

THE AUSTRALIAN

Planning reform key to stem the rot in state

HENRY ERGAS THE AUSTRALIAN SEPTEMBER 15, 2014 12:00AM

EVERY year, Transparency International publishes a “corruption perceptions index” that ranges from 0 to 100, where higher values indicate cleaner government. On that measure, Australia, which scored 88 a decade ago, is now down to 81.

But that doesn't make us the Central African Republic. On the contrary, we are still one of the 10 least corrupt countries in the world. And very few Australians ever encounter a crooked public official: according to the 2007 Survey of Social Attitudes, nearly 90 per cent of Australians report they have never been asked for a bribe and virtually none say graft happens “very often”.

That is in stark contrast to the Independent Commission Against Corruption's proceedings, which suggest a nation speeding towards the eighth circle of Dante's hell, where, trapped between false counsellors and soothsayers (whose heads, in a fate economic forecasters might contemplate, are twisted backwards until they cry themselves blind), the corrupt convulse in pools of boiling pitch.

In part, the perception of widespread corruption reflects the failure to distinguish crimes from misdemeanours. Accepting banned donations from property developers is squalid and illegal; yet it is hardly on the same moral plane as Eddie Obeid and Labor's grab and grub gang. Lumping the one with the other diminishes Obeid's wrongdoing while overstating the Liberals' sins.

But it would be wrong to dismiss the sleaze ICAC has brought to light. There is something rotten in NSW: and at its core lies a land planning system mired in opportunities for cronyism and corruption. That system's difficulties are not new; but Labor raised its flaws to unparalleled heights.

Even before then premier Bob Carr's announcement in 2000 that “Sydney is full”, Labor had reduced land release on Sydney's fringe to nearly 30 per cent below its potential level. That meant a greater share of new dwellings had to come from in-fill development; but in-fill is both a third more expensive than greenfields expansion and more exposed to labyrinthine processes of development approval.

Nowhere are those processes more dysfunctional than in Sydney. The governance of the metropolitan area is divided into 41 councils; too small to fully capture the benefits development brings, but large enough to stand in development's way. With in-fill the only game in town, the results were predictable: by the 2005-10 period, the annual number of new dwellings in Sydney, which had been in the order of 130,000 units, had been nearly halved.

Overcoming local blockages therefore became the key to developers' survival. Labor's solution was simple: it gave the state government ever broader powers to override council decisions.

That response was anything but novel: after the Askin government had cut the Sydney City Council out of redevelopment planning for the Rocks, the Wran government made excision its standard operating procedure, using carve-outs to force Darling Harbour through the planning process.

The Carr government went even further. Initially, it relied on powers in the state's Environmental Planning and Assessment Act to exempt major projects from local decisions; but a new Part 3A to that legislation greatly increased its capacity to do so.

“Characterised”, in ICAC’s words, “by a lack of published, objective criteria”, the new provisions were “exceedingly complex, even for planning professionals”. That complexity, along with the wide discretion they vested in the state government, made it “difficult for observers to know what decision might or might not reasonably be expected in particular circumstances, providing a convenient cloak for corrupt behaviour.”

And with land at a premium, the profits from corrupt decisions could be vast. While rigorous estimates have not yet been made, press reports suggest favourable zoning changes brought developers returns of up to 400 per cent.

Little wonder donations from developers, hoping for intercessions under 3A, became Labor’s bread and butter; and little wonder Labor, facing almost certain defeat at the 2011 election, sought to stop those donations flooding to the Coalition by banning developer contributions altogether.

The Liberals are now paying that ban’s price; the question, however, is what happens next. After all, for so long as the planning system remains cumbersome, discretionary and opaque, the risk of corruption will persist; and with Sydney’s land being among Australia’s most valuable assets, inefficiencies in its allocation harm the whole country’s economic prospects.

That is not to belittle the steps then premier Barry O’Farrell, along with then planning minister Brad Hazzard, rapidly took to improve the situation, including by abolishing the 3A provisions and significantly expanding land release on the city’s fringe.

But a sensible planning system must rely on an effective system of local government, which gives residents and property owners, who are directly affected by development decisions, a genuine say in how urban areas are run. At the same time, local governments must be powerful enough to capture not only the costs of those decisions but also their benefits.

The measures Premier Mike Baird unveiled last week, encouraging local councils to amalgamate, go in the right direction; but they need to be accompanied by planning reform. Streamlined processes, which now cover barely a quarter of development applications, should resolve three times that, as in Victoria, Queensland and the ACT. And the metropolitan planning strategy should have real bite, defining a credible framework for the city’s future.

Ultimately, the Emerald City’s problem is not that its developers are any more venal, or its politicians any less scrupulous, than those elsewhere. Rather, the flaws lie in a system which perpetuates an entirely artificial scarcity, creates opportunities for politicians to distribute the scarcity rents, and cloaks those distributions from public view.

Until that system is dismantled, the inefficiencies it brings to our largest city will continue — and the scandals with them.

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