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What do publics want from the planning system?

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What do publics want from the planning system?

Abstract

Reforms to planning processes in Australia have been prefaced by assertions about what 'the public' wants from a planning system. The reforms involve a familiar mix of streamlining privatisation centralisation and curtailed public consultation. Despite a demonstrable lack of local government or public consultation on the reforms in New South Wales they were justified by the then Planning Minister Frank Sartor as enacting the broader community's desires about how the planning system should be reformed. In this paper claims about public opinion collected from media releases forums discussion papers ministerial documents and legislation are analysed. Seven sets of planning principles provided the thematic framework for the analysis in this. The advocates of planning reforms in NSW and the reform proposal documents offer a good deal of rhetoric about strategic planning political integrity transparency and fast tracked development. However little evidence has been offered to demonstrate public desires for these. Scant attention has been paid to planning expertise and community consultation. There is some rhetoric about environmental sustainability and community development but nothing by way of new processes and principles that would substantively advance those virtues. Voices of dissent assert that the community would prefer social sustainability environmental equity and community consultation over and above development facilitation; but these counter assertions about public desires are similarly without empirical substance.

Keywords

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ABSTRACT

Reforms to planning processes in Australia have been prefaced by assertions about what 'the public' wants from a planning system. The reforms involve a familiar mix of streamlining, privatism, centralisation, and curtailed public consultation. Despite a demonstrable lack of local government or public consultation on the reforms in New South Wales, they were justified by the then Planning Minister, Frank Sartor, as enacting the broader community's desires about how the planning system should be reformed. In this paper, claims about public opinion, collected from media releases, forums, discussion papers, ministerial documents and legislation, are analysed. Seven sets of planning principles provided the thematic framework for the analysis in this. The advocates of planning reforms in NSW, and the reform proposal documents, offer a good deal of rhetoric about strategic planning, political integrity, transparency and fast tracked development. However, little evidence has been offered to demonstrate public desires for these. Scant attention has been paid to planning expertise and community consultation. There is some rhetoric about environmental sustainability and community development, but nothing by way of new processes and principles that would substantively advance those virtues. Voices of dissent assert that the community would prefer social sustainability, environmental equity and community consultation over and above development facilitation; but these counter assertions about public desires are similarly without empirical substance.

BACKGROUND

Over the past decade, state governments across Australia have enacted reforms expressly aimed at streamlining and simplifying planning frameworks criticised as uncompetitive and overly-regulatory. Reforms have broadly targeted the 'cutting of red tape' in order to make the system more developer-friendly to stimulate investment. The steps to achieve efficiency gains have included reducing the number of local government planning authorities, introducing key performance indicators to drive competitiveness through planning agencies, narrowing time limits for determining development assessment, expanding private certification and adding to the list of developments that do not require formal approvals.

AIMS

This paper arises from a broader research project with the following aims:

1. To map and characterise the recent suite of planning reforms in Australia;
2. To identify the major planning principles discussed in reforms to the State and Territory planning systems;
3. To characterise and analyse government claims regarding public opinion;
4. To scope out a project to analyse public attitudes and experiences within planning systems across Australia; and
5. To apply reformulated theoretical approaches to the political claims surrounding reforms in Australia.

Arising from that research, this paper primarily addresses aims one and two listed above focussing on New South Wales as a case study, utilising (i) collation and analysis of reform proposals and debate; and (ii) policy analysis conducted against planning themes and principles.

METHOD

The research paper has utilised the following specific methods:

- Collation and analysis of reform proposals; and
- Debate and a policy analysis conducted against developed planning themes and principles.

To enable the first aim of this paper - to map and characterise the recent suite of planning system reforms across NSW - numerous reform-based documents were gathered, assessed and analysed to form the basis of this paper. These included documents which expressed views in accordance with, and opposition to, the NSW Government's and public desires for the planning system (Aims 3 and 4). Specific examples of these documents included parliamentary documents, media releases, NSW Department of Planning (DoP) strategies and policies, relevant planning forums and events, and a number of submissions made by advocate groups such as the Nature Conservation Council (NCC) of NSW. A collection of statements made regarding public dispositions on the planning system have been gathered in an effort to gauge the diversity of public views (Aim 4).

Data collected has been allocated from eight sources (see appendix for additional details) - State Government reports/discussion papers (4); State planning instruments (21); Parliamentary speeches (2); Press and media releases (51); Lobbying and advocate documents (13); Local council submissions (3); Government (briefing) papers (3) as well as a miscellaneous collection of books, journals and additional online material (25). In total, one-hundred and twenty-two (122) sources were drawn upon for the purpose of this paper.

The second aim of this research was to identify the major planning principles (or themes) discussed within the NSW planning system and subsequent reforms. During the research process, a thematic framework was developed as a means of representing these planning principles. For the purpose of this paper policy analysis has been based and classed in the following thematic framework:

- A. Development facilitation and economic competitiveness;
- B. Strategic planning;
- C. Planning expertise and rationality;
- D. Environmental caution and balance between development and ecological sustainability;
- E. Consistency, predictability and transparency; together with Political integrity, trust and ethics;
- F. Social sustainability, community development and cultural diversity; and
- G. Community input and consultation; in association with consensus and community endorsement.

Subsequent to the formulation of these themes was a discussion of theoretical approaches to the political claims surrounding reforms in NSW (Aim 5).

