THE FISCAL CRISIS OF THE LOCAL STATE, URBAN CONSOLIDATION,
AND LOCAL OPEN SPACE PROVISION IN SYDNEY
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ABSTRACT

This paper analyses the recent provision of local open space in urban consolidation developments in Sydney, using data from a survey of local councils. In particular, it looks at the extent to which local open space areas required to meet new residents’ needs under the NSW Environmental Planning and Assessment Act are not being provided in such developments, and the reasons for this. Under-provision is shown to be greatest in existing higher density areas where the state government has targeted significantly increased urban consolidation. Reasons for under-provision include reluctance to pass on the cost to developers of funding the required open space given existing housing market prices, local council standards set at less than the EPA Act standard in denser areas, and the lack of local government revenue to maintain new open space. The latter reflects a fiscal crisis in local government that has arisen because of declining state government financial support, a state cap on the allowable increase in local rates, cost shifting by the state, state government pressure to reduce developer charges, and increased expenditure arising from greater community expectations and willingness to contest development proposals. The result is intensified pressure on existing open space.
Introduction: The emergence of crisis in local infrastructure provision

This paper analyses the recent provision of local open space in urban consolidation developments in Sydney, using data from a survey of local councils. In particular, it looks at the extent to which local open space areas required to meet new residents’ needs under the NSW Environmental Planning and Assessment Act are not being provided in such developments, and the reasons for this.

The end of the post-war welfare state over three decades ago was marked by a deterioration in state finances in the West, with rising unemployment and pressure on taxation from intensified global competition and domestic disillusion with big government (Filion, 1996). This heralded a more managerialist approach to government, and then (especially in Anglophone countries) a new era of neo-liberal government in various guises (Gleeson and Low, 2000). For Australian state governments, this resulted in privatisation of various government businesses and of infrastructure provision, reductions in subsided service provision, and a search for more resilient revenue sources that culminated in the states being allocated Commonwealth Government Goods and Services Tax revenues after 2000.

These trends were echoed and magnified at the local government level. Local government has no powers under the Australian constitution, and is reliant on state government legislation for its authority. In a contemporary era in which incipient state government fiscal crisis has been kept at bay by rising Asia-Pacific demand for
Australia’s resources, property bubbles, and privatisation and down-sizing of infrastructure provision, local government has been a target for reduced state subsidies. State grants to local government have fallen in real terms, while Commonwealth assistance has also declined as a proportion of total local government revenue. The ability of local government to compensate by raising real revenue has been limited by the relative power of special interest groups, particularly property-based, within local contexts. In New South Wales, this has been exacerbated by limits placed on local government rate (property tax) increases (‘rate-capping’) by the state government in the late 1970s. This has been identified as the main cause of a $6 billion backlog in maintenance of local government assets including roads, parks and libraries, and of the financial unsustainability of 14 Sydney councils (Grennan, 2008, reporting on a survey by analyst Fiscal Star). One Sydney council, Liverpool, has had to give up some of its park land for development to overcome a financial crisis (Mellish, 2005).

This situation has left local governments in the major cities ill-equipped to handle demands by state governments to absorb significant levels of urban consolidation. A major driver of this policy has been the desire of state governments to respond to fiscal pressures by limiting urban expansion and state infrastructure costs associated with such expansion. Resulting urban consolidation policies have been predicated on the existence of spare infrastructure capacity in the existing urban area, but the reality has been that significant types of infrastructure do not have such spare capacity (Searle, 2004). One area of infrastructure provision that appears to be already used to capacity in many areas is local open space, which is the responsibility of local government. This paper
investigates the extent to which this can be demonstrated in Sydney.

**Local open space provision: Issues and standards**

Central to local government fiscal problems concerning urban development have been rising expectations about desirable standards of infrastructure provision. Rapid suburban expansion in the post-World War 2 period was associated with low levels of infrastructure provision. Street kerbing was often absent, and sewerage and drainage provision lagged. Gradually residential developers were required to contribute to the necessary local infrastructure for new suburban housing. In Sydney, developers were required to provide water pipe connections from mains to individual dwellings from 1959 (Neutze, 1978, p. 145). In Sydney, this approach was formalized for all local infrastructure provision in Section 94 of the NSW Environmental Planning and Assessment Act 1979. This section required developers to provide or pay for all local infrastructure that was required to support the new population generated by a particular development.

