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OPINION

After a decade of lost opportunity to fix NSW's planning mess, here's a model for success

By James Weirick
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The Liberal-National Coalition came to power a decade ago promising reform of a NSW planning system besmirched under Labor by allegations of undue developer influence, overdevelopment at Barangaroo and the misuse of ministerial discretion in planning decisions.

The O'Farrell government could have been a model of probity in these matters. It overstepped the mark, however, with a planning bill that proposed to weaken the already weak environmental measures of the state planning legislation and to open significant categories of property development to fast-track approval under "exempt and complying" provisions.

[How to plan better? After a decade of lost opportunities, NSW needs a genuinely independent planning commission, free of ministerial intrusion and vested interests. CREDIT:*JAMES BRICKWOOD]*

Fortunately for the citizens of NSW, the 2013 Planning Bill – put up by Planning Minister Brad Hazzard – was defeated in the Legislative Council by a somewhat unusual Labor-Greens-Shooters alliance that managed to assemble a one-vote majority on a number of amendments that rendered the bill meaningless.

Before this, the O'Farrell government had delivered on its promise to repeal the most notorious planning instrument from the Labor era, the Part 3A ministerial "call in" powers under the NSW Environmental Planning and Assessment Act. The new government replaced this, however, with a more-or-less identical instrument, the "state significant development" provisions of the act. These were established for large-scale works but this path to ministerial approval is used today for any number of projects that are neither state-related nor significant, such as the

function room of a cricket training facility, or a science block at a North Shore private school.

A 1970s burst of legislative reform, aimed at overcoming the urban development rorts of the Askin Liberal government, created the NSW Environmental Planning and Assessment Act, the associated Land and Environment Court Act and the Heritage Act. At first, the EPA Act was considered a model protector of environmental amenity, public participation and community empowerment. However, with amendment after amendment enacted by Labor and Liberal governments, its complexity, legalese and lack of transparency made it a formidable protector of special interests and ministerial power.
Under the "open for business" ethos of the O'Farrell government and its successors since 2011, the increasing concentration of ministerial planning powers has been combined with a backdoor mechanism for unsolicited proposals, the sale of public assets on an unprecedented scale, and the fast-tracking of development approvals.

The sale of public assets – electricity infrastructure, the ports, 20,000 government properties and so on – has been justified on the basis of capital recycling to fund new infrastructure, most notably transport projects across metropolitan Sydney aimed at overcoming the woeful lack transport investment in the Labor years.

Alas, the funds have been spent on the wrong transport projects: traffic-inducing tollways to the centre of town, light rail to the south-east with less capacity than buses, metro rail from the north-west built on a long-haul commuter model, heavy rail to the new airport planned on a crazy roundabout route.

These are part of a long list of undertakings – the stadiums, the Powerhouse Museum, the Millers Point social housing sell-off, redevelopment of the Waterloo Estate, sale of the Bridge Street heritage buildings, sale of the Land Titles Registry, the Aerotropolis land deals, treeless suburbs in western Sydney – that have one thing in common. They are all mistakes. Or more accurately, they are the ruinous outcomes of persistence in folly, as all have had wise counsel ranged against them – to no effect.

In the next 10 years we can expect more of the same unless there is fundamental change to the way our city is planned.

One Liberal-National Coalition contribution to good government points the way – the 1980s creation of the Independent Commission Against Corruption, the operative words being "Independent Commission".

NSW needs an Independent Planning Commission. It needs to be truly independent, unlike the well-meaning but toothless Greater Sydney Commission. An independent body funded on a permanent basis by a hypothecated proportion of

the stamp duty-replacing land tax proposed by Treasurer Dominic Perrottet, on the principle that every property owner has an interest in good planning.

The aim would be to create a city-making body with powers like the long-established, deeply respected Western Australia Planning Commission. A body that would formulate and administer a metropolitan plan that is law, not wishful thinking. A body that would set a clear, transparent betterment tax for the community to gain a proportion of increased land values that flow from development rights. A body that would mandate local plans responsive to the physical qualities of place – based on clear statements of desired future character and controls that everyone understands.

With this, we would have a planning system at arm's length from special interests and ministerial directions of the day.

Before we reach this point, however, we need a royal commission on density, a forensic reckoning of what has been created by urban consolidation and spot rezonings here, there and everywhere over the past 30 years. It would be a reckoning of what has been built, how it has been built and who is responsible, a reckoning on the quality and character of living environments across the state to set standards for the future in an incontrovertible way.

Emeritus Professor James Weirick was co-founder of the UNSW graduate program in urban development and design, which he directed from 2007-2020. He currently serves on the City of Sydney design advisory panel and as the council's nominee on the Macquarie Street East Precinct design review panel.