THEORETICAL BACKGROUND

Healey (1997) contends that a neo-liberal approach to planning involves a shift from a policy framework which involves regulation and a spatial plan, to one based on outputs and performance indicators. Performance measures are used as “significant controlling devices...structuring situations in terms of delivery on performance criteria, rather than on the objectives the criteria are supposed to express (Healey 1997: 234).” She has also pointed to the connection between a market-based, economically-competitive, deregulated system and powerful property interests which can help shape and benefit from a more liberal planning regime (see also Raco, 2005:324). Other characteristics of the neo-liberalisation of government include the downgrading of the public service, and replacing government service delivery with community organisations, business and individuals. Low (1991) has argued that under this approach, the state would increasingly focus on activities that the private economy found difficult to manage.

The pathways of planning reform in New South Wales, and indeed Australia, have been widely interpreted and critiqued through the theoretical lens of neoliberalism (Gleeson & Low, 2000; Searle & Bounds, 1999). There is much evidence of neo-liberalist influence in the history of planning reforms and the discourses deployed to justify them

(Pennington, 2003). Evidence includes the entrepreneurial engagements of planning authorities, reduced (if recently revived) comprehensive metropolitan planning capacity, the privatisation of planning mechanisms, and the political prioritisation in planning of economic over social and environmental concerns (Stilwell, 2000). State governments have been keen to reduce the timeframes of development approval especially for major projects through “fast tracking”, circumventing impact assessment and approval procedures already in place and minimising opportunities for public involvement (Cocks, 1992; Searle & Bounds, 1999).

Justification of neo-liberal Government reform are enabled through communication and public affairs strategies, alternatively coined by Beder as the ‘public relations’ techniques. Beder’s *Global Spin – the Corporate Assault on Environmentalism* (1997) argued that democratic institutions increasingly deceive the public through a number of propaganda mechanisms:

“Many government agencies and corporations conduct public consultation exercises for the purpose of gaining community acceptance for hazardous facilities or undesirable developments. Since consultation in these circumstances is not aimed at genuine participation in decision making, it becomes a public relations exercise that seeks to manipulate public opinion and perceptions (Beder, 1999: page).”

Beder persuasively argued that sophisticated uses of language are proven means by which governments and their associates misguide the public, reshaping public opinion

through controlled communication processes (deemed as a public relation exercise) in order to conform to their own agenda yet maintain a public image of being 'committed' to their citizens. Raco (2005) specifically identified the 'side-tracking' of sustainable development discourse, a concept that is now notoriously pliable, able to be re-interpreted and deployed in the legitimization of diverse and contradictory agenda.

Theoretically and empirically there are significant limits to analysing and conceptualising recent planning reforms as derived from a unified or fully realised neoliberal project. Neoliberalism is a complex, geographically differentiated, and partially implemented, political project that competes with other political ideologies and governance mechanisms (Larner, 2003; McGuirk, 2005; O'Neill & Moore, 2005; Barnett, 2005). Some reforms are both illiberal as well as anti-democratic (e.g. the concentration of consent determination powers – rather than transparency and devolution to localised control). Contemporary analysis needs to address the diversity of practical and discursive thrusts activated in the push for reform. Such analysis of New South Wales planning reforms had yet to be undertaken.

MAPPING THE PLANNING REFORMS IN NSW

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Table 1 provides a snapshot of the recent planning reforms in NSW, and the (neo-liberal) missions and intention of those strategies or policies. This paper explores claims about

public opinion on seven aspects of planning system reform emanating around the NSW Government's planning reforms to date.

A. DEVELOPMENT FACILITATION

There has been a strong recent tradition in NSW of framing planning as overly-regulatory and uncompetitive, burdensome on developers and, notably, on the 'mums and dads' who constitute the bulk of DA applicants (Small Business Deregulation Task Force 1996; Coalition for NSW Planning Reform, 2007). The development lobby has produced reports which conclude that there is intense dissatisfaction with local government's handling of development assessment, including claims that 42 per cent felt that local government politicians have not done a satisfactory job of deciding what gets built in their communities and do not trust local officials (survey n: 1114) (PCA & Residential Development Council, 2006). Recently, a Department of Planning media release, regarding the new *Draft Centres Policy* (2009), stated that:

"Ms Keneally [Minister for Planning] said the Government was creating a planning system that makes decisions efficiently and effectively, in an open and transparent manner and that facilitates competition and investment growth in NSW. ... The NSW Government can, should and must do what we can to provide a planning system which helps businesses and communities grow. ... The challenge for the planning system is to create the right framework for new businesses to enter the market to keep competition strong, and that's what this policy aims to do (DoP, Media Release, Ministerial Office for Hon. Keneally M.P., 2009b)."

The assumption that planning processes are inefficient, if not anti-development, has been disseminated uncritically by the NSW State Government. Yet these investigations are produced in isolation of any broader and more comprehensive sense of Australians' expectations of and engagements with the planning system - their planning values and experiences.

Advocates of the above-mentioned reforms have characterised developers as ordinary mums and dads. The former Minister for Planning in NSW, Frank Sartor, was fond of stating that most development applications in NSW were not made by developers. Ninety per cent of applicants were affectionately described by the Minister as the 'mums and dads' of the development process. The Executive Director of the Housing Industry Association (HIA), a pro-residential development lobby, referred to the needs of mums and dads on four occasions in a three minute panel contribution, and the President of the Building Professionals Board stated that reforms were "really what the community needs and wants (NSW Housing Code Forum, December 12, 2008)."

