

Australian Urban Land Use Planning

Introducing Statutory Planning Practice
in New South Wales

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Introduction: Why is planning important?

This book has been written during a time of lively national debate about the planning system. Critics claim that land use planning unnecessarily restricts development, discouraging investment and threatening the ‘great Australian dream’ of home ownership. “Planning restrictions in particular, are choking our cities and increasingly pushing up the prices in what were once the most affordable places to purchase a home” (Ron Silberberg, in Moran 2006, piii). On the other side of the debate, global concerns about the environmental impacts of urbanisation and associated patterns of consumerism, ranging from biodiversity loss through to climate change, strengthen calls for stronger and more effective land use planning to manage urban growth.

In general terms, the land use planning system helps to establish the conditions needed to protect and create attractive and efficient urban environments. By establishing a legal process to manage land use change and development, urban planning can ensure the provision and maintenance of public goods that might otherwise be underprovided by the free market, such as open space or community infrastructure. Planning can also contribute to the pursuit of greater social equity in urban development, by securing opportunities for the diverse housing forms needed to promote mixed communities within new and changing areas.

Importantly, the planning system also provides a process for public participation and an opportunity for groups and individuals to express their views about particular developments, including proposals that may have a direct or unjust impact on them. Organised planning processes can also coordinate different but potentially complementary objectives associated with the development process, such as the need to provide for new housing and infrastructure, and the need to protect the environment (Barker 2006, p26).

Positive or ‘reactive’ planning?

The post war era in particular, was a period of strong government intervention in urban and regional development across Britain, Europe, North America and Australia. This intervention was often undertaken directly, through large scale infrastructure programs such as Australia’s Snowy Mountain Scheme or public housing developments to house lower and middle income families. Using

capital funding provided under the Commonwealth State Housing Agreement, whole new suburbs on the metropolitan fringes of Australia's capitals were developed by state governments during the 1970s. At the same time, disadvantaged inner city areas underwent massive programs of 'urban renewal', including the construction of large public housing tower developments.

This direct involvement by governments in urban and regional development is often described as a form of positive planning in contrast to the more passive role associated with regulating development initiated by the private sector. However, as the majority of urban change and growth occurs beyond the public sector, regulating and managing this process to achieve positive community outcomes should involve far more than a 'reactive' form of development control.

Rather than tinkering around the edges of private development, the regulatory land use planning system should be about setting and implementing decision making frameworks that establish the goals, criteria, and standards for future development actions by the public or private sector. For this to occur, statutory land use planning should operate within a context of strong government policy, informing all scales of the planning process – ideally from a strong national level of policy setting and implementation through to the local and site based plan and assessment of proposals. Thus, rather than conceiving land use planning as a narrow form of regulation that 'reacts' in a passive way to proposals put forward by the private sector, it is argued in this book that statutory planning processes can and should underpin the proactive governance of urban and regional development processes.

Implementing strategic urban and environmental policy through land use planning

The main purpose of this book is to provide a practical understanding of the mechanisms, tools, and levers that can be used to achieve this strategic and proactive form of urban governance. The focus is on the statutory land use planning systems in Australia, particularly NSW. To use a traditional distinction, the book concentrates predominantly on the procedural aspects of planning – that is, how the planning system is organised and the processes by which planning decisions are made. However, the objective is to show how these processes and the system itself can be used to achieve the substantive objectives of planning, for instance, contributing to ecological sustainability or achieving more

equitable access to jobs, housing, and recreation areas across an urban region. Thus the early chapters of the book set out what might now be understood to be the ‘normative’ policy objectives of urban and environmental planning, within the paradigm of ecological sustainability. Within this paradigm, the field of urban planning has expanded to encompass a broad spectrum of disciplinary and public policy. This book focuses on just two broad policy areas – environmental sustainability and housing – but it would be possible to address many more, and to conceive of the policy remit of contemporary urban or environmental planning in almost infinite ways. Some of the policy areas that may now be addressed in part through land use planning policy include economic growth and revitalisation; transportation; urban design; biodiversity conservation; coastal management; urban accessibility; cultural heritage protection; community development and engagement; public health; cultural development and the arts.

