during the 1980s. Neoliberalism is a free market approach that promotes competition, deregulation and privatisation and is a return to the laissez faire approach of the nineteenth century (Gleeson and Low, 2000). Based on neoclassical economics, it promotes economic goals over social considerations to maximise unconstrained growth. The resulting progressive deregulation by state governments including NSW has led to the unmistakable dismantling of the stronger planning and environmental policy of earlier years. Peck and Tickwell (2002) claim neoliberalism induces localities to compete by cutting social and environmental regulatory standards and eroding the institutional supports upon which more progressive settlements were constructed in the past. They suggest neoliberalism engenders "a lemming-like rush towards urban entrepreneurialism" which encourages and publicly subsidises the accelerated mobility of circulating capital and resources (2002, p. 385).

The rise of neoliberalism over recent decades means that the dominance of market forces and capitalism are stronger now than at any time over the twentieth century. However there are well recognised criticisms of markets. Balchin, Kiev and Bull (1991) list these as including the inefficiency of markets as a means of allocating land between different uses; the price mechanism's disregard for the needs of less profitable (often unprofitable) yet socially desirable uses of land (such as hospitals, schools and open space); and the inequalities of income and wealth that are reinforced by the market's focus on private profit.

Peck and Tickwell (2002) explain the impact of freeing up markets as the assertion of individualised opportunity rights over social entitlements. They claim neoliberalism promotes a "growth first" approach to urban development with any social or interventionist initiatives dismissed as anti competitive costs. Harvey goes further and suggests that under the logic of capitalist spatial development, competition forces "the lowest common denominator of social responsibility and welfare provision within a competitively organised urban system" (1989, p. 12 cited by Peck and Tickwell, 2002). Harvey (1996) criticises the "wise use" movement promoted by defenders of private property against government intervention, (such as Epstein, Von Hayeck and Nozick) who claim that private owners in the market are best placed to make appropriate land use decisions. Harvey questions whether such land owners (particularly developers, resource extractors and speculators) become adequately familiar with their local ecological conditions to make the development decisions appropriate for sustainable futures. It is doubtful

that individual owners have greater knowledge than the collective view (including planners, scientific or heritage experts and the public), especially considering the spatial-temporal range of issues from microcosm to regional aspects. Harvey concludes that neither environmental justice nor ecologically sustainable development is possible through capitalism and the free market.

Private Property Rights – the Current Paradigm

The conventional wisdom is that private property rights are a necessary condition to generate economic wealth. Kasper (2004) argues in favour of secure individual property rights and the economic freedom that is claimed to have fostered Australia's prosperity during the 19th Century. He is critical of costly "neo-socialist" regulation that takes away private property rights "by a thousand regulatory cuts" without compensation. He claims full private rights allow property owners the confidence that risk taking and effort can be rewarded and that such activities have enabled material progress throughout history. Conversely, environmental controls result in "self inflicted competitive handicaps" in a global world (2004, p. 15). Kasper (2004) argues that three tests are necessary prior to taking away private property rights. Regulators must demonstrate no negative market outcomes from the intervention and benefits to society must be fully assessed and must exceed the costs to individual property owners and government. Finally, where new community demands are to be satisfied (such as restricting farmers' rights to clear vegetation in order to preserve biodiversity), property owners must be justly compensated for their losses.

Most commentators agree that the critical question refers to the proper allocation of the *cost* of the environmental welfare which society desires. Under Australian Commonwealth legislation, compensation must be paid on 'just terms' when land is 'taken'. Defenders of private property rights claim that society should pay, however, as noted by Gray (2007) it is increasingly recognised that inevitably part of this cost (and sometimes a large part) must be borne by individual citizens as their share of the burden of common citizenship. In a global overview of case law, Gray (2007) clarifies that the payment of compensation is applicable only when the intervention is so excessive as to constitute a 'taking' (as determined by the courts). A loss of value resulting from regulations such as zoning, heritage orders and environmental protection measures provides no presumptive right to compensation. Compensation for every minor regulatory act would cause administrative overburden and significant funding issues. Therefore individual proprietary rights are simply exchanged for improved civic rights to environmental amenity or welfare. Interestingly, amidst the constant compensation claims from property rights activists for lost rights, there is relative silence on the question of planning gain or benefit payable to the state for the windfall gains that private property owners frequently receive from rezoning and development approvals. Perhaps defending private property rights as sacrosanct means, as Boydell suggests, adopting a "curiously individual, self-centred and arguably selfish worldview that completely overlooks the fact that land tenure regimes have evolved, and will continue to evolve, over time" (2006, p. 5).