"We are simply trying to help the mums and dads with very small applications that become tied up for six months, 12 months, two years, you know, while a council can't decide what to do (NSW Minister for Planning, Frank Sartor, Stateline, 2 May, 2008b)."

"Everyone agrees that red tape must be cut to make the (planning) system more accessible for mums and dads (David Harris, Member for Wyong, Labor – New South Wales Legislative Assembly debate, June 3, 2008)."

“The biggest winners from this package of planning reforms are the mums and dads (Lylea M^cMahon, Member for Shellharbour – Labor, as above).”

These claims about public expectations position pro-developer reforms as in the interests of ordinary people and construct ordinary people as developers (see O’Toole, 2007; Pennington, 2003). The claims resonate with the notion of the individualised, self-provisioning, neoliberalised subject (Rose, 1999). But the extent to which ordinary people accept and perform this subjectification is not at all clear (see Barnett, 2005; Dufty, 2007). What is also far from clear is the character of the public experience of engagement with the planning system, and how it might connect to planning expectations.

These documents argue that developers of all scales, whether multinational corporates or families seeking a home extension or sub-division, have a justifiable interest in consistency, predictability and transparency in consent processes. In general, the claim is that public preference is for uniform assessment principles and procedures across jurisdictions and over time. Some of the recent reforms in NSW have edged towards these principles, including standard instruments and templates for the development of Local Environmental Plans (now mandatory for all LGAs in NSW). Elsewhere in Australia, planning reforms have not tended to generate spectacular dividends in terms of consistency (Buxton et al. 2003).

B. STRATEGIC PLANNING

In the NSW planning system, numerous state-guided strategic documents have provided visions for Sydney and its' regions. Such bold plans as the Metropolitan Strategy, *City of Cities: A Plan for Sydney's Future* (2005) and the *State Plan - A New Direction for NSW* (2006) have attempted to guide growth and development of Sydney and NSW for periods of 25 years and 10 years respectively. These strategic plans ostensibly represent the means for Local and State Governments to "facilitate and manage growth and development (NSW DoP, 2005:5)." The former Premier of NSW, Morris Iemma, explained in 2005 that the "Plan has been prepared on the basis that well managed growth will strengthen and secure Sydney's economic competitiveness. ... The Metropolitan Strategy is a broad framework to secure Sydney's place in the global economy by promoting and managing growth (NSW DoP, 2005:3,5)". Broadly, these strategic plans have tended to prioritise job targets (within certain nodes or in catchments), and work towards the setting aside of land parcels for commercial and industrial development. But in order to be strategic these plans needed to anticipate housing and transport infrastructure needs.

Regional and subregional strategies were established to assist local authorities to achieve NSW-guided targets, produced within the Metropolitan Strategy, in areas such as employment and housing. The DoP characterised these strategic plans as reliant upon a partnership between the "State Government, local government, stakeholders and the community to discuss, review and then make decisions to guide the future of Sydney's

economy, environment and communities (2005:6).” But there is widespread disgruntlement among local councils that the mandated state government employment and housing targets for sub-regions have not been aligned with state infrastructure planning. This failing undermines the strategic nature of the state plans and planning.

The recent *Draft Centres Policy* (2009) announced by the Minister of Housing had an overtly strategic rhetoric (NSW DoP, 2009a). The Minister for Planning stated that:

“By identifying and supporting centres we can ensure efficient use of infrastructure, provide jobs closer to home, and reduce car trips through co-location of retail with other facilities (Ministerial Office for Hon. Keneally M.P., 2009a).”

The policy refers to how the economic growth must be environmentally sustainable and make the “most efficient use of the State’s investment in infrastructure (NSW DoP 2009a:ii).” Nonetheless, the six key planning principles articulated in the policy distinctly locate the market as the means through which efficient location will be determined and prioritise satisfying market demands creating “places where individuals and families want to live, work and shop (NSW DoP, 2009a:ii).” For example, Principle 3 states that:

“The market is best placed to determine the need for retail and commercial development. The role of the planning system is to regulate the location and scale of development to accommodate market demand (NSW DoP, 2009a:ii).”

Other principles refer to the provision of floor-space as determined by market demand, and the need to generate commercially-competitive retail spaces. Media and political controversy in NSW suggests that strategic planning might be a very important planning principle among ordinary members of the public, despite the policy failings to deliver strategic development.

C. ENVIRONMENTAL CAUTION AND BALANCE BETWEEN DEVELOPMENT AND ECOLOGICAL SUSTAINABILITY

“Ecologically Sustainable Development” (ESD) has become a major driver in modern urban planning, coined and popularised in the Brundtland Report *Our Common Future* (Brundtland Commission, 1987). Reflecting this, the State’s principle planning legislation, the *Environmental Planning and Assessment Act (EPAA) 1979*, in its name and processes accorded a prominent symbolic role to environmental impact. The amended Act requires that “any key environmental and planning issues are publicly identified and addressed early in the assessment process (NSW DoP, 2009c).” In launching the aforementioned *Draft Centres policy* (2009) the Minister for Planning in NSW claimed that:

“The review will encourage discussion on how the Government can achieve the right balance between sustainable planning and environmental outcomes and promoting a competitive business environment (Ministerial Office for Hon. Keneally M.P., 2009b).”