For local open space, the most expensive item, Section 94 set a standard provision of 2.83 hectares per 1,000 new residents. This was based on the UK National Playing Fields standard of provision set in 1925 (since reduced to 2.4 ha/1,000 (Winterbottom, 2007)), and incorporated into the 1948 Cumberland County plan for Sydney (Cumberland County Council, 1948). This standard has assumed an untouchable status over the years. Developer interests in reducing the standard have not been matched by a similar local
government desire, given that existing provision is so manifestly inadequate in many areas. Nevertheless, rulings of the NSW Land and Environment Court have meant that developers only have to match existing per capita levels of provision where these are less than 2.83 ha/1,000, to avoid the potential for greater levels of provision to be seen as supplying ‘catch-up’ open space which is not allowed under Section 94. The standard itself has never been properly tested or evaluated in terms of resident needs (Hamilton-Smith and Mercer, 1991), despite the obvious potential differences between open space requirements for recreation in London in the 1930s and in Sydney in the twenty first century. It totally ignores the potential impact of contemporary computer-based home recreation, for example. More recent thinking since 1979 about open space planning (for example, Department of Urban Affairs and Planning, 1992) has suggested a needs-based approach to provision. This approach starts with consideration of the community concerned and develops an inventory of its recreation needs, giving consideration to its social and demographic structure, its location, availability and accessibility of existing facilities, and so on. A needs-based approach to open space and recreation provision has been made more feasible in NSW with the recent introduction of Section 94A to the EPA Act. Section 94A allows councils to levy a flat rate contribution towards infrastructure and services necessary to meet the increased demand created by new development, instead of separately specifying the cost of each item as required under Section 94. Thus Section 94A funds can be spent to meet the demands of the increased population in a manner that addresses their specific needs rather than one based on common standards. Contributions under Section 94A are capped at 1 per cent of the total development cost.
Since the local open space standard was enshrined in the EPA Act in 1979, there has been increased recognition of the recreational and other benefits to the community of adequate open space. In terms of recreation, the provision of accessible opportunities to walk or take more strenuous exercise is now seen as a significant factor in keeping down personal weight to healthy levels (Kumanyika and Brownson, 2007; Larkin, 2003). This issue has become increasingly important for planners as a higher proportion of the population has become classified as overweight. Other recreational benefits are also emerging, such as the demonstration of links between good mental health and pet ownership (Cusack, 1988), which is facilitated by the provision of parks in which dogs can be walked. The ecological benefits of open space provision have been recognized for some time (e.g. McHarg, 1969), but these have now become even more significant as environmental sustainability has become a fundamental element of planning and development. Open space is now seen as helping to contribute to the sequestration of carbon dioxide, helping to retain biodiversity, and contributing to sheltering, shading and water protection (Tyrvainen, 1999; MacArthur, 2002). Biodiversity is increasingly being addressed by emphasizing provision of local open space corridors that connect areas of threatened fauna and allow migratory movements between these areas; these are often combined with provision of walking and cycling paths. Open space is now also frequently a central component of water sensitive urban design, in which it can act as a sink or filter for polluted urban runoff. In these various ways the importance of open space provision per se, beyond the recreational facilities provided, has increased.

The importance of adequate local open space provision has also been magnified by the
emergence of urban consolidation as the most important planning policy in cities like Sydney and Melbourne since 1979. In both those cities, over 60 per cent of new dwellings are to be non-detached by the year 2030 or 2031. There is a strong argument that local open space per person should be higher where there is little or no private open space, as is the case with most urban consolidation development. Local public open space provides opportunities to walk in pleasant surroundings, exercise dogs, kick footballs, have picnics, allow children to use play equipment, and so on, most of which are not possible within the boundaries of multi-storey developments with limited outdoor space. Yet the provision of local open space in higher density areas targeted for still more intensive residential development under present Australian metropolitan strategies is generally fairly limited, and usually less than adequate when benchmarked against standards such as those in Section 94 of the NSW EPA Act. (Searle, 2004). A central purpose of this paper is to explore the extent of this inadequacy, and assess whether current development contributions for urban consolidation are rectifying any under-supply.

