

**Submission
No 236**

**INQUIRY INTO PLANNING PROCESS IN NEWCASTLE
AND THE BROADER HUNTER REGION**

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Director,
Select Committee on Planning & Process in Newcastle and the broader Hunter Region
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Sir/Madam

Re: SUBMISSION TO THE SELECT COMMITTEE

I wish to make a submission to the select committee.

I submit that the issues under consideration by the committee are evidence of a failed system of land zoning management in New South Wales. The current system makes corruption inevitable. Merely developing rules to prevent the corruption and inappropriate actions that inevitably arise from the current system is always going to be fail. Therefore I propose changes to the current system towards a system similar to those developed for other areas of government regulation where corruption and inappropriate behavior became endemic, such as irrigation water rights management, taxi plates, or gaming machines.

Introduction

I am a citizen of Newcastle. I was born in Newcastle and lived here for the first 20 years of my life. I returned to Newcastle for professional reasons in 1994. I work as a Senior Specialist Anaesthetist in Newcastle. I am an Associate Professor of Anaesthesia & Perioperative Medicine at the University of Newcastle. I also am interested in community affairs more broadly. I am involved in a number of community groups. I am the convener of the Newcastle Institute, an independent public policy “think tank” that was formed in 2004 and conducts regular public forums on matters of public interest, including well respected public forums for candidates at State, Federal, or local government elections. I am also the President of the Hunter & Coastal Region Division of the Scouts Association. I am writing this submission as an individual, independent of my social or professional appointments.

Submission

I note the terms of reference of the select committee. I believe that the matters under consideration by the committee, and the complex history of these matters, provides *prima facie* evidence of inappropriate actions (including corruption) by multiple individuals concerning most of these matters. I am sure these issues will be dealt with more than adequately by others submitting to the select committee. In this submission, I wish to focus on changes to prevent these issues recurring.

I am motivated to do this because I have been distressed by watching the effects of the inappropriate actions that have occurred on some of the individuals involved. In particular, the former member for Newcastle, Mr Tim Owens AM, became personally entangled in corrupt and dishonest behavior. This is a personal tragedy for him. I came to know Mr Owens well in the last three years, and consider him to be an honorable man. He had previously had a notable career in the military. I believed he had much to contribute to public life in Newcastle and beyond (and note that I say this from the perspective of being a Life Member of the ALP!). When a man who is inherently honorable becomes entangled in actions such as this, it must be seen to be the result of a bad system.

A bad system makes good people do bad things. It is appropriate and necessary to have rules to try and prevent good people (and bad people) doing bad things, but if there is a bad system, but it is better to change the system.

I believe the current system of land use control and zoning in New South Wales is a 'bad system'. It acts as an *engine of corruption*. With the current system, corruption and inappropriate behavior is inevitable. The system must change.

The Current Model

Under the current model of land use control and zoning in New South Wales, a land owner can apply to have a zoning change. When zoning changes, the land owner has the potential for making profits that may be huge. Inevitably, this becomes a driver for corruption of public officials and the public governance system. It also undermines the confidence of the general public in the zoning system.

It is appropriate to have a land use control and zoning system to enable the community to control the pattern of development. What is needed is a system that minimizes the drivers for corruption.

Alternative Model

I believe an alternative model of zoning control is possible. I believe that from an economic/regulatory point of view, such a model is already in existence. Examples include the system for managing irrigation water rights from rural rivers, the allocation of taxi plates, and the limitation of numbers of gaming machines in New South Wales.

In the past, water rights were linked to a particular farm with access to a river frontage. Only some land had the right to pump water. Although this could be limited in volume by regulation, the system did not enable the true value of the water right to be realized by the regulatory authority. Thus decisions by a government agency could lead to some land holders getting windfall profits from changes in water rights. This was an 'engine for corruption'. One of the perverse outcomes was that the greatest profits were made by landholders getting cheap land and then getting water rights for it – even though the water may be of more 'value' (to increase productivity) if used elsewhere. In relatively recent times, a system of tradable and transferrable water rights was developed, whereby landholders could trade their water pumping rights on a volume basis as they saw fit. This has enabled a market mechanism to develop for water rights. It enables a fair market price to be established to guide sale (or purchase) by the government of water rights. Furthermore, it tends to ensure that the water is used where it will be of greatest value to increase agricultural production. The system has been changed to remove the 'engine of corruption'.