But environmental and community critics in recent years have expressed concern that state planning authorities have become pro-construction, at the expense of the environment. Critics point to decisions in places like Anvil Hill Mine and Catherine Hill Bay, where anticipation of economic benefits are argued to have outweighed environmental concerns.

A strategically co-ordinated approach to planning in NSW would enhance the possibilities of environmental caution and inter-generational equity. Having jobs closer to residential areas and co-ordinated with public transport are aspired to as a means to generate cleaner air and progress on greenhouse gas reductions. These are stated as NSW Department of Planning priorities (NSW DoP, 2006:6). A clearer example of an environmentally related planning reform was the introduction of the BASIX scheme in 2004, which established a sustainability code for development approval of dwellings. This code does address the environmental caution debate, bringing attention to the importance of sustainability (through reducing water and energy usage) to new and altered houses (NSW DoP, 2009c). The NSW Government claims a state-wide total saving of 5.7 billion litres of water and 173,000 tonnes of greenhouse gases over a three year period (2005-2008) (The NSW Premier, 2008). Its beginnings set high expectations as “the first planning tool of its kind to set clear and specific sustainable housing targets and a clear outline of how these can be met, beginning with water and energy” (Eckstein, D., Palese, B. & NSW DIPNR, 2005:2). However, beyond the BASIX system, and some token references to sustainability in the new Housing Code, there have been no other

substantive references to how NSW planning can improve the state's current and future environmental fortunes.

The current NSW Government claims that recent reforms find the right balance between development and environment (see Keneally, 2009b above), yet it is difficult to find examples of a structural commitment to ESD principles. Peak environmental groups, such as the Nature Conservation Council of NSW, believe that while recent reforms to the planning system may "result in better planning outcomes" they will decrease environmental protection (NCC, 2008). The NCC stated "we believe that these reforms will enable developers to act faster and be less inhibited by community scrutiny and environmental regulations (NCC, 2008)." Local government and other community-based groups have advocated the need for further balance between development and community, between environmental and economic concerns, the need to sustain public faith in the planning system, and the need for community consensus and endorsement. The President of the NSW Local Government and Shires Association (Genia McCaffery) for instance, argued that:

"It is essential we work together (on planning reform) and we take the time to get it right; taking time to work through these issues, recognising the legitimacy in all competing demands, find consensus and most importantly, seek and achieve community endorsements. That will pay off in the long run (The New Ideas for Planning Forum, 2007)."

Recent planning reformers in NSW (and elsewhere) may well be under estimating the degree of public interest in planning driven by a thorough on-going commitment to ESD.

D. PLANNING EXPERTISE AND RATIONALITY

One of the disarming aspects of the advocacy of the planning reforms in NSW has been the scarcity of reference to good planners and planning. There is scant reference to the need for skilled planners, and the whole practise of development assessment is constructed quite negatively, especially by the advocates of the reforms. The Executive Director of the Property Council of Australia (PCA) (NSW Division) criticised the NSW planning assessment system as too slow and too costly, being “impenetrable to the public” and requiring applicants to have “a PhD in planning ... to understand what’s going on (New Ideas for Planning Forum, 2007).” The Planning Minister in 2007 referred to local government development assessment processes as a “tyrannical reign” (Masters, 2007). The expanded list of developments that are classified as exempt and complying, and the ever expanding role for private certifiers (often non-planners), exacerbate the sense that planning is being marginalised. In a rare example of positive reference to the planning, the new Planning Minister in 2009 stated that “I’d like to thank councils and planning professionals for their continued work with the NSW Government to build the best planning system in Australia (Ministerial Office for Hon. Keneally M.P., 2009c).”

The new Housing Code in NSW makes little reference to planners, although it does contain a new set of tools for planners and planning (measurements). Similarly, new

ePlanning tools have been encouraged through the reforms, but they are overwhelmingly targeted at improving development assessment speeds, as well as enhanced transparency (facilitating better tracking for proponents). The reform and State Planning Department have not, for example, encouraged eTools that help gather wider and deeper community input (Piracha, 2009).

New assessment mechanisms (assessment panels) developed as part of the 2008 reforms do not even foreground the involvement of planners per se. These panels can include any stakeholders, including developers and their representatives. These panels are intended to give advice to the Planning Minister, or relevant local authorities, on specific development. Examples include the Joint Regional Planning Panel (JRPP), Planning Assessment Commission (PAC) and an Independent Hearing and Assessment Panel (IHAP). The panels can act as an advisory body and a review authority. Five panellists will be selected to sit on each JRPP. The Minister will appoint three panel members, through the Expression of Interest (EOI) process. Councils will select two members who will sit on the panel when determining matters in their local government area (NSW DoP, 2009b:5).

These reforms appear to be out of alignment with community expectations. A survey by the Local Government and Shires Association (LGSA) of NSW (2006) polled 640 residents across New South Wales on local planning and development assessment in the State (IRIS Research Ltd, 2006). The survey confirmed an allegiance to local councils, rather

than higher levels of government, and respondents thought that Councils were the appropriate authorities to determine local development applications (72 per cent in favour of localised decision-making). Six-in-ten respondents felt that responsibility for approving development applications in their local area should not be shifted to external planning panels and ought to remain with Councils.