Property Rights and Urban Planning

The speed and scale of population growth and urbanisation have increased rapidly at an unprecedented rate. A century ago, only 7% of the world's population was classified as urban (Harvey, 1996, p. 403 citing Berry, 1990). Now almost 50% of the world's population (just under 3.3 billion) live in urban areas and this is predicted to increase to 5 billion (or 60% of projected world population) by 2030 (Vidal, 2007, 10). Each week the number of people living in cities across the world increases by nearly one million. Sydney's population is expected to increase by 1.1 million (an average of over 800 people each week) from 2004 to 2031 (NSW DOP, 2005a, p. 7). As suggested by Harvey (1996) the future of humanity now lies fundamentally in urban areas. He notes that the result of such rapid urbanisation over the last century has been the creation of endless sprawling suburbanisation – particularly in car based cities.

While the planning system and the regulation of property rights were introduced to counter the failures of the market and reduce social and environmental externalities, there are numerous criticisms of planning in Australia. Sperling (1997) labels planning legislation as an approvals system for the development of land, with land regarded as a commodity that is delivered to the

market through planning. Day (1995) describes how prospects of windfall gains represents a standing invitation to develop land by seeking approval to change or intensify land use – regardless of any need for such development. Consequently “all land becomes vulnerable to entrepreneurial initiatives” and speculative investment – irrespective of environmental significance or any need to curb the environmentally destructive process of urban sprawl (1995, p. 3). While planning publicly creates increased property values it is recognised that these benefits are privately realised (Balchin, Kiev and Bull, 1991). By the provision of a regular mechanism for rezoning, the planning system serves to legitimise windfall profits for “lucky” private landowners or developers. Day (1995) suggests that such speculative profiteering in land contravenes an important principle of free enterprise, as it rewards non-producers rather than producers.

Despite these private gains, the aims of planning are for the adherence to public policy in the face of development pressure. However Gleeson and Low (2000) note that this is difficult in Australia where the culture of planning appears to be quite the reverse. A recent example clearly illustrating this is the proposal (and subsequent withdrawal) of a greenbelt policy in the growth centres of Sydney as part of the city’s latest planning strategy. This case is presented below.

The Sydney Greenbelt Proposal

Sydney’s Greenbelt History

For around a century, greenbelts have been promoted as providing green lungs for cities offering nature, scenery, fresh air, market gardens, orchards and recreation close to urban areas. Coleman (2005) suggests current environmental imperatives add further attributes such as catchment management and the conservation of biodiversity. In 1951, Sydney’s *County of Cumberland Plan* included a greenbelt for the edge of the city to provide green space and contain sprawl. The aim was to prevent speculative subdivision taking over rural uses and to link proposed scenic and bushland reservations. As history has shown, the length of time the plan took to get through parliament, combined with the pent up post war demand for development and the strength of the development lobby resulted in numerous intrusions into the zone. The release of 130km² in 1959 for housing blocks (Spearritt and DeMarco, 1988, 22) signalled the eventual abandonment of the proposal, although some sections have been acquired over the last 30 years to form the Western Sydney Parklands (Taylor, 2007).

More recently, in September 2005, shortly after releasing a draft proposal for planned new greenbelts in the two main release areas for the latest Sydney Metropolitan Strategy, the NSW government again abandoned the proposal before the end of the exhibition period following lobbying and protesting by affected landowners who were disappointed that their lots would not be providing the future windfall increases in land value they had been anticipating.

The Greenbelt Proposal and the City of Cities Strategy, 2005

Under Sydney’s latest Metropolitan Strategy, two growth sectors covering a total development area of 20,350ha (GCC, 2007 p. 2) will provide 160,000 new houses and 180,000 jobs over the next 25 years. The north west release area will provide 60,000 houses in the local government areas of Baulkham Hills, Blacktown and Hawkesbury with a major urban centre at Rouse Hill. The south west release area in the council areas of Camden, Campbelltown and Liverpool, has major development centred in Leppington and surrounding suburbs and will have 100,000 new dwellings (DOP, 2005a). At least ten precincts are planned for each sector. Extensive greenbelts were planned to surround both sectors, with substantial corridors of greenspace also running through them. The proposed greenbelt was referred to as a ‘green overlay zone’ and included landscape and rural lifestyle zones, largely coinciding with existing zones. It comprised 30% of the land area of the sectors and covered thousands of landholdings including market gardens, hobby farms and large estates (Goodsir, 2005b, p. 3).