A similar mechanism could be instituted for land use control and zoning rights. Rather than rezoning a particular individual parcel of land and giving windfall profits to that particular owner, a transferrable zoning right to redevelop a defined limited area of land anywhere within the total area designated as suitable for development would be offered at auction. (i.e. similar to being offered the right to pump a designated volume of water anywhere from a river.) The zoning right itself could be applied to any suitable area of land within the area. The successful purchaser of the zoning would then negotiate with all landowners owning land designated by authorities as suitable to develop. By ensuring there were more potential landowners than higher-density zonings, the true value of the zoning change would be reflected in the value at auction returned to the government (and the community), rather than as windfall profits to landowners. Thus the true value of the zoning would be visible to the community, and the value of the zoning would be returned to the government directly. Rather than using negotiated offsets and special levies imposed on new developers when rezoning an area, the government would get the value of new developments returned to treasury directly. These funds could then be used to supply the infrastructure to underpin a redevelopment. As the demand for more land to redevelop

increased, rights to develop further (limited) areas anywhere within the overall redevelopment area would be auctioned. The non-developed areas would remain relatively cheap, and could, if necessary, be purchased by the Government for development of public amenities, schools, parkland, or other community facilities as social infrastructure. This would tend to increase the desirability of the redeveloped area, and drive up the auction price of the redevelopment rights, as they were released to market.

Example

The government may decide that a suburban area needed to be developed to a higher density in order to provide appropriate business activity and denser housing in a mid-city location. Rather than allowing this to happen gradually, the government could offer the rights to develop high-density buildings, up to a limited area, anywhere within the overall proposed redevelopment area. The remaining areas would be limited to existing building density, and would remain at a stable price rather than suddenly increasing. Over time, the government could use the funds acquired from the sale of new zoning rights to acquire some of the existing properties to be turned into open space and park land, or to supply infrastructure, such as new transport systems. This would increase the value of the new zonings, thereby acting as a 'virtuous cycle' to governments to invest in infrastructure to drive up the value of new developments, as the community would be returned this added value both financially (to treasury), and by improved quality of developments.

Similarly, on the outskirts of the city it may be appropriate for greenfield sites to be developed into housing. At present the price of open space increases dramatically in anticipation of 'inevitable' rezoning, which then occurs to give windfall profits to landowners, but does not necessarily lead to appropriate development. It also becomes an engine for corruption. The system of transferable zonings would mean that land value would reflect existing zonings (e.g. farmland), and there would not be an expectation of windfall profits, nor incentive for corruption.

Another advantage of this system would be that properties with heritage value would have their value "capped" by the zoning that would apply to the site. There would be no incentive for the property owner to allow "demolition by neglect" because the land zoning would reflect the existence of the heritage property. In other words, the value of the land would not change, even if the building decayed to the point of requiring demolition: the value would in fact deteriorate. There would thus be an incentive for the land owner to maximize the value of the existing heritage building by maintaining it in its heritage state. The unfortunate loss of the heritage property at Catherine Hill Bay in the 2013 bushfires – demolition by neglect leading to windfall profit to the landowner - was a classic example of the problems of the existing system.

Conclusion

The current system of incremental redevelopment has led to slow, disjointed and inappropriate redevelopment of our cities, with return of the profit to the landowner rather than to the government. This has also been associated with community disharmony, distrust of the planning system, and corruption. It has also denied the government the funds necessary to develop a worthwhile integrated transport system for this area.

I have discussed these ideas with a number of friends involved in planning and property development and they agree that it would be a feasible system. I have also discussed it with a number of academic economists, most notably Ross Gittins of the Sydney Morning Herald (a personal friend). He has agreed that this is a feasible model of land-use control that would return the value of land re-zonings to the community.

As has happened with water rights, a system such as that proposed would remove the drivers of corruption that entangle public officials and elected representatives in inappropriate behavior. We have seen too much of this in New South Wales in recent years, and the system needs to change.

I would be happy to discuss these ideas further when the Committee has public hearings. Thank you for your consideration.

Yours sincerely

Dr Ross Kerridge