The wider concern here is that local open space supply should be regarded as a central component of planning for urban consolidation. If areas and zones for open space are not identified and new required areas not designated and protected from the start of every urban consolidation development, it becomes difficult or impossible to retrospectively provide such areas. As the purpose of urban consolidation is to provide more dwellings within a given area, it is difficult to justify demolition of existing residences in the area to provide open space for the new dwellings. As a result, opportunities for expanding open
space become essentially limited to certain non-residential uses (excluding existing shops, for example, which can be argued to be needed for new residents), of which there is usually a very limited supply. The areas needed for adequate local open space can be significant and approach or exceed the area needed for new consolidation dwellings themselves. If new flats/apartments are, say, 100 square metres, site coverage is two-thirds, and building heights are on average about five storeys, this yields a dwelling density per net residential hectare of about 250. Under the Section 94 standard, the local open space required for this population at household size of only 2 would be 1.4 hectares – greater than the land area needed for the dwellings themselves. Greater densities will yield even larger areas of land needed for open space relative to those needed for residential buildings.

Local open space contributions for Sydney urban consolidation development

Methodology

In order to assess the level of contributions for local open space requirements associated with urban consolidation in Sydney, a survey of councils was undertaken. A questionnaire was sent to the Chief Planner or equivalent in each Sydney Region council asking them to list the number of dwellings in each of the largest non-detached dwelling developments approved by their council in 2008, whether Section 94, Section 94A or some other legal instrument was used to ask for contributions for local open space for those developments, whether contributions had been in accordance with those
Sections/instruments (and if not, how they differed), and what was the total local open space in their council area. Respondents were asked to exclude developments where detached dwellings formed 20 per cent or more of the dwelling total. Answers on total local open space allowed per capita provision to be calculated using estimated populations by ABS for the council are as at 30 June 2007. Per capita provision from council documents was used if this was available.

A total of 20 councils out of the 42 total councils in the Sydney Region were received. Of these, 17 replies were usable, 2 replied that they did not have any non-detached dwelling approvals in 2008, and one reply contained data that could not be used because it appeared to relate to detached dwelling approvals. The 17 replies were considered a representative sample, covering a range of sizes and locations (with four from inner areas, six from middle suburbs, and seven from outer suburbs). The Section 94 and 94A contribution plans of each of the 17 councils were analysed to calculate the proportion of developer contributions used to purchase land for new open space and the proportion used to fund open space embellishments of all kinds (including the development of new playing fields). In a number of cases these were not specified as summary percentages, and required calculation from proposed land purchases and embellishment works listed in each contribution document.

*Existing local open space provision*

Existing local open space per capita in the 17 council areas was first analysed to ascertain
the adequacy of current provision. A summary of results is shown in Table 1.

**Table 1 here**

Table 1 shows that local open space provision is consistently under the 2.83 ha per 1,000 population standard in inner and middle suburb councils, but consistently above that standard in outer suburb councils. The City of Sydney council area has the lowest provision, 0.56 ha per capita (excluding the CBD and Pyrmont/Ultime). This should be set against state government demands for that council to accommodate 31,800 new dwellings between 2004 and 2013 (NSW Government, 2005), a target that obviously ignores local open space constraints. Several other councils also had a significant under-provision of local open space. There was evidence that this under-provision was an important issue for some councils. The inner council of Marrickville, with a provision of 1.61 ha per 1,000, reported that all its sportsgrounds were at capacity (Marrickville Council, 2004). The middle suburban council of Canterbury, which has an above average proportion of flats and apartments, reported that a community survey had concluded that existing open space provision of 1.87 ha per 1,000 was insufficient (Canterbury City Council, 2005). Even where overall provision is close to the Section 94 standard, open space can be deficient in some areas within council boundaries. In the middle council of Lane Cove, with an average provision of 2.41 ha per 1,000, the council has noted a marked deficiency of open space per person in its Central Ward (Lane Cove Municipal Council, 1999), where the main opportunities for any further urban consolidation are located.
Outer councils have provision in excess of the standard. This is largely due to the lower costs of land, with greenfield prices applying to much of the initial provision of land for open space. It is also due to the fact that large areas of outer councils have been developed since the legislative application of the standard in 1979. For these councils, the main issue here is developing adequate recreational and sporting facilities on land already set aside as open space. While in theory the Section 94 contributions should fund the construction of recreation and sporting facilities, councils have generally only requested funding for open space land. This arises to a significant extent because of the Section 94 requirement for a nexus between the provision of the facility and the population for which it is being provided: in new residential areas, provision of new sporting and recreation facilities well ahead of actual demand from the new population, or of being at a scale (such as a football field) that has a catchment beyond an individual development, could be seen by the court as insufficiently demonstrating the required nexus. Thus Penrith council in outer western Sydney, with 3.03 ha of local open space per 1,000, has noted that its local open space facilities are only just sufficient and sometimes deficient in meeting demand by the existing population (Penrith City Council, 2007).