The Metropolitan Strategy, *City of Cities*, was released two months after the greenbelt proposal was abandoned. A subsequent *State Environmental Planning Policy (SEPP) (Sydney Region Growth Centres) 2006*, followed by a conservation plan, outlined alternative approaches to

protect 1,999ha of significant remnant bushland (GCC, 2007 p.2) – less than 20% of the area under development. Noteworthy aspects of the planning process followed in the greenbelt proposal and the subsequent approach to vegetation retention are presented below.

The Planning Process for the Green Zones

The three year planning process for the overall metropolitan strategy involved studies and consultation with government departments, regional organisational groups of councils, 1,000 randomly selected community members and also large landowners. Significantly, there was little or no consultation with smaller landholders in the release areas until after the exhibition of the green overlay zones, and there was no general invitation to the public to participate.

Ecological assessments were prepared for two study areas which surrounded and included both growth sectors in order to identify the relative conservation significance of the remnant vegetation, aquatic habitats and riparian areas (EcoLogical Australia, 2003a and 2003b). Notably, a major goal was the achievement of regional habitat connectivity and the studies were to inform the regional structural planning process. The studies analysed existing regional data and sets of vegetation mapping from the NPWS and more detailed maps from some of the local councils. Expert panel workshops involving local ecologists were held to identify data gaps and areas of further investigation. The methodology used was agreed to by the involved government departments and deemed appropriate for this initial regional level of planning, with subsequent studies flagged to investigate the conservation value of the further investigation zones and complete more comprehensive assessment at the precinct planning stage.

Both sectors were primarily zoned rural and included a variety of agricultural landuses and some special purpose zones. The native vegetation in both sectors was found to be extensively cleared and highly fragmented, however a number of significantly large patches were evident, particularly in the north west sector where over 4,400ha remain (with over 7,800ha were identified in the wider study area). Nine endangered remnant vegetation communities (under the *NSW Threatened Species Conservation (TSC) Act, 1995*) were found in each sector, with four of national environmental significance. Nineteen threatened flora and fauna species were found in the south west and twenty nine in the north west study areas (EcoLogical Australia, 2003a p.2; 2003b p.2). The studies used national targets for biodiversity conservation which determined that by 2003, Australia would have controls to prevent clearance of ecological communities with less than 30% of the representation they had prior to 1750, and there would be restoration programs for native vegetation and ecological communities that are below 10% of that present pre-1750 rates. The study noted that all the vegetation communities on the Cumberland Plain (encompassing the study area) have less than 30% of pre 1750 levels, with some having less than 10% remaining (EcoLogical Australia, 2003b p.6). As a result of these studies, an outline of a green corridor was devised which included the significant areas and also some cleared or floodprone areas in between to link up the bushland sites (Pitney, 2007). A number of creeks run through both sectors (five in the south west and three in the north west) with South Creek traversing both. The ecological studies highlighted the importance of connectivity, hence the corridor included a range of landscape features and ecosystems including some cleared lands.

Exhibition of the Plans

When the plans for the new growth areas (including the proposed green zone) were released for exhibition in June 2005 widespread expectations that the whole area would eventually be urbanised became apparent (Pitney, 2007). In particular landowners of cleared sites felt victimised. While the retention of the rural zone would enable construction of one dwelling it would not allow subdivision. The green zone affected 7,000 properties, with 3,200 of these within the official growth centres boundary (DOP, 2005b). The landowners mobilised and ran a highly successful media-based campaign against the green overlay zone. This focussed on the cleared 'linkage' lands, which were reported to include some factories, sewage treatment works and shooting ranges. Another major criticism of the zone proposal was that the plan was based on "outdated aerial photographs" rather than survey work in the field (Goodsir, 2005c, p. 11).

While the government established help lines to answer inquiries and arranged meetings between landowners and 'independent government funded advocates' (DOP 2005b), the campaign against the greenbelt was reported as one of the biggest in decades. Goodsir noted there were more than 2,000 calls to the hot line, and over 100 landowners received visits from legal teams to explain the proposal (2005a, p. 9). Ninety percent of the 3,000 written submissions received opposed the green zone, with most concerned with a perceived loss of property values and development rights, and others arguing the zone unfairly covered cleared land or areas of poor quality vegetation (DOP, 2005b). In early September, the Minister, who had been in the job for just over a month, instructed the department to investigate *new ways* of meeting the conservation and environmental targets in the areas (Westacott, 2005). The initial focus was on removing the green zone from land surrounding the growth sectors, but by November, the decision had been taken to remove the zone within the sectors as well. The Minister stated he was determined to promote a "balanced environmental outcome" but claimed that different policies were needed to achieve green space without unfairly hurting property owners (Goodsir, 2005b, p. 3).