One of the few advocates of reform to overtly position a role for planners, and planning expertise, was the Coalition for NSW Planning Reforms (CPNR). The 'Coalition' represents "the key stakeholders in the NSW Development Assessment system and the state's long-term, sustainable growth (CPNR, 2007:1)." The Coalition includes the professional bodies for planners, architects, landscape architects, builders, real estate and certifiers. They argued that assessment processes needed to be made faster, but that there was also need for "increased certainty and consistency", "improved business activity and economic growth", "better design and community input into strategic planning", "strong and more strategic local government", and "long-term solutions and sustainable development" (CNPR, 2007:2). The CNPR argued that planning needed to be made a "more attractive profession to work in", that is "better able to retain skills and talent" (CPNR, 2007:2). This call was one of the few statements in which planning and planners were positioned as important.

E. POLITICAL INTEGRITY, TRUST AND ETHICS

For a planning system to maintain community legitimacy it must retain a sense of integrity, trust and ethics to ensure public confidence in the decisions that are made. In the past, corruption cases in the NSW public sector have substantially reduced the trust that NSW residents have placed in governments (Dempster, 2008a). In late 2007 to 2008, the Independent Commission against Corruption (ICAC) inquiry into Wollongong City Council (WCC) exposed corrupt conduct of council staff and developers in the assessment of development proposals and a range of other matters. In October 2008, the ICAC recommended “seeking advice from the Director of Public Prosecutions (DPP) with respect to prosecuting 11 individuals for 139 criminal offences in relation to...corruption allegations at Wollongong City Council (ICAC, 2008).” The significant media attention stemming from the inquiry was leveraged by pro-reformers. The Property Council of Australia argued that “It is very important to depoliticise decisions made on DAs, particularly larger regionally significant projects which can be complex and controversial (PCA, 2008b)”. And their Executive Director, Ken Morrison, suggested the NSW planning assessment system was too politicised, not sufficiently corruption proof, and impenetrable to the public (New Ideas for Planning Forum, 2007). Findings of corruption within the government have been cited and frequently used as an argument for centralisation of power, removing discretionary powers away from councils to decision-making panels.

Over the last two decades, reforms had seen additional centralisation of planning determination within the State Planning Department, and specifically the Minister’s

office. This has been accompanied by an increasing level of donations to political parties by private developers (Ferguson, 2008). In 2008 and 2009, amendments to Planning legislation established an important and on-going role for planning assessment panels, who would “act as the consent authority for about 80 per cent of projects currently determined by the Planning Minister (Ministerial Office for Hon. Sartor M.P., 2008).” The Property Council strongly supported the panels as a means to de-politicise development consent decisions on major projects (PCA, 2008a).

During 2008, there was concern that political donations to political parties at the state level, by developers, were buying influence on consent determinations for significant developments. The suggestion was that while the donations were not buying approvals, they were buying ‘access’ to decisions makers and their support staff (Mant Inquiry, cited in Dempster, 2008b). In 2008, the Minister for Planning promised that “new laws will deliver increased confidence in the transparency of the development assessment process in NSW (Ministerial Office for Hon. Keneally M.P., 2008a).” The assessment panels mentioned earlier were also established to assist with Minister’s consent determinations. The proportion of development applications that can now be referred to these panels has been expanded, from those where a proponent has made a political donation in the last two years to “project applications where there are potential conflicts of interest for a Planning Minister, including projects in a Planning Minister’s electorate” and “where the Planning Minister has a pecuniary interest” (NSW DoP, 2009b:4).

However, some peak bodies are not so sanguine about the incorruptibility of panelists. The Local Government and Shires Association suggested that there are more opportunities for corruption by introducing panels and arbitrators. The corruption risk inflamed because more people are involved in the decision making process, and conflicts of interest are common because the panelists must be self-interested enough in development to lodge an EOI to be on a panel. They worried about “probity – greater corruption risks due to the expanded role of appointed panels and the introduction of planning arbitrators (LGSA, 2008:4,5-8).” Nonetheless, the Department of Planning was confident that the reforms “introduce additional transparency and accountability to the planning system which assist in stakeholder and community engagement and confidence in the system (NSW DoP, 2009b:3).” It remains to be seen whether community confidence in the probity of planning in NSW has been enhanced, and whether these principles are considered as important by ordinary people across Australia.

F. SOCIAL SUSTAINABILITY, COMMUNITY DEVELOPMENT AND CULTURAL DIVERSITY

The New South Wales *Local Government Act, 1993* legislated that councils’ functions in NSW must be consistent with and actively promote principles of cultural diversity. The NSW Government made a commitment in 1995 to legislate for access and equity for disadvantaged groups within local government. This requirement was legislated in a