Urban consolidation development contributions for local open space

The survey of councils described above ascertained the Section 94 or Section 94A basis of contribution requirements for the four largest non-detached (i.e. urban consolidation)
dwelling approvals in each council in 2008. From this, the proportion of contributions to be spent on local open space land acquisition and on embellishment of local open space were read off or calculated from council contribution plans. The results are summarized in Table 2.

**Table 2 here**

Several trends in the allocation of contributions are apparent. In inner councils, the proportion of contributions spent on land acquisition for open space is usually very low, despite the great need for more space. The major exception is Sydney City Council, where the proportion of contributions to be spent on buying land is 72.8%. This reflects the current level of under-supply and the forecast large increase in population. But despite the $184m allocated for open space land purchases outside the CD and Pyrmont-Ultimo in the council’s contributions program, the area of local open space is still estimated to fall from 0.56 ha per 1,000 to 0.51 ha per 1,000 by the year 2021 (City of Sydney, Section 7, 2007). Other inner city councils have virtually abandoned attempts to increase the supply of open space because of the cost of acquisition, even though Section 94 and its interpretation by the courts would allow them to get developers to pay for land for open space to a level at least equal to existing per capita provision. There seems to be sympathy for the developer view that this would make their developments unaffordable, which effectively trades off affordability for local recreation and sporting space. This is particularly so in council areas where there are few sites that are not residential or retail/office use. For example, Mosman council states that the acquisition of additional
open space at residential values was abandoned in the early 1980s as unachievable due to cost (Mosman Municipal Council, 2006). Similarly Woollahra council has stated that land for open space acquisition is not readily available and that its cost would be prohibitive (Woollahra Municipal Council, 2008). Sydney City Council has been able to propose its program of significant land acquisition for open space by targeting older industrial sites, inter alia, for purchase. The other inner city councils have instead opted to spend all or nearly all of their developer contributions on embellishment of existing open space to increase its carrying capacity.

In middle suburban council areas there is greater commitment of contributions to land purchase for open space, especially in councils with an open space provision less than the Section 94 standard. Lower land costs compared to inner city councils are a major factor in this. Even so, the price of land is still considerable, mitigating against allocating all contributions to land purchase to rectify under-provision of open space as the example of Lane Cove above testifies. This tendency is reinforced by the restrictions on council revenue set out above, which has meant councils turn to Section 94/94A contributions as the main source of funding the capital costs of new sporting and recreational facilities.

In outer council areas, where all of the sample councils had local open space provision above the Section 94 standard, there are two basic outcomes. For councils with relatively little prospective urban consolidation and other urban development but with ample supplies of open space, the proportion of contributions spent on embellishment of existing open space is high. On the other hand, for councils with significant urban
release areas and concomitant future population increases, the proportion of contributions spent on land purchases is high in order to meet the needs of the future residents. In addition, the wider ecological values of open space are also being reflected in land purchases in some outer councils. In Fairfield, land acquisitions take 70.7% of spending of open space contributions, which the council says will be carried out so as to complete regional open space links based on the creeks system (Fairfield City Council, 2006).