In illustrating the way in which planning processes and mechanisms can be used to achieve environmental sustainability objectives, and objectives relating to housing policy, the book addresses two issues that will already be familiar to most readers, whether or not they have a background in urban planning or policy. It is through their own homes that many people first encounter the planning system, for instance, those seeking to build a house or to renovate, will need to lodge a planning application with their local council. Those seeking to find a home to rent or buy in the right place at a price they can afford, may also be interested in the urban development policies and processes that help shape the type, amount, and cost of housing that is available within a particular locality.

Similarly, issues relating to environmental sustainability engage people from the household scale right up to the global level. Is it possible to store and reuse water on a residential site, or to return energy to the electricity grid? What measures are in place to enable residents of new urban areas to walk or cycle to school, the shops, or the train station? How does the land use planning framework ensure that our internationally iconic koala populations will not be further threatened by new housing development within their core habitats?

This book examines how local and state planning authorities in Australia are beginning to address these issues within the broader national and international policy context in which they sit. It shows how standard planning mechanisms can be used to prevent

undesirable outcomes from occurring – for instance, avoiding a proliferation of homogenous new housing developments that do not meet community needs; or prohibiting development that will destroy important wildlife habitat. But it also shows how the planning system can be used creatively to encourage desirable outcomes through incentives – for example, permitting additional development potential for mixed use housing and commercial projects in business centres, or a variation on car parking requirements if a developer contributes to the construction of a cycle-path. These approaches, while presented in relation to housing or environmental policy objectives, can equally be transferred to other policy areas.

The statutory context in which planning takes place

In showing how the planning system is used, and can be used, to achieve urban and environmental policies, it is sometimes necessary to undertake a detailed discussion of legislation, but this book is not intended to substitute for an environmental law handbook or text. Many practicing planners operate within a ‘statutory’ context, achieving strategic urban and environmental planning objectives through the legal control of land use change and development. In showing how this process operates in Australia and NSW the aim is to demonstrate how this system can aid policy implementation through day to day planning decisions and through the more comprehensive forward planning process. The book is therefore a resource for policy makers, practitioners, students and members of the community who are interested in how planning systems in general and the planning system in NSW in particular, can be used to achieve strategic policy goals.

Information sources

In addition to the primary analysis of urban and environmental planning legislation and policy, several research projects on comparative land use planning systems and approaches to strategic environmental and housing policy, undertaken by the author between 2000–2006, form the primary information sources for much of this book. The majority of examples used refer to state and local planning jurisdictions within Australia, but international examples and comparisons are drawn where helpful to contextualise Australian approaches or to demonstrate creative ideas that might be transferable here.

As the status of legislation and planning instruments change rapidly, the book seeks to introduce the basic elements of key legislation, land use planning instruments and assessment processes, particularly those applicable to NSW. This provides a basis to assist readers in accessing and interpreting the latest iterations of these instruments (which are available online through state and national databases of legislation and case law (www.legislation.nsw.gov.au, www.austlii.edu.au)).

Additional resources and readings are suggested in relation to the range of specific issues addressed in each chapter.

Structure of the book

The book is divided into three sections. The first section introduces the key concepts underlying statutory land use planning both in Australia and internationally. Chapter two introduces the basis for government intervention in private development through a legal land use plan and outlines the current objectives of spatial and land use planning. Chapter three outlines the essential features of planning systems and the key stages in the land use planning process. Chapter four sets out the major land use planning techniques for strategic development control.

The second section of the book introduces the Australian land use planning system. Chapter five presents the current range of Commonwealth government responsibilities, policies, and legislation relevant to urban land use planning in Australia. Chapter six compares the state and territorial land use planning systems, highlighting key administrative responsibilities and policy, legislation, and metropolitan planning approaches. Chapters seven and eight review emerging local planning techniques for environmental sustainability, housing diversity, choice and affordability, drawing on examples from Australian local governments.

The final section of the book focuses on strategic planning and development control processes in NSW. Chapter nine focuses on land use planning legislation and policy in NSW. Chapter ten reviews the range of state and regional planning instruments and examines local planning and development control instruments. Chapter eleven outlines development assessment processes, including environmental impact assessment, and planning for infrastructure. The final chapter considers the strengths, weaknesses, and priorities for reform within the NSW planning system within the broader national and international context discussed in sections one and two of the book.