Local Government (General) Amendment (Community Social Plans) Regulation, 1998. In 2004 the State Government launched the *Cultural Planning Guidelines for Local Government*. These guidelines encouraged cultural planning to “help councils tackle social exclusion, contribute to urban regeneration, create employment opportunities, build safer communities, improve community well-being and encourage healthier lifestyles (NSW Ministry for the Arts & Department of Local Government, 2004:7).” The recent strategic plans (see earlier) in NSW address culture in some way within their “Parks, Public Places and Culture” sections of the subregional strategies. The Department of Planning stated that “Cultural diversity provides benefits to local communities adding a sense of community and the availability of skills and knowledge (2008:10).” Heritage protection is another related concern. The National Trust (2008) described how in future “design codes will be set by State Government rather than by Local Government in consultation with the local communities.” The National Trust (2008) is afraid that design codes will focus on street frontages and allow wholesale redevelopment behind facades, leading to widespread loss of heritage buildings and degradation of urban conservation areas. The National Trust (2008) is also concerned that plans are being rushed through without enough time available to study them in detail. References to social sustainability, community development and cultural diversity are not at all prominent in the main debates and statements regarding planning reform. The recent *Draft Centres policy* (2009) has an aim of developing places and communities, yet it relies demonstrably on retail and commercial development nodes for that.

“The retail and commercial sectors are the backbone of the modern NSW economy and a key contributor to the creation of the kinds of communities in which people want to live,’ Ms Keneally said. (Ministerial Office for Hon. Keneally M.P., 2009a).”

The emphasis on market-led community development looks strikingly neo-liberalist (see earlier critique). It remains to be seen whether communities would share this faith in market processes to generate and determine the direction of community development.

G. COMMUNITY INPUT, CONSULTATION, CONSENSUS AND ENDORSEMENT

A fierce debate about planning reform continues across the NSW State Government and within local councils and communities. Planning reforms within NSW have effectively created a schism between the two tiers of government - one which constructs government claims in relation to imagined public desires from the planning system, and the other which represents communities and essentially bears the burdens of public discord against the State’s planning reforms.

Despite a demonstrable lack of local government or public consultation on the recent suite of planning reforms, the reforms were widely justified by the then Planning Minister, Frank Sartor, as enacting the broader community’s desires about how the planning system should be reformed. According to Sartor, the reforms addressed the wishes of the mum and dad developers, who account for the majority of development assessment applications with their DIY and small-scaled developments. The *NSW*

Housing Code has been claimed to “take much of the heartache out of planning applications lodged by ordinary homeowners” (Ministerial Office for Hon. Frank Sartor M.P., 2008) and “helps ordinary families build their dream homes” (“New housing code to cut approval time,” 2008). Although there is a wide-spread recognition at the State Government level that the Housing Code is catering for public needs, some parliamentarians have spoken out, arguing that complying development exemptions “may streamline development approval, but at what cost to neighbourhoods? (Michael Richardson, NSW Legislative Assembly debate, 2008)”. Intriguingly, the Minister for Planning has asserted that the public is supportive of the reforms in NSW, even though the changes were likely to reduce public consultation on development applications.

Community representatives such as local councils, the LGSA and NCC have advocated the need for increased community participation within the planning system. The NCC’s comments on the NSW reforms, state that:

“The community can provide feedback, knowledge and highlight inadequacies or beneficial aspects about a potential project. This engagement can occasionally be difficult for both the developer and the community. We are concerned that the increase in complying development, changes in plan-making and the increased use of panels may reduce and exclude the community role in planning (NCC, 2008).”

Many groups and individuals have also criticised the *NSW Housing Code* and amendments to Part 3A of the *Environmental Planning and Assessment Act*

(1979) as documents which have the potential to “reduce legitimate public participation in development decisions (LGSA, 2008:8).”

Piracha (2009) argued that the planning reforms being pursued in Australia are very actively promoting eDA/ePlanning (electronic lodgement, tracking and assessment of development applications) and that the use of other generic computer applications is to facilitate, expedite and standardise routine day to day planning. The reforms have not advocated the incorporation of any planning-specific tools to engage stakeholders in collaborative strategic policy making. For example, computer aided policy-making used for visioning, visualising and assessing alternatives is not part of the planning reform agenda in Australia in general and in NSW specifically.

As part of the State Government’s legal consultation process, community endorsement has been facilitated through a number of means and methods. In addition to written submissions to strategies and policies, the internet has facilitated online submissions, providing increased opportunities for comments and feedback. ‘Planning Roadshows’ were established under Keneally in late 2008 for key decision makers, assessors and stakeholders to “ask questions, talk to the experts and get the facts (Ministerial Office for Hon. Keneally M.P., 2008b).” Workshops informing the community of the *NSW Housing Code* were attended by 1,000 stakeholders and members of the community in 26 workshops running across the state. Notably, these provide opportunities for professional development, education and discussion. They are not however intended as accessible and well-publicised forums for community members.

Further questions regarding community input and consultation include:

- How accessible is the planning system to the community?
- How many people are aware of these consultation opportunities?
- Are people sufficiently informed about planning processes to respond effectively?
- How important is it for the community to agree with what has been done in their name?

DISCUSSION

This paper and subsequent research seeks to identify the changes to the planning systems across Australia, and whether these are consistent with public desires. Table 2 below provides a juxtaposition of the planning principles addressed within the paper.

INSERT TABLE 2 ABOUT HERE.