Conclusion

The question of the appropriateness of an open space area standard for urban consolidation and other forms of urban development, such as that embodied in Section 94 of the NSW Environmental Planning and Assessment Act, remains an open one. The Section 94 standard has not been changed since the 1930s and not modified for Australian conditions. Contemporary recreation activities involve the use of space in often radically different ways even compared to the modern era. Yet the supply of open space areas is still a central component of decent urban amenity and urban health. While some types of play activity may have been transferred to electronic mediums indoors, other factors are reinforcing the need for an adequate supply (however defined) of public open space –fewer and smaller back yards associated with new dwellings, increased awareness of the ecological importance of open space such as its biodiversity and water filtration roles, and the role of open space in promoting healthier environments for walking and cycling, to name some of the more important.
Given this context, the data presented in this paper raise serious concerns about the adequacy of local open space planning to cope with intensified urban consolidation across Australian cities. While firm conclusions are difficult to draw because of the lack of research on the relationship between contemporary recreation needs and open space supply, the paper has presented evidence that especially in older parts of Sydney there is demand pressure on local open space, and that this is largely being addressed by intensifying the carrying capacity of existing open space. Council reports give little basis for assessing what the limits of this capacity might be. At the very least, such policies mean that the more space-extensive uses of open space, such as cycling, playing competitive football, and walking one’s dog, are compromised, while increasing pressure on remaining ecological values of existing open space such as provided by remnant bushland. Moreover, it is perhaps difficult to believe that the Australian apartment resident of today would need less open space than was considered desirable for the average resident of London in the 1930s, but this is the assumption that is now being built into urban consolidation planning across much of Sydney.

The wider context for this situation concerns pressures on public finances in a contemporary era of neoliberalism. State governments have foisted urban consolidation on to local councils to avoid the costs of providing infrastructure for new far-flung suburbs, responding to varying degrees of fiscal crisis that have accompanied the end of the long boom and of the welfare state. Local government has in turn experienced its own fiscal crisis, as state and Commonwealth funding to it has diminished, expectations about local public infrastructure and services have increased and, in New South Wales,
local rate income has been capped by the state. New open space is often seen as problematic by councils because it requires further embellishment and ongoing maintenance costs. In addition, the increasingly privileged role of developers within the planning system and intensifying concerns about housing affordability have limited the extent to which local government has been able to levy development to provide needed infrastructure. The NSW state government has recently reduced maximum Section 94 levies in new urban areas of Sydney in order to improve housing affordability. The upshot of these influences has been that provision of adequate open space for new urban consolidation in particular has been seriously compromised.

References


Department of Urban Affairs and Planning (1992) *Outdoor Recreation and Open Space Planning Guidelines*. Sydney: DUAP.


Lane Cove Municipal Council. (1999). *Section 94 contribution plan*. Lane Cove: Lane...
Cove Municipal Council.


**Table 1 Local open space per 1,000 population by zone**

<table>
<thead>
<tr>
<th>Zone</th>
<th>Median council local open space per 1,000 popn.</th>
<th>Maximum &amp; minimum median local open space/1,000 popn.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inner</td>
<td>1.65 ha</td>
<td>2.20 ha – 0.56 ha</td>
</tr>
<tr>
<td>Middle</td>
<td>1.99 ha (1)</td>
<td>2.41 ha – 1.87 ha (1)</td>
</tr>
<tr>
<td>Outer</td>
<td>6.32 ha</td>
<td>20.84 ha – 3.03 ha (2)</td>
</tr>
</tbody>
</table>

(1) Excludes 3 councils where separate figures for local open space and bushland not available

**Table 2 Developer contributions to councils for land purchase and embellishment of local open space by existing provision of local open space**

<table>
<thead>
<tr>
<th>Zone</th>
<th>Local open space hectares per 1,000 population (median)</th>
<th>Land purchase as per cent of total local open space developer contribution (median)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inner</td>
<td>Councils &gt; 2.83 ha/1,000: N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Region</td>
<td>Councils &lt; 2.83 ha/1,000:</td>
<td>Councils &gt; 2.83 ha/1,000:</td>
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</tr>
<tr>
<td>N/A</td>
<td>1.66</td>
<td>7.2</td>
</tr>
<tr>
<td>Middle</td>
<td>4.27 (includes bushland in all cases)</td>
<td>24.8 (1)</td>
</tr>
<tr>
<td></td>
<td>1.99</td>
<td>48.1</td>
</tr>
<tr>
<td>Outer</td>
<td>6.32</td>
<td>30.5</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

(1) Excludes one council for which no data could be obtained
N/A Not applicable (no entries)