

City planning made simple: it's an explicit contract between government and governed

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Every five years since about 1990, NSW governments have proudly announced that they will make the planning system simple and quick, the best in Australia. Even e-planning has been announced regularly since the 1990s.

Somehow, despite this, every five years – apparently again today – the planning system *still* holds up projects interminably, *still* allows nimbys to exert too much influence, and *still* denies investors certainty.

The latter issue – reducing the risks of property investment through greater *certainty* – is the reason we have a planning system, or at least the reason why governments keep pouring money into the state's massive, pervasive, labyrinthine regulatory system for urban development. For all the reform, city development is still slow, risky, frustrating and fundamentally corrupted.

In the absence of any planning system, it would be much worse. Investment in urban property (even buying a house) would be a much more exciting gamble than investing in speculative shares, or buying cryptocurrencies. Reducing the risks of property investment is properly the focus of the Premier and the Planning Minister. Something must be done.

But this is NSW.

Stop-gaps, short-cuts, work-arounds and patches are good if they fix bugs. But the five-yearly fixes haven't worked because the problems are built in. Here are three of them.

First, the most fundamental problem here in NSW is the lawyer-driven approach adopted in Wran's planning act of 1976 which (incredibly) persists in 2019. While other states allowed common sense and geographic norms to prevail, lawyers rule in NSW, as engineers rule in China. Idiomatic legalisms dominate the NSW planning system. I'm not suggesting there's a fix for this.

Second, more universally, Lloyd Rees said that a city is the greatest work of art possible. Maybe, but only if we accept there is no Artist. Cities result from billions of independent decisions, more random than organised. The creation of the urban environment is *fundamentally for all of us*: fortuitous, interactive and collaborative. Given this incontrovertible reality, anything "simple and quick" it is bound to (and should) fail.

Third, the conspicuous failure in most current planning systems is the absence of the rule of law. Planning was a contract between government and landowners, to reduce risk in the property casino. Specific development was allowed here, prohibited there. It was crude but effective, even simple and quick. Planning now has to carry so many considerations – amenity, economy, environment, stability, beauty, equity, not to mention politics – that most rules are merely guidelines, most decisions are arbitrary, and most processes can be by-passed.

What's happening in Crows Nest and North Sydney makes the failures of the current NSW planning system obvious. No wonder that the Premier (the Member for Willoughby, Crows Nest's local member) and the Planning Minister are concerned.

Viewed from here, the answers are equally obvious.

Most Sydney communities welcome new arrivals, recognising that it is immigration and urban growth that determine which state is 'the strongest in the nation', so *they are not nimbys*. That pejorative term comes from a more fragmented, divisive, unequal society across the water.

Here, communities know that urban growth happens, and that increases in dwellings, shops, schools, parks, workplaces, roads, trains and buses are actually predictable. Communities happily accept their share of growth, and in Western Sydney communities are desperate for more of all of those things.

What communities reject is unannounced, *unplanned* densification, 'unsolicited proposals', 'state significant development', 'planning proposals', and the other simplistic mechanisms to by-pass local plans. They are mystified as to why the NSW Government prioritises outlandish, outrageous proposals by developers, and now seems to call for even more fast tracks and executive work-arounds.

Communities expect the NSW government to be, and to behave like, the metropolitan government of the Sydney Region. The NSW government funds 90% of all investment in

infrastructure and urban services in the Sydney Region, almost ten times the entire amount spent by all councils in the region.

NSW government agencies, and the ministry, should be organised and structured to reflect the NSW government's functions as the metropolitan government of the Sydney Region – it is demonstrably its primary function.

It is time for NSW Governments to overcome their fear of being punished by the bush if they accept their overt role as the government of a global city region – the success of which determines prosperity in the bush.

Local governments are essential, socially and environmentally, in place management. But once local governments (and nimbys) are seen as bit players in development in the Sydney Region, the NSW Government can be precise about what it wants.

The NSW Government should (i) continue to define the future of the region, (ii) specify in specific spatial terms what the 30 minute city means, and (iii) continue to be more precise about targets and goals. Leaving approvals to fast tracks and executive decisions is the worst way to proceed: what is needed is clarity and certainty, in spatial terms, about future regional development.

The strategy must then be translated into explicit rules in local plans. Vague local planning strategies, with no explicit spatial rules, should be unacceptable. This gives entirely new meanings to *e-planning* and *investor certainty*.

- A form of e-planning which converts paper processes to digital processes is insignificant. When the rules in planning instruments are explicit and embodied in design software, e-planning will mean that most proposals will totally escape the tyranny of local politics.
- Certainty through access to discretionary decision-makers is the abdication of planning as a contract between government, landowners and citizens. On the other hand, when development rules can be accessed and applied in design software, investor certainty is maximised.