Khan and Piracha asserted that “there is no reason to assume...that these changes are reflective of the desires, wants and needs of the wider society (2003:1).” Voices of dissent against reforms have been scornful of how state governments and the development lobby “dress up the proposals as being for the benefit of ‘mums and dads’ (Blue Mountains Conservation Society, 2008:1).” In contrast to Sartor’s claims, the characterisation of public opinion presented by NSW Local Government and Shires Association President, Genia McCaffery, implies a much broader expectation: “The communities we represent want a planning system that delivers them better

communities, places where they actually want to live (New Ideas for Planning Forum 2007).”

There has been considerable disquiet from community groups around Australia regarding the loosening of planning regulation (Buxton & Tieman, 2004). Lewis (1999) chronicled the rise of Save Our Suburbs, an umbrella organisation comprising a large number of community organisations which oppose the privatisation of planning approvals and reduced regulation in planning as part of the Kennett Government’s neoliberal planning schemes. The Green Wedge Coalition have advocated for increased regulation, especially of the green belt as part of the Melbourne metropolitan policy: *Melbourne 2030*. The public voices about planning system reform have been by no means unitary, and they certainly have not been universally supportive of neo-liberalist directions. The calls for regulation, balance and community input are generally in alignment with mainstream planning scholarship, which champions a more communicative and democratic style of planning (Healey, 2006; Innes & Boheer, 2003).

While neoliberalism has clearly infused planning systems, it is also clear that this does not mean that social democratic, inclusionary or environmentalist political projects and principles have been erased (McGuirk, 2005; Owen, 2002). We think it better not to commence an analysis from the a priori position that neoliberalism holds a hegemonic and publicly accepted position on planning systems and reform. A priori assumptions about neo-liberalism’s omnipotence and omnipresence will generate partial empirical

accounts (see Castree, 2006). As can be seen from above, there are other projects pursued through reform. Our future analyses will consciously avoid the troublesome political consequences of over-emphasising the influence of neoliberalist ideology and thus undermining the extant alternative possibilities (see above, and McGuirk & Dowling, 2009). The aim is to open up the ground for planning scholars, planning professionals and a wider community to make more expansive claims on planning systems and planning reform.

Gleeson and Low (2000) argue that as a consequence of neo-liberalist reforms the general scope of planning's aspirations has been narrowed, inhibiting the underwriting of social equity, and weighting the balance towards economic outcomes before environmental ones (Searle, 2002; Stilwell, 2000). Yet robust data on public attitudes towards planning may provide a powerful counter-weight to these thrusts. Public preferences for planning systems may favour the incorporation of greater environmental caution, concern for social impacts and social sustainability (Piracha, 2008). Evidence of such planning attitudes in the Australian community, alongside or over and above desires for efficiency, will add political weight to planning scholars' and planning professionals' calls for alternative reform impetus and more consultative planning practice.

Future research will seek to address planning frameworks on a national scale, questioning the impetus for Government intervention in the process and whether it is in

line with community sentiments. A core part of this will be a comprehensive telephone survey of people's attitudes towards the planning system, supplemented by a series of in-depth interviews with a range of key stakeholders. These will provide a sense of the extent to which Australians prioritise the planning themes covered in this paper, and their depth of agreement or disagreement on their importance.

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APPENDIX

A. Quantum of Data

A large number of sources were gathered in attempt to formulate and develop the planning principles and themes, which provided the overarching framework for this paper. The collected data represents the views of the NSW State Government, Local Government, environmental advocates, the property industry, planners, the media and public attitudes towards the New South Wales planning system. The wide-range of data collected, were allocated to eight areas:

1. State Government reports/discussion papers (4);
2. State planning instruments (21);
3. Parliamentary speeches (2);
4. Press and media releases (51);
5. Lobbying and advocate documents (13);
6. Local council submissions (3);
7. Government (briefing) papers (3); and
8. Miscellaneous (including books, journals and additional online material) (25).

In total, one-hundred and twenty-two (122) sources were drawn upon for the purpose of this paper.

The list below details the break down of the sources gathered for the purpose of this paper:

State Government reports/discussion papers (total 4)

Improving the NSW Planning System (Dp)

Improving the NSW Planning System (Submissions report)

Sydney Metropolitan Strategy (Update report)

NSW planning reforms update (Fact sheet)

State planning instruments (total 21)

NSW State Plan

Sydney Metropolitan Strategy

Draft Centres Policy

EP&A ACT 1979 (NSW)

Local Government (General) Amendment (Community and Social Plans) Regulation 1998
(NSW)

NSW Housing Code- Community Guide

Promoting economic growth and competition through the planning system (Issues for
consultation)

Cultural planning guidelines for local government

SEPP (Exempt and Complying development Codes) 2008

Guide to complying development

Subregional Strategies (Inner-west etc)

Speeches in Parliament House (total 2)

Frank Sartor- amendment bills (LA)

Penny Sharpe (on behalf of Costa) – EP&A Amendment Bills

Press releases (total 51)

Newspaper articles- total 21

Media releases from MP's/political parties- total 9

Media releases from Minister for Planning (Sartor/Keneally) - total 15

Media releases from Premier- total 1

Media releases from PCA and LGSA- total 5

Lobbying documents/reports/submissions (total 13)

PCA- letter to Sartor INSWPS

PCA- better, faster, smarter INSWPS

PCA- coalition for NSW planning reforms

LGSA- planning reform alternate solutions

LGSA- community impact assessment- draft exposure bills

LGSA- submission on Housing Code

NCC NSW- INSWPS submission

LGMA- INSWPS submission

PIA- JPPPs discussion paper further comments

PIA- draft centres policy submission

LGSA- draft exposure bills submission

LGSA/IRIS research- opinion poll paper on NSW planning system/local government

Blue Mountains Conservation Society- 'Hut News' newsletter

Council submissions (total 3)