The decision to abandon the greenbelt was supported by developer lobby groups such as the NSW Urban Taskforce and the Urban Development Institute of Australia. However it was severely criticised by others such as Peter Newman the 'Sustainability Commissioner' assessing the overall strategy, and Coleman (2005) who criticised the abandoning of the proposal, despite conceding the the plan may have been poorly defined and promoted. The Nature Conservation Council (NCC) raised concern about the removal of the green zones, but also urged 'ground truthing' of mapping as opposed to an 'ad-hoc' application based on 'invalid data' (2005, p1). Handing responsibility to many individual landowners to revegetate and manage the bushland on their land through the \$315 million conservation fund was also criticised (NCC, 2005, p1). Instead, purchasing land to ensure co-ordinated management by a central body was suggested.

The Aftermath

Less than two months after the greenbelt breakdown the government released more than 2,500ha of land that had been proposed for the green overlay zone for new development including 12,000 extra home lots (Davies, 2005, p. 3). The released land had been designated as green zones outside the main development growth areas, but also included land that had been zoned parkland inside. The Planning Minister claimed that 45% of the land identified for landscape and rural lifestyle zones was already cleared and did not have high conservation value (Sartor, 2005). He noted that land would now be classified into one of four zones – flood prone, urban capable, urban edge or conservation. Creeks would be protected by buffer zones, however development was permissible on these zones if it could be shown not to affect the environment. While some areas remained green space, green groups noted that much of this was on flood prone land that was unable to be developed. An environmental offset scheme, funded by developer contributions, (under the general infrastructure fund of \$7.8 billion) would help to purchase bushland of significant conservation value, although, as noted by Davies (2005, p3) the areas to be purchased were far smaller than the original area proposed. The purchase of such lands will occur gradually – over the next 30 years (Pitney, 2007). The *Sydney Region Growth Centres SEPP*, (DOP, 2006) details the final landuse zones more fully. The green zones include an environment conservation zone and local and regional public recreation zones. Some significant sites outside the growth areas will be acquired by the state (Department of Environment). However local councils are suggested as the acquiring authority for sites within the growth sectors. The Metropolitan Strategy relies on council local environmental plans (LEPs) to provide any necessary open space as each precinct is detailed. Local councils have since complained about the lack of detail about land being set aside for housing and open space and have called for a clear definition of the boundaries of land set aside for housing, employment and open space to remove speculative pressure on rural lands (Grennan, 2006). Only small amounts of bushland and open space are likely to be achieved within the growth sectors (Pitney, 2007).

Meanwhile, the department is continuing to pursue the alternate more market based approaches to the provision of bushland and greenspace. While this includes focussing on land that already had little or no prospect of rezoning such as flood prone land (1:100 flood risk) and steep sites, it

involves acquisition to expand the land already in public ownership such as the Western Sydney parklands and Rouse Hill Regional Park. Land swaps are proposed in Marsden Park and Riverstone where land with conservation values can be swapped for other developable land. These schemes will be finalised as precincts are released. In addition, urban edge zones that limit development will protect the largest patches of high quality vegetation on private lands.

Impacts of the Policy Change

The Loss of Agricultural Land

Since the greenbelt episode, there has been concern raised about the loss of agricultural land, given that the area of the growth centre sectors coincides with Sydney's "best food growing lands, by far" (Farrelly, 2006, p. 13). The Nature Conservation Council notes the agricultural lands in the Sydney basin contain some of the most productive soils in the nation, and argues that their protection is of major economic, social and environmental concern (NCC, 2005, p.3). Sinclair reports the basin brings in \$1 billion per year in agricultural produce, or 12% of the total state output (2007, p. 12), from less than 1% of the land area. The agricultural sector around Sydney provides an estimated 9,000 jobs in the production of vegetables, flowers and poultry farming in mainly small lot (2ha) family operations (Dick, 2005, p. 7).

