

Friends of Banyule

PO Box 577

Heidelberg VIC 3084

Email friendsofbanyule@gmail.com

Web www.friendsofbanyule.org

THE REQUIREMENT FOR REGULATION FOR A QUALITY URBAN ENVIRONMENT

Dr Michael Buxton

Introduction

Dr Buxton said we are living in very interesting times for town planning. The planning system was substantially deregulated under the Kennett government (1992-1999) with Robert Maclellan as the minister for planning and the Bracks and Brumby Labor governments (1999-2010) which followed maintained this deregulatory stance. It is likely that the Baillieu government has more deregulation in mind.

It is happening in other states, and especially Queensland where many more uses and developments are discretionary or "as-of-right." The same doctrine is also evident at the national level by the Productivity Commission and intergovernmental levels in meetings of planning ministers.

Broadly speaking there are three levels of regulation of development proposals in planning law:

-Prohibited

-Discretionary

-Section 1 - no permit required.

Baillieu government policy

The Baillieu government's likely ambition is to move as much development activity as it can into the Section 1 category. Under this category there is no discretion for planning authorities, such as council's, to issue or refuse permits and no requirement for development applications to be publicly advertised. There are no third-party appeal rights. Applications are simply assessed by public officials to ensure they meet the provisions of an established code, e.g. ResCode, or new weak codes.

The Baillieu government is not bringing the public in to the debate on planning, nor is it spelling out in any clarity the options for planning. We know the government is interested in brownfields in-fill development in the inner and middle suburbs, but there is no clear blueprint of how this is to be achieved.

Councils are also being told by the Baillieu government that they need to identify areas for higher density development. However, they are being provided with no assistance to achieve these ends.

A former head of the Urban Development Institute of Australia is heading up the committee advising the Baillieu government on its review of the planning legislation.

It had been anticipated that amendments to the Planning and Environment Act were to be introduced into the Victorian Parliament in October or November 2011. However, it now appears more likely that they will be introduced in the autumn 2012 parliamentary session.

The 1980's

Although it had limitations, there was more open debate on planning in Victoria during the 1980's particularly when Andrew McCutcheon was the minister for planning.

There were some very good developments undertaken during this period and evidence of their success still exists.

Planning rules and VCAT

It is important to remember that the planning rules are controlled by state legislation which it is in the province of the government of the day to change.

The rules of the game do favour those with deep pockets. One significant advantage enjoyed by developers is their ability to hire expensive legal representation at hearings of the Victorian Civil and Administrative Tribunal (VCAT). Resident objectors in particular, and also local government, find it difficult to match the big spending capacity of the development industry.

Dr Buxton recounted the campaign in which he participated in the 1970's to defend the Dandenongs from development. Developers were poised with applications for subdivision of this internationally significant area. Much of the battle was fought and ultimately won at the local council level and in the courts.

The property industry

The development industry and its peak bodies including the Property Council, the Housing Industry Association, and the Urban Development Institute of Australia (UDIA), are strong campaigners and lobbyists for further deregulation of planning and building in Victoria.

Planning Minister Matthew Guy provided insight into the direction of government thinking when he recently suggested at a Property Council event that an application to build a ten-unit block of apartments should simply be assessed administratively against a code.

Joined community activism is vital

In Dr Buxton's view community groups are the only bodies remaining that are capable of stopping the head-long rush to further deregulate the planning system.

Government agencies, which once prided themselves on the frank and fearless advice they provided to government, no longer act independently in the planning area. They more or less drift with events. Also, individual members of parliament lack independence of mind and largely do what they are told.

If things were operating properly local government agencies should be a very effective source of resistance to the continuing push to deregulate planning and development processes. However, since the amalgamation of Victoria's local government bodies by the Kennett government in the mid 1990's they have ceased to be effective advocates at state government level on behalf of their own constituency.

It is difficult to know why this is the case but they have conspicuously failed to unite and campaign together on matters of common concern. They have also failed to network with their community groups on an ongoing basis.

With the property industry having such substantial resources at its disposal the most effective counter-weight to this concentrated power is ballot box pressure. For such pressure to be applied most effectively, community groups do need to be effectively networked. When acting singly on local issues they are at risk of being picked off by highly organised industry-based lobby groups and government agencies.

Height controls and property prices

In the view of Dr Buxton one of the major adverse consequences of a lack of height controls is that it bids up the price of land and, as a consequence, of housing. In such an environment if one developer secures approval for a development of a certain size it often precipitates demand for additional developments of greater height, thus elevating prices in the area generally.

Population growth, global urbanisation and climate change

Dr Buxton said we have embarked on one of the greatest transitions in human existence, at least comparable with such great events as mankind's transition from hunter gatherers to organised agriculture and cropping; the collapse of the Roman Empire and the Dark Ages that followed; the emergence of the Enlightenment and scientific method; and the Industrial Revolution.

Population growth and increasing urbanisation is now such that it is forecast that by mid-century seven billion people will be living in cities, including 60% of the Chinese and Indian populations.

The future is highly uncertain. James Hansen (see *Storms of My Grandchildren: the truth about the coming climate catastrophe and our last chance to save humanity* (Bloomsbury Press 2011)) says humankind has just seven years to substantially reduce carbon dioxide and other greenhouse gas emissions or face precipitous climate change.

There is a genuine debate to be had about the scale of urban development. There is conjecture about whether individual cities should be permitted to expand without effective limits. Dr Buxton believes scale is important and there are sensible limits to be struck.

In response to a question Dr Buxton said that there are positive lessons for urban development to be learned from particular North American (Portland, Seattle and Vancouver) and European cities, such as Copenhagen and Stockholm. In Victoria the Liberal government of the mid 1970's to the early 1980's under Rupert Hamer with Alan Hunt as planning minister understood the value of effective regulation.

Deregulation and instability

The deregulation of much of life in Victoria came with the Kennett government and his treasurer, Alan Stockdale, who was schooled in deregulatory doctrine by Margaret Thatcher.

President Clinton was responsible for removing important regulation of the US banking industry which dated back to the New Deal.

The Global Financial Crash of 2008 was largely precipitated by the unregulated expansion of housing on the urban fringe of US cities.

In conclusion- Getting regulation back into planning

Dr Buxton concluded his presentation by saying that the trend of deregulation in town planning for the past twenty years needed to be reversed and sensible regulation re-established to maintain the quality of the urban environment. The active involvement of linked up community groups is essential to achieve this end.