Ku-ring-gai Council- planning reform discussion paper

Leichhardt Council- planning system reforms

Dungog Shire Council- INSWPS

Government papers (total 3)

Recent development in planning legislation- NSW Library Briefing Paper

NSW planning system- proposed reforms- NSW Library Briefing Paper

BASIX History- DIPNR/BASIX paper

Miscellaneous (total 25)

DoP (total 3)

- Housing code fact sheet- education and training & cost savings
- Website information on PAC panellists
- Sustainability outcomes

Television Broadcasts/transcripts (total 3)

- Stateline, ABC
- Stateline, ABC
- Four corners, ABC

Books (total 9)

Journal articles (total 10)

Cumulative total= 122 sources

Table 1: Recent planning reforms in NSW, and their pro-development-orientations

NSW Government Strategy/Policy	Intention/s of document
<p>City of Cities: A Plan for Sydney's Future (2005) The Metropolitan Plan for Sydney</p>	<ul style="list-style-type: none"> - Economic and employment growth addressed as one of six main themes of the plan. - Targets introduced to maintain Sydney as a global city with a competitive edge.
<p>Subsequent regional and subregional strategies for NSW More detailed plans undertaken in conjunction with Sydney LGAs for regions and subregions in the city</p>	<ul style="list-style-type: none"> - Subregional and regional strategies identify key precincts and zones within their areas which can sustain or accommodate future employment lands.
<p>Growth Centres Commission (GCC) Commission to facilitate land release and development in the two designated growth areas of Sydney (in the south west and north west of the city)</p>	<ul style="list-style-type: none"> - Effective facilitation of development of land release and growth centre areas through appropriate infrastructure funding, developer contributions, economic growth, job availability and guidance of retail and commercial centres. - Coordination of investment and employment growth.
<p>Cities Taskforce (2006) The Cities Taskforce project has thus far delivered visions and detailed planning and civic improvement strategies for the six regional cities of Wollongong, Gosford, Parramatta, Penrith, Liverpool and Newcastle.</p>	<ul style="list-style-type: none"> - Understanding the six regions to provide a vision and direction for each region. - Engaged in sustaining and enhancing economic development, as well as equipping each region to be a driver for the NSW economy. - The plans are designed to boost job, housing and lifestyle opportunities in regional cities across NSW. It will also help these cities become drivers of the NSW economy.
<p>State Environmental Planning Policy (Exempt and Complying Development Codes) (2008) This policy which came into force in February 2009 allows proposed development which complies with the NSW Housing Code to be dealt with by a certifier rather than a consent authority. This is the main reform aimed at reducing the number of development applications congesting council planning departments.</p>	<ul style="list-style-type: none"> - Cost savings anticipated for Local Councils and families as a result of reduced approval times. - New code endeavoured to "provide a much-needed boost to the housing industry in NSW (Ministerial Office for Hon. Keneally M.P., 2008c)." - One of the key benefits of the using the Housing Code for compliance is to speed up straightforward/family developments to ensure access to \$24,000 first home buyers grant available from the Federal (\$14,000) and NSW (\$7,000 + \$3,000 boost) Governments. - "Housing Industry Association estimates the NSW Housing Code could save an average \$6,654 per application in Sydney and \$2, 549 in regional areas (NSW DoP, 2009b:6)."
<p>Draft Centres Policy (2009) This policy is concerned with retail and commercial centres in cities and was released in April 2009 for comment. The policy had an increased market orientation compared to previous policy.</p>	<ul style="list-style-type: none"> - Targets Local and Regional centres- shops and other businesses to drive the NSW economy. - "The retail and commercial sectors are the backbone of the modern NSW economy and a key contributor to the creation of the kinds of communities in which people want to live," Ms Keneally said. (Ministerial Office for Hon. Keneally M.P., 2009a)."
<p>Competition and Investment Discussion Paper (2009) This discussion paper seeks comments on ways of making the planning system better able to facilitate competition and investment growth. It continued the market theme of the Draft Centres Policy.</p>	<ul style="list-style-type: none"> - The policy "aims to encourage investment and competition in the retail and commercial property sector (Ministerial Office for Hon. Keneally M.P., 2009b)."

Source: Authors, 2009

Table 2: Comparison of planning principles – main themes.

Planning Principle		Extent to which this principle has been advanced in NSW by recent reforms
A	Development Facilitation	Enhanced; but a question surrounding whether this is actually what ordinary people desire.
B	Strategic Planning	Neglected; and a narrow-emphasis upon market led community building.
C	Environmental Caution and Balance Between Development and Ecological Sustainability	Token and sporadic references to this, some effort to encourage ESD design, major issues neglected.
D	Planning Expertise and Rationality	Overlooked.
E	Political Integrity, Trust and Ethics	Leveraging of concern about corruption to assist with centralisation; public reassurances.
F	Social Sustainability, Community Development and Cultural Diversity	Marginalised as a core issue of planning.
G	Community Input, Consultation, Consensus and Endorsement	Diminished.

Source: Authors, 2009.