Galvin notes some 2,000 small farms in the south west sector suburbs of Leppington, Austral, Catherine Field and Bringelly provide almost 100% of Sydney's Asian green vegetables, 90% of the city's perishable vegetables and holds about 40% of the city's market gardens (2006, p.10). Near the north west sector, suburbs like Glenwood have already been transformed from market gardens into residential development in the space of a few years and new suburbs planned around Bringelly will follow (Dick, 2005). Farrelly (2006, p. 3) notes the recent removal of the rural protection zone from the Hawkesbury Council LEP (with state approval) effectively approves a similar outcome starting in the historic area of Pitt Town where farmland will be subdivided into 600 lots. In three years from 1998 to 2001, 10% of Sydney's productive land (around 10,000ha) was lost to urban development (Dick, 2005, p. 7). Given this speed of development, the goal of providing "a consistent approach to the zoning system in rural lands" found in the Metropolitan Strategy appears completely inadequate to retain such an important aspect of Sydney's self sufficiency. While the strategy states that rural lands "are not lands 'in waiting' for development", detailed boundaries are not provided and the mapping of regionally significant activities including agriculture is incomplete (DOP, 2005a, pp. 39, 43).

Loss of Bushland and Biodiversity

Similarly, the strategy claims completion of regional biodiversity mapping as one of its goals. The Nature Conservation Council (NCC) claims the 20% not yet done contains some of the region's most significant areas of urban bushland (Faehrmann, 2005, p. 32). It was hoping for the strategy to provide land use controls to protect urban bush on private land as well as identify areas never to be developed. In particular the Council and other green groups such as the Australian Conservation Foundation all argue for a defined urban growth boundary to conserve significant environmental values and protect the agricultural land around Sydney (NCC, 2005 and ACF, 2002). Interestingly, such concerns are not restricted to green groups. For example, the Tourism and Transport Forum, warns the continued intrusions into the original greenbelt must cease and argues for the retention of non-urban land to enable the maintenance of resources and activities which contribute to the growth and development of the city (TTF, 2002). The loss of the greenbelt and the vague goals outlined in the Strategy fall far short of these suggestions.

Moreover, the recently released *Draft Centres Conservation Plan* (GCC, 2007) introduces a controversial biodiversity certification program for developable land covered by the *Growth Centres SEPP*. Biodiversity certification will allow development to bypass existing threatened species legislative requirements for ecological investigation such as species impact statements. Howden (2007) notes that critics of the scheme including the NCC fear the certification program itself is based on old aerial mapping and is likely to be flawed.

Lost Opportunities for Regional Open Space

While the 1951 Cumberland Plan established a fund to acquire regional open space, Searle criticises the failure of the current Metropolitan Strategy to increase the supply of regional open space as “cannibalising past good planning” (2006, p. 8). He points to the current strategy's failure to continue the western parklands corridor (provided in the 1968 Strategy) north into the North West sector, and predicts the result will now be “continuous sprawl” stretching from Erskine Park through St Marys past new suburbs in the release area and on to Rouse Hill and Kellyville.

Continuing Issues

The Minister's comments about the conflict between green zones and land values were:

“There was a bit of blue skying about the lifestyle zones...But when you are starting to affect people's property values then there is a problem.” (Frank Sartor cited by Davies, 2005, p. 3)

Pressure from landowners resulted in the government putting private profits before community or public values and benefits for future generations. The property values in question are potential values, not existing ones. It is worth noting that many of the landowners involved in the greenbelt dispute remain upset. Some are still waiting for their anticipated rezoning to residential, while some have since had land rezoned, yet are upset that land prices have fallen in the area, partly because the development lobby claims development contributions for infrastructure are so costly that they cannot afford the prices previously paid for land in nearby areas (Munro, 2007). Others feel threatened by compulsory acquisition for infrastructure or town centres, which is perceived to bring a lower return than residential development (Farrelly, 2006).

Implications of the Sydney Case for 21st Century Urban Planning

Longterm Legacy for the City

The lasting impact of the failed greenbelt in the 1950s is now well known. As noted by Coleman (2005), thousands of hectares of farmland were released to become new suburbs devoid of infrastructure as landowners and developers celebrated. Coleman agrees the greenspaces Sydney retains are due to the courage of past governments to negotiate their acquisition and put public interests above the private profits of those dreaming of speculative land value increases through rezoning. Without similar political will, the now fast tracked loss of agriculture, bushland, biodiversity, recreational space and protection of water catchments in the Sydney region is likely.

Property Rights, Land Values and Speculation

In the Sydney case affected landowners were protesting against the proposed *freezing* of existing rural lifestyle or agricultural zones rather than any rezoning to downgrade current land use potential. The concerns raised about land values referred to impacts on values *that did not yet exist*. It is questionable whether rewarding such expectations for rezoning certainty for more lucrative use (doubtless for political reasons), is appropriate. It leaves little hope for strong planning decisions in the future. The distinction between rights to own land outright and rights to use land (the actual basis of property rights) is important and should be continually reinforced.

Implications for Planning

The case demonstrates the need for accurate assessment of significance prior to decision making to provide strong baseline data to strengthen the case for innovative policy. If the initial assessment is less detailed, as in the case study, full communication as to the approach taken and its justification, is obvious. The ecological studies in this case clearly specified they were appropriate for a regional planning level only. The intention was to refine the zones through further studies feeding into the precinct planning process. However there were issues with how this was communicated. As a public and contested activity, planning should be conducted in consultation with the whole community, that is, with all the affected stakeholders, rather than just the large landholders.

Both in-field surveys and comprehensive consultation require resources, and the shortage of funds and planners in government agencies is apparent. However the loss of years of planning for a policy overturned during its exhibition period is a poor use of limited resources. For major strategic planning, up front funding for baseline studies and consultation is a good investment. Searle (2006) argues a more extensive consultation process with meetings in all suburbs and a budget in the millions (as occurred in the Melbourne 2030 Strategy) would have provided more ownership of the strategy for Sydney residents. In criticising the overall Sydney strategy, Searle suggests that planners and the media have a role to play in raising community awareness of the benefits and drawbacks to metropolitan society of different development plans and options. While better studies, increased funding and consultation may not have avoided the greenbelt outcome, the problems with these issues in Sydney enabled the policy to be easily overturned.

The need for all new suburbs to have some green areas indicates the windfall gains from rezoning will not always happen evenly. Greater communication may have reinforced this. The open days and forums for landowners and the public in the first precincts to be developed held by the Growth Centres Commission during 2007 indicate a greater level of communication may now be occurring. As suggested by Boydell (2006), greater co-operation between planners and property owners enhances the understanding of both groups about the concept of property rights, the motives of the entrepreneur and the social and environmental challenges and responsibilities we currently face. He argues that sustainable urban development depends on such an approach. In terms of sustainable outcomes, the revised more market based approach to retaining bushland and greenspace is less likely to guarantee conservation outcomes in terms of connectivity and linkages – concepts which are well recognised as essential approaches to ecosystem integrity and biodiversity conservation. Moreover, the continuing state endorsed removal of rural protection zones on an ad hoc basis undermines any claims of a strategic or consistent approach to the retention of agricultural lands as outlined as one of the vague goals of the Strategy.

Conclusion

The recent second attempt to incorporate greenbelts into future development areas in Sydney was laudable and even hinted at a brief return to the era of the strategic plan. However the rapid withdrawal of the proposal in the face of a well organised landowner backlash, and the subsequent move to more market based approaches to retaining bushland pockets reflects the prevailing neoliberalist paradigm of governance. The net loss of significant agriculture, biodiversity and greenspace for current and future generations is clear. Meanwhile, the 12,000 extra home lots released in the south west sector, on land originally proposed for the greenbelt, and anticipated to help make the new release areas more economic, reinforces the predominance of economic concerns (for the landowners and the government) over social and environmental imperatives. The proposed biodiversity certification scheme introduced to streamline development is a further example of this. In addition, the role of past planning practices such as the regular rezoning of land on city fringes and the continuation of ad hoc rezonings in the face of vaguely stated strategic goals to retain rural lands serves to reinforce entrenched perceptions and expectations of private speculative gain from property ownership.

More specifically the case demonstrates the importance of full and accurate baseline assessment studies to support policy and provide a basis for land use decisions that are more widely acceptable. Negotiation and more open consultation to explain the approach taken and demonstrate the benefits, costs and impacts of plan options for the whole city would provide more of a sense of ownership and contribution for residents and landowners. Such information helps justify interventions into property rights. Stronger political will for outcomes that benefit the common good would also assist. Each of these approaches alone may not change culture or the anticipation of windfall gains from continuing speculative land acquisition. Reaffirming the social responsibilities that accompany property rights is obviously a major challenge. Continued discussion and examination of this interface between private property rights and planning decisions made in the public interest is called for. However without any of these aspects, change is unlikely and the cities being planned and created today will be a poor inheritance for the residents of the future.

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